

PART 4284 - GRANTS

Subpart J - Value-Added Producer Grant Program

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PART 4284 - GRANTS

Subpart J - Value-Added Producer Grant Program

§ 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.

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Loans and Grants

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. *An agricultural producer is a farmer, rancher, fisherman, or forestry or other harvester (see definition of Harvester) who produces (grows, raises, cultivates) or legally harvests and owns the agricultural commodity to which value will be added; and is not an individual or entity who buys an agricultural commodity from someone else and then adds value. Agricultural producers may own or lease the land or other production resources, but must have majority ownership of the agricultural commodity to which value will be added during the project. Note that Agricultural Producers are not required to be located in rural areas in order apply for the program.*

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. *Examples of eligible entities include state, regional, or national farmer or commodity associations. For profit producer-based entities should apply in one of the other three eligible applicant categories.*

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. *Before they apply for grant funds, via paper or grants.gov, all applicants must first obtain a Dun and Bradstreet Data Universal Numbering System (DUNS number), and then register with the System for Award Management (SAM). The SAM registration must remain active at all times during which the entity has an application under consideration by the Agency or has an active Federal award.*

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. *The position of the Agency is that the applicant must 'currently' produce the raw commodity at time of application, meaning that they must be in active production or between seasons with a commodity produced the previous season, at the time of application. Therefore, applicants who have not yet begun farming are not eligible.*

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 market 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. *Agriculture Producer Groups, Farmer or Rancher Cooperatives, and Majority-Controlled Producer Based Businesses must propose emerging market projects. Independent Producer applicants may propose either emerging market or market expansion projects*

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.

§ 4284.902 (Con.)

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. To be deemed a farm or ranch, applicants must currently own and produce the majority of the agricultural commodity to which value will be added. In rare circumstances, and on a case-by-case basis, the Agency may consider the eligibility for a farm or ranch that wants to apply to the program but experienced events beyond its control that resulted in failure to produce the majority of the agricultural commodity necessary for the project in the previous year. Such events might include, but are not limited to, natural disasters or death of an owner/operator. In such circumstances, the Agency has the discretion to consider the circumstances with regard to decreased or deficient agricultural production in the previous year, and to permit the applicant to apply for program funds.

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. Documentation for expansion of customer base may include sale of the generated energy off-farm customers and/or on-farm utilization of the generated energy in the production of other value-added products which are subsequently sold to off-farm customers. Utilization of the generated energy to reduce energy needs on the farm does not demonstrate expansion of customer base. Documentation for increased revenue returned to the producer-owner(s) may include, but is not limited to, the savings that result from the use of the value-added products on the farm for farming operations, and/or from the sale of the value-added products to off-farm customers.

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. Applicants must indicate the percentage of total ownership shares owned by Independent Producers, and the total number of Independent Producers on whose behalf the project work will be done. Note, if a cooperative

is owned and controlled by agricultural Harvesters (fishermen, loggers), it is eligible to apply only as an Independent Producer and not as a Farmer or Rancher Cooperative because harvesting operations do not meet the definition requirements for a Farm or Ranch; and priority points will not be awarded.

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. This study may evaluate the feasibility of using a specific location or facility, but may not conduct the architectural or engineering design work related to the acquisition, rehabilitation or construction of an actual facility or building. Feasibility studies must be conducted by qualified consultant.

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. Examples of harvesters include, but are not limited to, a logger who has a legal right to access and harvest logs from the forest that are then converted into boards; a fisherman that has the legal right to access and harvest fish from the ocean or river that are then smoked; an herb gatherer that has the legal right to access and harvest wild herbs that are then converted into essential oils.

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

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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. *Like other applicants, a DUNS number and SAM registration is required at time of application, and may be obtained initially for an authorized individual member representing the steering committee. When the legal entity has been formed, a new DUNS and SAM registrations must be completed in name of the legal entity.*

(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. *See guidance provided in the application toolkit.*

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. *Mid-tier supply network that moves agricultural*

based products from production through consumption in a local or regional area of the United States. Other than for locally produced agricultural food products, the regulation does not specifically define the terms local or regional, so the applicant must describe the territory and affiliations that demonstrate its project serves a local or regional area of the United States.

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. *Applications must document that 100 percent of the Agricultural Food Product will be marketed and distributed within 400 miles of the farm that produced the commodity, or within the same state as that farm. Applications must quantify how local sales and marketing results in added value to the Agricultural Food Product.*

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. Applicants must identify all owners and indicate the percentage of financial ownership and percentage of voting control for all owners, including Independent Producer owners and non-Independent Producer owners. If the applicant's owners are entities themselves, the ownership of those entities is also identified, by name or class (general description of agricultural product or type of producer), and confirmed as eligible. The statute directs that funding awards to this applicant type is limited to 10 percent of available funds.

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

§ 4284.902 (Con.)

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. *The source and use of grant and matching funds must be specified in the budget, be related to the processing and/or marketing of the value-added product, and be without a conflict of interest. Matching Funds cannot be paid by the Federal Government.*

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. *The applicant for a Mid-Tier Value Chain project must be one of the four eligible applicant types.*

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. *The Agency intends that these applications demonstrate a non-standard agricultural production method that adds value to the agricultural commodity per unit of production over a standard production method, and include a quantifiable comparison with products produced in the standard manner.*

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.

§ 4284.902 (Con.)

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 received 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.

(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.

§ 4284.902 (Con.)

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 requirement 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 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 programs 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. (Revised 04-01-16, SPECIAL PN.)

§ 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 part 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]

§ 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 and 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 the 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]

§ 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. *See the definition for "Emerging market." This requirement applies to both planning and working capital grants of any size for the Agricultural Producer Group, Farmer or Rancher Cooperative or Majority-Controlled Producer based business applicant types.*

(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.

Demonstration of the legal authority necessary to carry out the purpose of the grant may include a copy of, or excerpt from, the applicant's organizational documents. Demonstration of the "good standing" status of the applicant may be verified via documentation from the Secretary of State, the State Agency or Department of Agriculture, or some equivalent office or authority.

(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.

In cases where multiple grant requests are received by the Agency from one applicant, including separate entities with identical or greater than 75 percent common ownership; or in cases where an applicant is requesting an additional planning (P) or working capital (WC) grant for an existing value-added product developed via a previously awarded Planning or Working Capital grant; ALL such applications will be deemed ineligible to compete for federal funds. Proposals from previous award recipients should be substantially different in terms of products and/or markets and should not merely be extensions of previously funded projects.

(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. State Offices must confirm the scheduled close-out status of applicants that have been previously awarded funds. If a currently active grant is not scheduled for completion/close-out within 90 days of the current application submission deadline, the Agency will deem the new or recent application ineligible to compete for federal funds.

§ 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" and 2 CFR part 180, as adopted by USDA in 2 CFR part 417.

(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.²⁴

(6) Except as noted in paragraphs (b)(6)(i) and (b)(6)(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.

§ 4284.922(b)(6) (Con.)

(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;

§ 4284.923(b) (Con.)

(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 another 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; 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;

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(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 (b)(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.

(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

§ 4284.925(b)(2) (Con.)

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 noncompetitive 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 200-400, 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 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.

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(c) A grant under this subsection 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 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. *One no-cost extension of up to one-year may be approved by the State Director subject to the requirements included in the grant agreement.*

(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]

§ 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).
- (5) Environmental review documentation as required in accordance with 7 CFR part 1970. (Revised 04-01-16, SPECIAL PN.)

(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

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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. *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.*

(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.

(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

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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 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.

§§ 4284.934 - 4284.939 [Reserved]

§ 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.

§ 4284.940 (Con.)

(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.

§ 4284.942(b) (Con.)

(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. *"Quality of contributions" includes matching contributions from the applicant and other producers involved in the project. "Strong direct financial support" means cash matching contributions. The annual notice provides a breakdown of how points are to be awarded based on the above requirements. In general, applications with involving multiple producers and/or cash matching contributions will receive more points.*

(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 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 combination 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. *Applications must also demonstrate, in narrative form, how the proposed project will contribute to new or increased marketing opportunities for respective priority groups.*

(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. *Applicants do not need to provide documentation for Administrator or State Director points unless specifically requested in program announcements.*

§§ 4284.943 - 4284.949 [Reserved]

§ 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 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. A disbursement request may be submitted by the grantee not more frequently than once every 30 days by using Form SF 270, "Request for Advance or Reimbursement." The disbursement request is typically in the form of a reimbursement request for eligible expenses incurred by the grantee during the grant funding period. Adequate supporting documentation must accompany each request, and may include, but is not limited to, receipts, hourly wage rates, personnel payroll records, contract progression certification, or other similar documentation.

§§ 4284.952 - 4284.959 [Reserved]

§ 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.

§ 4284.960 (Con.)

(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 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.

(a) Authority to approve requests for a one-time, no-cost grant extension of up to one-year rests with the State Director. However, extension of the grant period beyond three years from the grant period date of award, or other grant period eligibility defined in the annual NOFA, will not be allowed. State Office personnel will conduct the extension review and approval process in accordance with requirements indicated in the Grant Agreement.

(b) The State Office should adhere to 2 CFR 200.16 and 200.343 for closeout and other procedures for subsequent disallowances and adjustments that may be necessary.

§ 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]