



USDA Contract Freezes & Terminations: Legal Action for Nonprofits with Signed Grant Agreements

This resource is written for nonprofits and entities nationwide who have a signed grant award with RMA, RBCS, RD, NRCS, NIFA, or AMS, received a written notification terminating or freezing grant funds, and want more information on the mechanics of filing an appeal within the USDA, including filing a NAD appeal or sending a “Review Request” letter. This resource includes sample letters.

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***This resource is specific to organizations and farms with signed USDA grant agreements. Since we originally released this resource, we have released a more streamlined set of action guides based on the agency issuing the agreement:*

- [Take Action to Protect Your USDA Signed Agreement: Roadmap](#) (includes lists of common funding programs with issuing agency)
- [Sending a Review Request Letter to NIFA or AMS to Protect Your USDA Signed Agreement](#) (relevant for signed grant awards from NIFA (National Institute of Food and Agriculture) or AMS (Agriculture Marketing Service))
- [Filing a NAD Appeal to Protect Your USDA Signed Agreement](#) (relevant for signed agreements from NRCS (National Resources Conservation Service), FSA (Farm Service Agency), RD (Rural Development), RBS (Rural Business-Cooperative Service), or RMA (Risk Management Agency))

While the above resources are more streamlined, this resource is accurate and valid for USDA grant funds. Version 2.0 updates the letters and clarifies that the deadline for appealing the USDA decision to terminate an AMS agreement is 30 days.



Disclaimer: Farm Commons is offering this resource to provide educational resources to organizations as they make their own decisions about how to respond to USDA's funding freezes and terminations. This resource does not provide legal advice and is not an offer to provide legal services. No attorney-client relationship is formed by reading this document or by taking action based on it. No specific outcome is guaranteed as a result of sending an appeal letter as described in this resource. The legal issues involved are complex, everchanging, and uncertain. The information we provide is based on our current knowledge and understanding, as well as ongoing conversations with lawyers and organizations. As the situation and our understanding continue to evolve, we will update this resource.

No specific outcome is guaranteed as a result of filing a NAD appeal or sending a "review request" letter as described in this resource.

Weighing your options

Challenging the USDA's decision to freeze or terminate an existing grant may be a powerful step in joining in solidarity with farmers and other organizations within the agricultural community in resisting efforts to dismantle critical programs within the USDA. Another advantage is that organizations could gain clarity on the status of their grant. Ideally, the USDA would decide to reinstate the grant. If the USDA chooses otherwise, by appealing within the USDA, the organization protects its legal rights to bring a future lawsuit, should it come to that. If organizations wait to take action, they might be told it's too late. That's because in some cases, organizations must file an appeal with the USDA "30 days" of receiving an "adverse decision." If organizations don't take this step, they may waive their rights to later file a lawsuit in court.

That said, this process requires time, paperwork, and stress. The outcome is not guaranteed. Organizations' requests might be denied. They could be told that it's fine for the USDA to freeze or terminate their grant based on their policy shifts in DEI, climate-smart initiatives, etc. Organizations could be told that they have yet to receive a concrete "adverse decision" and must wait to bring a challenge. If the appeal process provides this outcome, it is likely organizations would still be able to challenge such decisions in court. But, it takes time and the outcome is uncertain.



Whether or not to pursue an appeal is a big decision, and it's each organization's decision. Either way, Farm Commons understands and is here to support producers during these challenging times.

If organizations choose to pursue an appeal, it is critical that they follow the specific appeal process that applies to their USDA grant AND that they do it within the required timeframe.

Common USDA grant programs that this resource addresses include:

**This is not an exhaustive list:*

- Rural Energy for America Program (REAP) Grants (via RBCS)
- Value-Added Producer Grants (VAPG) (via Rural Development (RD))
- Risk Management Education Partnership Grants (RMA)
- Sustainable Agriculture Research and Education (SARE) Grants (via NIFA)
- Beginning Farmer and Rancher Development Program (BFRDP) (via NIFA)
- Community Food Project Competitive Grants Program (CFPCGP) (via NIFA)
- New Era of Agricultural Innovation (NEAI) Program (via NIFA)
- Veterans in Agriculture Program (VAP) (via NIFA)
- Farmers Market Promotion Program (FMPP) (via AMS)
- Specialty Crop Block Grants (SCBGP) (via AMS)
- Resilient Food Systems Infrastructure Program (RFSI) (via AMS)
- Local Food Purchase Assistance Cooperative Agreement Program (LFPA)(via AMS)
- Local Food for Schools (LFS) (via AMS)
- Regional Food System Partnerships (RFSP) (via AMS)
- Farm Labor Stabilization Pilot Program (FLSPP) (via AMS)
- Organic Market Development Grant (OMD) (via AMS)

A special note on prime and sub-awards: Prime awardees (States and Universities) may choose to appeal to the USDA through the processes discussed in this resource, but they may choose not to. Sub-awardees cannot appeal to USDA regarding a prime award. Sub-awardees may appeal to the state, if the contract allows it (or, they may also be able to proceed straight to a lawsuit, depending on what the contract says. Usually, however, the contract has a provision that if the federal funds are not received, the contract is terminated.

Understanding USDA Grant Termination

Unlike farmer contracts (e.g., direct reimbursements and cost-share programs such as EQIP, CSP), USDA grants offer the agency greater discretion to terminate



funding based on shifting goals and priorities. Grant awards typically contain termination provisions citing 2 CFR 200.340, which states:

“The Federal award may be terminated in part or in its entirety as follows: ...(4) By the federal agency or pass-through entity pursuant to the terms and conditions of the Federal award, including, to the extent authorized by law, if an award no longer effectuates the program goals or agency priorities.”

Nonprofits have reported receiving letters from the USDA stating that their grant was “terminated as of the date of this notice” because “it no longer effectuates agency priorities regarding diversity, equity, and inclusion programs and activities.”

Indeed, on February 13, 2024, the USDA adopted a policy titled “[Prioritizing Unity, Equality, Meritocracy, and Color-Blind Policies](#).” While the USDA has some discretion to terminate grants based on policy shifts, organizations still have strong legal arguments that the USDA’s decision to freeze or terminate their grants retroactively is unlawful.

That said, these are complex legal claims with considerable uncertainty. The outcome will depend on various factors, including the specific objectives and activities of your grant, the precise funding source (i.e., whether Congress explicitly appropriated funding for the underlying objectives of your grant), and the uncertain political climate.

Why filing an appeal within the USDA may be necessary to protect legal rights

Existing and forthcoming lawsuits in federal court are challenging the USDA’s overarching shift in policies around DEI and climate-smart initiatives. These lawsuits also challenge the underlying Executive Orders from the Trump Administration directing agencies to freeze funds, review all contracts and grants, and either terminate or modify terms based on shifting policies.

To the extent these lawsuits fail or succeed only in part, organizations directly affected by USDA grant freezes or terminations may be left with a cause of action primarily rooted in breach of contract, even if other claims are made (e.g., statutory or constitutional violations).

However, to preserve this alternative legal strategy, organizations will most likely be required to go through all available administrative appeal processes before filing a claim in federal court. In other words, they must request the USDA to review the initial decision to freeze or terminate their grant and get a “final decision” from a higher-up official.

This is known as “**exhausting administrative remedies**”, and it is often a legal prerequisite before a lawsuit can proceed against a federal agency. Failure to do so may result in the court dismissing a lawsuit for failing to pursue available agency review.

The USDA has a separate independent division, the National Appeals Division (NAD), that specifically serves the purpose of challenging certain agency decisions. As we will outline, the NAD governs only certain agencies within the USDA (e.g., NRCS (National Resources Conservation Service), FSA (Farm Service Agency), RD (Rural Development), RBS (Rural Business-Cooperative Service), or RMA (Risk Management Agency). Other agencies have their own appeals process (e.g., NIFA (National Institute of Food and Agriculture) or AMS (Agriculture Marketing Service). **It is critical that organizations follow the appeal process that applies to their specific USDA grant AND that they do it within the required timeframe.**

Weighing benefits and drawbacks of filing an appeal

Even if the USDA denies the appeal, having a record of challenging the decision through administrative channels can be invaluable in future legal action. By filing an appeal within the USDA, organizations may gain significant opportunities:

- Increase the chance of getting the grant fully or partially reinstated without the need for litigation.
- Protect their right to later file a legal challenge in federal court.
- Strengthen their argument that the USDA’s decision to freeze or terminate their grant was arbitrary and capricious and unlawful.

Although there are few legal drawbacks to filing an appeal, there may be practical drawbacks:

- It takes time and resources to produce the letter.
- The appeal may be handed back as untimely and may need to be revised and re-filed at a later date.
- The process can be disruptive to relationships, especially if it becomes contentious between individuals.

How and where to file an appeal with the USDA

USDA grants are administered by different agencies, and appeal options vary depending on the issuing agency, the grant award, and whether an organization has received formal written notification of grant termination or freeze. This guide provides organizations with a general roadmap of these possible appeal options.

First and foremost, **look at what the grant contract or terms and conditions say about the right to appeal.** Does it say whether and where to file an appeal or request to review the agency's post-award decisions? If it does, follow these instructions.

If the grant contract does not mention anything or is unclear, the most risk-averse option is to follow the appeal procedures for the agency that issued the grant. Here's a breakdown by agency.

Organizations with grants issued by NRCS (National Resources Conservation Service), FSA (Farm Service Agency), RD (Rural Development), or RMA (Risk Management Agency)

These agencies are governed by the National Appeals Division (NAD). This means organizations with grants issued by NRCS, RMA, RD, and NRCS must file a NAD appeal within 30 days of receiving an "adverse decision."

In addition to NRCS, RMA, Rural Development (RD), and NRCS, the NAD governs the following USDA agencies: Commodity Credit Corporation (CCC), Federal Crop Insurance Corporation (FCIC), Farm Service Agency (FSA), Rural Business-Cooperative Service (RBS), Rural Housing Service (RHS), and Rural Utilities Service (RUS).

What is an "adverse decision"? The 30-day clock for filing a NAD Appeal starts ticking when an adverse decision is received. In the best-case scenario (for



appeals purposes, at least), organizations would receive a letter by certified mail officially stating a clear contract termination. This would be an obvious “adverse decision.”

There is a possibility that less formal written notifications, including stop work orders and emails that confirm grants are frozen or terminated, could count as an “adverse decision” and start the 30-day clock. **If this is the case, organizations who have received emails or other communication indicating a delay or stoppage of payment on their RBCS, RMA, RD, NRCS grants must file an appeal with the NAD within 30 days of receiving it. Otherwise, organizations run the risk of not being able to bring any legal challenge to the USDA’s decision to freeze or terminate funding on their contract.**

Pathway 1 presents a step-by-step guide for filing a NAD appeal including a Sample NAD Appeal Letter

Organizations with grants issued by NIFA National Institute of Food and Agriculture) or AMS (Agriculture Marketing Service)

These agencies each have their own regulations and policies for filing an appeal of a “post-award” decision. Organizations that have received written notification of grant funding freezes or termination on NIFA or AMS grants must follow these regulations and policies.

NIFA grant agreements

For **NIFA grants**, there is a formal appeal process outlined in **7 CFR § 3430.62**:

- **Step 1: Within 60 days**, send a "Request for Review" letter to the NIFA official specified in the termination or freeze notice. The request must outline the basis of the disagreement and provide supporting documentation.
- **Step 2:** If denied, submit a further review request to the **NIFA Office of Grants and Financial Management (OGFM) Deputy Director**.

AMS grant agreements

AMS grant agreements



For **AMS grants**, the appeal process is not set forth in regulations. Unfortunately, it is not as clear or straightforward. The AMS has two internal policies that outline ways to challenge “post-award” decisions, including withholding of payments and termination. Unfortunately, these procedures are **inconsistent and unclear**, so we recommend following the **most conservative deadline of 30 days** to preserve your rights. Here’s the background.

1. AMS **Late Applications, Denials and/or Appeal Procedures.**

This policy allows grant recipients to appeal “post-award” decisions, including: “[w]ithholding of payments, partial suspension of an award....” (See pg. 8).

What to do:

Step 1: “Request a clarifying discussion with the Team Lead.”

Step 2: If the recipient believes AMS made a “substantial or procedural error” in its post-award decision, submit a formal appeal letter to the Branch Chief. The appeal must describe what happened and include any documentation to substantiate the appeal.

Deadline: This procedure **does not specify a deadline**—but acting quickly is still advised.

2. **AMS Grants Division General Terms and Conditions.**

This document provides an appeal process for AMS decisions related to “**non-compliance remedies**,” such as **terminations or modifications** based on alleged failure to meet grant terms. (See Section 17, p. 32).

What to do:

- Submit a **written “request for review”** to your **Federal Agency Project contact** (see Block 9 or 10 of your Notice of Award).
- The letter should explain the decision being appealed, describe what happened, and include supporting documentation.
- AMS will then review the decision within 30 days.

Deadline: This policy requires the review request letter to be sent within **30 days of receiving AMS’s “non-compliance remedy” decision.**

Which appeal policy applies?

That's unclear—and part of the problem. It depends on how AMS classifies its decision. Is it a “non-compliance remedy”? The following outlines the most cautious approach to protect your rights to appeal.

If you received a written notice freezing or withholding funds:

- This is **likely not yet considered a “non-compliance remedy.”**
- However, we recommend initiating **Step 1 (request clarification from your Team Lead)** as soon as possible by sending them a Review Request Letter. If your Team Lead fails to respond within a reasonable time or responds with an adverse decision, you can then send a follow-up Review Request letter to the AMS Branch Chief.

If you received a formal termination letter from AMS:

- **This may not be a “non-compliance remedy.”** The termination letters we've seen say the grant “no longer effectuates agency priorities regarding diversity, equity, and inclusion.” There are no allegations that the recipient is not in compliance with the grant terms and conditions.
- **However, reasonable minds can disagree.** The USDA might argue that this is a “non-compliance remedy.”
- **To protect your rights, we strongly recommend submitting a review request letter within 30 days of receiving the termination notice.**

Note: We realize these paths for AMS are confusing and frustrating as they are not completely transparent. If you have received a written termination letter from AMS, and the 30 days have already passed, you may still benefit from sending a review request letter as soon as possible— as it demonstrates a good faith effort to raise your objections and keep your legal path open. AMS is required by law to provide written procedures for the opportunity to appeal or challenge its decisions. 2 C.F.R. § 200.342. The formal notice of termination from the agency should include a statement of these appeal rights. For example, the NIFA regulations require that NIFA includes a statement of appeal rights in formal notification of an adverse determination. If the termination notice you received did not include these appeal procedures, you may still have a right to appeal.



Pathway 2 presents a step-by-step guide for sending a “Review Request Letter” including a Sample Review Request Letter. Also included is a Sample Follow-Up Review Request letter that can be sent to the NIFA OGFM Deputy Director or AMS Branch Chief if the organization receives an adverse response to the initial letter.

Organizations that have not yet received written notification (all agencies).

Perhaps the organization learned its grant was frozen during a phone call with a USDA employee or through word of mouth. Or, it may not have heard anything yet. Sending an inquiry letter to the grant administrator now allows organizations to take proactive steps to get written clarification on the status of their grant.

If, in response, you receive a written clarification or decision that is unfavorable (i.e., confirmation of grant freeze or a termination), you then have the option to pursue an appeal as outlined above. This would include filing a NAD appeal within 30 days for RBCS, RMA, RD, and NRCS grants or following appeal procedures for AMS and NIFA grants. If the grant administrator fails to respond to your inquiry letter within a reasonable time, you may also have the option to pursue a formal appeal. That’s because the USDA’s failure to respond could itself be considered an “adverse decision.”

Pathway 3 presents a step-by-step guide for sending an “Inquiry Letter” including a Sample Inquiry Letter.

A word of caution: *Filing an inquiry letter may irritate or frustrate your grant administrator, as it can be received as contentious. Using respectful and careful wording can help alleviate this risk. But it is still a risk.*

If you have a good relationship with your grant administrator, and you’re concerned about souring it, you could always call them up or even email them and say: “Look, by sending you this letter, it’s not a personal attack. We appreciate your support of our program. But, we’re concerned our funding will be terminated. This would put us in a critical financial situation. We’re



raising our concerns to the USDA now to protect our legal and financial interests. I trust you understand."

Pathways for appealing a USDA grant freeze or termination

Should organizations choose to proceed, these pathways offer significant opportunities to gain clarity on their grant status and preserve their right to bring a legal challenge.

Pathway 1: File a NAD Appeal.

- **Who?** This pathway has the greatest impact if an organization has received written notification from the USDA of a funding freeze or termination on its RBCS, RMA, RD, or NRCS grant.
- **When? Organizations must act quickly** You have 30 days from the date you receive this written notification to file a NAD appeal.
- **How?** The [NAD website](#) provides information and instructions to support you in bringing a NAD appeal. Here's a breakdown of the Steps.

Step 1. Confirm that the NAD procedures apply to your grant. Check that the "appeal" terms and conditions of your grant specify that you can file a NAD appeal. If the organization's grant terms and conditions do not provide clear appeal instructions, confirm that the grant was issued by a NAD agency (e.g., RBCS, RMA, RD, NRCS).

Step 2. Gather supporting documents, including the USDA grant award, the grant application that the USDA agency accepted along with the initial request for proposal, the written termination or freeze notification you received (e.g., email or letter), any other correspondence regarding the grant, including phone logs, and documents showing receipts for payment or other proof of financial harm the organization has incurred from the grant funding freeze or termination.

Step 3. Prepare a detailed letter describing the reason for bringing the appeal. Explain why the organization disagrees with the USDA's decision to terminate or freeze grant funding. See the following section "**Framing Appeal Arguments**" and use the **Sample Review Request Letter** to support you in drafting a strong and thorough letter.



Step 4. Fill out the USDA National Appeals Division Appeal Request Form, available [here](#).

Step 5. Sign the letter and Request form and mail them to the regional office closest to you. Alternatively, you can e-file a NAD Appeal through the [NAD website](#). If you choose this option, prepare all the above materials beforehand. You will then need to set up a NAD e-file account application and simply follow the prompts to request an appeal through the online portal.

Step 6. Prepare for a hearing. Reach out to us if you are granted a hearing. We can connect you with resources and contacts to help you prepare.

NAD appeal process, what to expect:

While every case is different, here is a snapshot of what to expect.

- **NAD sends out a confirmation letter and assigns a hearing officer or Administrative Law Judge (ALJ)** (*within a few days to a week*). This officially acknowledges the appeal. The NAD also notifies the agency office (e.g., RBCS).
- **The agency office sends NAD its agency record** (*within 10 days of NAD accepting the appeal*). The record includes all the documents it has relating to the grant and its explanation for the decision.
- **The judge holds a pre-hearing conference call** (*typically within 2-3 weeks of filing*) to explain the process. The organization and the agency then discuss whether a hearing is needed to include testimony from witnesses or whether the case can be resolved “on the record”—that is, based on written submissions only. At this time, the organization can request additional documents from the USDA to strengthen its case.
- **Option 1: Hearing is held** (*within 45 days from when an appeal is filed*). If the organization requests a hearing, it is typically granted. The hearing is usually held by phone or video conference. The judge may allow testimony from witnesses or the submission of additional evidence.
- **Option 2: The judge makes a decision on the record alone** (*faster resolution, but may not allow for as much direct argument*). If the organization does not request a hearing, or if the judge believes the

record is sufficient, the judge may make a decision based on written submissions alone.

- **The judge issues a decision** (*typically within 30 days of the hearing or record closing*). If the judge rules in favor of the organization, the agency may be ordered to reinstate the grant or reconsider its decision.

If the judge upholds the agency's adverse decision, the organization can file an appeal to the NAD Director. Or, at this point, it could file a lawsuit in federal court. Administrative remedies have been exhausted.

Pathway 2: Send a "Review Request Letter" (NIFA/AMS grants)

Step 1: Identify the appropriate USDA official – For both **NIFA and AMS grants**, this will likely be the official who sent the termination or stop work notice. It's safest to also send it to the grant administrator, or the Team Lead or Project Contact, identified in block 9 and 10 of the Notice of Award.

Step 2. Gather supporting documents, including the USDA grant award, the grant application that the USDA agency accepted along with the initial request for proposal, the written termination or freeze notification you received (e.g., email or letter), any other correspondence regarding the grant, including phone logs, and documents showing receipts for payment or other proof of financial harm the organization has incurred from the grant funding freeze or termination.

Step 3. Prepare a detailed letter describing the reason for bringing the appeal. Explain why the organization disagrees with the USDA's decision to terminate or freeze grant funding. See the following section "**Framing Appeal Arguments**" and use the **Sample Review Request Letter** to support you in drafting a strong and thorough letter.

Step 4. Submit the Review Request letter– Sign the letter and send it by certified mail or email with the return receipt requested. For **NIFA**, the deadline is **60 days**. For **AMS**, organizations are encouraged to send the Review Request Letter within **30 days of a written termination**. While it is unclear whether this deadline for "remedies of non-compliance" applies, it is the safest approach to keep the door of legal actions open Either way, organizations are encouraged



to submit their request as soon as possible and seek clarification on applicable time limits.

Step 5. Escalate the Appeal if Needed – If the initial review is denied, send a further review request. Use the **Sample Follow-Up Review Request Letter** for a framework. Then send the letter with supporting documents to:

1. NIFA: **Office of Grants and Financial Management (OGFM) Deputy Director**
2. AMS: **AMS Branch Chief**

A response at this level is considered “final agency action.” If it is adverse, you could then consider filing a lawsuit in federal court.

Pathway 3: Send an Inquiry Letter to your contract administrator

- **Who?** This pathway has the greatest impact if an organization has not received written notification regarding the status of its grant. This applies to all grant programs.
- **Why?** Sending an inquiry letter now allows organizations to take proactive steps to get written clarification on the status of their grant.
- **How?** There isn’t a formal process for an “inquiry letter” like the one we’ve designed. Here are some steps to guide you through the process.

Step 1. Gather your contract and supporting documents, including phone logs of conversations you’ve had with USDA employees about your contract, any other correspondence you’ve had with the USDA regarding the contract, and documents showing receipts for payment or other proof of any harm you’ve incurred from the funding freeze or will inevitably incur if it continues.

Step 2. Prepare a detailed letter describing your situation. If you have received verbal notification that your grant has been frozen, refer to the conversation and explain why you disagree with the USDA’s decision. If you have not heard anything, request clarification on the status of your contract. . It’s critical to provide a time period for them to respond. We suggest “7 days.” If



you do not hear from them within this period, you may initiate a further appeal. You can use our **Sample Inquiry Letter** to provide a legal framework.

Step 3. Send your inquiry letter. We suggest you send the letter to your contract administrator and direct a copy of the letter to the agency's state Director (or higher-up official within the state or region). While you may email the letter with the return receipt, we highly recommend you send it by certified mail, return receipt requested, to make it more official.

Step 4. Depending on the USDA's response, or failure to respond, consider initiating an appeal. If you receive a written clarification or decision that is unfavorable (a freeze or a termination), you then have the option to file a NAD appeal or send a "Review Request Letter" depending on your grant. If the USDA fails to respond to your letter within a reasonable time, you may also have the option to initiate an appeal. The USDA's failure to respond could itself be considered an "adverse decision." If it comes to this, follow Pathway 1 (NAD Appeal for RBCS, RMA, RD, NRCS) or Pathway 2 (Review Request letter for AMS and NIFA)

Framing Appeal Arguments: Balancing Benefits and Risks

Each organization faces a unique set of facts based on the funded grant's objectives and activities, the organization's grant application, and the final written grant award. When appealing a USDA grant termination or freeze decision, it is critical to carefully balance how to frame legal arguments to maximize the chances of success while minimizing risks.

Here are some key considerations:

- **Alignment with the organization's mission:** Many nonprofits serve socially disadvantaged farmers and may wish to defend DEI-focused objectives while emphasizing the grant program's broader agricultural and economic impacts.
- **Risk of retaliation:** While appealing, organizations must be mindful of how USDA officials may respond to strong claims. A carefully worded appeal can preserve relationships while still making a compelling case.
- **Legal strategy:** Strategically including a variety of legal arguments that best align with the organization's unique facts and circumstances will give



it flexibility for further legal action. Here is a brief explanation of some legal claims that organizations may want to include.

Potential legal arguments

- **The Administrative Procedure Act (APA)** protects against unfair government actions. If the USDA suddenly terminates a grant it already reviewed and approved and fails to provide a good reason, it could be considered "arbitrary and capricious." Agencies are required to explain their decisions and treat similar situations consistently. If they fail to do so, their actions may be unlawful.
- **Reliance interests matter.** If an organization structured its budget, staffing, or program planning around the grant award, the USDA's sudden termination disregards legitimate "reliance interests." Courts have recognized that when agencies make decisions that significantly disrupt those who reasonably rely on them, those decisions may be unlawful.
- **Federal statutes set clear rules that agencies must follow.** Congress has consistently recognized the importance of ensuring that historically underserved communities have fair access to USDA resources and supporting climate-smart and conservation initiatives. The USDA cannot override the priorities mandated by Congress simply by changing its internal policies.
- **Constitutional concerns arise when policies disproportionately harm specific groups or viewpoints.** If the USDA is selectively terminating or restricting grants that support historically underserved farmers, minority farmers, climate-smart agriculture, or conservation initiatives while continuing to fund similar programs without these elements, this may raise concerns under equal protection laws. It could also raise concerns about free speech rights if organizations are penalized for certain viewpoints.

Organizations should tailor their letters strategically, selecting the strongest arguments that fit their situation while maintaining an approach they are comfortable defending publicly and legally. ***Organizations are strongly advised to work with an attorney to ensure that the legal arguments in their NAD Appeal or "Review Request" letter are thorough and relevant.***



Sample NAD Appeal Letter (grant termination or freeze)

[Organization Name]

[Organization Address]

[City, State, ZIP]

[Email Address]

[Phone Number]

[Choose applicable region]:

National Appeals Division

Eastern Regional Office (ERO)

Post Office Box 68806

Indianapolis, Indiana 46268-0806

Email: SM.NAD.Eastern@usda.gov

(CT, DE, D.C, IL, IN, KY, ME, MD, MA, MI, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, WI)

National Appeals Division

Southern Regional Office (SRO)

Post Office Box 1508

Cordova, Tennessee

Email: SM.NAD.Southern@usda.gov

(AL, AR, FL, GA, LA, MS, MO, OK, PR, TX, VI)

National Appeals Division

Western Regional Office (WRO)

13922 Denver West Parkway Suite 100-NAD

Lakewood, CO

Email: SM.NAD.Western@usda.gov

(AK, AZ, CA, CO, HI, ID, IA, KS, MN, MT, NE, NV, NM, ND, OR, SD, UT, WA, WY)

[Date]

Subject: Appeal of Grant Termination – [Grant Name & Number]

Dear National Appeals Division,

We formally appeal the USDA's decision to terminate our grant, [Grant Name & Number], as stated in the termination notice dated [Date]. We respectfully request a hearing to challenge this decision on the following grounds:

1. Overview of our grant program and alignment with USDA goals

- Our organization was awarded this grant to [briefly describe primary goals and objectives of the grant, e.g., increase market access for small farmers, provide conservation education, support historically underserved communities].
- These objectives are consistent with the USDA's stated priorities for this program [briefly describe program priorities, from request for proposal, agency website, etc.].
- Our program has already demonstrated positive impacts, such as [describe any measurable impacts to date: number of farmers assisted, improvements in conservation practices, economic benefits, etc.].

2. Arbitrary and capricious action, in violation of the APA

- The USDA [agency issuing grant, e.g., RBCS] set clear program priorities in its funding announcements, explicitly encouraging projects like ours. Now, it is penalizing recipients for following those priorities, without providing a reasonable explanation for this sudden shift.
- The decision to terminate our grant in its entirety, rather than considering modifications or partial adjustments, is overly broad and irrational. [Even if USDA now questions certain aspects of our program, a more reasonable approach would be to modify the scope of work and/or grant application and award language rather than terminate the grant entirely. [Our program primarily supports [describe primary mission], with only [percent]% of activities tied to DEI]]
- The agency's decision to terminate funding without considering reliance interests and program impact is an unjustified policy reversal. Our organization planned staffing, budgeting, and operations around the USDA's prior commitment to this funding. The abrupt termination has caused severe financial and operational harm.

3. Violation of federal statutes

- Congress has consistently recognized the importance of [supporting climate-smart and conservation initiatives and/or ensuring that historically underserved communities have fair access to USDA resources].
- The USDA's decision contradicts Congressional intent, as set forth in federal statutes that prioritize [climate-smart and conservation initiatives and/or equitable access to USDA resources], [including the Farm Bill, the



Agriculture Improvement Act of 2018, the Inflation Reduction Act (IRA), the Infrastructure Investment and Jobs Act (IIJA), and various annual appropriations bills that fund USDA programs **note: if you know the statutory source funding your grant program, specifically refer to it*].

- Federal funding priorities under these laws aim to support underserved farmers, sustainable agriculture, rural development, and market access initiatives. Our program was designed in alignment with these legislative mandates, ensuring that USDA resources are directed toward achieving Congress's goals.

4. Discriminatory impact and constitutional considerations

- The USDA's decision to terminate our grant raises significant concerns regarding the disparate impact on organizations [serving historically underserved communities OR supporting climate-smart and conservation initiatives]. As courts have recognized, such actions can give rise to equal protection claims. The USDA's actions may also raise First Amendment concerns related to compelled speech and viewpoint discrimination.
- While we primarily seek review under the APA and statutory violations, we note that this action raises potential equal protection and First Amendment concerns, which may require further legal review.

Requested Actions:

- We request an evidentiary hearing to present additional documentation and testimony.
- We ask that USDA reconsider its decision in light of our compliance with program objectives and statutory mandates.
- [If the USDA has concerns about specific aspects of our program, we are willing to discuss grant and/or language modifications rather than outright termination].

Enclosed are supporting documents, including [grant application/agreement, project impact reports, financial records, and communications with USDA]. We look forward to USDA's response and the opportunity to present our case.

Sincerely,

[Name]

[Title]

[Organization Name]



Sample "Review Request Letter" (grant termination or freeze)

[Organization Name]

[Organization Address]

[City, State, ZIP]

[Email Address]

[Phone Number]

[NIFA grant administrator, identified in block 9 and 10 of the Notice of Award]

U.S. Department of Agriculture

[Office Address]

AND

[NIFA office specified in freeze/termination notice]

U.S. Department of Agriculture

[Office Address]

-OR-

[AMS Team Lead or project director, identified in block 9 and 10 of the Notice of Award]

U.S. Department of Agriculture

[Office Address]

AND

[AMS office specified in freeze/termination notice]

U.S. Department of Agriculture

[Office Address]

[Date]

Subject: Appeal of Grant Termination – [Grant Name & Number]

Dear [grant administrator or Team Lead AND official specified in the freeze or termination notice],

We formally appeal the [local office] decision to terminate our grant, [Grant Name & Number], as stated in the termination notice dated [Date]. We respectfully request a formal review of this decision on the following grounds:

1. Overview of our grant program and alignment with USDA goals

- Our organization was awarded this grant to [briefly describe primary goals and objectives of the grant, e.g., increase market access for small farmers,

provide conservation education, support historically underserved communities].

- These objectives are consistent with the USDA's stated priorities for this program [briefly describe program priorities, from request for proposal, agency website, etc.]
- Our program has already demonstrated positive impacts, such as [describe any measurable impacts to date: number of farmers assisted, improvements in conservation practices, economic benefits, etc.].

2. Arbitrary and capricious action, in violation of the APA

- [AMS/NIFA] set clear program priorities in its funding announcements, explicitly encouraging projects like ours. Now, it is penalizing recipients for following those priorities without providing a reasonable explanation for this sudden shift.
- The decision to terminate our grant in its entirety, rather than considering modifications or partial adjustments, is overly broad and irrational. [Even if USDA now questions certain aspects of our program, a more reasonable approach would be to modify the scope of work and/or grant application and award language rather than terminate the grant entirely. [Our program primarily supports [describe primary mission], with only [percent]% of activities tied to DEI].
- The agency's decision to terminate funding without considering reliance interests and program impact is an unjustified policy reversal. Our organization planned staffing, budgeting, and operations around the USDA's prior commitment to this funding. The abrupt termination has caused severe financial and operational harm.

3. Violation of federal statutes [and constitutional claims]

- Congress has consistently recognized the importance of [supporting conservation, renewable energy, and climate-smart initiatives and/or ensuring that historically underserved communities have fair access to USDA resources].
- The USDA's decision contradicts Congressional intent, as set forth in federal statutes that prioritize [conservation, renewable energy, and climate-smart initiatives and/or equitable access to USDA resources, [including the Farm Bill, the Agriculture Improvement Act of 2018, the Inflation Reduction Act (IRA), the Infrastructure Investment and Jobs Act (IIJA), and various annual



appropriations bills that fund USDA programs **note: if you know the statutory source funding your grant program, specifically refer to it*].

- Federal funding priorities under these laws aim to support underserved farmers, sustainable agriculture, renewable energy, rural development, and market access initiatives. Our program was designed in alignment with these legislative mandates, ensuring that USDA resources are directed toward achieving Congress's goals.
- In addition, the USDA's decision to terminate our grant raises significant constitutional concerns regarding the disparate impact on organizations [serving historically underserved communities OR supporting renewable energy, climate-smart, and conservation initiatives] as well as compelled speech. These constitutional concerns may require further legal review.

Requested Actions:

- We ask that USDA reconsider its decision in light of our compliance with program objectives and statutory mandates.
- [If the USDA has concerns about specific aspects of our program, we are willing to discuss grant and/or language modifications rather than outright termination].

In addition, please provide your written procedures for processing objections, hearings, and appeals, which you are required to maintain under 2 C.F.R. § 200.342. If USDA does not maintain such procedures, or if you contend that they are not applicable to our agreement, please inform us promptly so that we may take appropriate action.

Enclosed are supporting documents, including [grant application/agreement, project impact reports, financial records, and communications with USDA].

Thank you for your prompt attention to this case.

Sincerely,

[Name]

[Title]

[Organization Name]



Sample “Follow-Up Review Request Letter” (grant termination or freeze)

[Organization Name]

[Organization Address]

[City, State, ZIP]

[Email Address]

[Phone Number]

[NIFA Office of Grants and Financial Management (OGFM)

Deputy Director]

U.S. Department of Agriculture

[Office Address]

-OR-

AMS Branch Chief

U.S. Department of Agriculture

[Office Address]

[Date]

Subject: Appeal of Grant Termination – [Grant Name & Number]

Dear [NIFA OGFM Deputy Director or AMS Branch Chief],

We are formally appealing the [local office] decision to [freeze/terminate] our grant, [Grant Name & Number], as stated in the termination notice dated [Date]. We requested a review of this decision in our correspondence with [contact name and office where you sent your letter] on [insert date]. [Describe what the letter said that is unfavorable OR state that “It has been [14] days since we sent the letter and they have failed to respond. This is an unreasonable delay as we need clarity now on whether the funding will be available].

As I expressed in my prior correspondence, we respectfully request a formal review of this decision on the following grounds:

1. Overview of our grant program and alignment with USDA goals

- Our organization was awarded this grant to [briefly describe primary goals and objectives of the grant, e.g., increase market access for small farmers,

provide conservation education, support historically underserved communities].

- These objectives are consistent with the USDA's stated priorities for this program [briefly describe program priorities, from request for proposal, agency website, etc.]
- Our program has already demonstrated positive impacts, such as [describe any measurable impacts to date: number of farmers assisted, improvements in conservation practices, economic benefits, etc.].

2. Arbitrary and capricious action, in violation of the APA

- [NIFA/AMS] set clear program priorities in its funding announcements, explicitly encouraging projects like ours. Now, it is penalizing recipients for following those priorities, without providing a reasonable explanation for this sudden shift.
- The decision to terminate our grant in its entirety, rather than considering modifications or partial adjustments, is overly broad and irrational. [Even if USDA now questions certain aspects of our program, a more reasonable approach would be to modify the scope of work and/or grant application and award language rather than terminate the grant entirely. [Our program primarily supports [describe primary mission], with only [percent]% of activities tied to DEI.]]
- The agency's decision to terminate funding without considering reliance interests and program impact is an unjustified policy reversal. Our organization planned staffing, budgeting, and operations around the USDA's prior commitment to this funding. The abrupt termination has caused severe financial and operational harm.

3. Violation of federal statutes

- Congress has consistently recognized the importance of [supporting climate-smart and conservation initiatives and/or ensuring that historically underserved communities have fair access to USDA resources].
- The USDA's decision contradicts Congressional intent, as set forth in federal statutes that prioritize [climate-smart and conservation initiatives and/or equitable access to USDA resources, [including the Farm Bill, the Agriculture Improvement Act of 2018, the Inflation Reduction Act (IRA), the Infrastructure Investment and Jobs Act (IIJA), and various annual



appropriations bills that fund USDA programs **note: if you know the statutory source funding your grant program, specifically refer to it*].

- Federal funding priorities under these laws aim to support underserved farmers, sustainable agriculture, rural development, and market access initiatives. Our program was designed in alignment with these legislative mandates, ensuring that USDA resources are directed toward achieving Congress's goals.

Requested Actions:

- We request an evidentiary hearing to present additional documentation and testimony.
- We ask that USDA reconsider its decision in light of our compliance with program objectives and statutory mandates.
- *[If the USDA has concerns about specific aspects of our program, we are willing to discuss grant and/or language modifications rather than outright termination]*.

In addition, please provide your written procedures for processing objections, hearings, and appeals, which you are required to maintain under 2 C.F.R. § 200.342. If USDA does not maintain such procedures, or if you contend that they are not applicable to our agreement, please inform us promptly so that we may take appropriate action.

Enclosed are supporting documents, including *[grant application/agreement, project impact reports, financial records, and communications with USDA, including the initial request for review and USDA response]*. We look forward to your response

Sincerely,

[Name]

[Title]

[Organization Name]



Sample Inquiry Letter (grant status)

[Organization Address]

[City, State, ZIP]

[Email Address]

[Phone Number]

[Grant Administrator's Name]

[Title]

[USDA Agency Name]

[Office Address]

[City, State, ZIP]

[Date]

Subject: Request for Confirmation of Grant Status – [Grant Name & Number]

Dear [Grant Administrator's Name],

We are writing to request written confirmation regarding the current status of our grant, [Grant Name & Number], which was awarded to our organization on [Award Date]. As you are aware, our organization has been diligently implementing the objectives outlined in our grant agreement, including [briefly summarize key activities, such as technical assistance, capacity building, farmer outreach, conservation efforts, etc.].

In recent weeks, we have heard from other grant recipients that the USDA is reviewing certain grants, and some organizations have received notifications of funding freezes or terminations. To date, we have not received any official notice regarding the status of our grant and would appreciate written clarification regarding whether our grant remains active and whether we should continue operating under the terms of our agreement.

To ensure that we can continue to carry out the important work funded by this grant in accordance with USDA guidelines, we respectfully request:

1. Written confirmation of whether our grant remains active, under review, or subject to any funding freeze or termination.



2. If applicable, any instructions regarding modifications, reporting requirements, or other necessary adjustments to our grant application/agreement, work plan or budget.
3. If our grant is under review, clarification on the review process and anticipated timeline for USDA's determination.

We would appreciate a response by [7 days] so that we can plan accordingly and ensure compliance with any necessary or requested grant application/agreement amendments or reporting or procedural adjustments.

We understand that USDA staff, including grant administrators like yourself, are operating under evolving policies and directives. We sincerely appreciate the work you do and the commitment you have shown to supporting organizations like ours and the communities we serve. Our goal is to ensure transparency and clarity in our ongoing collaboration so that we may continue our efforts in alignment with USDA's objectives and funding requirements.

We thank you in advance for your time and assistance and look forward to your response. If there is any additional information we can provide to facilitate this process, please let us know.

Sincerely,

[Name]

[Title]

[Organization Name]