

RFSI Pre-award Activities Clarification

Q: May RFSI Equipment Only applicants prepare their site or start to conduct RFSI grant related activities, before a subrecipient contract is executed?

A: No, see message from USDA AMS RFSI:

From: AMS.RFSI <RFSI@usda.gov>

To: AMS.RFSI <RFSI@usda.gov>

Subject: NEPA Clarification

Date: Fri 4/5/2024 3:28 PM

Good afternoon,

Our National Environmental Policy Act (NEPA) liaison has provided clarification on some aspects of the NEPA review to ensure compliance within the RFSI subaward process. Please let us know if you have any further questions.

- **NEPA reviews must encompass all RFSI federally funded activities as well as all connected actions.**
 - Connected actions are “closely related” and “should be discussed” in the same NEPA document (40 CFR 1508.25 (a)(1)). Proposed actions are connected if they automatically trigger other actions that may require an environmental impact statement; cannot or will not proceed unless other actions are taken previously or simultaneously; or if the actions are interdependent parts of a larger action and depend upon the larger action for their justification (40 CFR 1508.25 (a)(1)).
- **Sub-awardees must not start their project before receiving notice of AMS approval/award. This includes activities funded by RFSI and all connected actions. If they start their project before receiving AMS approval their project cannot be approved/awarded. This includes, but is not limited to, site preparation, construction, clearing of land, etc.**
 - States/Territories must ensure subaward recipients comply with all relevant laws, regulations, and policies regarding environmental management and protection and that no component of the proposed action be implemented prior to the completion of AMS’s environmental review and final decision, or AMS’s approval for that proposed action, consistent with 40 CFR 1506.1. This includes determinations that the Agency is not able to fulfill its consultation and other obligations under NEPA that during the environmental review process, ...no action concerning the proposal shall be taken which would: (1) Have an adverse environmental impact; or (2) Limit the choice of reasonable alternatives” (40 CFR 1506.1). NEPA and associated case law prohibits “segmentation” of actions whereby smaller portions of actions are evaluated to minimize the overall impact of otherwise connected actions (40 CFR 1508.25).

Please let us know if you have any questions or concerns.

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