

*Agricultural Employment* means any service or activity as defined in the Migrant and Seasonal Agricultural Worker Protection Act, 29 U.S.C. 1802, including any activity defined as “agriculture” in Section 3(f) or the Fair Labor Standards Act of 1938, 29 U.S.C. 203(f), any activity defined as “agricultural labor” in 26 U.S.C. 3121(g) (the Internal Revenue Code); as well as the handling, planting, drying, packing, packaging, processing, freezing, or grading prior to delivery for storage of any agricultural or horticultural commodity in its unmanufactured state. Authorized Departmental Officer (ADO) means the individual, acting within the scope of delegated authority, who is responsible for executing and administering awards on behalf of the U.S. Department of Agriculture.

*Community-based organization* means a non-governmental organization with a well-defined constituency that includes all or part of a particular community.

*Consortium* means a group formed by entities with similar goals and objectives for the purpose of pooling resources to undertake a project that would otherwise be reasonably beyond the capabilities of any one member.

*Eligible entity*, as described in section 379C(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008q(a)), means a non-profit organization, or a consortium of nonprofit organizations, agribusinesses, State and local governments, agricultural labor organizations, farmer or rancher cooperatives, and community-based organizations with the capacity to train farm workers.

*Farmworker* means an individual hired to perform agricultural employment, including migrant, seasonal, and hired family farm workers. The term farmworker includes individuals who are not currently employed as a farmworker but who are actively seeking work as such. The term does not include agricultural employers or individuals who are self-employed.

*Grantee* means the organization designated in the grant award document as the responsible legal entity to which a grant is awarded.

*Legally present in the United States* shall have the same meaning as the term “lawfully present” in the United

States as defined at 8 CFR 103.12(a) (addressing eligibility for Title II Social Security benefits under Pub. L. 104-193).

*Notice of Funding Availability (NOFA)* means a notice published in the FEDERAL REGISTER announcing the availability of money for the grants program which lists the application deadlines, eligibility requirements and locations where interested parties can get help in applying.

*Office of Advocacy and Outreach (OAO)* means the Office of Advocacy and Outreach, an office within the USDA’s Departmental Management.

*Request for Proposal (RFP)* refers to a grant competition and is used interchangeably with the phrase grant application notice and solicitation for grant applications (SFA).

*Retaining an agricultural job* means continuing agricultural employment, including upgraded employment.

*Returning from an agricultural job* means returning to a home area from a position in agricultural employment.

*Secretary* means the Secretary of Agriculture and any other officer or employee of the United States Department of Agriculture to whom the authority involved is delegated.

*Securing an agricultural job* means obtaining agricultural employment.

*State* means any of the States of the United States, the District of Columbia, the Virgin Islands, the Commonwealth of Puerto Rico, and Guam.

*United States worker (U.S. worker)* shall have the same meaning as the term U.S. worker defined by the Department of Labor at 20 CFR 655.4.

*Upgrading an agricultural job* means advancement to a position in agricultural employment which offers more hours of work and/or better terms and conditions of employment and/or an increase in wages.

### § 2502.3 Deviations.

Any request by the applicant or grantee for a waiver or deviation from any provision of this part shall be submitted to the ADO identified in the agency specific requirements. OAO shall review the request and notify the applicant/grantee whether the request to deviate has been approved within 30 calendar days from the date of receipt

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of the deviation request. If the deviation request is still under consideration at the end of 30 calendar days, OAO shall inform the applicant/grantee in writing of the date when the applicant/grantee may expect the decision.

#### **Subpart B—Program Eligibility, Services and Delivery**

##### **§ 2502.4. Program eligibility.**

(a) Entities eligible to apply for and receive a grant under this part include:

- (1) A non-profit organization;
- (2) A consortium of nonprofit organizations; or
- (3) A consortium which includes a non-profit organization(s) and one or more of the following: agribusinesses, State and local governments, agricultural labor organizations, farmer or rancher cooperatives, and community-based organizations with the capacity to train farm workers.

(b) Additional information about eligible entities may be included in the RFP. In addition, the RFP will specify the criteria by which an entity's capacity to train farm workers will be evaluated, but at a minimum, the entity shall be required to demonstrate that it has:

- (1) An understanding of the issues facing hired farmworkers and conditions under which they work;
- (2) Familiarity with the agricultural industry in the geographic area to be served, including agricultural labor needs and existing services for farmworkers; and
- (3) The capacity to effectively administer a program of services and benefits authorized by the ACE program.

(c) An applicant will be required to submit information to OAO, as specified in the RFP and/or FOA as part of the grant application.

##### **§ 2502.5 Program benefits and services.**

(a) The ACE grants program will be centrally administered by the USDA in a manner consistent with these regulations, as well as the pertinent requirements of 7 CFR part 3015, 7 CFR part 3016, 7 CFR part 3018, 7 CFR part 3019 and 7 CFR 3052.

(b) The Office of Advocacy and Outreach (OAO) has been designated as the

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organizational unit responsible for administering the ACE program, including, among other things, determining the number and amount of grants to be awarded, the purposes for the grants to be awarded, as well as the criteria for the evaluation and award of grants.

(c) Services and benefits provided under the ACE grants program are limited to those which will assist eligible farmworkers in securing, retaining, upgrading or returning from agricultural jobs.

(d) Such services will include the following:

- (1) Agricultural labor skills development
- (2) Provision of agricultural labor market information;
- (3) Transportation;
- (4) Short-term housing while in transit to an agricultural worksite;
- (5) Workplace literacy and assistance with English as a second language;
- (6) Health and safety instruction, including ways of safeguarding the food supply of the United States;
- (7) Such other services as the Secretary deems appropriate.

(e) Grant funds shall not be used to deliver or replace any services or benefits which an agricultural employer, association, contractor, or any other entity is legally obliged to provide.

##### **§ 2502.6 Recipients of program benefits or services.**

(a) Those eligible to receive program services or benefits under the ACE program are farmworkers who meet the definition of "United States Workers" as set forth in § 2502.2 of this part.

(b) Grantees shall be responsible for verifying the employment of farmworkers who are actively employed and are seeking to participate in program services or benefits. Unemployed farmworkers seeking to participate shall be required to certify to grantees that they are eligible for program services and benefits as provided herein. Additional eligibility requirements may be included in the RFP.

##### **§ 2502.7 Responsibilities of grantees.**

Each grantee is responsible for providing services and/or benefits authorized by this program in accord with a service delivery strategy described in