

produced by the grantee or borrower to another party.

*Pre-commercial technology.* Technology that has emerged through the research and development process and has technical and economic potential for commercial application, but is not yet commercially available.

*Promissory Note.* Evidence of debt. A note that a borrower signs promising to pay a specific amount of money at a stated time or on demand.

*Qualified consultant.* A third-party entity possessing the knowledge, expertise, and experience to perform in an efficient, effective, and authoritative manner the specific task required.

*Qualified party.* An entity possessing the knowledge, expertise, and experience to perform a specific task.

*Renewable energy.* Energy derived from a wind, solar, biomass, or geothermal source; or hydrogen derived from biomass or water using wind, solar, biomass, or geothermal energy sources.

*Renewable energy system.* A system that produces or produces and delivers usable energy from a renewable energy source.

*Rural.* Any area other than a city or town that has a population of greater than 50,000 inhabitants and the urbanized area contiguous and adjacent to such a city or town according to the latest decennial census of the United States.

*Simplified application.* An application that conforms to the criteria and procedures specified in § 4280.109.

*Small business.* An entity is considered a small business in accordance with the Small Business Administration's (SBA) small business size standards by the North American Industry Classification System (NAICS) found in Title 13 CFR part 121. A private entity, including a sole proprietorship, partnership, corporation, cooperative (including a cooperative qualified under section 501(c)(12) of the Internal Revenue Code), and an electric utility, including a Tribal or governmental electric utility, that provides service to rural consumers on a cost-of-service basis without support from public funds or subsidy from the Government authority establishing the district, provided such utilities meet SBA's def-

inition of small business. These entities must operate independent of direct Government control. With the exception of the entities described above, all other non-profit entities are excluded.

*Small solar, electric.* Small solar electric projects are those for which the rated power of the system is 10kW or smaller. Small solar electric projects are either stand-alone (off grid) or interconnected to the grid at less than 600 volts (on grid).

*Small solar, thermal.* Small solar thermal projects are those for which the rated storage volume of the system is 240 gallons or smaller or that have a collector area of 1,000 square feet or less.

*Small wind system.* Wind energy system for which the rated power of the wind turbine is 100kW or smaller and with a generator hub height of 120 feet or less. A small wind system is either stand-alone or connected to the local electrical system at less than 600 volts.

*Spreadsheet.* A table containing data from a series of financial statements of a business over a period of time. Financial statement analysis normally contains spreadsheets for balance sheets and income statements and may include cashflow statement data and commonly used ratios. The spreadsheets enable a reviewer to easily scan the data, spot trends, and make comparisons.

*State.* Any of the 50 States, the Commonwealth of Puerto Rico, the District of Columbia, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands.

*Total project cost.* The sum of all costs associated with a completed project.

*Used equipment.* Any equipment that has been used in any previous application and is provided in an "as is" condition.

*Very small business.* A business with fewer than 15 employees and less than \$1 million in annual receipts.

#### § 4280.104 Exception authority.

The Administrator may, on a case-by-case basis, make an exception to any requirement or provision of this

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subpart that is not inconsistent with any authorizing statute or applicable law, if the Administrator determines that application of the requirement or provision would adversely affect the USDA's interest.

### **§ 4280.105 Appeals.**

Only the grantee, borrower, lender, or holder can appeal an Agency decision made under this subpart. In cases where the Agency has denied or reduced the amount of final loss payment to the lender, the adverse decision may be appealed by the lender only. An adverse decision that only impacts the holder may be appealed by the holder only. A decision by a lender adverse to the interest of the borrower is not a decision by the Agency, whether or not concurred in by the Agency. An adverse decision regarding a grant or direct loan application may be appealed by the applicant only. Appeals will be handled in accordance with 7 CFR part 11 of this title. Any party adversely affected by an Agency decision under this subpart may request a determination of appealability from the Director, National Appeals Division, USDA, within 30 days of the adverse decision.

### **§ 4280.106 Conflict of interest.**

No conflict of interest or appearance of conflict of interest will be allowed. For purposes of this subpart, conflict of interest includes, but is not limited to, distribution or payment of grant, loan, and guaranteed loan funds or award of project contracts to an individual owner, partner, stockholder, or beneficiary of the applicant or borrower or a close relative of such an individual when such individual will retain any portion of the ownership of the applicant or borrower.

### **§ 4280.107 Applicant eligibility.**

(a) To receive a grant or loan under this subpart, an applicant must meet each of the criteria, as applicable, as set forth in paragraphs (a)(1) through (5) of this section.

(1) The applicant must be an agricultural producer or rural small business.

(2) Individuals must be citizens of the United States (U.S.) or reside in the U.S. after being legally admitted for permanent residence.

(3) Entities must be at least 51 percent owned, directly or indirectly, by individuals who are either citizens of the U.S. or reside in the U.S. after being legally admitted for permanent residence.

(4) Applicants and owners will be ineligible to receive funds under this subpart as discussed in paragraphs (a)(4)(i) and (ii) of this section.

(i) If an applicant or owner has an outstanding judgment obtained by the U.S. in a Federal Court (other than in the United States Tax Court), is delinquent in the payment of Federal income taxes, or is delinquent on a Federal debt, the applicant is not eligible to receive a grant, direct loan, or guaranteed loan until the judgment is paid in full or otherwise satisfied or the delinquency is resolved.

(ii) If an applicant has been debarred from receiving Federal assistance, the applicant is not eligible to receive a grant, direct loan, or guaranteed loan under this subpart.

(5) A grant applicant must have demonstrated financial need.

(b) An applicant that has received one or more grants and/or loans under this program must make satisfactory progress, as determined by the Agency, toward completion of any previously funded projects before it will be considered for subsequent funding.

### **§ 4280.108 Project eligibility.**

For a renewable energy system or energy efficiency improvement project to be eligible to receive a grant or loan under this subpart, the proposed project must meet each of the criteria, as applicable, in paragraphs (a) through (g) of this section.

(a) The project must be for the purchase of a renewable energy system or to make energy efficiency improvements.

(b) The project must be for a pre-commercial or commercially available, and replicable technology.

(c) The project must have technical merit, as determined using the procedures specified in § 4280.112(d).

(d) The project must be located in a rural area, as defined in § 4280.103.

(e) The applicant must be the owner of the project and control the revenues and expenses of the project, including