

**FORMAL AGREEMENT AMONG
THE UNITED STATES DEPARTMENT OF AGRICULTURE
AND
THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
AND
THE UNITED STATES FOOD AND DRUG ADMINISTRATION
AND
THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT
Relative to Cooperation and Coordination on Food Loss and Waste**

PART 1 - GENERAL: The U.S. Department of Agriculture (USDA), the U.S. Environmental Protection Agency (EPA), the U.S. Food and Drug Administration (FDA), and U.S. Agency for International Development (USAID) (hereinafter individually a "Party", and together the "Parties") are committed to increasing collaboration and coordination in our existing federal programs in areas of mutual interest relating to the reduction of food loss and waste.

Specifically, this additional collaboration is intended to strategically align each Party's efforts to better educate the national and global communities on the impacts of reducing food loss and waste. Where appropriate we seek to educate actors throughout the supply chain on best practices to reduce food loss and waste in the growing, manufacturing, transporting, selling and disposing of food, handling, preparation and storage of food, as well as creating new uses for excess food.

While there have been significant actions taken and commitments made, there is still much work to be done. Moving forward USDA, EPA, FDA, and USAID will further improve upon our collaborative efforts as part of a Federal Interagency Food Loss and Waste Collaboration. Reducing food loss and waste is a critically important global issue. This is an opportunity to collectively approach an issue that touches everyone in the world. The Parties are coming together to lead by example and encourage other agencies to join us.

Globally, 30-40% of food produced is either lost or wasted throughout the farm-to-consumer supply chain. Many of USAID's partner countries lose up to 35% of their food annually at multiple points: in fields due to spoilage and pest damage, while being stored, in transit, and when it goes unused by consumers. In the United States, we send nearly 80 billion pounds of food in municipal solid waste to landfills annually, while over one third of food available is not eaten. To reduce food loss and waste it will take the entire value chain working together to achieve innovative solutions. The Parties seek to work together at the federal level with external entities to leverage the private and the non-governmental sectors to influence national and global change to reduce food loss and waste.

PART 2 - PURPOSE: The purpose of this agreement is to affirm the Parties shared commitment to reducing food loss and waste and commit to continued coordination and communication efforts among USDA, EPA, FDA and USAID that will leverage government resources more efficiently, saving taxpayer dollars while effectively addressing issues where the Parties have common issues and goals.

PART 3 - AUTHORITIES: As the partners collaborate, the Parties will rely on their own legal authorities, joint authorities and available appropriations, including new authorities and programs.

EPA relies on specific authorities under the Solid Waste Disposal Act that may include, but are not limited to, the following: Section 8001(a) of the Solid Waste Disposal Act, 42 U.S.C. 6981(a) and Section 102(2)(j) of NEPA, 42 U.S.C. 4332(2)(j).

USDA has the authority to enter into this agreement with the Agriculture Improvement Act of 2018 (the "2018 Farm Bill") which instructed USDA to establish a Food Loss and Waste Reduction Liaison who is charged with coordinating Federal, State, local, and nongovernmental programs, and other efforts, to measure and reduce the incidence of food loss and waste. USDA has delegated this responsibility to the Office of the Chief Economist.

FDA has authority to enter into this agreement pursuant to section 1003(b) of the Federal Food, Drug, and Cosmetic Act, (21 U.S.C. 393(b)). Section 1003(b) directs FDA to protect the public health by ensuring that foods are safe, wholesome, sanitary, and properly labeled.

USAID relies on specific authority under the Global Food Security Act (PL 114-195) with the interagency community to develop the Global Food Security Strategy which focuses on developing sustainable food and nutrition security which includes a reduction in the incidence of food loss and waste.

PART 4 - STATEMENT OF NO FINANCIAL OBLIGATION: Execution of this agreement does not constitute a financial obligation on the part of the Parties. Each Party and its respective agencies and offices will handle its own activities and use its own resources, including the expenditure of its own funds, in pursuing these objectives. Nonetheless, each Party will carry out its separate activities in a coordinated manner.

PART 5 - LIMITATIONS OF COMMITMENT: This agreement and any continuation thereof may be contingent upon the availability of funds appropriated by the Congress of the United States. It is understood and agreed that any monies allocated for purposes covered by this agreement shall be expended in accordance with the terms and in the manner prescribed by the applicable statutory and regulatory requirements. Notwithstanding, nothing in this agreement shall obligate the Parties to obligate or transfer any funds. Specific work projects or activities that involve the transfer of funds, services, or property among the various agencies and offices of the Parties will require execution of separate legally binding agreements and be contingent upon the availability of appropriated funds. Such activities must be independently authorized by appropriate statutory authority. This agreement does not provide such authority. Negotiation, execution, and administration of each such agreement must comply with all applicable statutes and regulations. Nothing

herein is intended to alter the respective rights and responsibilities of the Parties under their respective statutory authorities. This agreement, and any amendments thereto, shall be subject to the applicable policies, rules, regulations, and statutes under which the Parties are bound, and does not nullify or negate any existing understandings or agreements among the Parties, or among the Parties or either Party and any third party.

PART 6 - CONGRESSIONAL RESTRICTION: Subject to 18 U.S.C. 431, no Member of, or delegate to, Congress shall be admitted to any share or part of this agreement or to any benefit to arise thereupon.

PART 7 - PUBLICITY: Any Party member that prepares a press release, engages in a publicity event or makes other public announcements specific to this agreement shall provide other Party members advanced notification of such activities. Should such a public announcement, publicity event and/or press release of one Party mention another Party involved in this formal agreement, the originator will obtain formal clearance for disclosure from the Party being mentioned at least 24 hours in advance of an announcement.

The Parties will also commit to look for opportunities to coordinate on joint publicity events, announcements and other disclosures related to this agreement, as appropriate.

PART 8 - CONFIDENTIALITY: The Parties shall avoid the sharing of confidential information. To the extent the objectives of this agreement are impossible to meet without such sharing, the Parties intend to enter into a separate confidentiality agreement, provided any such agreement is consistent with each Parties' obligations by law, including but not limited to, federal records preservation and disclosure statutes and regulations.

For FDA, Proprietary and/or nonpublic information will not be disclosed under this formal agreement, unless such disclosure is permitted by law and is shared by FDA pursuant to 21 CFR 20.85. Sensitive or nonpublic information includes but is not limited to: (1) confidential commercial information, such as the information that would be protected from public disclosure pursuant to Exemption 4 of the Freedom of Information Act (FOIA); (2) personal privacy information, such as the information that would be protected from public disclosure pursuant to Exemption 6 or 7 (c) of the FOIA; or (3) information that is otherwise protected from public disclosure by Federal statutes and their implementing regulations (e.g., Trade Secrets Act (18 USC 1905)), the Privacy Act (5 USC 552a), other Freedom of Information Act exemptions not mentioned above (5 USC 552(v)), the Federal Food, Drug, and Cosmetic Act (21 USC 301 et seq.), and the Health Insurance Portability and Accountability Act (HIPAA), Pub. L. 104-191). Such personnel shall be advised of (1) the necessity to safeguard and limit access to the information, and (2) the administrative and civil penalties for noncompliance contained in applicable federal laws. The parties also acknowledge and agree that pursuant to section 301 (j) of the Food, Drug, and Cosmetic Act, 21 USC 331(j), FDA will not provide to the other Party and the other Party is not authorized to have access to or disclose, any method or process that is entitled to protection as a trade secret.

PART 9 - NON-EXCLUSIVITY: This agreement in no way restricts the Parties from participating in similar activities or entering into similar agreements with other public or private agencies, organizations or individuals.

PART 10 - SEVERABILITY: Nothing in this agreement is intended to conflict with current law(s), regulation(s), or the directives of EPA, FDA, USAID, or USDA. If any provision in this agreement is found to be inconsistent with existing authority, then that provision will be modified or annulled as agreed to by the Parties in writing; however, it is intended that the remaining provisions of this agreement remain.

PART 11 - NO THIRD-PARTY RIGHTS: This agreement is not intended to, and does not create, any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity, by a party against the United States, its agencies, its officers, or any person.

PART 12 - EFFECTIVE DATE, DURATION, AND TERMINATION: This agreement is effective upon the date of final signature and in effect for three years therefrom, unless otherwise modified. Either Party may terminate this agreement at any time by 60-day written notice to the other Party. The provisions of this agreement will be reviewed annually.

PART 13 - EFFECT OF THIS AGREEMENT: Nothing in this agreement is intended to give rise to rights or obligations under international law. The Parties specifically acknowledge that this agreement is not an obligation of funds, nor does it constitute a legally binding commitment by any Party or create any rights in any third party. The Parties intend to maintain their own separate and unique missions and mandates and their own accountabilities. Unless specifically provided otherwise, the cooperation among the Participants as outlined in this agreement is not intended to be construed as a type of legal entity or personality. Each Party is expected to bear its own costs for any and all expenses incurred by itself related to this agreement. Nothing in this formal agreement is intended to be construed as superseding or interfering in any way with any agreements or contracts entered into among the Parties, either prior to or subsequent to the signing of this agreement. Nothing in this agreement is intended to be construed as an exclusive working relationship.

 Date May 13, 2024
Thomas J. Vilsack
Secretary of the United States Department of Agriculture

 Date May 15, 2024
Michael S. Regan
Administrator of the Environmental Protection Agency

 Date May 13, 2024
Robert M. Califf, M.D.
Commissioner of Food and Drugs

 Date May 15, 2024
Samantha Power
Administrator of the Agency for Interagency Development