

**§§ 4280.440–4280.442**

the letter of conditions by the applicant before the any grant will be made.

**§§ 4280.440–4280.442 [Reserved]**

**POST AWARD ACTIVITIES AND REQUIREMENTS**

**§ 4280.443 Grant monitoring and servicing.**

RBDG grants will be monitored and serviced in accordance with the grant agreement, this subpart, and 2 CFR chapter IV.

**§§ 4280.444–4280.447 [Reserved]**

**§ 4280.448 Transfers and assumptions.**

The Agency will approve transfer and assumption requests on grants awarded under this subpart on a case by case basis, and then only to eligible entities under § 4280.416.

**§§ 4280.449–4280.499 [Reserved]**

**§ 4280.500 OMB control number.**

The reporting and recordkeeping requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. chapter 35 and have been assigned OMB control numbers 0570–0022 and 0570–0024 in accordance with the Paperwork Reduction Act of 1995. You are not required to respond to this collection of information unless it displays a valid OMB control number.

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AUTHORITY: 5 U.S.C. 301 and 7 U.S.C. 1989.  
Subpart F also issued under 7 U.S.C 1932(e).  
Subpart G also issued under 7 U.S.C 1926(a)(11).  
Subpart J also issued under 7 U.S.C. 1632(a).  
Subpart K also issued under 7 U.S.C. 1621 note.

SOURCE: 62 FR 42387, Aug. 7, 1997, unless otherwise noted.

### Subpart A—General Requirements for Cooperative Services Grant Programs

SOURCE: 69 FR 23425, Apr. 29, 2004, unless otherwise noted.

#### § 4284.1 Purpose.

The purpose of this subpart is to set forth definitions and requirements which are common to all grant programs set forth in this part administered by Cooperative Services within the Rural Business-Cooperative Service (RBS). Programs administered by the Business Programs within RBS are not affected by this subpart.

#### § 4284.2 Policy.

It is the policy of Cooperative Services to administer grant programs as uniformly as possible to minimize unnecessary inconsistencies in the administration of the grant programs provided for in this part. The specific provisions or definitions provided in the subparts that are specific to Cooperative Services are supplemental to these general provisions. Where a specific program provision is expressly different from what is provided in this subpart, the program specific subpart shall prevail.

#### § 4284.3 Definitions.

*Agency*—Rural Business-Cooperative Service (RBS), an agency of the United

States Department of Agriculture (USDA), or a successor agency.

*Agricultural Producer*—Persons or entities, including farmers, ranchers, loggers, agricultural harvesters and fishermen, that engage in the production or harvesting of an agricultural product. Producers may or may not own the land or other production resources, but must have majority ownership interest in the agricultural product to which Value-Added is to accrue as a result of the project. Examples of agricultural producers include: a logger who has a majority interest in the logs harvested that are then converted to boards, a fisherman that has a majority interest in the fish caught that are then smoked, a wild herb gatherer that has a majority interest in the gathered herbs that are then converted into essential oils, a cattle feeder that has a majority interest in the cattle that are fed, slaughtered and sold as boxed beef, and a corn grower that has a majority interest in the corn produced that is then converted into corn meal.

*Agricultural Product*—Plant and animal products and their by-products to include forestry products, fish and seafood products.

*Conflict of interest*—A situation in which a person or entity has competing personal, professional, or financial interests that make it difficult for the person or business to act impartially. Regarding use of both grant and matching funds, Federal procurement standards prohibit transactions that involve a real or apparent conflict of interest for owners, employees, officers, agents, their immediate family members, partners, or an organization which is about to employ any of the parties indicated herein, having a financial or other interest in or a tangible personal benefit from the outcome of the project; or that restrict open and free competition for unrestrained trade. Specifically, project funds may not be used for services or goods going to, or coming from, a person or entity with a real or apparent conflict of interest, including, but not limited to, owner(s) and their immediate family members. In cases of tribally-owned businesses, to avoid a conflict of interest, any business assisted

by a tribe must be held through a separate entity, such as a tribal corporation. The separate entity may be owned by the tribe and distribute profits to the tribe. However, the entity's governing board must be independent from the tribal government and be elected or appointed for a specific time period. These board members must not be subject to removal without cause by the tribal government. The entity's board members must not, now or in the future, make up the majority of members of the tribal council or be members of the tribal council or other governing board of the tribe.

*Cooperative Services*—The office within RBS, and its successor organization, that administers programs authorized by the Cooperative Marketing Act of 1926 (7 U.S.C. 451 *et seq.*) and such other programs so identified in USDA regulations.

*Economic development*—The economic growth of an area as evidenced by increase in total income, employment opportunities, decreased out-migration of population, value of production, increased diversification of industry, higher labor force participation rates, increased duration of employment, higher wage levels, or gains in other measurements of economic activity, such as land values.

*Farmer or Rancher Cooperative*—A farmer or rancher-owned and controlled business from which benefits are derived and distributed equitably on the basis of use by each of the farmer or rancher owners.

*Fixed equipment*—Tangible personal property used in trade or business that would ordinarily be subject to depreciation under the Internal Revenue Code, including processing equipment, but not including property for equipping and furnishing offices such as computers, office equipment, desks or file cabinets.

*Independent Producers*—Agricultural producers, individuals or entities (including for profit and not for profit corporations, LLCs, partnerships or LLPs), where the entities are solely owned or controlled by Agricultural Producers who own a majority ownership interest in the agricultural product that is produced. An independent

producer can also be a steering committee composed of independent producers in the process of organizing an association to operate a Value-Added venture that will be owned and controlled by the independent producers supplying the agricultural product to the market. Independent Producers must produce and own the agricultural product to which value is being added. Producers who produce the agricultural product under contract for another entity but do not own the product produced are not independent producers.

*Majority-Controlled Producer-Based Business Venture*—A venture where more than 50% of the ownership and control is held by Independent Producers, or, partnerships, LLCs, LLPs, corporations or cooperatives that are themselves 100 percent owned and controlled by Independent Producers.

*Matching Funds*—Cash or confirmed funding commitments from non-Federal sources unless otherwise provided by law. Unless otherwise provided, in-kind contributions that conform to the provisions of 2 CFR part 200 as adopted by USDA in 2 CFR part 400 can be used as matching funds. Examples of in-kind contributions include volunteer services furnished by professional and technical personnel, donated supplies and equipment, and donated office space. Matching funds must be provided in advance of grant funding, such that for every dollar of grant that is advanced, not less than the pro-rata portion of matching funds shall have been expended prior to submitting the request for reimbursement. Matching funds are subject to the same use restrictions as grant funds.

*National Office*—USDA RBS headquarters in Washington, DC.

*Nonprofit institution*—Any organization or institution, including an accredited institution of higher education, no part of the net earnings of which may inure, to the benefit of any private shareholder or individual.

*Product segregation*—Physical separation of a product or commodity from similar products. Physical separation requires a barrier to prevent mixing with the similar product.

*Public body*—Any state, county, city, township, incorporated town or village,

borough, authority, district, economic development authority, or Indian tribe on federal or state reservations or other federally recognized Indian tribe in rural areas.

*RFP*—Request for Proposals.

*Rural and rural area*—includes all the territory of a state that is not within the outer boundary of any city or town having a population of 50,000 or more and the urbanized area contiguous and adjacent to such city or town, as defined by the U.S. Bureau of the Census using the most recent decennial Census of the United States, and which excludes certain populations pursuant to 7 U.S.C. 1991(a)(13)(H) and (I).

*Rural Development*—A mission area within the USDA consisting of the Office of Under Secretary for Rural Development, Office of Community Development, Rural Business-Cooperative Service, Rural Housing Service and Rural Utilities Service and their successors.

*State*—includes each of the several States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and, as may be determined by the Secretary to be feasible, appropriate and lawful, the Freely Associated States and the Federated States of Micronesia.

*State Office*—USDA Rural Development offices located in each state.

*Value-Added*—The incremental value that is realized by the producer from an agricultural commodity or product as the result of a change in its physical state, differentiated production or marketing, as demonstrated in a business plan, or Product segregation. Also, the economic benefit realized from the production of farm or ranch-based renewable energy. Incremental value may be realized by the producer as a result of either an increase in value to buyers or the expansion of the overall market for the product. Examples include milling wheat into flour, slaughtering livestock or poultry, making strawberries into jam, the marketing of organic products, an identity-preserved marketing system, wind or hydro power produced on land that is farmed and collecting and converting methane from animal waste to

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generate energy. Identity-preserved marketing systems include labeling that identifies how the product was produced and by whom.

[69 FR 23425, Apr. 29, 2004, as amended at 79 FR 76016, Dec. 19, 2014; 80 FR 9913, Feb. 24, 2015; 87 FR 38644, June 29, 2022]

#### § 4284.4 Appeals.

Any appealable adverse decision made by the Agency may be appealed in accordance with USDA appeal regulations found at 7 CFR part 11 and subpart B of part 1900. If the Agency makes a determination that a decision is not appealable, a participant may request that it be reviewed by the Director of the National Appeals Division.

#### § 4284.5 [Reserved]

#### § 4284.6 Applicant eligibility.

An outstanding judgment obtained against an applicant by the United States in a Federal Court (other than in the United States Tax Court), which has been recorded, shall cause the applicant to be ineligible to receive any assistance until the judgment is paid in full or otherwise satisfied. RBS grant funds may not be used to satisfy the judgment.

#### § 4284.7 Electronic submission.

Applicants and grant awardees are encouraged, but not required, to submit applications and reports in electronic form as prescribed in requests for proposals issued by USDA and in the applicable grant agreements.

#### § 4284.8 Grant approval and obligation of funds.

The following statement will be entered in the comment section of the Request for Obligation of Funds, which must be signed by the grantee:

The grantee certifies that it is in compliance with and will continue to comply with all applicable laws, regulations, Executive Orders and other generally applicable requirements, including those contained in the applicable 7 CFR part 4284 and the Grants and Agreements Departmental Regulations as currently codified in 2 CFR parts 400, 415, 417, 418, and 421, in effect on

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the date of grant approval, and the approved Letter of Conditions.

[79 FR 76017, Dec. 19, 2014]

#### § 4284.9 Grant disbursement.

The Agency will determine, based on 2 CFR part 200 as adopted by USDA in 2 CFR part 400 whether disbursement of a grant will be by advance or reimbursement.

[79 FR 76017, Dec. 19, 2014]

#### § 4284.10 Ineligible grant purposes.

Grant funds may not be used to:

(a) Duplicate current services or replace or substitute support previously provided. If the current service is inadequate, however, grant funds may be used to expand the level of effort or services beyond what is currently being provided;

(b) Pay costs of preparing the application package for funding under this program;

(c) Pay costs of the project incurred prior to the date of grant approval;

(d) Fund political activities;

(e) Pay for assistance to any private business enterprise which does not have a least 51 percent ownership by those who are either citizens of the United States or reside in the United States after being legally admitted for permanent residence;

(f) Pay any judgment or debt owed to the United States;

(g) Plan, repair, rehabilitate, acquire, or construct a building or facility (including a processing facility);

(h) Purchase, rent or install Fixed Equipment;

(i) Pay for the repair of privately owned vehicles; or

(j) Fund research and development.

#### § 4284.11 Award requirements.

In addition to specific grant requirements, all approved applicants will be required to do the following:

(a) Enter into an Agency-approved grant agreement with RBS;

(b) Disclose in writing any potential conflicts of interest and maintain written standards of conduct covering conflicts of interest, including organizational conflicts of interest in accordance with 2 CFR 400.2;

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(c) Use “Request for Advance or Reimbursement” to request advances or reimbursements, as applicable, but not more frequently than once a month;

(d) Maintain a financial management system that is acceptable to the Agency; and

(e) Collect and maintain data on race, sex and national origin of the beneficiaries of the project.

[69 FR 23425, Apr. 29, 2004, as amended at 79 FR 76017, Dec. 19, 2014]

### § 4284.12 Reporting requirements.

Grantees must submit the following to USDA:

(a) A “Financial Status Report” listing expenditures according to agreed upon budget categories, on a semi-annual basis. Reporting periods end as identified in the grant agreement or applicable program attachment. Reports are due 30 days after the reporting period ends. Failure to submit the required reports within the specified time frame is considered cause for suspension or termination of the grant.

(b) Semi-annual performance reports that compare accomplishments to the objectives stated in the proposal. Identify all tasks completed to date and provide documentation supporting the reported results. If the original schedule provided in the work plan is not being met, the report should discuss the problems or delays that may affect completion of the project. Objectives for the next reporting period should be listed. Compliance with any special condition on the use of award funds should be discussed. Reports are due as provided in paragraph (a) of this section. The supporting documentation for completed tasks include, but are not limited to, feasibility studies, marketing plans, business plans, articles of incorporation and bylaws and an accounting of how working capital funds were spent.

(c) Final project performance reports, inclusive of supporting documentation. The final performance report is due within 30 days of the completion of the project.

[69 FR 23425, Apr. 29, 2004, as amended at 79 FR 76017, Dec. 19, 2014]

### § 4284.13 Confidentiality of reports.

All reports submitted to the Agency will be held in confidence to the extent permitted by law.

### § 4284.14 Grant servicing.

Grants will be serviced in accordance with 7 CFR part 1951, subparts E and O and the Departmental Grants and Agreements Regulations as currently codified in 2 CFR parts 400, 415, 417, 418, and 421. The only exception is that the delegation of post-award servicing does not require the prior approval of the Administrator. Grantees will permit periodic inspection of the program operations by a representative of the Agency. All non-confidential information resulting from the Grantee’s activities shall be made available to the general public on an equal basis.

[79 FR 76017, Dec. 19, 2014]

### § 4284.15 Performance reviews.

(a) USDA will incorporate performance criteria in grant award documentation and will regularly evaluate the progress and performance of grant awardees.

(b) USDA may elect to suspend or terminate a grant in all or part, or funding of a particular workplan activity, but nevertheless fund the remainder of a request for an advance or reimbursement, as applicable, where USDA has determined:

(1) That the grantee or subrecipient of grant funds has demonstrated insufficient progress in complying with the terms of the grant agreement;

(2) There is reason to believe that other sources of joint funding have not been or will not be forthcoming on a timely basis; or

(3) Such other cause as USDA identifies in writing to the grantee (including but not limited to the use of Federal grant funds for ineligible purposes).

### § 4284.16 Other considerations.

(a) *Environmental requirements.* Grants made under this subpart must comply with 7 CFR part 1970. Applications for technical assistance or planning projects are generally excluded from the environmental review process by § 1970.53, provided the assistance is not

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related to the development of a specific site. Applicants for grant funds must consider and document within their plans the important environmental factors within the planning area and the potential environmental impacts of the plan on the planning area, as well as the alternative planning strategies that were reviewed.

(b) *Civil rights.* All grants made under this subpart are subject to the requirements of title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color and national origin as outlined in 7 CFR part 1901, subpart E. In addition, the grants made under this subpart are subject to the requirements of section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of disability; the requirements of the Age Discrimination Act of 1975, which prohibits discrimination on the basis of age; and title III of the Americans with Disabilities Act, which prohibits discrimination on the basis of disability by private entities in places of public accommodations. This program will also be administered in accordance with all other applicable civil rights law.

(c) *Other USDA regulations.* The grant programs under this part are subject to the provisions of the following regulations, as applicable:

- (1) 2 CFR part 400, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards;
- (2) 2 CFR part 415, General Program Administrative Regulations;
- (3) 2 CFR part 417, Nonprocurement Debarment and Suspension;
- (4) 2 CFR part 418, New Restrictions on Lobbying; and
- (5) 2 CFR part 421, Requirements for Drug-Free Workplace (Financial Assistance).

[69 FR 23425, Apr. 29, 2004, as amended at 79 FR 76017, Dec. 19, 2014; 81 FR 11053, Mar. 2, 2016]

**§ 4284.17 Member delegate clause.**

No Member of Congress shall be admitted to any share or part of a grant program or any benefit that may arise there from, but this provision shall not be construed to bar as a contractor under a grant a publicly held corpora-

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tion whose ownership might include a Member of Congress.

**§ 4284.18 Audit requirements.**

Grantees must comply with the audit requirements of 2 CFR part 200 as adopted by USDA in 2 CFR part 400. The audit requirements apply to the years in which grant funds are received and years in which work is accomplished using grant funds.

[79 FR 76017, Dec. 19, 2014]

**§ 4284.19 Programmatic changes.**

The Grantee shall obtain prior approval for any change to the scope or objectives of the approved project. Failure to obtain prior approval of changes to the scope of work or budget may result in suspension, termination and recovery of grant funds.

**§§ 4284.20–4284.99 [Reserved]**

**§ 4284.100 OMB control number.**

The information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) and have been assigned OMB control number 0570–0045.

**Subparts B–E [Reserved]**

**Subpart F—Rural Cooperative Development Grants**

SOURCE: 69 FR 23428, Apr. 29, 2004, unless otherwise noted.

**§ 4284.501 Purpose.**

This subpart outlines the Agency’s policies and procedures for making grants for cooperative development in rural areas.

**§ 4284.502 Policy.**

Rural cooperative development grants will be used to facilitate the creation or retention of jobs in rural areas through the development of new rural cooperatives, Value-Added processing and rural businesses.

**§ 4284.503 Program administration.**

The rural cooperative development grant program is administered by Cooperative Services within the Agency.

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### § 4284.504 Definitions.

*Center*—The entity established or operated by the grantee for rural cooperative development. It may or may not be an independent legal entity separate from the grantee.

*Cooperative development*—The startup, expansion or operational improvement of a cooperative to promote development in rural areas of services and products, processes that can be used in the marketing of products, or enterprises that create Value-Added to farm products through processing or marketing activities. Development activities may include, but are not limited to, technical assistance, research services, educational services and advisory services. Operational improvement includes making the cooperative more efficient or better managed.

*1994 Institution*—means a college identified as such for purposes of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note). Contact the Agency for a list of currently eligible colleges.

*Project*—A planned undertaking by a Center that utilizes the funds provided to it to promote economic development in rural areas through the creation and enhancement of cooperatives.

### §§ 4284.505–4284.506 [Reserved]

### § 4284.507 Eligibility for grant assistance.

Grants may be made to Nonprofit corporations and institutions of higher education. Grants may not be made to Public bodies.

### § 4284.508 Use of grant funds.

Grant funds may be used to pay up to 75 percent (95 percent where the grantee is a 1994 Institution) of the cost of establishing and operating centers for rural cooperative development. Matching funds contributed by the applicant may include a loan from another federal source. Grant funds may be used for, but are not limited to, providing the following to individuals, cooperatives, small businesses and other similar entities in rural areas served by the Center:

(a) Applied research, feasibility, environmental and other studies that may

be useful for the purpose of cooperative development.

(b) Collection, interpretation and dissemination of principles, facts, technical knowledge, or other information for the purpose of cooperative development.

(c) Providing training and instruction for the purpose of cooperative development.

(d) Providing loans and grants for the purpose of cooperative development in accordance with the subpart.

(e) Providing technical assistance, research services and advisory services for the purpose of cooperative development.

### § 4284.509 Limitations on grants.

Grants made pursuant to this subpart shall be for one year or less.

### § 4284.510 Application processing.

(a) *Applications*. USDA will solicit applications on a competitive basis by publication of one or more Requests for Proposals (RFPs). Unless otherwise specified in the applicable RFP, applicants must file an original and one hard copy of the required forms and a proposal.

(b) *Required forms*. The following forms must be completed, signed and submitted as part of the application package. Other forms may be required. This will be published in the applicable RFP.

(1) “Application for Federal Assistance”

(2) “Budget Information—Non-Construction Programs”

(3) “Assurances—Non-Construction Programs”

(c) *Proposal*. Each proposal must contain the following elements. Additional elements may be published in the applicable RFP.

(1) Title Page.

(2) Table of Contents.

(3) *Executive Summary*. A summary of the proposal should briefly describe the Center, including goals and tasks to be accomplished, the amount requested, how the work will be performed and whether organizational staff, consultants or contractors will be used.

(4) *Eligibility*. A detailed discussion describing how the applicant meets the eligibility requirements.



(5) *Proposal Narrative.* The narrative portion of the proposal must include, but is not limited to, the following:

(i) *Project Title.* The title of the proposed project must be brief, not to exceed 75 characters, yet describe the essentials of the project.

(ii) *Information Sheet.* A separate one-page information sheet listing each of the evaluation criteria referenced in the RFP, followed by the page numbers of all relevant material and documentation contained in the proposal that address or support the criteria.

(iii) *Goals of the Project.* This section must include the following:

(A) A provision that substantiates that the Center will effectively serve rural areas in the United States;

(B) A provision that the primary objective of the Center will be to improve the economic condition of rural areas through cooperative development;

(C) A description of the contributions that the proposed activities are likely to make to the improvement of the economic conditions of the rural areas for which the Center will provide services.

(D) Provisions that the Center, in carrying out the activities, will seek, where appropriate, the advice, participation, expertise, and assistance of representatives of business, industry, educational institutions, the Federal Government, and State and local governments.

(iv) *Work Plan.* Applicants must discuss the specific tasks to be completed using grant and matching funds. The work plan should show how customers will be identified, key personnel to be involved, and the evaluation methods to be used to determine the success of specific tasks and overall objectives of Center operations. The budget must present a breakdown of the estimated costs associated with cooperative development activities as well as the operation of the Center and allocate these costs to each of the tasks to be undertaken. Matching funds as well as grant funds must be accounted for in the budget.

(v) *Performance Evaluation Criteria.* Performance criteria suggested by the applicant for incorporation in the grant award in the event the proposal receives grant funding under this sub-

part. These suggested criteria are not binding on USDA.

(vi) *Undertakings.* The applicant must expressly undertake to do the following:

(A) Take all practicable steps to develop continuing sources of financial support for the Center, particularly from sources in the private sector;

(B) Make arrangements for the activities by the nonprofit institution operating the Center to be monitored and evaluated; and

(C) Provide an accounting for the money received by the grantee under this subpart.

(vii) *Delivery of Cooperative development assistance.* The applicant must describe its previous accomplishments and outcomes in Cooperative development activities and/or its potential for effective delivery of Cooperative development services to rural areas. The applicant should also describe the type(s) of assistance to be provided, the expected impacts of that assistance, the sustainability of cooperative organizations receiving the assistance, and the transferability of its Cooperative development strategy and focus to other areas of the U.S.

(viii) *Qualifications of Personnel.* Applicants must describe the qualifications of personnel expected to perform key center tasks, and whether these personnel are to be full/part-time Center employees or contract personnel. Those personnel having a track record of positive solutions for complex cooperative development or marketing problems, or those with a record of conducting feasibility studies that later proved to be accurate, business planning, marketing analysis, or other activities relevant to the Center's success should be highlighted.

(ix) *Support and commitments.* Applicants must describe the level of support and commitment in the community for the proposed Center and the services it would provide. Plans for coordinating with other developmental organizations in the proposed service area, or with state and local government institutions should be included. Letters supporting cooperation and coordination from potential local customers should be provided.

(x) *Future support.* Applicants should describe their vision for Center operations beyond the first year, including issues such as sources and uses of alternative funding; reliance on Federal, state, and local grants; and the use of in-house personnel for providing services versus contracting out for that expertise. To the extent possible, applicants should document future funding sources that will help achieve long-term sustainability of the Center.

(xi) *Evaluation criteria.* Each of the evaluation criteria referenced in the RFP must be specifically and individually addressed in narrative form.

(6) *Verification of Matching Funds.* Applicants must provide a budget to support the work plan showing all sources and uses of funds during the project period. Applicants will be required to verify matching funds, both cash and in-kind. Sufficient information should be included such that USDA can verify all representations.

(7) *Certification.* Applicants must certify that matching funds will be available at the same time grant funds are anticipated to be spent and that matching funds will be spent in advance of grant funding, such that for every dollar of grant that is advanced, not less than an equal amount of match funds will have been funded prior to submitting the request for advance.

#### § 4284.511 Evaluation screening.

The Agency will conduct an initial screening of all proposals to determine whether the applicant is eligible and whether the application is complete and sufficiently responsive to the requirements set forth in the applicable RFP so as to allow for an informed review. Incomplete or non-responsive applications will not be evaluated further. Applicants may revise their applications and re-submit them prior to the published deadline if there is sufficient time to do so.

#### § 4284.512 Evaluation process.

(a) Applications will be evaluated by qualified reviewers appointed by the Agency.

(b) After all proposals have been evaluated using the evaluation criteria and scored in accordance with the point al-

location specified in the applicable RFP, the Agency will present to the Administrator of RBS a list of all applications in rank order, together with funding level recommendations.

#### § 4284.513 Evaluation criteria and weights.

Unless supplemented in a RFP, the criteria listed in this section will be used to evaluate grants under this subpart. Preference will be given to items in paragraphs (a) through (f) of this section. The distribution of points to be awarded per criterion will be identified in the applicable RFP.

(a) *Administrative capabilities.* The application will be evaluated to determine whether the subject Center has a track record of administering a nationally coordinated, regional or state-wide operated project. Centers that have capable financial systems and audit controls, personnel and program administration performance measures and clear rules of governance will receive more points than those not evidencing this capacity.

(b) *Technical assistance and other services.* The Agency will evaluate the applicant's demonstrated expertise in providing technical assistance in Rural areas.

(c) *Economic development.* The Agency will evaluate the applicant's demonstrated ability to assist in the retention of businesses, facilitate the establishment of cooperatives and new cooperative approaches and generate employment opportunities that will improve the economic conditions of rural areas.

(d) *Linkages.* The Agency will evaluate the applicant's demonstrated ability to create horizontal linkages among businesses within and among various sectors in rural areas of the United States and vertical linkages to domestic and international markets.

(e) *Commitment.* The Agency will evaluate the applicant's commitment to providing technical assistance and other services to underserved and economically distressed areas in rural areas of the United States.

(f) *Matching Funds.* All applicants must demonstrate Matching Funds equal to at least 25 percent (5 percent for 1994 Institutions) of the grant

## § 4284.514

amount requested. Applications exceeding these minimum commitment levels will receive more points.

(g) *Delivery.* The Agency will evaluate whether the Center has a track record in providing technical assistance in rural areas and accomplishing effective outcomes in cooperative development. The Center's potential for delivering effective cooperative development assistance, the expected effects of that assistance, the sustainability of cooperative organizations receiving the assistance, and the transferability of the Center's cooperative development strategy and focus to other States will also be assessed.

(h) *Work Plan/Budget.* The work plan will be reviewed for detailed actions and an accompanying timetable for implementing the proposal. Clear, logical, realistic and efficient plans will result in a higher score. Budgets will be reviewed for completeness and the quality of non Federal funding commitments.

(i) *Qualifications of those Performing the Tasks.* The application will be evaluated to determine if the personnel expected to perform key center tasks have a track record of positive solutions for complex Cooperative development or marketing problems, or a successful record of conducting accurate feasibility studies, business plans, marketing analysis, or other activities relevant to Cooperative development center success.

(j) *Local support.* Applications will be reviewed for previous and expected local support for the Center, plans for coordinating with other developmental organizations in the proposed service area and coordination with state and local institutions. Support documentation should include recognition of rural values that balance employment opportunities with environmental stewardship and other positive rural amenities. Centers that demonstrate strong support from potential beneficiaries and formal evidence of the Center's intent to coordinate with other developmental organizations will receive more points than those not evidencing such support and formal intent.

(k) *Future support.* Applications that demonstrate their vision for funding center operations for future years, in-

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cluding diversification of funding sources and building in-house technical assistance capacity, will receive more points for this criterion.

### § 4284.514 Grant closing.

(a) *Letter of Conditions.* The Agency will notify an approved applicant in writing, setting out the conditions under which the grant will be made.

(b) *Applicant's intent to meet conditions.* Upon reviewing the conditions and requirements in the letter of conditions, the applicant must complete, sign and return the Agency's "Letter of Intent to Meet Conditions," or, if certain conditions cannot be met, the applicant may propose alternate conditions to the Agency. The Agency must concur with any changes proposed to the letter of conditions by the applicant before the application will be further processed.

(c) *Grant agreement.* The Agency and the grantee must enter into the Agency's "Agriculture Innovation Center Grant Agreement" prior to the advance of funds.

### §§ 4284.515–4284.599 [Reserved]

### § 4284.600 OMB control number.

The reporting and recordkeeping requirements contained in this regulation have been approved by the Office of Management and Budget and have been assigned OMB control number 0570-0006 in accordance with the Paperwork Reduction Act of 1995.

## Subparts G–I [Reserved]

## Subpart J—Value-Added Producer Grant Program

SOURCE: 80 FR 26799, May 8, 2015, unless otherwise noted.

### GENERAL

### § 4284.901 Purpose.

This subpart implements the Value-Added Agricultural Product Market Development grant program (Value-Added Producer Grants (VAPG)) administered by the Rural Business-Cooperative Service whereby grants are made to enable viable Agricultural Producers (those who are prepared to

progress to the next business level of planning for, or engaging in, Value-Added Agricultural Production) to develop businesses that produce and market Value-Added Agricultural Products and to create marketing opportunities for such businesses. The provisions of this subpart constitute the entire provisions applicable to this Program; the provisions of subpart A of this part do not apply to this subpart.

#### § 4284.902 Definitions.

The following definitions apply to this subpart:

*Administrator.* The Administrator of the Rural Business-Cooperative Service or designees or successors.

*Agency.* The Rural Business-Cooperative Service or successor for the programs it administers.

*Agricultural commodity.* An unprocessed product of farms, ranches, nurseries, and forests and natural and man-made bodies of water, that the Independent Producer has cultivated, raised, or harvested with legal access rights. Agricultural commodities include plant and animal products and their by-products, such as crops, forestry products, hydroponics, nursery stock, aquaculture, meat, on-farm generated manure, and fish and seafood products. Agricultural commodities do not include horses or other animals raised or sold as pets, such as cats, dogs, and ferrets.

*Agricultural food product.* Agricultural food products can be raw, cooked, or processed edible substances, beverages, or ingredients intended for human consumption. These products cannot be animal feed, live animals (except for seafood products customarily sold and/or consumed live), non-harvested plants, fiber, medicinal products, cosmetics, tobacco products, or narcotics.

*Agricultural producer.* (1) An individual or entity that produces an Agricultural Commodity through participation in the day-to-day labor, management, and field operations; or that has the legal right to harvest an Agricultural Commodity that is the subject of the VAPG project.

(2) The Agency shall determine the Agricultural producer status of Tribes and Tribal entities without regard to day-to-day labor, management, and

field operation and right to harvest status.

*Agricultural producer group.* A non-profit membership organization that represents Independent Producers and whose mission includes working on behalf of Independent Producers and the majority of whose membership and board of directors is comprised of Independent Producers. The Independent Producers, on whose behalf the value-added work will be done, must be confirmed as eligible and identified by name or class.

*Applicant.* The legal entity submitting an application to participate in the competition for program funding. The Applicant must be legally structured to meet one of the four eligible Applicant types: Independent Producer, Agricultural Producer Group, Farmer or Rancher Cooperative, or Majority-Controlled Producer-Based Business Venture.

*Beginning farmer or rancher.* (1) For the purposes of determining eligibility to receive priority points under § 4284.924, a Beginning Farmer or Rancher is either:

(i) An individual Independent Producer (other than a Harvester) that has operated a Farm or Ranch for no more than 10 years or

(ii) An eligible Applicant entity, other than a Harvester, that has an Applicant ownership or membership of more than 50 percent farmers or ranchers each of whom have operated a Farm or Ranch for no more than 10 years.

(2) For the purposes of determining eligibility to receive funding reserved for Beginning Farmers and Ranchers under § 4284.923, a Beginning Farmer or Rancher is either:

(i) An individual Independent Producer (other than a Harvester) that has operated a Farm or Ranch for no more than 10 years or

(ii) An eligible Applicant entity, other than a Harvester, that has an Applicant ownership or membership comprised entirely of (*i.e.*, 100 percent) farmers or ranchers that have operated a Farm or Ranch for no more than 10 years.

*Business plan.* A formal statement of a set of business goals, the reasons why they are believed attainable, and the plan for reaching those goals, including

Pro Forma Financial Statements appropriate to the term and scope of the Project and sufficient to evidence the viability of the Venture. It may also contain background information about the organization or team attempting to reach those goals.

*Change in physical state.* An irreversible processing activity that alters the raw Agricultural Commodity into a marketable Value-Added Agricultural Product. This processing activity must be something other than a post-harvest process that primarily acts to preserve the commodity for later sale. Examples of eligible Value-Added Agricultural Products in this category include, but are not limited to, fish fillets, diced tomatoes, bio-diesel fuel, cheese, jam, and wool rugs. Examples of ineligible products include, but are not limited to, pressure-ripened produce; raw bottled milk; container grown trees; young plants, seedlings or plugs; and cut flowers.

*Conflict of interest.* A situation in which a person or entity has competing personal, professional, or financial interests that make it difficult for the person or business to act impartially. Regarding use of both grant and Matching Funds, Federal procurement standards apply to the use of grant funds for purchases and hires, and prohibit transactions that involve a real or apparent Conflict of Interest for owners, employees, officers, agents, or their Immediate Family members having a financial or other interest in the outcome of the Project; or that restrict open and free competition for unrestrained trade. Specifically, grant and Matching Funds may not be used to support costs for services or goods going to, or coming from, a person or entity with a real or apparent Conflict of Interest, including, but not limited to, owner(s) and their Immediate Family members. See § 4284.925(a) and (b) for limited exceptions to this definition and practice for VAPG.

*Departmental regulations.* The regulations of the Department of Agriculture's Office of Chief Financial Officer (or successor office) as codified in 2 CFR parts 200 and 400 and any successor regulations to these parts.

*Emerging market.* A new or developing, geographic or demographic mar-

ket that is new to the Applicant or the Applicant's product. To qualify as new, the Applicant cannot have supplied this product, geographic, or demographic market for more than two years at time of application submission.

*Family farm.* A Farm (or Ranch) that produces agricultural commodities for sale in sufficient quantity to be recognized as a farm and not a rural residence; whose owners are primarily responsible for daily physical labor and strategic management; whose hired help only supplements family labor; and, whose owners are related by blood or marriage or are Immediate Family.

*Farm or ranch.* Any place from which \$1,000 or more of agricultural products were raised and sold or would have been raised and sold during the previous year, but for an event beyond the control of the farmer or rancher.

*Farm- or Ranch-based renewable energy.* An Agricultural Commodity that is used to generate renewable energy on a Farm or Ranch owned or leased by the Independent Producer Applicant that produces the Agricultural Commodity, such that the generated renewable energy, is utilized in such a way that the applicant can demonstrate expanded customer base and increased revenues returning to the producers of the agricultural commodity as a result of the project. On-farm generation of energy from wind, solar, geothermal or hydro sources is not eligible for this program.

*Farmer or rancher cooperative.* A business owned and controlled by Independent Producers that is incorporated, or otherwise identified by the state in which it operates, as a cooperatively operated business. The Independent Producers, on whose behalf the value-added work will be done, must be confirmed as eligible and identified by name or class.

*Feasibility study.* An analysis of the economic, market, technical, financial, and management capabilities of a proposed Project or business in terms of the Project's expectation for success.

*Fiscal year.* The Federal government's fiscal year.

*Harvester.* An Independent Producer of an Agricultural Commodity that is

an individual or entity that can document that it has a legal right to access and harvest the majority of a primary Agricultural Commodity that will be used for the Value-Added Agricultural Product. Individuals and entities that merely glean, gather, or collect residual commodities that result from an initial harvesting or production of a primary Agricultural Commodity are not considered Harvesters and are not eligible for this program.

*Immediate family.* Individuals who are closely related by blood, marriage, or adoption, or live within the same household, such as a spouse, domestic partner, parent, child, brother, sister, aunt, uncle, grandparent, grandchild, niece, or nephew.

*Independent Producer.* (1) Individual Agricultural Producers or entities that are solely owned and controlled by Agricultural Producers. Independent Producers must produce and own more than 50 percent of the Agricultural Commodity to which value will be added as the subject of the Project proposal. Independent Producers must maintain ownership of the Agricultural Commodity or product from its raw state through the production and marketing of the Value-Added Agricultural Product. Producers who produce the Agricultural Commodity under contract for another entity, but do not own the Agricultural Commodity or Value-Added Agricultural Product produced, are not considered Independent Producers. Entities that contract out the production of an Agricultural Commodity are not considered Independent Producers. Independent Producer entities must confirm their owner members as eligible and must identify them by name or class.

(2) A Steering Committee must apply as an Independent Producer and form a program-eligible legal entity prior to execution of the grant agreement by the Agency. The Steering Committee and entity subsequently formed must meet all other program eligibility requirements.

(3) A Harvester must apply as an Independent Producer because harvester operations do not meet the definition requirements for a Farm or Ranch. Harvester applicants are therefore not eligible to receive Reserved

Funds and/or Priority Points for a Beginning Farmer or Rancher, Socially-Disadvantaged Farmer or Rancher, operator of a Small- or Medium-sized farm or ranch that is structured as a Family Farm, or a Farmer or Rancher Cooperative, but may request Reserved Funds and/or Priority Points for qualified Mid-Tier Value Chain projects.

(4) The Agency shall determine the Independent Producer status of Tribes or Tribal entities without regard to ownership of the commodity to which value will be added so long as the tribal member participant, tribal entity and/or Tribe own and control at least 50 percent of the raw commodity necessary for the project, per the definition of Independent Producer in § 4284.902.

*Local or regional supply network.* An interconnected group of individuals and/or entities through which agricultural based products move from production through consumption in a local or regional area of the United States. Examples of participants in a supply network may include Agricultural Producers, aggregators, processors, distributors, wholesalers, retailers, consumers, and entities that organize or provide facilitation services and technical assistance for development of such networks.

*Locally-produced Agricultural Food Product.* Any Agricultural Food Product, as defined in this subpart, that is raised, produced, and distributed in:

(1) The locality or region in which the final product is marketed, so that the total distance that the product is transported is less than 400 miles from the origin of the product; or

(2) The State in which the product is produced.

*Majority-controlled producer-based business venture.* An entity (except Farmer or Rancher Cooperatives) in which more than 50 percent of the financial ownership and voting control is held by Independent Producers. Independent Producer members must be confirmed as eligible and must be identified by name or class, along with their percentage of ownership.

*Marketing plan.* A plan for the project that identifies a market window, potential buyers, a description of the distribution system and possible promotional campaigns.

*Matching funds.* A cost-sharing contribution to the project via confirmed cash or funding commitments from eligible sources without a real or apparent Conflict of Interest, that are used for eligible project purposes during the grant funding period. Matching Funds must be at least equal to the grant amount, and combined grant and Matching Funds must equal 100 percent of the Total Project Costs. All Matching Funds must be provided for in the approved budget, must be necessary and reasonable for accomplishment of project or program objectives and can be verified by authentic documentation from the source as part of the application. Matching Funds must be provided in the form of confirmed Applicant cash, loan, or line of credit, or provided in the form of a confirmed Applicant or family member in-kind contribution that meets the requirements and limitations in § 4284.925(a) and (b); or confirmed third-party cash or eligible third-party in-kind contribution; or confirmed non-federal grant sources (unless otherwise provided by law). Matching funds cannot be paid by the Federal Government under another Federal award and are not included as contributions for any other Federal Award. See examples of ineligible Matching Funds and Matching Funds verification requirements in §§ 4284.926 and 4284.931.

*Medium-sized farm or ranch.* A Farm or Ranch that is structured as a Family Farm that has averaged \$500,001 to \$1,000,000 in annual gross sales of agricultural commodities in the previous three years.

*Mid-tier value chain.* Local and regional supply networks that link Independent Producers with businesses, cooperatives, or consumers that market Value-Added Agricultural Products in a manner that:

(1) Targets and strengthens the profitability and competitiveness of Small- and Medium-sized Farms or Ranches that are structured as a Family Farm; and

(2) Obtains agreement from an eligible Agricultural Producer Group, Farmer or Rancher Cooperative, or Majority-Controlled Producer-Based Business Venture that is engaged in the value chain on a marketing strategy.

(3) For Mid-tier Value Chain projects, the Agency recognizes that, in a supply chain network, a variety of raw Agricultural Commodity and Value-Added Agricultural Product ownership and transfer arrangements may be necessary. Consequently, Applicant ownership of the raw Agricultural Commodity and Value-Added Agricultural Product from raw through value-added stages is not necessarily required, as long as the Mid-tier Value Chain application can demonstrate an increase in customer base and an increase in revenue returns to the Applicant producers supplying the majority of the raw Agricultural Commodity for the project.

*Planning grant.* A grant to facilitate the development of a defined program of economic planning activities to determine the viability of a potential value-added Venture, and specifically for the purpose of paying for conducting and developing a Feasibility Study, Business Plan, and/or Marketing Plan associated with the processing and/or marketing of a Value-Added Agricultural Product.

*Produced in a manner that enhances the value of the Agricultural Commodity.* The use of a recognizably coherent set of agricultural production practices in the growing or raising of the raw commodity, such that a differentiated market identity is created for the resulting product. Examples of eligible products in this category include, but are not limited to, sustainably grown apples, eggs produced from free-range chickens, or organically grown carrots.

*Physical segregation.* Separating an Agricultural Commodity or product on the same farm from other varieties of the same commodity or product on the same farm during production and harvesting, with assurance of continued separation from similar commodities during processing and marketing in a manner that results in the enhancement of the value of the separated commodity or product. An example of a

segregated product is non-GMO corn separated from GMO corn.

*Pro forma financial statement.* A financial statement that projects the future financial position of a company. The statement is part of the Business Plan and includes an explanation of all assumptions, such as input prices, finished product prices, and other economic factors used to generate the financial statements. The statement must include projections for a minimum of three years in the form of cash flow statements, income statements, and balance sheets.

*Project.* All of the eligible activities to be funded by the grant under this subpart and Matching Funds.

*Qualified consultant.* An independent, third-party, without a Conflict of Interest, possessing the knowledge, expertise, and experience to perform the specific task required in an efficient, effective, and authoritative manner.

*Rural Development.* A mission area of the Under Secretary for Rural Development within the U.S. Department of Agriculture (USDA), which includes Rural Housing Service, Rural Utilities Service, and Rural Business-Cooperative Service and their successors.

*Small-sized farm or ranch.* A Farm or Ranch that is structured as a Family Farm that has averaged \$500,000 or less in annual gross sales of agricultural products in the previous three years.

*Socially-disadvantaged farmer or rancher.* This term has the meaning given in section 355(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003(e)): Socially-Disadvantaged Farmer or Rancher means a farmer or rancher who is a member of a "Socially-Disadvantaged Group."

(1) For the purposes of determining eligibility to receive priority points under § 4284.924, if there are multiple farmer or rancher owners of the Applicant organization, more than 50 percent of the ownership must be held by members of a Socially-Disadvantaged Group.

(2) For the purposes of determining eligibility to receive funding reserved for Socially-Disadvantaged Farmers and Ranchers under § 4284.923, if there are multiple farmer or rancher owners of the Applicant organization, all farmer and rancher owners (*i.e.*, 100 percent)

must be members of a Socially-Disadvantaged Group.

*Socially-Disadvantaged group.* A group whose members have been subjected to racial, ethnic, or gender prejudice because of their identity as members of a group without regard to their individual qualities.

*State.* Any of the 50 States of the United States, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, 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.

*State office.* USDA Rural Development offices located in each State.

*Steering committee.* An unincorporated group comprised wholly of specifically identified Independent Producers in the process of organizing one of the four program eligible entity types (Independent Producer, Agricultural Producer Group, Farmer or Rancher Cooperative or Majority-Controlled Producer-Based Business Venture).

*Total project cost.* The sum of all grant and Matching Funds in the project budget that reflects the eligible project tasks associated with the work plan.

*Value-added agricultural product.* Any Agricultural Commodity produced in the U.S. (including the Republic of Palau, the Federated States of Micronesia, the Republic of the Marshall Islands, or American Samoa), that meets the requirements specified in paragraphs (1) and (2) of this definition.

(1) The Agricultural Commodity must meet one of the following five value-added methodologies:

(i) Has undergone a Change in Physical State;

(ii) Was Produced in a Manner that Enhances the Value of the Agricultural Commodity;

(iii) Is Physically Segregated in a manner that results in the enhancement of the value of the Agricultural Commodity;

(iv) Is a source of Farm- or Ranch-based Renewable Energy, including E-85 fuel; or

(v) Is aggregated and marketed as a Locally-Produced Agricultural Food Product.



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(2) As a result of the Change in Physical State or the manner in which the Agricultural Commodity was produced, marketed, or segregated:

(i) The customer base for the Agricultural Commodity is expanded and

(ii) A greater portion of the revenue derived from the marketing, processing, or physical segregation of the Agricultural Commodity is available to the producer of the commodity.

*Venture.* The business and its value-added undertakings, including the project and other related activities.

*Veteran farmer or rancher.* A farmer or rancher who has served in the Armed Forces, as defined in section 101(10) of title 38 United States Code, and who either has not operated a Farm or Ranch or has operated a Farm or Ranch for not more than 10 years.

(1) For the purposes of determining eligibility to receive priority points under § 4284.924, a Veteran Farmer or Rancher is either:

(i) An individual Independent Producer (other than a Harvester) that has either never operated a Farm or Ranch or has operated a Farm or Ranch for no more than 10 years or

(ii) An eligible Applicant entity, other than a Harvester, that has an Applicant ownership or membership of more than 50 percent Veteran Farmers or Ranchers each of whom have either never operated a Farm or Ranch or operated a Farm or Ranch for no more than 10 years.

(2) [Reserved]

*Working capital grant.* A grant to provide funds to operate a value-added project, specifically to pay the eligible project expenses related to the processing and/or marketing of the Value-Added Agricultural Product that are eligible uses of grant funds.

**§ 4284.903 Review or appeal rights.**

A person may seek a review of an Agency decision under this subpart from the appropriate Agency official that oversees the program in question or appeal to the National Appeals Division in accordance with 7 CFR part 11.

**§ 4284.904 Exception authority.**

Except as specified in paragraphs (a) and (b) of this section, the Administrator may make exceptions to any re-

quirement or provision of this subpart, if such exception is necessary to implement the intent of the authorizing statute in a time of national emergency or in accordance with a Presidentially-declared disaster, or, on a case-by-case basis, when such an exception is in the best financial interests of the Federal Government and is otherwise not in conflict with applicable laws.

(a) *Applicant eligibility.* No exception to Applicant eligibility can be made.

(b) *Project eligibility.* No exception to project eligibility can be made.

**§ 4284.905 Nondiscrimination and compliance with other Federal laws.**

(a) *Other Federal laws.* Applicants must comply with other applicable Federal laws, including the Equal Employment Opportunities Act of 1972, the Americans with

Disabilities Act, the Equal Credit Opportunity Act, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and 7 CFR part 1901, subpart E.

(b) *Nondiscrimination.* The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). Any Applicant that believes it has been discriminated against as a result of applying for funds under this program should contact: USDA, Director, Office of Adjudication and Compliance, 1400 Independence Avenue SW., Washington, DC 20250-9410, or call (800) 795-3272 (voice) or (202) 720-6382 (TDD) for information and instructions regarding the filing of a Civil Rights complaint. USDA is an

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equal opportunity provider, employer, and lender.

(c) *Civil rights compliance.* Recipients of grants must comply with Title VI of the Civil Rights Act of 1964, and Section 504 of the Rehabilitation Act of 1973. This includes collection and maintenance of data on the basis of race, sex and national origin of the recipient's membership/ownership and employees. These data must be available to conduct compliance reviews in accordance with 7 CFR part 1901, subpart E. For grants, compliance reviews will be conducted after the grantee signs the applicable Assurance Agreement, and after the last disbursement of grant funds have been made and the facility or program has been in full operations for 90 days.

(d) *Executive Order 12898.* When a project is proposed and financial assistance is requested, the Agency will conduct a Civil Rights Impact Analysis (CRIA) with regards to environmental justice. Civil Rights certification must be done prior to grant approval, obligation of funds, or other commitments of Agency resources, including issuance of a Letter of Conditions, whichever occurs first.

### § 4284.906 State laws, local laws, regulatory commission regulations.

If there are conflicts between this subpart and State or local laws or regulatory commission regulations, the provisions of this subpart will control.

### § 4284.907 Environmental requirements.

Grants made under this subpart must comply with 7 CFR part 1970. Applications for both Planning and Working Capital grants are generally excluded from the environmental review process by § 1970.53.

[81 FR 11053, Mar. 2, 2016]

### § 4284.908 Compliance with other regulations.

(a) *Departmental regulations.* Applicants must comply with all applicable Departmental regulations and Office of Management and Budget regulations concerning grants in 2 CFR chapter IV.

(b) *Cost principles.* Applicants must comply with the cost principles found

in 2 CFR parts 200, subpart E, 2 CFR part 400, and in 48 CFR subpart 31.2.

(c) *Definitions.* If a term is defined differently in the Departmental Regulations, 2 CFR parts 200 through 400 or 48 CFR subpart 31.2 and in this subpart, such term shall have the meaning as found in this subpart.

### § 4284.909 Forms, regulations, and instructions.

Copies of all forms, regulations, instructions, and other materials related to the program referenced in this subpart may be obtained through the Agency's Web site and at any Rural Development office.

### §§ 4284.910–4284.914 [Reserved]

#### FUNDING AND PROGRAMMATIC CHANGE NOTIFICATIONS

### § 4284.915 Notifications.

In implementing this subpart, the Agency will issue public notifications addressing funding and programmatic changes, as specified in paragraphs (a) and (b) of this section, respectively. The methods that the Agency will use in making these notifications is specified in paragraph (c) of this section, and the timing of these notifications is specified in paragraph (d) of this section.

(a) *Funding and simplified applications.* The Agency will issue notifications concerning:

(1) The funding level, the minimum and maximum grant amounts, and any additional funding information as determined by the Agency; and

(2) The contents of simplified applications, as provided for in § 4284.932.

(b) *Programmatic changes.* The Agency will issue notifications of any programmatic changes specified in paragraphs (b)(1) through (4) of this section.

(1) Priority categories to be used for awarding Administrator or State Director points, which may include any of the following:

- (i) Unserved or underserved areas.
- (ii) Geographic diversity.
- (iii) Emergency conditions.
- (iv) Priority mission area plans, goals, and objectives.

(2) Additional reports that are generally applicable across projects within

a program associated with the monitoring of and reporting on project performance.

(3) Any application filing instructions specified in § 4284.933.

(c) *Notification methods.* The Agency will issue the information specified in paragraphs (a) and (b) of this section in one or more FEDERAL REGISTER notices. If a funding level is not known at the time of notification, it will be posted to the program Web site once an appropriation is enacted. In addition, all information will be available at any Rural Development office.

(d) *Timing.* The Agency will issue notices under this section as follows:

(1) The Agency will make the information specified in paragraph (a) of this section available each Fiscal Year.

(2) The Agency will make the information specified in paragraph (b)(1) of this section available at least 60 days prior to the application deadline, as applicable.

(3) The Agency will make the information specified in paragraphs (b)(2) through (4) of this section available on an as needed basis.

§§ 4284.916–4284.919 [Reserved]

ELIGIBILITY

§ 4284.920 Applicant eligibility.

To be eligible for a grant under this subpart, an Applicant must demonstrate that they meet the requirements specified in paragraphs (a) through (d) of this section, as applicable, and are subject to the limitations specified in paragraphs (e) and (f) of this section.

(a) *Type of Applicant.* The Applicant, including any Federally-recognized Tribes and tribal entities (Rural Development State Offices and posted application guidelines will provide additional information on Tribal eligibility), must demonstrate that they meet all definition requirements for one of the following Applicant types:

- (1) An Independent Producer;
- (2) An Agricultural Producer Group;
- (3) A Farmer or Rancher Cooperative;

or

(4) A Majority-Controlled Producer-Based Business Venture.

(b) *Emerging market.* An applicant that is an agricultural producer group,

a farmer or rancher cooperative, or a majority-controlled producer-based business venture must demonstrate that they are entering into an emerging market as a result of the proposed project.

(c) *Citizenship.* (1) Individual Applicants must certify that they:

(i) Are citizens or nationals of the United States (U.S.), the Republic of Palau, the Federated States of Micronesia, the Republic of the Marshall Islands, or American Samoa; or

(ii) Reside in the U.S. after legal admittance for permanent residence.

(2) Entities other than individuals must certify that they are more than 50 percent owned by individuals who are either citizens as identified under paragraph (c)(1)(i) of this section or legally admitted permanent residents residing in the U.S.

(d) *Legal authority and responsibility.* Each Applicant must demonstrate that they have, or can obtain, the legal authority necessary to carry out the purpose of the grant, and they must evidence good standing from the appropriate State agency or equivalent.

(e) *Multiple grant eligibility.* An Applicant may submit only one application in response to a solicitation, and must explicitly direct that it compete in either the general funds competition or in one of the named reserved funds competitions. Multiple applications from separate entities with identical or greater than 75 percent common ownership, or from a parent, subsidiary or affiliated organization (with “affiliation” defined by Small Business Administration regulation 13 CFR 121.103, or successor regulation) are not permitted. Further, Applicants who have already received a Planning Grant for the proposed project cannot receive another Planning Grant for the same project. Applicants who have already received a Working Capital Grant for the proposed project cannot receive any additional grants for that project.

(f) *Active VAPG grant.* If an Applicant has an active value-added grant at the time of a subsequent application, the currently active grant must be closed out within 90 days of the application submission deadline for the subsequent competition, as published in the annual solicitation.

**§ 4284.921 Ineligible Applicants.**

(a) Consistent with the Departmental Regulations, an Applicant is ineligible if the Applicant is debarred or suspended or is otherwise excluded from, or ineligible for participation in, Federal assistance programs under Executive Order 12549, "Debarment and Suspension."

(b) An Applicant will be considered ineligible for a grant due to an outstanding judgment obtained by the U.S. in a Federal Court (other than U.S. Tax Court), is delinquent on the payment of Federal income taxes, or is delinquent on Federal debt.

**§ 4284.922 Project eligibility.**

To be eligible for a VAPG grant, the application must demonstrate that the project meets the requirements specified in paragraphs (a) through (c) of this section, as applicable.

(a) *Product eligibility.* Each product that is the subject of the proposed project must meet the definition of a Value-Added Agricultural Product

(b) *Purpose eligibility.* (1) The grant funds requested must not exceed any maximum amounts specified in the annual solicitation for Planning and Working Capital Grant requests, per § 4284.915.

(2) The Matching Funds required for the project budget must be eligible and without a real or apparent Conflict of Interest, available during the project period, and source verified in the application.

(3) The proposed project must be limited to eligible planning or working capital activities as defined at § 4284.925, as applicable, with eligible tasks directly related to the processing and/or marketing of the subject Value-Added Agricultural Product, to be demonstrated in the required work plan and budget as described at § 4284.922(b)(5).

(4) Applications that propose ineligible expenses in excess of 10 percent of Total Project Costs will be deemed ineligible to compete for funds. Applicants who submit applications containing ineligible expenses totaling less than 10 percent of Total Project Costs must remove those expenses from the project budget or replace with eligible expenses, if selected for an award.

(5) The project work plan and budget must demonstrate eligible sources and uses of funds and must:

(i) Present a detailed narrative description of the eligible activities and tasks related to the processing and/or marketing of the Value-Added Agricultural Product along with a detailed breakdown of all estimated costs allocated to those activities and tasks;

(ii) Identify the key personnel that will be responsible for overseeing and/or conducting the activities or tasks and provide reasonable and specific timeframes for completion of the activities and tasks;

(iii) Identify the sources and uses of grant and Matching Funds for all activities and tasks specified in the budget; and indicate that Matching Funds will be spent at a rate equal to or in advance of grant funds; and

(iv) Present a project budget period that commences within the start date range specified in the annual solicitation, concludes not later than 36 months after the proposed start date, and is scaled to the complexity of the project.

(6) Except as noted in paragraphs (b)(6)(i) and (ii) of this section, working capital applications must include a Feasibility Study and Business Plan completed specifically for the proposed value-added project by a Qualified Consultant. The Agency must concur in the acceptability or adequacy of the Feasibility Study and Business Plan for eligibility purposes.

(i) An Independent Producer Applicant seeking a Working Capital Grant of \$50,000 or more, who can demonstrate that they are proposing market expansion for an existing Value-Added Agricultural Product(s) that they currently own and produce from at least 50 percent of their own Agricultural Commodity and that they have produced and marketed for at least 2 years at time of application submission, may submit a Business Plan or Marketing Plan for the value-added project in lieu of a Feasibility Study. The Applicant must still adequately document increased customer base and increased revenues returning to the Applicant producers as a result of the project in their application, and meet

all other eligibility requirements. Further, the waiver of the independent Feasibility Study does not change the proposal evaluation or scoring elements that pertain to issues that might be supported by an independent Feasibility Study, so Applicants are encouraged to well-document their project plans and expectations for success in their proposals.

(ii) All four Applicant types that submit a Simplified Application for Working Capital Grant funds of less than \$50,000 are not required to provide an independent Feasibility Study or Business Plan for the Project/Venture, but must provide adequate documentation to demonstrate the expected increases in customer base and revenues resulting from the project that will benefit the producer Applicants supplying the majority of the Agricultural Commodity for the project. All other eligibility requirements remain the same. The waiver of the requirement to submit a Feasibility Study and Business Plan does not change the proposal evaluation or scoring elements that pertain to issues that might be supported by a Feasibility Study or Business Plan, so Applicants are encouraged to well-document their project plans and expectations for success in their proposals.

(7) All applicants applying for Working Capital Grant funds must document the quantity of the raw Agricultural Commodity that will be used for the Value-Added Agricultural Product, expressed in an appropriate unit of measure (pounds, tons, bushels, etc.) to demonstrate the scale of the applicant's project. This quantification must include an estimated total quantity of the Agricultural Commodity needed for the project, the quantity that will be provided (produced and owned) by the Agricultural Producers of the applicant organization, and the quantity that will be purchased or donated from third-party sources.

(8) All Applicants requesting Working Capital grant funds must either be currently marketing each Value-added Agricultural Product that is the subject of the grant application, or be ready to implement the working capital activities in accord with the budget and work plan timeline proposed.

#### § 4284.923 Reserved funds eligibility.

The Applicant must meet the requirements specified in this section, as applicable, if the Applicant chooses to compete for reserved funds. A Harvester is not eligible to compete for reserved funds under paragraph (a) of this section, but is eligible to compete for reserved funds under paragraph (b) of this section. In accordance with application deadlines, all eligible, but unfunded reserved funds applications will be eligible to compete for general funds in that same Fiscal Year, as funding levels permit.

(a) If the Applicant is applying for Beginning Farmer or Rancher or Socially-Disadvantaged Farmer or Rancher reserved funds, the Applicant must provide the following documentation to demonstrate that the applicant meets all of the requirements for the applicable definition found in § 4284.902.

(1) For beginning farmers and ranchers (including veterans), documentation must include a description from each of the individual owner(s) of the applicant farm or ranch organization, addressing the qualifying elements in the beginning farmer or rancher definition, including the length and nature of their individual owner/operator experience at any farm in the previous 10 years, along with one IRS income tax form from the previous 10 years showing that each of the individual owner(s) did not file farm income; or a detailed letter from a certified public accountant or attorney certifying that each owner meets the reserved funds beginning farmer or rancher eligibility requirements. For applicant entities with multiple owners, all owners must be eligible beginning farmers or ranchers.

(2) For Socially-Disadvantaged farmers and ranchers, documentation must include a description of the applicant's farm or ranch ownership structure and demographic profile that indicates the owner(s)' membership in a Socially-Disadvantaged group that has been subjected to racial, ethnic or gender prejudice; including identifying the total number of owners of the applicant organization; along with a self-certification statement from the individual owner(s) evidencing their membership in a Socially-Disadvantaged group. All farmer and rancher owners

must be members of a Socially-Disadvantaged group.

(b) If the Applicant is applying for Mid-Tier Value Chain reserved funds, the Applicant must be one of the four VAPG Applicant types. The application must:

(1) Provide documentation demonstrating that the project meets the definition of Mid-Tier Value Chain;

(2) Demonstrate that the project proposes development of a Local or Regional Supply Network of an interconnected group of entities (including nonprofit organizations, as appropriate) through which agricultural commodities and Value-Added Agricultural Products move from production through consumption in a local or regional area of the United States, including a description of the network, its component members, either by name or by class, and its purpose;

(3) Describe at least two alliances, linkages, or partnerships within the value chain that link Independent Producers with businesses, cooperatives, or consumers that market value-added agricultural commodities or Value-Added Agricultural Products in a manner that benefits Small- or Medium-sized Farms and Ranches that are structured as a Family Farm, including the names of the parties and the nature of their collaboration;

(4) Demonstrate how the project, due to the manner in which the Value-Added Agricultural Product is marketed, will increase the profitability and competitiveness of at least two, eligible, Small- or Medium-sized Farms or Ranches that are structured as a Family Farm, including documentation to confirm that the participating Small- or Medium-sized Farms or Ranches are structured as a Family Farm and meet these program definitions. A description of the two farms or ranches confirming they meet the Family Farm requirements, and IRS income tax forms or appropriate certifications evidencing eligible farm income is sufficient.

(5) Document that the eligible Agricultural Producer Group/Farmer or Rancher Cooperative/Majority-Controlled Producer-Based Business Venture Applicant organization has obtained at least one agreement with an-

other member of the supply network that is engaged in the value chain on a marketing strategy; or that the eligible Independent Producer Applicant has obtained at least one agreement from an eligible Agricultural Producer Group/Farmer or Rancher Cooperative/Majority-Controlled Producer-Based Business Venture engaged in the value-chain on a marketing strategy;

(i) For Planning Grants, agreements may include letters of commitment or intent to partner on marketing, distribution or processing; and should include the names of the parties with a description of the nature of their collaboration. For Working Capital grants, demonstration of the actual existence of the executed agreements is required.

(ii) Independent Producer Applicants must provide documentation to confirm that the non-applicant Agricultural Producer Group/Farmer or Rancher Cooperative/majority-controlled partnering entity meets program eligibility definitions, except that, in this context, the partnering entity does not need to supply any of the raw Agricultural Commodity for the project;

(6) Demonstrate that the members of the Applicant organization that are benefiting from the proposed project currently own and produce more than 50 percent of the raw Agricultural Commodity that will be used for the Value-Added Agricultural Product that is the subject of the proposal; and

(7) Demonstrate that the project will result in an increase in customer base and an increase in revenue returns to the Applicant producers supplying the majority of the raw Agricultural Commodity for the project.

**§ 4284.924 Priority scoring eligibility.**

Applicants that demonstrate eligibility may apply for priority points if their applications: Propose projects that contribute to increasing opportunities for Beginning Farmers or Ranchers, Socially-Disadvantaged Farmers or Ranchers, Veteran Farmers or Ranchers, or Operators of Small- or Medium-sized Farms or Ranches that are structured as a Family Farm; or propose Mid-Tier Value Chain projects;

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or are a Farmer or Rancher Cooperative. A Harvester is eligible for priority points only if the Harvester is proposing a Mid-Tier Value Chain project.

(a) Applicants seeking priority points as Beginning Farmers or Ranchers or as Socially Disadvantaged Farmers or Ranchers must provide the documentation specified in § 4284.923(a)(1) or (2), as applicable.

(b) Applicants seeking priority points as Veteran Farmers or Ranchers must provide the documentation specified in § 4284.923(a)(1) or (2), as applicable, and must submit form DD–214, “Report of Separation from the U.S. Military,” or subsequent form.

(c) Applicants seeking priority points as Operators of Small- or Medium-sized Farms or Ranches that are structured as a Family Farm must:

- (1) Be structured as a Family Farm;
- (2) Meet all requirements in the associated definitions; and
- (3) Provide the following documentation:

(i) A description from the individual owner(s) of the Applicant organization addressing each qualifying element in the definitions, including identification of the average annual gross sales of agricultural commodities from the farm or ranch in the previous three years, not to exceed \$500,000 for operators of small-sized farms or ranches or \$1,000,000 for operators of medium-sized farms or ranches;

(ii) The names and identification of the blood or marriage relationships of all Applicant/owners of the farm; and

(iii) A statement that the Applicant/owners are primarily responsible for the daily physical labor and management of the farm with hired help merely supplementing the family labor.

(d) Applicants seeking priority points for Mid-Tier Value Chain proposals must be one of the four eligible Applicant types and provide the documentation specified in § 4284.923(b)(1) through (7), demonstrating that the project meets the Mid-Tier Value Chain definition.

(e) Applicants seeking priority points for a Farmer or Rancher Cooperative must:

(1) Demonstrate that it is a business owned and controlled by Independent Producers that is legally incorporated

as a Cooperative; or that it is a business owned and controlled by Independent Producers that is not legally incorporated as a Cooperative, but is identified by the State in which it operates as a cooperatively operated business;

(2) Identify, by name or class, and confirm that the Independent Producers on whose behalf the value-added work will be done meet the definition requirements for an Independent Producer, including that each member is an individual Agricultural Producer, or an entity that is solely owned and controlled by Agricultural Producers, that substantially participates in the production of the majority of the Agricultural Commodity to which value will be added; and

(3) Provide evidence of “good standing” as a cooperatively operated business in the State of incorporation or operations, as applicable.

(f) Applicants applying as Agricultural Producer Groups, Farmer and Rancher Cooperatives, or Majority-Controlled Producer-Based Business Ventures (group Applicants) may request additional priority points for projects that “best contribute to creating or increasing marketing opportunities” for operators of Small- and Medium-sized Farms and Ranches that are structured as Family Farms, Beginning Farmers and Ranchers, Socially-Disadvantaged Farmers and Ranchers, and Veteran Farmers and Ranchers. The annual solicitation and Agency application package will provide instructions and documentation requirements for group Applicants to apply for these additional priority points.

**§ 4284.925 Eligible uses of grant and Matching Funds.**

In general, grant and cost-share Matching Funds have the same use restrictions and must be used to fund only the costs for eligible purposes as defined in paragraphs (a) and (b) of this section.

(a) Planning Grant funds may be used to pay for a Qualified Consultant to conduct and develop a Feasibility Study, Business Plan, and/or Marketing Plan associated with the processing and/or marketing of a Value-added Agricultural Product.

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(1) Planning Grant funds may not be used to compensate Applicants or family members for participation in Feasibility Studies.

(2) In-kind contribution of Matching Funds to cover Applicant or family member participation in planning activities is allowed so long as the value of such contribution does not exceed a maximum of 25 percent of the Total Project Costs and an adequate explanation of the basis for the valuation, referencing comparable market values, salary and wage data, expertise or experience of the contributor, per unit costs, industry norms, etc., is provided. Final valuation for Applicant or family member in-kind contributions is at the discretion of the Agency. Planning funds may not be used to evaluate the agricultural production of the commodity itself, other than to determine the project's input costs related to the feasibility of processing and marketing the Value-Added Agricultural Product.

(b) Working capital funds may be used to pay the project's operational costs directly related to the processing and/or marketing of the Value-Added Agricultural Product.

(1) Examples of eligible working capital expenses include designing or purchasing a financial accounting system for the project, paying salaries of employees without ownership or Immediate Family interest to process and/or market and deliver the Value-Added Agricultural Product to consumers, paying for raw commodity inventory (less than 50 percent of the amount required for the project) from an unaffiliated third party, necessary to produce the Value-Added Agricultural Product, and paying for a marketing campaign for the Value-Added Agricultural Product.

(2) In-kind contributions may include appropriately valued inventory of raw commodity to be used in the project. In-kind contributions of Matching Funds may also include contributions of time spent on eligible tasks by Applicants or Applicant family members so long as the value of such contribution does not exceed a maximum of 25 percent of the Total Project Costs and an adequate explanation of the basis for the valuation, referencing comparable market values, salary and wage

data, expertise or experience of the contributor, per unit costs, industry norms, etc. is provided. Final valuation for Applicant or family member in-kind contributions is at the discretion of the Agency.

### § 4284.926 Ineligible uses of grant and Matching Funds.

Federal procurement standards prohibit transactions that involve a real or apparent Conflict of Interest for owners, employees, officers, agents, or their Immediate Family members having a personal, professional, financial or other interest in the outcome of the project; including organizational conflicts, and conflicts that restrict open and free competition for unrestrained trade. In addition, the use of funds is limited to only the eligible activities identified in § 4284.925 and prohibits other uses of funds. Ineligible uses of grant and Matching Funds awarded under this subpart include, but are not limited to:

(a) Support costs for services or goods going to or coming from a person or entity with a real or apparent Conflict of Interest, except as specifically noted for limited in-kind Matching Funds in § 4284.925(a) and (b);

(b) Pay costs for scenarios with non-competitive trade practices;

(c) Plan, repair, rehabilitate, acquire, or construct a building or facility (including a processing facility);

(d) Purchase, lease purchase, or install fixed equipment, including processing equipment;

(e) Purchase or repair vehicles, including boats;

(f) Pay for the preparation of the grant application;

(g) Pay expenses not directly related to the funded project for the processing and marketing of the Value-Added Agricultural Product;

(h) Fund research and development;

(i) Fund political or lobbying activities;

(j) Fund any activities prohibited by 2 CFR parts 200 through 400, and 48 CFR subpart 31.2;

(k) Fund architectural or engineering design work;

(l) Fund expenses related to the production of any Agricultural Commodity or product, including, but not



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limited to production planning, purchase of seed or rootstock or other production inputs, labor for cultivation or harvesting crops, and delivery of raw commodity to a processing facility;

(m) Conduct activities on behalf of anyone other than a specifically identified Independent Producer or group of Independent Producers, as identified by name or class. The Agency considers conducting industry-level feasibility studies or business plans, that are also known as feasibility study templates or guides or business plan templates or guides, to be ineligible because the assistance is not provided to a specific group of Independent Producers;

(n) Pay for goods or services from a person or entity that employs the owner or an Immediate Family member;

(o) Duplicate current services or replace or substitute support previously provided;

(p) Pay any costs of the project incurred prior to the date of grant approval, including legal or other expenses needed to incorporate or organize a business;

(q) Pay any judgment or debt owed to the United States;

(r) Purchase land;

(s) Pay for costs associated with illegal activities; or

(t) Purchase the Agricultural Commodity to which value will be added (raw commodity) from the applicant entity; applicant-owned or related entity, or members of the applicant entity.

**§ 4284.927 Funding limitations.**

(a) Grant funds may be used to pay up to 50 percent of the Total Project Costs, subject to the limitations established for maximum total grant amount.

(b) The maximum total grant amount provided to a grantee in any one year shall not exceed the amount announced in an annual notice issued pursuant to § 4284.915, but in no event may the total amount of grant funds provided to a grant recipient exceed \$500,000.

(c) A grant shall have a term that does not exceed 3 years, and a project start date within 90 days of the date of award, unless otherwise specified in a notice pursuant to § 4284.915. Grant

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project periods should be scaled to the complexity of the objectives for the project. The Agency may extend the term of the grant period, not to exceed the 3-year maximum.

(d) The aggregate amount of awards to Majority-Controlled Producer-Based Business Ventures may not exceed 10 percent of the total funds obligated under this subpart during any Fiscal Year.

(e) Not more than 5 percent of funds appropriated each year may be used to fund the Agricultural Marketing Resource Center, to support electronic capabilities to provide information regarding research, business, legal, financial, or logistical assistance to Independent Producers and processors.

(f) Each Fiscal Year, the following amounts of reserved funds will be made available:

(1) 10 percent of total program funding to fund projects that benefit Beginning Farmers or Ranchers or Socially-Disadvantaged Farmers or Ranchers; and

(2) 10 percent of total program funding to fund projects that propose development of Mid-tier Value Chains.

(3) Funds not obligated by June 30 of each Fiscal Year shall be available to the Secretary to make grants under this subpart to eligible applicants in the general funds competition.

**§§ 4284.928–4284.929 [Reserved]**

**APPLYING FOR A GRANT**

**§ 4284.930 Preliminary review.**

The Agency encourages Applicants to contact their State Office well in advance of the application submission deadline, to ask questions and to discuss Applicant and Project eligibility potential. At its option, the Agency may establish a preliminary review deadline in accordance with § 4284.915, so that it may informally assess the eligibility of the application and its completeness. The result of the preliminary review is not binding on the Agency.

**§ 4284.931 Application package.**

All Applicants are required to submit a complete application package that is

comprised of all of the elements in this section.

(a) *Application forms.* The application must include all forms listed in the annually published notice for the program. The following application forms (or their successor forms) must be completed when applying for a grant under this subpart.

(1) “Application for Federal Assistance.”

(2) “Budget Information-Non-Construction Programs.”

(3) “Assurances—Non-Construction Programs.”

(4) All Applicants (including individuals and sole proprietorships) are required to have a DUNS number and maintain registration with the System for Award Management (SAM).

(b) *Application content.* The following content items must be completed when applying for a grant under this subpart:

(1) *Eligibility discussion.* The Applicant must demonstrate in detail how the:

(i) Applicant eligibility requirements in §§ 4284.920 and 4284.921 are met;

(ii) Project eligibility requirements in § 4284.922 are met;

(iii) Eligible use of grant and Matching Funds requirements in §§ 4284.925 and 4284.926 are met; and

(iv) Funding limitation requirements in § 4284.927 are met.

(2) *Evaluation criteria.* Using the format prescribed by the application package, the Applicant must address each evaluation criterion identified below.

(i) *Performance Evaluation Criteria.* The overall goal of this program and the projects it supports is to create and serve new markets, with a resulting increase in jobs, customer base and revenues returning to the producer. Applicants must provide specific information about plans to track and evaluate progress toward these outcomes as a way for the Agency to ascertain whether or not the primary program goals and project goals proposed in the work plan are likely to be accomplished during the project period. The application package will provide additional instruction to assist Applicants when responding to this criterion. The required data, including accomplishments as

outlined in § 4284.960 and Applicant-suggested performance criteria, will be incorporated into the Applicant’s semi-annual and final reporting requirements if selected for award, and will be specified in the grant agreement associated with each award. At a minimum, data included in each application submission must include both target outcomes and timeframes for achieving results:

(A) The number of jobs anticipated to be created or saved as a direct result of the project.

(B) The current baseline number of customers.

(C) The estimated expansion of customer base as a direct result of the project.

(D) The current baseline of revenue.

(E) The estimated increase in revenue as a direct result of the project.

(F) Applicants for both Working Capital and Planning Grants are invited to suggest additional benchmarks for evaluation that are specific to proposed project activities or outcomes and the corresponding timeframes for accomplishing them; these should be informed by the program objectives, stated above, related to new markets, expansion of customer base, and revenues returning to producer Applicants; as well as to the practical and/or logistical activities and tasks to be accomplished during the project period.

(ii) *Proposal evaluation criteria.* Applicants for both Planning and Working Capital Grants must address each proposal evaluation criterion identified in § 4284.942 in narrative form, in the application package.

(3) *Certification of Matching Funds.* Using the format prescribed by the application package, Applicants must certify that:

(i) Cost-share Matching Funds will be spent in advance of grant funding, such that for every dollar of grant funds disbursed, not less than an equal amount of Matching Funds will have been expended prior to submitting the request for reimbursement; and

(ii) If Matching Funds are proposed in an amount exceeding the grant amount, those Matching Funds must be spent at a proportional rate equal to the match-to-grant ratio identified in the proposed budget.

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(4) *Verification of cost-share Matching Funds.* Using the format prescribed by the application package, the Applicant must demonstrate and provide authentic documentation from the source to confirm the eligibility and availability of both cash and in-kind contributions that meet the definition requirements for Matching Funds and Conflict of Interest in § 4284.902, as well as the following criteria:

(i) Except as provided at § 4284.925(a) and (b), Matching Funds are subject to the same use restrictions as grant funds, and must be spent on eligible project expenses during the grant funding period.

(ii) Matching Funds must be from eligible sources without a real or apparent Conflict of Interest.

(iii) Matching Funds must be at least equal to the amount of grant funds requested, and combined grant and Matching Funds must equal 100 percent of the Total Project Costs.

(iv) Unless provided by other authorizing legislation, other Federal grant funds cannot be used as Matching Funds.

(v) Matching Funds must be provided in the form of confirmed Applicant cash, loan, or line of credit; or provided in the form of a confirmed Applicant or family member in-kind contribution that meets the requirements and limitations specified in § 4284.925(a) and (b); or provided in the form of confirmed third-party cash or eligible third-party in-kind contribution; or non-federal grant sources (unless otherwise provided by law).

(vi) Examples of ineligible Matching Funds include funds used for an ineligible purpose, contributions donated outside the proposed grant funding period, applicant and third-party in-kind contributions that are over-valued, or are without substantive documentation for an independent reviewer to confirm a valuation, conducting activities on behalf of anyone other than a specific Independent Producer or group of Independent Producers, expected program income at time of application, or instances where a real or apparent Conflict of Interest exists, except as detailed in § 4284.925(a) and (b).

(5) *Business plan.* For Working Capital Grant applications, Applicants

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must provide a copy of the Business Plan that was completed for the proposed value-added Venture, except as provided for in §§ 4284.922(b)(6) and 4284.932. The Agency must concur in the acceptability or adequacy of the Business Plan. For all planning grant applications including those proposing product eligibility under “Produced in a Manner that Enhances the Value of the Agricultural Commodity,” a Business Plan is not required as part of the grant application.

(6) *Feasibility study.* As part of the application package, Applicants for Working Capital Grants must provide a copy of the third-party Feasibility Study that was completed for the proposed value-added project, except as provided for at §§ 4284.922(b)(6) and 4284.932. The Agency must concur in the acceptability or adequacy of the Feasibility Study.

### § 4284.932 Simplified application.

Applicants requesting less than \$50,000 will be allowed to submit a simplified application, the contents of which will be announced in an annual solicitation issued pursuant to § 4284.915. Applicants requesting Working Capital Grants of less than \$50,000 are not required to provide Feasibility Studies or Business Plans, but must provide information demonstrating increases in customer base and revenue returns to the producers supplying the majority of the Agricultural Commodity as a result of the project. See § 4284.922(b)(6)(ii).

### § 4284.933 Filing instructions.

Unless otherwise specified in a notification issued under § 4284.915, the requirements specified in paragraphs (a) through (e) of this section apply to all applications.

(a) *When to submit.* Complete applications must be received by the Agency on or before the application deadline established for a Fiscal Year to be considered for funding for that Fiscal Year. Applications received by the Agency after the application deadline established for a Fiscal Year will not be considered. Revisions or additional information will not be accepted after the application deadline.

(b) *Incomplete applications.* Incomplete applications will be rejected. Applicants will be informed of the elements that made the application incomplete. If a resubmitted application is received by the applicable application deadline, the Agency will reconsider the application.

(c) *Where to submit.* All applications must be submitted to the State Office of Rural Development in the State where the project primarily takes place, or on-line through grants.gov.

(d) *Format.* Applications may be submitted as paper copy, or electronically via grants.gov. If submitted as paper copy, only one original copy should be submitted. An application submission must contain all required components in their entirety. Emailed or faxed submissions will not be acknowledged, accepted or processed by the Agency.

(e) *Other forms and instructions.* Upon request, the Agency will make available to the public the necessary forms and instructions for filing applications. These forms and instructions may be obtained from any State Office of Rural Development, or the Agency's Value-Added Producer Grant program Web site in [http://www.rurdev.usda.gov/BCP\\_VAPG.html](http://www.rurdev.usda.gov/BCP_VAPG.html).

#### §§ 4284.934–4284.939 [Reserved]

#### PROCESSING AND SCORING APPLICATIONS

#### § 4284.940 Processing applications.

(a) *Initial review.* Upon receipt of an application on or before the application submission deadline for each Fiscal Year, the Agency will conduct a review to determine if the Applicant and project are eligible, and if the application is complete and sufficiently responsive to program requirements.

(b) *Notifications.* After the review in paragraph (a) of this section has been conducted, if the Agency has determined that either the Applicant or project is ineligible or that the application is not complete to allow evaluation of the application or sufficiently responsive to program requirements, the Agency will notify the Applicant in writing and will include in the notification the reason(s) for its determination(s).

(c) *Resubmittal by Applicants.* Applicants may submit revised applications

to the Agency in response to the notification received under paragraph (b) of this section. If a revised grant application is received on or before the application deadline, it will be processed by the Agency. If a revised application is not received by the specified application deadline, the Agency will not process the application and will inform the Applicant that their application was not reviewed due to tardiness.

(d) *Subsequent ineligibility determinations.* If at any time an application is determined to be ineligible, the Agency will notify the Applicant in writing of its determination.

#### § 4284.941 Application withdrawal.

During the period between the submission of an application and the execution of award documents, the Applicant must notify the Agency in writing if the project is no longer viable or the Applicant no longer is requesting financial assistance for the project. When the Applicant notifies the Agency, the selection will be rescinded or the application withdrawn.

#### § 4284.942 Proposal evaluation criteria and scoring applications.

(a) *General.* The Agency will only score applications for which it has determined that the Applicant and project are eligible, the application is complete and sufficiently responsive to program requirements. Any Applicant whose application will not be reviewed because the Agency has determined it fails to meet the preceding criteria will be notified of appeal rights pursuant to § 4284.903. Each such viable application the Agency receives on or before the application deadline in a Fiscal Year will be scored in the Fiscal Year in which it was received. Each application will be scored based on the information provided and adequately referenced in the scoring section of the application at the time the Applicant submits the application to the Agency. Scoring information must be readily identifiable in the application or it will not be considered.

(b) *Scoring Applications.* The criteria specified in paragraphs (b)(1) through (6) of this section will be used to score all applications. For each criterion, Applicants must demonstrate how the

project has merit, and provide rationale for the likelihood of project success. Responses that do not address all aspects of the criterion, or that do not comprehensively convey pertinent project information will receive lower scores. The maximum number of points that will be awarded to an application is 100. Points may be awarded lump sum or on a graduated basis. The Agency application package will provide additional instruction to assist Applicants when responding to the criteria below.

(1) *Nature of the Proposed Venture (graduated score 0–30 points)*. Describe the technological feasibility of the project, as well as the operational efficiency, profitability, and overall economic sustainability resulting from the project. In addition, demonstrate the potential for expanding the customer base for the Value-Added Agricultural Product, and the expected increase in revenue returns to the producer-owners providing the majority of the raw Agricultural Commodity to the project. Applications that demonstrate high likelihood of success in these areas will receive more points than those that demonstrate less potential in these areas.

(2) *Qualifications of Project Personnel (graduated score 0–20 points)*. Identify the individuals who will be responsible for completing the proposed tasks in the work plan, including the roles and activities that owners, staff, contractors, consultants or new hires may perform; and demonstrate that these individuals have the necessary qualifications and expertise, including those hired to do market or feasibility analyses, or to develop a business operations plan for the value-added venture. Include the qualifications of those individuals responsible to lead or manage the total project (Applicant owners or project managers), as well as those individuals responsible for actually conducting the various individual tasks in the work plan (such as consultants, contractors, staff or new hires). Demonstrate the commitment and the availability of any consultants or other professionals to be hired for the project. If staff or consultants have not been selected at the time of application, provide specific descriptions of

the qualifications required for the positions to be filled. Applications that demonstrate the strong credentials, education, capabilities, experience and availability of project personnel that will contribute to a high likelihood of project success will receive more points than those that demonstrate less potential for success in these areas.

(3) *Commitments and Support (graduated score 0–10 points)*. Producer commitments to the project will be evaluated based on the number of Independent Producers currently involved in the project; and the nature, level and quality of their contributions. End-user commitments will be evaluated on the basis of potential or identified markets and the potential amount of output to be purchased, as evidenced by letters of intent or contracts from potential buyers referenced within the application. Other Third-Party commitments to the project will be evaluated based on the critical and tangible nature of the contribution to the project, such as technical assistance, storage, processing, marketing, or distribution arrangements that are necessary for the project to proceed; and the level and quality of these contributions. Applications that demonstrate the project has strong direct financial, technical and logistical support to successfully complete the project will receive more points than those that demonstrate less potential for success in these areas.

(4) *Work Plan and Budget (graduated score 0–20 points)*. In accord with § 4284.922(b)(5), Applicants must submit a comprehensive work plan and budget. The work plan must provide specific and detailed narrative descriptions of the tasks and the key project personnel that will accomplish the project's goals. The budget must present a detailed breakdown of all estimated costs associated with the activities and allocate those costs among the listed tasks. The source and use of both grant and Matching Funds must be specified for all tasks. An eligible start and end date for the project itself and for individual project tasks must be clearly indicated and may not exceed Agency specified timeframes for the grant period. Points may not be awarded unless

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sufficient detail is provided to determine that both grant and Matching Funds are being used for qualified purposes and are from eligible sources without a Conflict of Interest. It is recommended that Applicants utilize the budget format templates provided in the Agency's application package.

(5) *Priority Points (up to 10 points)*. Priority points may be awarded in both the General Funds competition and the Reserved Funds competitions. Qualifying applications may be awarded priority points under paragraphs (b)(5)(i) and (ii) of this section, for up to a total of 10 points.

(i) *Priority categories (lump sum score of 0 or 5 points)*. Qualifying Applicants may request priority points under this paragraph if they meet the requirements for one of the following categories and provide the documentation specified in § 4284.924, as applicable. Priority categories are: Beginning Farmer or Rancher, Socially-Disadvantaged Farmer or Rancher, Veteran Farmer or Rancher, Operator of a Small- or Medium-sized Farm or Ranch that is structured as a Family Farm, Mid-Tier Value Chain proposals, and Farmer or Rancher Cooperative. It is recommended that Applicants utilize the Agency application package when documenting for priority points and refer to the documentation requirements specified in § 4284.924. Applications from qualifying priority categories will be awarded 5 points. Applicants will not be awarded more than 5 points even if they qualify for more than one of the priority categories.

(ii) *Best contributing (up to 5 points)*. Applications from Agricultural Producer Groups, Farmer or Rancher Cooperatives, and Majority-Controlled Producer-Based Business Ventures (applicant groups) may be awarded up to 5 additional points for contributing to the creation of or increase in marketing opportunities for Beginning Farmers or Ranchers, Socially-Disadvantaged Farmers or Ranchers, Veteran Farmers or Ranchers, or Operators of a Small- or Medium-sized Farm or Ranch that are structured as a Family Farm (priority groups). Applicant groups must submit documentation on the percentage of existing membership that is comprised of one or a combina-

tion of the above priority groups and on the anticipated expansion of membership to one or more additional priority groups. Applications must contain sufficient information as described in the annual solicitation and application package to enable the Agency to make the appropriate determinations for awarding points. If the application does not contain sufficient information, the Agency will not award points accordingly.

(6) *Priority Categories (graduated score 0-10 points)*. Unless otherwise specified in a notification issued under § 4284.915(b)(1), the Administrator or State Director has discretion to award up to 10 points to an application to improve the geographic diversity of awardees in a Fiscal Year. In the event of a National competition, the Administrator will award points and for a State-allocated competition, the State Director will award points.

### §§ 4284.943-4284.949 [Reserved]

#### GRANT AWARDS AND AGREEMENT

### § 4284.950 Award process.

(a) *Selection of applications for funding and for potential funding*. The Agency will select and rank applications for funding based on the score an application has received in response to the proposal evaluation criteria, compared to the scores of other value-added applications received in the same Fiscal Year. Higher scoring applications will receive first consideration for funding. The Agency may set a minimally acceptable score for funding, which will be noted in the published program notice. The Agency will notify Applicants, in writing, whether or not they have been selected for funding. For those Applicants not selected for funding, the Agency will provide a brief explanation for why they were not selected.

(b) *Ranked applications not funded*. A ranked application that is not funded in the Fiscal Year in which it was submitted will not be carried forward into the next Fiscal Year. The Agency will notify the Applicant in writing.

(c) *Intergovernmental review*. If State or local governments raise objections to a proposed project under the intergovernmental review process that are

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not resolved within 90 days of the Agency's award announcement date, the Agency will rescind the award and will provide the Applicant with a written notice to that effect. This is prior to the signing of a Grant Agreement. The Agency, in its sole discretion, may extend the 90-day period if it appears resolution is imminent.

§ 4284.951 Obligate and award funds.

(a) *Letter of conditions.* When an application is selected subject to conditions established by the Agency, the Agency will notify the Applicant using a Letter of Conditions, which defines the conditions under which the grant will be made. Each grantee will be required to meet all terms and conditions of the award within 90 days of receiving a Letter of Conditions unless otherwise specified by the Agency at the time of the award. If the Applicant agrees with the conditions, the Applicant must complete, an applicable Letter of Intent to Meet Conditions. If the Applicant believes that certain conditions cannot be met, the Applicant may propose alternate conditions to the Agency. The Agency must concur with any proposed changes to the Letter of Conditions by the Applicant before the application will be further processed. If the Agency agrees to any proposed changes, the Agency will issue a revised or amended Letter of Conditions that defines the final conditions under which the grant will be made.

(b) *Grant agreement and conditions.* Each grantee will be required to sign a grant agreement that outlines the approved use of funds and actions under the award, as well as the restrictions and applicable laws and regulations that pertain to the award.

(c) *Other documentation.* The grantee will execute additional documentation in order to obligate the award of funds; including, but not limited to:

(1) "Request for Obligation of Funds;"

(2) "Certification Regarding Debarment, Suspension, and Other Responsibility Matters-Primary Covered Transaction;"

(3) "Certification Regarding Drug-Free Workplace Requirements;"

(4) "Assurance Agreement (under Title VI, Civil Rights Act of 1964);"

(5) "ACH Vendor/Miscellaneous Payment Enrollment Form;" or

(6) "Disclosure of Lobbying Activities."

(d) *Grant disbursements.* Grant disbursements will be made in accordance with the Letter of Conditions, and/or the grant agreement, as applicable.

§§ 4284.952-4284.959 [Reserved]

POST AWARD ACTIVITIES AND REQUIREMENTS

§ 4284.960 Monitoring and reporting program performance.

The requirements specified in this section shall apply to grants made under this subpart.

(a) Grantees must complete the project per the terms and conditions specified in the approved work plan and budget, and in the grant agreement and letter of conditions. Grantees will expend funds only for eligible purposes and will be monitored by Agency staff for compliance. Grantees must maintain a financial management system, and property and procurement standards in accordance with Departmental Regulations.

(b) Grantees must submit narrative and financial performance reports, as prescribed by the Agency in the grant agreement, that include required data elements related to achieving programmatic objectives and a comparison of accomplishments with the objectives stated in the application. At a minimum, these include comparisons of anticipated activities and outcomes and timeframes for achieving:

(1) Expansion of customer base as a result of the project;

(2) Increased revenue returned to the producer as a result of the project;

(3) Jobs created or saved as a result of the project;

(4) Evidence of receipt of matching funds, if included or provided for in project.

(i) Semi-annual performance reports shall be submitted within 45 days following March 31 and September 30 each Fiscal Year. A final performance report shall be submitted to the Agency within 90 days of project completion. Failure to submit a performance report within the specified timeframes may

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result in the Agency withholding grant funds.

(ii) Additional reports shall be submitted as specified in the grant agreement or Letter of Conditions, or as otherwise provided in a notification issued under § 4284.915.

(iii) Copies of supporting documentation and/or project deliverables for completed tasks must be provided to the Agency in a timely manner in accord with the development or completion of materials and in conjunction with the budget and project timeline. Examples include, but are not limited to, a Feasibility Study, Marketing Plan, Business Plan, success story, distribution network study, or best practice.

(iv) The Agency may request any additional project and/or performance data for the project for which grant funds have been received, including but not limited to:

(A) Information that will enable evaluation of the economic impact of program awards, such as:

(1) Business starts and clients served;

(2) Data associated with producer market expansion, new market penetration, and changes in customer base or revenues.

(B) Information that would promote greater understanding of the key determinants of the success of individual projects or inform program administration and evaluation, such as:

(1) The producer's experience related to financial management, budgeting, and running a business enterprise.

(2) The nature of, and advantages or disadvantages of, supply chain arrangements or equitable distribution of rewards and responsibilities for Mid-tier Value Chain projects; and

(3) Recommendations from Beginning Farmers or Ranchers, Socially-Disadvantaged Farmers or Ranchers, or Veteran Farmers or Ranchers.

(C) Information that would inform or enable the aggregation of data for program administration or evaluation purposes.

(v) The Agency may terminate or suspend the grant for lack of adequate or timely progress, reporting, or documentation, or for failure to comply with Agency requirements.

### § 4284.961 Grant servicing.

All grants awarded under this subpart shall be serviced in accordance with 7 CFR part 1951, subparts E and O, and the Departmental Regulations with the exception that delegation of the post-award servicing of the program does not require the prior approval of the Administrator.

### § 4284.962 Transfer of obligations.

At the discretion of the Agency and on a case-by-case basis, an obligation of funds established for an Applicant may be transferred to a different (substituted) Applicant provided:

(a) The substituted Applicant:

(1) Is eligible;

(2) Has a close and genuine relationship with the original Applicant; and

(3) Has the authority to receive the assistance approved for the original Applicant; and

(b) The project continues to meet all product, purpose, and reserved funds eligibility requirements so that the need, purpose(s), and scope of the project for which the Agency funds will be used remain substantially unchanged.

### §§ 4284.963–4284.999 [Reserved]

## Subpart K—Agriculture Innovation Demonstration Centers

SOURCE: 69 FR 23433, Apr. 29, 2004, unless otherwise noted.

### § 4284.1001 Purpose.

This subpart implements a demonstration program administered by the Rural Business-Cooperative Service whereby grants are made to innovation centers responsible for providing technical and business development assistance to agricultural producers seeking to engage in the marketing or the production of Value-Added products.

### § 4284.1002 Policy.

It is the policy of the Secretary of Agriculture to fund Centers which evidence broad support from the agricultural community in the state or region, significant coordination with end users (processing and distribution companies and regional grocers), strategic



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alliances with entities having technical research capabilities and a focused delivery plan for reaching out to the producer community. It is also the policy of the Secretary, using the research and technical services of the U.S. Department of Agriculture, to assist the grantees in establishing Centers. This program is not intended to fund scientific research.

### § 4284.1003 Program administration.

The Agriculture Innovation Demonstration Center program is administered by Cooperative Services within the Agency.

### § 4284.1004 Definitions.

*Board of Directors*—The group of individuals that govern the Center.

*Center*—The Agriculture Innovation Center to be established and operated by the grantees. It may or may not be an independent legal entity, but it must be independently governed in accordance with the requirements of this subpart.

*Producer Services*—Services to be provided by the Centers to agricultural producers. Producer Services consist of the following types of services:

(1) Technical assistance, consisting of engineering services, applied research, Scale Production Assessments, and similar services, to enable the agricultural producers to establish businesses to produce Value-Added agricultural commodities or products;

(2) Assistance in marketing, market development and business planning, including advisory services with respect to leveraging capital assets; and

(3) Organizational, outreach and development assistance to increase the viability, growth and sustainability of businesses that produce Value-Added agricultural commodities or products.

*Qualified Board of Directors*—A Board of Directors that includes representatives from each of the following groups:

(1) The two general agricultural organizations with the greatest number of members in the State in which the Center is located;

(2) The State department of agriculture, or equivalent, of the State in which the Center is located; and

(3) Entities representing the four highest grossing commodities produced

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in the State in which the Center is located, as determined on the basis of annual gross cash sales.

*Scale Production Assessments*—Studies that analyze facilities, including processing facilities, for potential Value-added activities in order to determine the size that optimizes construction and other cost efficiencies.

### §§ 4284.1005–4284.1006 [Reserved]

### § 4284.1007 Eligibility for grant assistance.

Non-profit and for-profit corporations, institutions of higher learning and other entities, including a consortium where a lead entity has been designated and agrees to act as funding agent, that meet the following requirements are eligible for grant assistance:

(a) The entity—

(1) Has provided services similar to those listed for Producer Services; or

(2) Demonstrates the capability of providing Producer Services;

(b) The application includes a plan that meets the requirements of § 4284.1010(c)(5)(iv) that also outlines—

(1) The support for the entity in the agricultural community;

(2) The technical and other expertise of the entity; and

(3) The goals of the entity for increasing and improving the ability of local agricultural producers to develop markets and processes for Value-Added agricultural commodities or products;

(c) The entity demonstrates that adequate resources (in cash or in kind) are available, or have been committed to be made available to the entity, to increase and improve the ability of local agricultural producers to develop markets and processes for Value-Added agricultural commodities or products; and

(d) The proposed Center has a Qualified Board of Directors.

### § 4284.1008 Use of grant funds.

Grant funds may be used to assist eligible recipients in establishing Centers that provide Producer Services and may only be used to support operations of the Center that directly relate to providing Producer Services. Grant funds may be used for the following

purposes, subject to the limitations set forth in § 4284.10:

(a) Consulting services for legal, accounting and technical services to be used by the grantee in establishing and operating a Center;

(b) Hiring of employees, at the discretion of the Qualified Board of Directors;

(c) The making of matching grants to agricultural producers, individually not to exceed \$5,000, where the aggregate amount of all such matching grants made by the grantee does not exceed \$50,000;

(d) Applied research;

(e) Legal services; and

(f) Such other related purposes as the Agency may announce in the RFP.

#### § 4284.1009 Limitations on awards.

The maximum grant award for an agriculture innovation center shall be in an amount that does not exceed the lesser of \$1,000,000 or twice the dollar amount of the resources (in cash or in kind) that the eligible entity demonstrates are available, or have been committed to be made available, to the eligible entity.

#### § 4284.1010 Application processing.

(a) *Applications.* USDA will solicit applications on a competitive basis by publication of one or more Requests for Proposals (RFPs). Unless otherwise specified in the applicable RFP, applicants must file an original and one copy of the required forms and a proposal.

(b) *Required forms.* The following forms must be completed, signed and submitted as part of the application package. Other OMB approved forms may be required. This will be published in the applicable RFP.

(1) "Application for Federal Assistance."

(2) "Budget Information—Non-Construction Programs."

(3) "Assurances—Non-Construction Programs."

(c) *Proposal.* Each proposal must contain the following elements. Additional elements may be published in the applicable RFP.

(1) Title Page.

(2) Table of Contents.

(3) *Executive Summary.* A summary of the proposal should briefly describe the project including goals, tasks to be completed and other relevant information that provides a general overview of the project and the amount requested.

(4) *Eligibility.* A detailed discussion describing how the applicant meets the eligibility requirements.

(5) *Proposal Narrative.* The narrative portion of the proposal must include, but is not limited to, the following:

(i) *Project Title.* The title of the proposed project must be brief, not to exceed 75 characters, yet describe the essentials of the project.

(ii) *Information Sheet.* A separate one page information sheet listing each of the evaluation criteria referenced in the RFP followed by the page numbers of all relevant material and documentation contained in the proposal that address or support the criteria.

(iii) *Goals of the Project.* The first part of this section should list each Producer Service to be offered by the Center. The second part of this section should list one or more specific goals relating to increasing and improving the ability of identified local agricultural producers to develop a market or process for Value-Added agricultural commodities or products.

(iv) *Work Plan.* Actions that must be taken in order for the Producer Services to be available from the Center. Each action listed should include a target date by which it will be completed. General start up tasks should be listed, followed by specific tasks listed for each Producer Service to be offered, as well as tasks associated with the start of operations. The tasks associated with the start of operations should include a focused marketing and delivery plan directed to the local agricultural producers that were identified in paragraph (c)(5)(iii) of this section. The actions to be taken should include steps for identifying customers, acquiring personnel and contracting for services to the Center, including arrangements for strategic alliances.

(v) *Performance Evaluation Criteria.* Performance criteria suggested by the applicant for incorporation in the grant award in the event the proposal

receives grant funding under this subpart. These suggested criteria are not binding on USDA.

(vi) *Agricultural Community Support.* Evidence of support from the local agricultural community should be included in this section. Letters in support should reflect that the writer is familiar with the provisions of the Plan for the Center, including the stated goals.

Evidence of support can take the form of making employees available to the Center, service as a board member and other in-kind contributions.

(vii) *Strategic Coordination and Alliances.* Describe arrangements in place or planned with end users (processing and distribution companies and regional grocers) as well as arrangements with entities having technical research capabilities, broad support from the agricultural community in the state or region, significant coordination with end users (processing and distribution companies and regional grocers), strategic alliances with entities having technical research capabilities and a focused delivery plan for reaching out to the producer community.

(viii) *Capacity.* Evidence of the ability of the grantee(s) to successfully establish and operate a Center. A description of the grantee's track record in providing services similar to those listed for Producer Services or evidence that the entity has the capability to provide Producer Services. Resumes of key personnel should be included in this section. Past successes should be described in detail, with a focus on lessons learned, best practices, familiarity with producer problems in Value-Added ventures, and how these barriers are best overcome should be elaborated on in this section. For every challenge identified, the applicant should demonstrate how they are addressed in the Work Plan (*see* paragraph (c)(5)(iv) of this section). All successes should include a monetary estimate of the Value-Added achieved.

(ix) *Legal structure.* Provide a description of the legal relationship between the grantee(s) and the proposed Center. If the Center is to be an independent corporate entity, provide copies of the corporate charter, bylaws and other relevant organizational documents. De-

scribe how funds for the Center will be handled and include copies of the agreements documenting the legal relationships between the Center and related parties. If the Center is not to be an independent legal entity, provide copies of the corporate governance documents that describe how members of the Board of Directors for the Center are to be determined.

(x) *Evaluation Criteria.* Each of the evaluation criteria referenced in the RFP must be specifically and individually addressed in narrative form. Supporting documentation, as applicable, should be included in this section, or a cross reference to other sections in the application should be provided, as applicable.

(xi) *Verification of Adequate Resources.* Present a budget to support the work plan showing sources and uses of funds during the start up period prior to the start of operations and for the first year of full operations. Present a copy of a bank statement evidencing sources of funds equal to amounts required in excess of the grant requested, or, in the alternative, a copy of confirmed funding commitments from credible sources such that USDA is satisfied that the Center has adequate resources to complete a full year of operation. Include information sufficient to facilitate verification by USDA of all representations.

(xii) *Certification of Adequate Resources.* Applicants must certify that non-Federal funds identified in the budget pursuant to paragraph (c)(5)(xi) of this section will be available and funded commensurately with grant funds.

#### § 4284.1011 Evaluation screening.

The Agency will conduct an initial screening of all proposals to determine whether the applicant is eligible and whether the application is complete and sufficiently responsive to the requirements set forth in the applicable RFP so as to allow for an informed review. Incomplete or non-responsive applications will not be evaluated further, and may be returned to the applicant. Applicants may revise their applications and re-submit them prior to the published deadline if there is sufficient time to do so.

**§ 4284.1012 Evaluation process.**

(a) Applications will be evaluated by qualified reviewers appointed by the Agency.

(b) After all proposals have been evaluated using the evaluation criteria and scored in accordance with the point allocation specified in the applicable RFP, Agency officials will present to the Administrator of RBS a list of all applications in rank order, together with funding level recommendations.

(c) The Administrator reserves the right to award additional points, as specified in the applicable RFP, to accomplish agency objectives (e.g., to ensure geographic distribution, put emphasis on a specific commodity, or to accomplish presidential initiatives.) The maximum number of points that can be added to an application under this paragraph cannot exceed ten percent of the total points the application originally scored.

(d) After giving effect to the Administrator's point awards, applications will be funded in rank order until all available funds have been obligated.

**§ 4284.1013 Evaluation criteria and weights.**

Unless supplemented in a RFP, the criteria listed in this section will be used to evaluate grants under this subpart. The distribution of points to be awarded per criterion will be identified in the applicable RFP.

(a) *Ability to Deliver.* The application will be evaluated as to whether it evidences unique abilities to deliver Producer Services so as to create sustainable Value-Added ventures. Abilities that are transferable to a wide range of agricultural Value-Added commodities are preferred over highly specialized skills. Strong skills must be accompanied by a credible and thoughtful plan.

(b) *Successful Track Record.* The applicant's track record in achieving Value-Added successes.

(c) *Work Plan/Budget.* The work plan will be reviewed for detailed actions and an accompanying timetable for implementing the proposal. Clear, logical, realistic and efficient plans will result in a higher score. Budgets will be reviewed for completeness and the

strength of non-Federal funding commitments.

(d) *Qualifications of personnel.* Proposals will be reviewed for whether the key personnel who are to be responsible for performing the proposed tasks have the necessary qualifications and whether they have a track record of performing activities similar to those being proposed. If a consultant or others are to be hired, points may be awarded for consultants only if the proposal includes evidence of their availability and commitment as well. Proposals using in-house employees with strong track records in innovative activities will receive higher points relative to proposals that out-source expertise.

(e) *Local support.* Proposed Centers must show local support and coordination with other developmental organizations in the proposed service area and with state and local institutions. Support documentation should include recognition of rural values that balance employment opportunities with environmental stewardship and other rural amenities. Proposed Centers that show strong support from potential beneficiaries and coordination with other developmental organizations will receive more points than those not evidencing such support.

(f) *Future support.* Applicants that can demonstrate their vision for funding center operations for future years, including diversification of funding sources and building in-house technical assistance capacity, will receive more points for this criterion.

**§ 4284.1014 Grant closing.**

(a) *Letter of Conditions.* The Agency will notify an approved applicant in writing, setting out the conditions under which the grant will be made.

(b) *Applicant's intent to meet conditions.* Upon reviewing the conditions and requirements in the letter of conditions, the applicant must complete, sign and return the Agency's "Letter of Intent to Meet Conditions," or, if certain conditions cannot be met, the applicant may propose alternate conditions to the Agency. The Agency must concur with any changes proposed to

the letter of conditions by the applicant before the application will be further processed.

(c) *Grant agreement.* The Agency and the grantee must enter into an “Agriculture Innovation Center Grant Agreement” prior to the advance of funds.

§§ 4284.1015–4284.1099 [Reserved]

§ 4284.1100 OMB control number.

The reporting and recordkeeping requirements contained in this regulation have been approved by the Office of Management and Budget and have been assigned OMB control number 0570–0045.

**Subpart L—Rural Innovation Stronger Economy (RISE) Grant Program**

SOURCE: 86 FR 31589, June 15, 2021, unless otherwise noted.

§ 4284.1101 Purpose.

This subpart contains the procedures and requirements for providing the following financial assistance under the Rural Innovation Stronger Economy (RISE) program:

(a) Grants for the purpose of constructing, purchasing, or equipping a building to serve as an innovation center in order to establish job accelerators.

(b) Grants for the purpose of establishing and supporting job accelerators and related programs.

§ 4284.1102 Organization of subpart.

This subpart is organized into distinct sections as described in paragraphs (a) and (b) of this section.

(a) Sections 4284.1103 through 4284.1111 discuss definitions; exception authority; review or appeal rights; conflict of interest; USDA departmental regulations; other applicable laws; ineligible applicants; general applicant, application, and funding provisions; and notifications, which are applicable to funding the program under this subpart.

(b) Sections 4284.1112 and 4284.1113 discuss, respectively, applicant and project eligibility. Section 4284.1114 addresses funding provisions for these

grants. Sections 4284.1115 through 4284.1120 address grant application content and required documentation, scoring, selection, awarding and administering grant applications, and servicing of grant awards.

§ 4284.1103 Definitions.

The following definitions are applicable to the terms used in this subpart.

*Administrator* means the Administrator of Rural Business-Cooperative Service (RBCS) within the Rural Development mission area of the U.S. Department of Agriculture (USDA).

*Agency* means RBCS or its successor agency assigned by the Secretary of Agriculture to administer the RISE grant program. References to the National Office, Finance Office, State Office, or other Agency offices or officials should be read as prefaced by “Agency” or “Rural Development” as applicable.

*Applicant* means the lead applicant acting on behalf of a rural jobs accelerator partnership as stated in 4282.1112, that is seeking a RISE grant. The lead applicant will enter into a financial assistance agreement with the Agency, receive the RISE grant funding and take ownership of any assets purchased with grant funds.

*Broadband service.* Defined within the meaning of Title VI of the Rural Electrification Act of 1936 (7 U.S.C. 901 *et seq.*), broadband service means any technology identified by the Administrator as having the capacity to provide transmission facilities and capacity that enable the subscriber to receive a minimum level of broadband service. The minimum level of broadband service for the purpose of reviewing the application will be defined by the minimum transmission capacity that was required by Title VI of the Rural Electrification Act of 1936 (7 U.S.C. 901 *et seq.*) at the time the application was received by the Agency.

*Complete application* means an application that contains all parts necessary for the Agency to determine applicant and project eligibility, the financial feasibility and technical merit of the project, and contains sufficient information to determine a priority score for the application.

*Departmental regulations* mean the regulations of the Agency’s Office of

Chief Financial Officer (or successor office) as codified in 2 CFR chapter IV.

*District organization* means an organization as defined in Section 300.3 of Title 13, Code of Federal Regulations (or a successor regulation).

*Eligible project costs* means the portion of total project costs approved by the Agency for projects that are eligible to be paid with RISE funds.

*Federal fiscal year (FY)* means the 12-month period beginning October 1 of any given year and ending on September 30 of the following year; it is designated by the calendar year in which it ends.

*Financial assistance agreement* means Form RD 4280-2, "Rural Business-Cooperative Service Financial Assistance Agreement, or successor form and is an agreement between the Agency and the grantee setting forth the provisions under which the grant will be administered.

*High-wage job* means a job that provides a wage that is greater than the median wage for the applicable region, as determined by the Department of Labor.

*Indian tribe* means the term as defined in 25 U.S.C. 5304(e).

*Industry cluster* means a broadly defined network of interconnected firms and supporting institutions in related industries that accelerate innovation, business formation, and job creation by taking advantage of assets and strengths of a region in the business environment.

*Innovation center* means a cross-functional place for the planning and creation of new ideas and opportunities for individual and group collaboration that leads to supporting deployment of innovative processes, technologies, services and products for economic development. Innovation centers may be utilized for a wide array of purposes including short-term housing for business owners or workers; co-working space, which may include space for remote work; space for business utilization with a focus on entrepreneurs and small and disadvantaged businesses but may include collaboration with companies of all sizes; job training programs; and efforts to utilize the innovation center as part of the development of a

community, among other uses deemed appropriate by the Agency.

*Institution of higher education* means the term as defined in 20 U.S.C. 1002(a).

*Instrumentality* means an organization recognized, established, and controlled by a State, Tribal, or local government for a public purpose or to carry out special purposes.

*Jobs accelerator* means a center or program located in or serving a rural low-income community that may provide co-working space, in-demand skills training, entrepreneurship and business support, and other initiatives as described in Part 4284.1113(b).

*Lead applicant* means an entity as defined in Part 4284.1112(b) and is responsible for the rural jobs accelerator partnership plus administration of the grant proceeds and activities.

*Letter of conditions* means a document prepared by the Agency establishing conditions that must be agreed to by the applicant before any obligation of grant funds can occur.

*Low income community* means a community as defined in section 45D(e) of the Internal Revenue Code of 1986, and any amendments thereto.

*Matching funds* means non-federal funds provided to meet the total eligible project costs that are not covered by the RISE grant proceeds.

*Person* means an individual or an entity organized under the laws of a state or a Tribe.

*Region* means an area identified by the applicant that meets the criteria of § 4284.1112(d) with a population of 50,000 or fewer inhabitants, or for a region with a population of more than 50,000 inhabitants, is comprised of rural areas and urbanized areas, if any, are the subject of a positive determination by the Under Secretary for Rural Development with respect to a rural-in-character petition, including such a petition submitted concurrently with the application of the partnership for a grant under this section.

*Rural and rural area* means any area of a state not in a city or town that has a population of more than 50,000 inhabitants according to the latest decennial census of the United States and not in the urbanized area contiguous and adjacent to a city or town that has a population of more than 50,000 inhabitants.

A rural and rural area shall be determined as defined in 7 U.S.C. 1991(a)(13).

*Rural in character* means:

(1) A determination that an area is “rural in character” will be made by the Under Secretary of Rural Development in compliance with 7 U.S.C. 1991(a)(13)(D). The process to request a determination under this provision is outlined in this definition. Units of local government may petition the Under Secretary of Rural Development for a “rural in character” designation by submitting a petition to the Administrator on behalf of the Under Secretary. The petition shall document why the petitioner believes the area is “rural in character” including, but not limited to, the area’s population density, demographics, and topography and how the local economy is tied to a rural economic base. Upon receiving a petition, the Administrator will review its merits and consult with the applicable governor or leader in a similar position and request comments to be submitted within 5 business days, unless such comments were submitted with the petition. The petition will be forwarded to the Under Secretary who will release to the public a notice of a petition filed by a unit of local government not later than 30 days after receipt of the petition by way of publication in a local newspaper and posting on the Agency’s website. The Under Secretary will make a determination not less than 15 days, but no more than 60 days, after the release of the notice. Upon a negative determination, the Under Secretary will provide to the petitioner an opportunity to appeal a determination to the Under Secretary, and the petitioner will have 10 business days to appeal the determination and provide further information for consideration. The Under Secretary will make a determination of the appeal in not less than 15 days, but no more than 30 days.

(2) Rural Development State Directors may also initiate a request to the Under Secretary to determine if an area is “rural in character.” A written recommendation should be sent to the Administrator, on behalf of the Under Secretary, that documents how the area meets the statutory requirements and discusses why the State Director

believes the area is “rural in character” including, but not limited to, the area’s population density, demographics, topography, and how the local economy is tied to a rural economic base. Upon receipt of such a request, the Administrator will review the request for compliance with the “rural in character” provisions and make a recommendation to the Under Secretary. Provided a favorable determination is made, the Under Secretary will consult with the applicable governor or leader in a similar position and request comments within 10 business days, unless gubernatorial comments were submitted with the request. A public notice will be published by the State Office in a local newspaper and the request will be posted on the Agency’s website. There is no appeal process for requests made on the initiative of the State Director.

*Rural jobs accelerator partnership* means a partnership formed on or after December 20, 2018, which meets eligibility criteria found in § 4284.1112.

*Secretary* means the Secretary of Agriculture and, to the extent of delegated authorities, the Under Secretary for Rural Development.

*Small and disadvantaged business* means a small business concern owned and controlled by socially and economically disadvantaged individuals as defined in Section 8(d)(3)(C) of the Small Business Act (15 U.S.C. 637(d)(3)(C)).

*Small business* means:

(1) An entity that meets Small Business Administration (SBA) size standards in accordance with 13 CFR part 121 and criteria of 13 CFR 121.301 as applicable to financial assistance programs, including paragraph (i) or (ii) of this definition. The size of the concern alone and the size of the concern combined with other entity(ies) it controls or entity(ies) it is controlled by, must not exceed the size standard thresholds designated for the industry in which the concern alone or the concern and its controlling entity(ies), whichever is higher, is primarily engaged.

(2) To be considered a small business, either of the following conditions must be met:

(i) The concern's tangible net worth is not in excess of \$15 million and average net income (excluding carry-over losses) for the preceding two completed fiscal years is not in excess of \$5.0 million; or

(ii) The size of the concern does not exceed the SBA size standard thresholds designated for the industry in which it is primarily engaged, as measured by number of employees or annual receipts. Industry size standard designations to be utilized are listed in the SBA's table of size standards found in 13 CFR 121.201. Number of employees and annual receipts are calculated as follows:

(A) Number of employees is calculated as the average number of all individuals employed by a concern on a full-time, part-time, or other basis, based upon numbers of employees for each of the pay periods for the preceding completed 12 calendar months. If a concern has not been in business for 12 months, the average number of employees is used for each of the pay periods during which it has been in business.

(B) Annual receipts are calculated as average total income plus cost of goods sold for the five most recent years. If a concern has been in operation for less than 60 months, average annual receipts for as long as the concern has been in operation are used.

*State* means any of the 50 States of the United States, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, 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 costs* mean the sum of all costs associated with a completed project.

**§ 4284.1104 Exception authority.**

The Administrator may, on a case-by-case basis, grant an exception to any requirement or provision of this subpart provided that such an exception is in the best financial interests of the Federal government. Exercise of this authority cannot conflict with applicable law.

**§ 4284.1105 Review or appeal rights.**

Agency decisions that are adverse to the individual participant are appealable, while matters of general applicability are not subject to appeal; however, such decisions are reviewable for appealability by the National Appeals Division (NAD). All appeals will be conducted by NAD and will be handled in accordance with 7 CFR part 11.

**§ 4284.1106 Conflict of interest.**

(a) *General.* A situation in which a person has competing personal, professional, or financial interests that prevents the person from acting impartially.

(b) *Assistance to employees, relatives, and associates.* The Agency will process any requests for assistance under this subpart in accordance with 7 CFR part 1900, subpart D.

(c) *Member/Delegate clause.* No member of or delegate to Congress shall receive any share or part of this grant or any benefit that may arise therefrom; but this provision shall not be construed to bar, as a contractor under the grant, a publicly held corporation whose ownership might include a member of Congress.

**§ 4284.1107 Statute and regulation references.**

All references to statutes and regulations are to include any and all successor statutes and regulations.

**§ 4284.1108 U.S. Department of Agriculture departmental regulations and laws that contain other compliance requirements.**

(a) *Departmental regulations.* All projects funded under this subpart are subject to the provisions of the departmental regulations, as applicable, which are incorporated by reference herein.

(b) *Equal opportunity and non-discrimination.* The Agency will ensure that equal opportunity and non-discrimination requirements are met in accordance with the Equal Credit Opportunity Act, 15 U.S.C. 1691 *et seq.* and 7 CFR part 15d, Nondiscrimination in Programs or Activities Conducted by the United States Department of Agriculture. The Agency will not discriminate against applicants on the



basis of race, color, religion, national origin, sex, marital status, or age (provided that the applicant has the capacity to contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act, 15 U.S.C. 1601 *et seq.*

(c) *Civil rights compliance.* Recipients of grants must comply with the Americans with Disabilities Act of 1990, 42 U.S.C. 12101 *et seq.*, Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d *et seq.*, and Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794. This includes collection and maintenance of data on the race, sex, and national origin of the recipient's membership/ownership and employees. These data must be available to conduct compliance reviews in accordance with 7 CFR 1901.204.

(1) Initial compliance reviews will be conducted by the Agency prior to funds being obligated.

(2) Grants will require one subsequent compliance review following project completion. This will occur after the last disbursement of grant funds has been made.

(d) *Environmental analysis.* 7 CFR part 1970 outlines environmental procedures and requirements for this subpart. Prospective applicants are advised to contact the Agency to determine environmental requirements as soon as practicable after they decide to pursue any form of financial assistance directly or indirectly available through the Agency. The applicant will be notified of all specific compliance requirements, including:

(1) Any required environmental review must be completed by the Agency prior to the Agency obligating any funds or the applicant taking any action;

(2) A site visit by the Agency may be scheduled, if necessary, to determine the scope of the review. An environmental review may include the publication of public notices, and consultation with State and Tribal Historic Preservation Offices and the U.S. Fish and Wildlife Service.

(e) *Discrimination complaints*—(1) *Who may file.* Persons or a specific class of

persons believing they have been subjected to discrimination prohibited by this section may file a complaint personally, or by an authorized representative with USDA, Director, Office of Adjudication, 1400 Independence Avenue SW, Washington, DC 20250.

(2) *Time for filing.* A complaint must be filed no later than 180 days from the date of the alleged discrimination, unless a request for a waiver of the 180-day timeline is requested and the time for filing is extended by the designated officials of USDA or the Agency.

(3) *Filing a complaint.* To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at <https://www.usda.gov/oascr/how-to-file-a-program-discrimination-complaint> and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:

(i) *Mail:* U.S. Department of Agriculture, Office of Adjudication, 1400 Independence Avenue SW, Washington, DC 20250-9410;

(ii) *Fax:* (202) 690-7442; or

(iii) *Email:* [OAC@usda.gov](mailto:OAC@usda.gov).

#### § 4284.1109 Ineligible applicants.

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

(a) If the applicant 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 until the judgment is paid in full or otherwise satisfied or the delinquency is resolved. The Agency will check the Do Not Pay System to verify this information.

(b) If the applicant is debarred or suspended from receiving Federal assistance, the applicant is not eligible to receive a grant under this subpart. The Agency will check the System for Award Management (SAM) to determine if the applicant has been debarred or suspended.

**§ 4284.1110 General applicant, application, and funding provisions.**

(a) *Satisfactory progress.* A lead applicant that has received one or more grants under this program must make satisfactory progress toward completion of any previously funded projects before the lead applicant will be considered for subsequent funding. Satisfactory progress is defined as 50% or greater of the previous RISE award being expended at the time the Agency makes its eligibility determination for a subsequent application.

(b) *Application submittal.* Applications must be submitted in accordance with the provisions of this subpart unless otherwise specified in a FEDERAL REGISTER notice. Grant applications for financial assistance under this subpart may be submitted at any time with awards made annually based on the application's score and subject to available funding.

(c) *Limit on number of applications.* An applicant can apply for and compete only one RISE project under this subpart per Federal fiscal year, unless otherwise noted in a FEDERAL REGISTER notice.

(d) *Application modification.* Once submitted and prior to Agency award, if an applicant significantly modifies its application or scope of work, the application will be treated as a new application. The submission date of record for such modified applications will be the date the Agency receives the modified application, and the application will be processed by the Agency as a new application under this subpart. Applications that are modified due only to partial funding being available for the selected award are not subject to this provision.

(e) *Incomplete applications.* Applicants must submit a complete application in compliance with § 4284.1115 in order to be considered for funding. If an application is incomplete, the Agency will identify those parts of the application that are incomplete and return the documents, with a written explanation, to the applicant for possible future resubmission. Upon receipt of a complete application by the appropriate Agency office, the Agency will complete its evaluation and will compete the application in accordance with the proce-

dures specified in § 4284.1118, as applicable.

(f) *Application withdrawal.* During the period between the submission of an application and the execution of grant award documents for an application selected for funding, the applicant must notify the Agency, in writing, if the project is no longer viable or the applicant is no longer requesting financial assistance for the project. When an applicant withdrawal request is received by the Agency, the selection will be rescinded and/or the application withdrawn from further processing and funding consideration.

(g) *Time limit on use of grant funds.* Except as provided in paragraph (g)(1) of this section, grant funds not expended within the initial grant term of 4 years from the date the financial assistance agreement was signed by the Agency will be returned to the Agency.

(1) *Time extensions.* The Agency may extend the 4-year grant time limit if the Agency determines, at its sole discretion, that the grantee is unable to complete the project for reasons beyond the grantee's control and that the grantee has established an active jobs accelerator and related programming. Grantees must submit a request for the no-cost extension no later than 90 days before the expiration date of the Financial Assistance Agreement. This request must describe the extenuating circumstances that were beyond its control to complete the project for which the grant was awarded, elements of completion that are required and their timeframe, and why an approval is in the government's best interest. The Agency may extend the grant term up to an additional two-year period. Additional extensions will not be granted.

(2) *Return of funds to the Agency.* Funds that exceed the amount the grantee is entitled to receive under the financial assistance agreement or that are remaining after grant closeout will be returned to the Agency.

**§ 4284.1111 Notifications.**

(a) *Eligibility.* If an applicant or its project is determined by the Agency to be ineligible at any time, the Agency will inform the applicant, as applicable, in writing of the decision, reasons

therefore, and any applicable appeal rights. No further processing of the application or disbursement of grant proceeds, if funds have been previously awarded, will occur.

(b) *Funding determinations.* Each applicant, as applicable, will be notified of the Agency’s funding decision on its application. If the Agency’s decision is to not fund an application, the Agency will notify the applicant in writing including the reasons for the determination and any applicable appeal or review rights.

**§ 4284.1112 Rural jobs accelerator partnership eligibility.**

A rural jobs accelerator partnership (Partnership) organizes key community and regional stakeholders into a working group that focuses on the shared goals and needs of the targeted industry cluster(s). To be eligible for a RISE grant under this subpart, the Partnership must be formed on or after December 20, 2018, and meet each of the criteria specified in paragraphs (a) through (d) of this section. The Agency will determine a Partnership’s eligibility based on the criteria herein.

(a) The Partnership must include one or more representatives of the following:

- (1) A State, Tribal or local government;
- (2) A State, Tribal, or local government entity;
- (3) A land-grant college or university or other institution of higher education, as defined in the Higher Education Act of 1965 (20 U.S.C. 1001);
- (4) A rural non-profit cooperative; or
- (5) A private entity, which may include a business in an industry cluster, economic development or community development organization, financial institution including a community development financial institution, philanthropic organization or labor organization.

(b) The Partnership must have a lead applicant represented by one of the following:

- (1) A district organization;
- (2) An Indian Tribe or a political subdivision of a Tribe, including a special purpose unit of a tribal government engaged in economic development activities, or a consortium of Indian Tribes;

(3) A State or a political subdivision of a State, including a special purpose unit of a State or local government engaged in economic development activities, or a consortium of political subdivisions;

(4) An institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)) or a consortium of institutions of higher education; or

(5) A public or private nonprofit organization.

(c) The Partnership and its project must serve a rural region, as defined.

(d) The Partnership must clearly define the region that the partnership represents and ensure that the Region encompasses each of the following:

(1) Is large enough to contain critical elements of the industry cluster prioritized by the partnership;

(2) Is small enough to enable close collaboration among members of the partnership;

(3) Includes a majority of communities that are located in the following:

(i) A nonmetropolitan area that qualifies as a low-income community; and

(ii) An area that has access to or has a plan to achieve broadband service, as defined; and

(4) Has a population of 50,000 or fewer inhabitants or, for a region with a population of more than 50,000 inhabitants, is comprised of rural areas and urbanized areas, if any, are the subject of a positive determination by the Under Secretary for Rural Development with respect to a rural-in-character petition, including such a petition submitted concurrently with the application of the partnership for a grant under this section.

(e) One or more members of the Partnership must be located in the targeted region. The Partnership may consist of industry entities and other partners outside of the targeted region.

**§ 4284.1113 Project eligibility.**

For a project to be eligible to receive a RISE grant under this subpart, the proposed project must meet the requirements specified in paragraphs (a) through (e) of this section. The applicant project outcome must accelerate the formation of new businesses with

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high-growth potential, improve the ability of rural businesses and distressed rural communities to create high-wage jobs, and strengthen rural regional economies by engaging in one or more of the following eligible uses:

(a) The construction or purchase of a building to serve as an innovation center located in a rural low-income community which establishes and/or supports a jobs accelerator and any equipment needs of the innovation center to support the jobs accelerator;

(b) Be for the support of programs to be carried out at or in direct partnership with the jobs accelerator or in support of jobs accelerator initiatives including one or more of the following:

(1) Linking rural communities and entrepreneurs to markets, networks, industry clusters, and other regional opportunities to support high-wage job creation, new business formation, business expansion, and economic growth of rural communities;

(2) Integrating rural small businesses into a supply chain;

(3) Creating or expanding commercialization activities for new business formation in rural areas;

(4) Identifying and building assets in rural communities that are crucial to supporting regional economies;

(5) Facilitating the repatriations of high-wage jobs to the United States;

(6) Supporting the deployment of innovative processes, technologies, and products;

(7) Enhancing the capacity of rural small businesses in regional industry clusters, including small and disadvantaged businesses;

(8) Increasing United States exports and business interaction with international buyers and suppliers;

(9) Developing the skills and expertise of local workforces, entrepreneurs, and institutional partners in the region to meet the needs of employers and prepare workers for high-wage jobs in the identified industry clusters, including the upskilling of incumbent workers;

(10) Ensuring rural communities have the capacity and ability to carry out projects relating to housing, community facilities, infrastructure, or community and economic development to

support regional industry cluster growth;

(11) Any activities that the Agency may determine to be appropriate, as specified in a FEDERAL REGISTER notice.

(c) Not more than 10 percent of a RISE grant awarded under this section shall be used for indirect costs of the applicant associated with administering the RISE grant. The Agency may increase this percentage as a documented exception on a case by case basis.

(d) The innovation center may be physically located in a rural area as defined in § 4284.1103 or in a non-rural area; as long as assistance being provided is to residents located in a rural area. The innovation center must be located in a rural low-income community if grant funds are used for the construction or purchase of an innovation center.

(e) The applicant is cautioned against taking any actions or incurring any obligations prior to the Agency completing the environmental review that would either limit the range of alternatives to be considered or that would have an adverse effect on the environment, such as the initiation of construction. If the applicant takes any such actions or incurs any such obligations, it could result in project ineligibility. Projects involving the construction of an innovation center as an eligible purpose are subject to the environmental requirements of 7 CFR part 1970.

### § 4284.1114 RISE grant funding.

(a) *Grant amounts.* The amount of grant funds that will be made available to a Partnership under this subpart will not exceed 80 percent of eligible project costs. The Federal share of the cost of any activity carried out using a grant under this section shall not be greater than 80 percent.

(1) *Minimum request.* Unless otherwise specified in a FEDERAL REGISTER notice, the minimum request for a RISE grant application is \$500,000.

(2) *Maximum request.* Unless otherwise specified in a FEDERAL REGISTER notice, the maximum request for a RISE grant application is \$2,000,000.

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(b) *Matching funds.* The applicant is responsible for securing the matching funds for total eligible project costs that are not covered by grant funds. The non-Federal share of the total eligible project costs of any activity carried out using a grant under this section may be in the form of third-party equity contributions including donations and in-kind contributions of fairly-valued goods or services.

(c) *Eligible project costs.* Eligible project costs are only those costs incurred after a complete application has been received by the Agency and are associated with the items identified in paragraphs (c)(1) through (6) of this section. The applicant is responsible for any expenses incurred in developing its application. Each item identified in paragraphs (c)(1) through (6) of this section is only an eligible project cost if it is directly related to, and its use and purpose is limited to the RISE grant project. Any building or equipment purchased with grant proceeds must be owned and controlled by the lead applicant. The following is a list of eligible project costs:

- (1) Costs directly related to the purchase or construction of an innovation center;
- (2) Costs directly related to operations of an innovation center including purchase of equipment, office supplies, and administrative costs including salaries directly related to the project;
- (3) Costs directly associated with support programs to be carried out at or in direct partnership with job accelerators;
- (4) Reasonable and customary travel expenses directly related to job accelerators and at rates in compliance with 2 CFR 200.474;
- (5) Utility costs, operating expenses of the innovation center and job accelerator programs and associated programs;
- (6) Administrative costs of the grantee will not exceed 10% of the grant amount for the duration of the project.

(d) *Ineligible project costs.* Ineligible project costs and uses of funds for RISE projects include, but are not limited to:

- (1) Costs associated with preparation of an application package under this notice;
- (2) Costs incurred prior to Agency receipt of a complete application for the grant request made under a funding notice;
- (3) Funding of any political or lobbying activities;
- (4) Payment for assistance to any private business enterprise which does not create and/or support jobs in a rural area of the United States;
- (5) Payment of any judgment or debt owed to the United States;
- (6) Duplicate current services or substitute support previously provided. If the current service is inadequate, however, grant funds may be used to expand the level of effort or services beyond what is currently being provided;
- (7) To fund a part of a project that is dependent on other funding unless there is a firm commitment of the other funding to ensure completion of the project;
- (8) Pass through grants; and
- (9) costs associated with hemp production, unless a hemp producer has a valid license issued from an approved State, Tribal or Federal plan as per Section 10113 of the Agriculture Improvement Act of 2018, Public Law 115–334 (verification of valid hemp licenses will occur at the time of award).

**§ 4284.1115 RISE grant applications—content.**

(a) A potential applicant for RISE may submit a concept proposal not less than 60 days in advance of the application submittal deadline as published in the FEDERAL REGISTER for review by the Agency. This concept proposal will be evaluated, and an encouragement or discouragement letter will be issued to the potential applicant. If a discouragement letter is issued, it will detail any weaknesses evaluated in the Agency's review, though a complete application may still be submitted prior to the application deadline. The concept proposal may be up to 10 pages in length using a minimum of 11-point font. The concept proposal should be in a narrative format and must include the following:

(1) Partnership information including the members and structure of the Partnership, the date formalized, and the governance or leadership board. The information will identify the lead applicant and each partner's ties to the region, their roles in the delivery of the RISE program and any history of previous collaboration between partners. The amount and source of anticipated matching funds will also be provided.

(2) Describe the geographic region to be served including the total population, economic characteristics of the region such as unemployment rates and income levels. Industry sectors, their status, size and economic contribution to the region and all communities including metropolitan statistical areas and nonmetro low income communities within the region should be identified. The availability and planned enhancements of broadband service and other assets of the region should also be identified. If the region to be served has a population of more than 50,000 inhabitants, the applicant must document why they believe the area is "rural in character" including, but not limited to, the area's population density, demographics, and topography and how the local economy is tied to a rural economic base.

(3) Identify the industry cluster(s) that will be prioritized by the Partnership with information on the firms and support industries in those clusters. Describe the status of the industry (as emerging, existing, or declining) any existing interconnection and networks within the industry cluster and describe participation and scale of small and disadvantaged businesses within the industry cluster. Describe the opportunities or potential of industry growth in the region and competitive advantages of the region and industry cluster should be highlighted along with opportunities within the industry for the creation of or upgrading to high-wage jobs.

(4) An executive summary, project plan and scope of work must be provided with the applicant's strategy, activities, budget, goals and objectives for the use of RISE funds. The applicant should also provide information on the sustainability of the partnership

and jobs accelerator at the conclusion of the RISE grant period.

(b) Unless otherwise specified in a FEDERAL REGISTER notice, applicants may only submit one RISE grant application each Federal fiscal year.

(1) The lead applicant must be registered in the System for Award Management (SAM) and is responsible for submitting a complete application as specified in (b)(2)(i) through (b)(2)(xiv) of this section.

(2) There are no specific limitations on the number of pages or other formatting requirements of an application. Applicants, who submitted a concept proposal to the Agency, will not need to resubmit the information found in (b)(2)(ix) below. The Agency will review and retain this information for application submittal. A complete application will consist of the following components unless otherwise specified in a FEDERAL REGISTER notice:

(i) Form SF-424, "Application for Federal Assistance;"

(ii) Form SF-424A, "Budget Information—Non-Construction Programs," if applicable;

(iii) Form SF-424C, "Budget Information—Construction Programs," if applicable;

(iv) Form SF-424D, "Assurances—Construction Programs," if applicable;

(v) RD Form 400-1, "Equal Opportunity Agreement," for construction projects only;

(vi) Identify the ethnicity, race, and gender characteristics of the lead applicant's leadership. This information is optional and is not a required component for a complete application;

(vii) Certification that the lead applicant is a legal entity in good standing (as applicable) and operating in accordance with the laws of the State(s) or Tribe where the applicant exists;

(viii) The lead applicant must identify whether or not the lead applicant has a known relationship or association with an Agency employee and, if there is a known relationship, the lead applicant must identify each Agency employee with whom the lead applicant has a known relationship;

(ix) All items required in paragraph (a) of this section must be provided with the application (applicants must provide updates, as appropriate, to any

items previously submitted as a concept proposal under paragraph (a));

(x) Readiness demonstration, which shall be comprised of the following items:

(A) Description of readiness of all partners of the Partnership to contribute to the project including their ability to coordinate activities, finances and outcomes of the project.

(B) Evidence of a formal agreement among partners of the Partnership for delivery of the RISE program.

(C) Evidence of demonstrated readiness in administering the RISE grant, if awarded, including demonstration of potential success in establishment of a jobs accelerator project, which targets an industry cluster and the initiatives of the RISE grant. The application should indicate when activities related to the expected outcomes will commence.

(D) Description of how the project will be marketed in the region and how the Partnership will capture any program impacts and success stories; and

(E) Timeline describing the proposed tasks to be accomplished and the schedule for implementation of each task.

(xi) Provide documentation on how the RISE project will impact the initiatives below, as applicable, including a brief description of how and when the initiative will be delivered:

(A) Linking rural communities and entrepreneurs to markets, networks, industry clusters, and other regional opportunities to support high-wage job creation, new business formation, business expansion, and economic growth;

(B) Integrating small businesses into a supply chain;

(C) Creating or expanding commercialization activities for new business formation;

(D) Identifying and building assets in rural communities that are crucial to supporting regional economies;

(E) Facilitating the repatriation of high-wage jobs to the United States;

(F) Supporting the deployment of innovative processes, technologies, and products;

(G) Enhancing the capacity of small businesses in regional industry clusters, including small and disadvantaged businesses;

(H) Increasing United States exports and business interaction with international buyers and suppliers;

(I) Developing the skills and expertise of local workforces, entrepreneurs, and institutional partners to meet the needs of employers and prepare workers for high-wage jobs in the identified industry clusters, including the upskilling of incumbent workers;

(J) Ensuring rural communities have the capacity and ability to carry out projects related to housing, community facilities, infrastructure, or community and economic development to support regional industry cluster growth;

(xii) Potential to produce high-wage jobs and benefit rural small and disadvantaged businesses, including a description of the following:

(A) Describe how the project will develop the skills and expertise of the local workforce, entrepreneurs and institutional partners to meet the needs of employers and prepare high-wage jobs in the targeted industry cluster(s), which may also include the upskilling of incumbent worker;

(B) Demonstrate how the project will benefit the skills and expertise of small and disadvantaged businesses, as applicable;

(C) Demonstrate any participation of higher education, applied research institutions, workforce development entities and community-based organizations, that are willing to partner with the project to provide workers with skills relevant to the industry cluster needs of the region, with an emphasis on the use of on-the-job training, classroom occupational training or incumbent worker training, as applicable; and

(D) Demonstrate any participation of investment organizations, venture development organizations, venture capital firms, revolving loan funders, angel investment groups, community lenders, community development financial institutions, rural business investment companies, small business companies (as defined in Section 103 of the Small Business Investment Act of 1958 (15 U.S.C. 662)), philanthropic organizations, and other institutions focused on expanding access to capital,

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are committed partners in the job accelerator partnership and willing to potentially invest in projects emerging from the jobs accelerator.

(xiii) Describe the targeted region, including the following information:

(A) Provide the latest Census Bureau information on the targeted region's median household income.

(B) Provide the latest Census Bureau information on the targeted region's educational attainment, specifically the percentage of the population who hold a bachelor's degree.

(C) Discuss how any direct career training will be provided to existing residents of the region (existing residents being those persons who live in the region at the time of application submission).

(D) Discuss any local support for the RISE project.

(E) Discuss the entrepreneurial commitment to the RISE project.

(F) Discuss any innovative processes and technologies to be utilized in the targeted industry cluster(s) of the RISE project.

(G) Discuss the initial and continuing capital investment in the RISE project.

(H) Discuss any demand for regional and global markets of the product and/or service provided by the targeted industry cluster.

(I) Discuss if the region contains any areas or communities that qualify for federal initiatives.

(J) Elaborate on the current broadband service within the region and any plans to leverage the current broadband service or enhance broadband service in the region through the RISE project.

(xiv) Financial information, including the following:

(A) Identification of matching funds and other sources of funds for the project. Provide written commitments for matching funds and other sources of funds at the time the application is submitted.

(B) Current financial statements and a narrative description demonstrating financial feasibility and sustainability of the project, all of which demonstrate sufficient resources and expertise to undertake and complete the project and how the project will be sustained following completion.

(c) Upon receipt of a complete application, the Agency will determine if the applicant and project are eligible and whether the intended outcomes described meet the requirements of the RISE program. If the application is ineligible or not feasible, the Agency will inform the applicant in writing of the reasons for the Agency's determination and no further evaluation of the application will occur.

### § 4284.1116 [Reserved]

### § 4284.1117 Scoring RISE grant applications.

The Agency will score each complete and eligible RISE application using the criteria specified in paragraphs (a) through (g) of this section, unless otherwise specified in a FEDERAL REGISTER notice, with a maximum score of 100 points possible. Points will be allowed only for factors indicated by well documented, reasonable plans which, in the opinion of the Agency, provide assurance that the items have a high probability of being accomplished. Points shall be awarded at the discretion of the Agency to scoring criteria with a minimum and maximum number of points available. Applicants that demonstrate the experience or ability to deliver the stated criteria will be awarded higher points in that criteria.

(a) *Demonstrated readiness.* The Partnership demonstrated readiness in administering the RISE grant successfully and shows strong documentation indicating the potential for success in establishing a jobs accelerator project which targets an industry cluster and the initiative(s) of the RISE grant program. Points are awarded on a scale of 0 to 10 with a maximum of 10 points being awarded.

(b) *Targeted initiatives.* A maximum of 15 points will be awarded for this criterion based on meeting the targeted initiatives as stated in § 4284.1115(b)(2)(xi) with action narratives outlined in the application on how and when the initiatives will be delivered. More points will be awarded for reasonable initiatives that can be delivered within 12 months of the grant award and for those projects leveraging improvements in high-speed broadband service to the region.



(c) *Project support.* Points will be awarded for the strength of local support of the RISE project and entrepreneurial commitment. A maximum of 15 points can be awarded for application materials that indicate the strength of support for the RISE project. Points will be awarded from the partnership's demonstration of its sources of funding, personnel and technical resources committed to the project, and a focus on the inclusion of institutional partners expanding access to capital and willingness to potentially invest in projects emerging from the jobs accelerator. Points shall also be awarded for demonstrated resources that will sustain the project beyond the term of the RISE grant period.

(d) *Targeted region.* A maximum of 20 points will be awarded for this criterion based on the region's demographics according to the latest census information. The applicant must provide adequate documentation to the latest census information to receive points.

(1) If the targeted region has a median household income of:

(i) 50% or less of state median household income; 5 points will be awarded;

(ii) Over 50% and up to 80% of state median household income; 3 points will be awarded.

(2) If the targeted region residents have the educational attainment of a bachelor's degree by:

(i) 10% or less of the population; 5 points will be awarded;

(ii) Over 10% and up to 30% of the population; 3 points will be awarded.

(3) Existing residents of the targeted region will receive direct career training for new employment or upscaling to a high-wage job; 5 points will be awarded.

(4) If the identified region has fewer than 50,000 residents according to the most recent decennial census; 5 points will be awarded.

(e) *RISE grant funds requested.* A maximum of 10 points will be awarded for this criterion if:

(1) The RISE grant request is for \$500,000 to \$750,000; 10 points will be awarded.

(2) The RISE grant request is for over \$750,000 and up to \$1,000,000; 5 points will be awarded.

(f) *Regional impact.* Points are awarded on a scale of 0 to 5 points for each category, with a total maximum of 20 points being awarded for this criterion. To receive points, the applicant must provide documentation to warrant strength on the following criteria, with points awarded for each:

(1) Targeted industry(ies) in the region is classified as an emerging industry;

(2) Applicant demonstrates that the targeted industry(ies) in the region hold a competitive advantage or will enhance their competitive advantage through the RISE project;

(3) Applicant demonstrates that industry provides significant support of regional assets, including broadband, and provides community and economic development support within the region;

(4) The RISE project's forecasted outcomes align with RISE objectives; and

(5) The RISE project will target support to existing industry(ies), whose significance in the region may be stagnant or on the decline but can be enhanced through the benefits of the RISE project.

(g) *Administrator points.* A maximum of 10 points will be awarded, with justification, at the discretion of the Agency Administrator, as announced in a FEDERAL REGISTER notice.

**§ 4284.1118 Selecting RISE grant applications for award.**

Unless otherwise provided for in a FEDERAL REGISTER notice, RISE grant applications will be evaluated, assigned priority points as described in § 4284.1117 and ranked from highest to lowest score for funding consideration, subject to the availability of funding.

**§ 4284.1119 Awarding and Administering RISE Grants.**

The Agency will award and administer RISE grants in accordance with departmental regulations and with the procedures and requirements specified in this part.

(a) *Bonding and insurance.* The applicant must provide satisfactory evidence to the Agency that all officers of the applicant organization are authorized to receive and/or disburse Federal funds and are covered by such bonding

and/or insurance requirements as are normally required by the applicant.

(b) *Letter of conditions.* A letter of conditions will be prepared by the Agency, establishing conditions that must be agreed to by the applicant before any obligation of funds can occur. Upon reviewing the conditions and requirements in the letter of conditions, the applicant must complete, sign, and return the Form RD 1942-46, "Letter of Intent to Meet Conditions," and Form RD 1940-1, "Request for Obligation of Funds," to the Agency if it accepts the conditions of the grant; or if certain conditions cannot be met, the applicant may propose alternate conditions in writing to the Agency. The Agency must resolve or concur with any changes proposed by the applicant to the letter of conditions before the application will be further processed.

(c) *Evidence of matching funds.* The applicant is responsible for providing documentation that the required matching funds for the project have been received or remain committed at the date a financial assistance agreement is executed with the Agency.

(d) *SAM requirements.* Each applicant applying for grant funds (unless an exception, as outlined in 2 CFR 25.110(a) through (d), is approved by the Agency) is required to:

- (1) Be registered in SAM before submitting its application;
- (2) Provide a valid unique entity identifier in its application; and
- (3) Continue to maintain an active SAM registration with current information at all times during which it has an active Federal award or an application or plan under consideration by a Federal awarding agency.

(e) *Financial assistance agreement.* Once the requirements specified in paragraphs (a) through (d) of this section have been met, the financial assistance agreement can be executed by the lead applicant and the Agency. The applicant must abide by all requirements contained in the financial assistance agreement, this subpart, and any other applicable Federal statutes or regulations. Failure to follow these requirements might result in termination of the grant and adoption of other available remedies.

(f) *Grant approval.* The lead applicant will be sent an executed copy of the executed Form RD 1940-1, "Obligation of Funds," and the financial assistance agreement.

#### § 4284.1120 Servicing RISE grants.

The Agency will service RISE grants in accordance with the requirements specified in departmental regulations, the financial assistance agreement, 7 CFR part 1951, subparts E and O, other than 7 CFR 1951.709(d)(1)(i)(B)(iv), and the requirements in § 4284.1120, except as specified in paragraphs (a) through (d) of this section.

(a) *Inspections.* Grantees must permit periodic inspection of the project records and operations by a representative of the Agency.

(b) *Programmatic changes.* Grantees may make changes to an approved project's costs, scope, contractor, or vendor subject to the provisions specified in paragraphs (b)(1) through (3) of this section. If the changes result in lowering the project's score to below what would have qualified the application for an award, the Agency will not approve the changes.

(1) *Prior Agency approval.* The grantee must obtain prior Agency approval for any change to the scope, contractor, or vendor of the approved project. Changes in project cost will require Agency approval as outlined in paragraph (b)(1)(iii) of this section.

(i) Grantees must submit requests for programmatic changes in writing to the Agency for Agency approval.

(ii) Failure to obtain prior Agency approval of any such change could result in such remedies as suspension, termination, and recovery of grant funds.

(iii) Prior Agency approval is required for all increases in project costs. Prior Agency approval is required for a decrease in project cost only if the decrease would have a negative effect on the long-term viability of the project. A decrease in project cost that does not have a negative impact on long-term viability requires Agency notification prior to disbursement of funds. If project costs decrease, the Agency will reduce the grant amount, if necessary, to maintain a maximum grant amount of no greater than 80 percent of total

project activities as required in § 4284.1114(a).

(2) *Changes in project cost or scope.* If there is a significant change in project cost or any change in project scope, then the grantee's funding needs, eligibility, and scoring, as applicable, will be reassessed. Any decreases in Agency funds will be based on revised project costs and other factors, including Agency regulations used at the time of grant approval.

(3) *Change of contractor or vendor.* When seeking a change, the grantee must submit a written request to the Agency for approval. The proposed new contractor or vendor must have qualifications and experience acceptable to the Agency. The written request must contain sufficient information to demonstrate to the Agency's satisfaction that such change maintains project integrity. If the Agency determines that project integrity continues to be demonstrated, the grantee will be allowed to make the change. If the Agency determines that project integrity is no longer demonstrated, the change will not be approved and the grantee has the following options:

- (i) Continue with the original contractor or vendor;
- (ii) Find another contractor or vendor that has qualifications and experience acceptable to the Agency to complete the project; or
- (iii) Terminate the grant by providing a written request to the Agency. No additional funding will be available from the Agency if costs for the project have increased. Any Agency decision will be provided in writing to the lead applicant.

(c) *Transfer of Applicant or Ownership.* Any change to the jobs accelerator partnership prior to the obligation of funds must be approved by the Agency and will only be considered if the partnership entities are eligible in accordance with § 4284.1112. After the project is obligated and operational, the applicant grantee may request, in writing, a transfer of the financial assistance agreement to another entity. Subject to Agency approval provided in writing, the financial assistance agreement may be transferred to another entity provided:

(1) The entity is determined by the Agency to be an eligible lead applicant entity under this subpart; and

(2) The scope of the project for which the Agency funds will be used remain unchanged.

(d) *Disposition of acquired property.* Grantees must abide by the disposition of acquired asset requirements as outlined in 2 CFR part 200 and departmental regulations.

(e) *Financial management system and records.* The grantee must provide for financial management systems and maintain records as specified in paragraphs (e)(1) and (2) of this section.

(1) *Financial management system.* The grantee will provide for a financial system that will include:

(i) Accurate, current, and complete disclosure of the financial results of each grant;

(ii) Records that identify adequately the source and application of funds for grant-supporting activities, together with documentation to support the records. Those records must contain information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income; and

(iii) Effective control over and accountability for all funds. The grantee must adequately safeguard all such assets and must ensure that funds are used solely for authorized purposes.

(2) *Records.* The grantee will retain financial records, supporting documents, statistical records, and all other records pertinent to the grant for a period of at least three (3) years after completion of the grant period, except that the records must be retained beyond the 3-year period if audit findings have not been resolved or if directed by the United States. The Agency and the Comptroller General of the United States, or any of their duly authorized representatives, must have access to any books, documents, papers, and records of the grantee that are pertinent to the specific grant for the purpose of making audit, examination, excerpts, and transcripts.

(f) *Audit requirements.* If applicable, grantees must provide an annual audit in accordance with 2 CFR part 200, subpart F. The Agency may exercise its right to do a program audit after the

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end of the project to ensure that all funding supported eligible project costs.

(g) *Grant disbursement.* The Agency will determine, based on the applicable departmental regulations, whether disbursement of a grant will be by advance or reimbursement. Any funds disbursed in advance of the expense shall be used within three months and the financial need substantiated in writing by the grantee. Form SF-270 or Form SF-271 must be completed by the grantee and submitted to the Agency no more often than monthly to request either an advance or reimbursement of funds.

(h) *Reporting Requirements.* Financial and project performance reports must be provided by grantees and contain the information specified in paragraphs (h) (1) and (2) of this section.

(1) *Federal Financial Reports.* Between grant approval and completion of project (*i.e.*, construction), SF-425, "Federal Financial Report" will be required of all grantees as applicable on a semiannual basis. The grantee will complete the project within the total sums available to it, including the grant, in accordance with the scope of work and any necessary modifications thereof prepared by grantee and approved by the Agency.

(2) *Performance reports.* Grantees shall submit a performance report semi-annually for the first two years, and then annually thereafter, with the first report submitted no later than six months after receiving a grant under this section. This report will include, but not be limited to, the following:

(i) All activities funded with the grant funds;

(ii) Evaluation of progress towards strategic initiatives identified in the application for the grant, including a discussion of any issues which may have occurred;

(iii) Measurement of progress using performance measures during the project period, which may include the following:

- (A) High-wage jobs created;
- (B) High-wage jobs retained;
- (C) Private investment leveraged;
- (D) Businesses improved;
- (E) Businesses retained;
- (F) New business formations;

(G) New products, prototypes and/or services commercialized;

(H) Improvement of the value of existing products or services under development;

(I) Regional collaboration as measured by the number of organizations actively engaged in the industry cluster and/or the number of symposia held by the industry cluster, including organizations that are not located in the immediate region defined by the partnership and/or the number of further cooperative agreements;

(J) Number of educations and training activities relating to the innovation;

(K) Number of innovative products, services and/or prototypes launched;

(L) Number of jobs relocated from outside of the United States to the region;

(M) Amount and number of new equity investments in industry cluster firms;

(N) Amount and number of new loans to industry cluster firms;

(O) Dollar increase in exports resulting from the project activities;

(P) Percentage of employees for which training was provided;

(Q) Improvement in sales of participating businesses;

(R) Improvement in wages paid at participating businesses;

(S) Improvement in income of participating workers;

(T) Any measure determined appropriate by the Agency; and

(U) Broadband development in the targeted region.

(iv) Initiatives and timetable established for the next reporting period; and

(v) Any additional information as found in the annual FEDERAL REGISTER notice.

**§§ 4284.1121—4284.1130 [Reserved]**

**§ 4284.1131 OMB control number.**

The information collection requirements in this subpart are approved by the Office of Management and Budget (OMB) and assigned OMB control number 0570-0075.

**PART 4285—COOPERATIVE  
AGREEMENTS**

**Subpart A—Federal-State Research on  
Cooperatives Program**

Sec.

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- 4285.3 Definitions.
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- 4285.69 Evaluation and disposition of applications.
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- 4285.71–4285.80 [Reserved]
- 4285.81 Cooperative agreement awards.
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- 4285.93 Other Federal statutes and regulations that apply.
- 4285.94 Other conditions.
- 4285.95–4285.99 [Reserved]
- 4285.100 OMB control number.

AUTHORITY: 7 U.S.C. 1623; Public Law 103-111, 107 Stat. 1046; 7 U.S.C. 2201; USDA Secretary's Memorandum 1020-39, dated September 30, 1993; and Public Law 103-211, 108 Stat. 3.

SOURCE: 59 FR 38342, July 28, 1994, unless otherwise noted.

**Subpart A—Federal-State Research on Cooperatives Program**

**§ 4285.1 Objective.**

This subpart sets forth the policies and procedures and delegates authority for providing Federal-State Research on Cooperatives cooperative agreement funds to finance programs of research on cooperatives as authorized under Section 204 (b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623 (b)). The primary purpose of this matching fund program, via cooperative agreements, is to encourage State Departments of Agriculture and State Agricultural Experiment Stations in conducting research related to agricultural cooperatives.

**§ 4285.2 Cooperative agreement purposes.**

Rural Development Administration (RDA) or its successor agency may enter into a cooperative agreement with a State agency to provide funds to the State agency to:

- (a) Conduct marketing research related to agricultural cooperatives.
- (b) Assist other organizations in conducting marketing research related to agricultural cooperatives.

**§ 4285.3 Definitions.**

As used in this part:

*Agreement period.* The total period of time approved by the Assistant Administrator for Cooperative Services for conducting the proposed project as outlined in an approved application. The time period is normally no more than 3 years, renewable for cause not to exceed a total of 4 fiscal years.

*Agricultural products.* Agricultural products include agricultural, horticultural, viticultural, and dairy products, livestock and poultry, bees, forest products, fish and shellfish, and any products thereof, including processed or manufactured products, and any and all products raised or produced on farms and any processed or manufactured product thereof.

*Assistant Administrator for Cooperative Services.* The Assistant Administrator for Cooperative Services, Rural Development Administration or its successor agency, USDA or any authorized delegate.

*Awarding official.* The Assistant Administrator for Cooperative Services or authorized delegate.

*Cooperative agreement.* A legal instrument reflecting a relationship between the United States Government and a State where:

(1) The principal purpose of the relationship is the transfer of money, property, services, or anything of value to the State agency to carry out research related to cooperatives; and

(2) Substantial involvement is anticipated between RDA or its successor agency, acting for the Federal Government, and the State or other recipient during performance of the research in the agreement.

*Cooperator.* The State agency designated in the cooperative agreement