

DEPARTMENT OF AGRICULTURE**Rural Business-Cooperative Service****7 CFR Part 4284**

[Docket No. RBS-24-BUSINESS-0004]

RIN 0570-AB03

Modernizing Grant Program Regulation**AGENCY:** Rural Business-Cooperative Service, USDA.**ACTION:** Final rule; request for comment.

SUMMARY: The Rural Business-Cooperative Service (RBCS or the Agency), an agency of the Rural Development (RD) mission area within the U.S. Department of Agriculture (USDA), is issuing a final rule with comment to implement the provisions of the Agriculture Improvement Act of 2018 related to the Value-Added Producer Grant (VAPG) Program and the Agriculture Innovation Center (AIC) Program and to modernize the Rural Cooperative Development Grant Program (RCDG). In addition, this action will support ways to simplify and streamline RD program delivery by removing outdated and ineffective definitions, requirements, and scoring criteria for the grant programs above.

DATES:

Effective date: This final rule is effective November 15, 2024.

Comment date: Comments must be submitted on or before October 16, 2024.

ADDRESSES: Comments may be submitted by going to the Federal eRulemaking Portal at www.regulations.gov/ and in the "Search Documents" box, enter the Docket Number or the Regulatory Information Number (RIN) provided above in the headings to this final rule, and click the "Search" button. Locate this document in the displayed list and select the "Comment" button associated with this document. You will be redirected to a comment submission page and can begin typing your comment in the designated box and/or you may also upload a file. Once you have completed the information requested on the page, you will select the "Submit Comment" button at the bottom. Information on using Regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available under the "FAQ" link at the bottom of the Home page.

All submissions received must include the Agency name and docket number or RIN for this rulemaking. All

comments received will be posted without change to <https://www.regulations.gov>, including any personal information provided.

Other Information: Additional information about RD and its programs is available at <https://www.rd.usda.gov/>.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

The information presented in this preamble is organized as follows:

- I. Authority
- II. Background
- III. Stakeholder Engagement
- IV. Summary of Changes to the Rule
 - A. Subpart A—General Requirements for Cooperative Services Grant Programs
 - B. Subpart F—Rural Cooperative Development Grants
 - C. Subpart J—Value-Added Producer Grant Program
 - D. Subpart K—Agriculture Innovation Center Demonstration Program
- V. Executive Orders

I. Authority

(A) The AIC program is authorized by section 6402 of the Farm Security and Rural Investment Act of 2002 (Pub. L. 107-171) (2002 Farm Bill) (7 U.S.C. 1632b), as amended by section 7608 of the Agriculture Improvement Act of 2018 (Pub. L. 115-334) (2018 Farm Bill) (see 7 U.S.C. 1632b).

(B) The RCDG program is authorized under section 310B(e) of the Consolidated Farm and Rural Development Act (CONACT) (7 U.S.C. 1932(e)), as amended by the 2018 Farm Bill (sections 6412-15, 6601(a)(1)(B), 6701(c), (d)(1)).

(C) The VAPG program is authorized under section 231 of the Agriculture Risk Protection Act of 2000 (Pub. L. 106-224), as amended by section 10102 of the 2018 Farm Bill (Pub. L. 115-334) (see 7 U.S.C. 1627c).

II. Background

RD is a mission area within USDA comprised of RBCS, the Rural Utilities Service and the Rural Housing Service. RD's mission is to increase economic opportunity and improve the quality of life for all rural Americans. RD meets its mission by providing loans, grants, loan guarantees, and technical assistance through a multitude of programs aimed at creating and improving businesses, housing and infrastructure throughout rural America.

This part, 7 CFR part 4284, contains the rules and requirements for four

programs, however, only the following three programs will be affected by this action: (1) RCDG (subpart F—7 CFR 4284.501 through 4284.600), which makes grants to Cooperative Development Centers that then provide technical assistance and business development help to individuals and businesses to start, expand or improve rural cooperatives and other mutually-owned businesses, (2) VAPG (subpart J—7 CFR 4284.901 through 4284.999), which helps agricultural producers enter into value-added activities related to the processing and/or marketing of new products, and (3) AIC (subpart K—7 CFR 4284.1001 through 4284.1100), which makes grants to Agriculture Innovation Centers that then provide services to agricultural producers seeking to develop and/or market value-added agricultural products. Subpart L (7 CFR 4284.1101 through 4284.1131) relates to the Rural Innovation Stronger Economy Grant Program and is not being impacted by this rulemaking.

The Agency has issued a standardized Federal Financial Assistance Agreement to incorporate provisions of 2 CFR part 200 which applies to these grant programs but has not updated the subparts of the regulation that govern the programs in over 16 years other than a March 2016 amendment to subpart J to implement provisions of the Agricultural Act of 2014 (2014 Farm Bill; Pub. L. 113-79) and subpart L that was added in June 2021. Since the Agency must incorporate the provisions outlined in sections 7608 and 10102 of the Agriculture Improvement Act of 2018 (2018 Farm Bill) (Pub. L. 115-334), it is using this rulemaking as an opportunity to update and reorganize subparts F, J and K of this regulation. The updates and reorganizing include modernizing the RCDG and AIC programs, improving processes, streamlining requirements, and providing clarity to the daily administration of the programs. Language in subpart J is being updated in preparation for a new application intake system that is being developed and will streamline the application process once it comes online. After the changes, each subpart will be a standalone set of definitions and requirements for each individual grant program.

III. Stakeholder Engagement

Three Stakeholder Listening Sessions and Requests for Information, specific to each program, were held in the fall of 2021 to obtain the public's input on potential changes to program application processes and requirements. These sessions were announced through

notices published in the **Federal Register** on August 24, 2021. The notices were published at: AIC—86 FR 47286, RCDG—86 FR 47289 and VAPG—86 FR 47284. Each of the notices included the option that the participants could officially submit their comments through *Regulations.gov* until October 25, 2021. The Agency received several written submissions in addition to the oral comments that were considered as they evaluated ways to streamline and improve the requirements outlined in this rulemaking.

The Agency, through discussions with internal and external stakeholders while administering these programs on a daily basis, has received informal feedback that some of the program application processes and requirements could use clarification and/or updating. This stakeholder feedback was also taken into consideration while updating these subparts.

IV. Summary of Changes to the Rule

This section presents the major changes to the existing grant regulation which includes removing and reserving subpart A and revising and reorganizing the sections in subparts F, J and K into a more sequential order of events as they occur during the application, award, and post-award processes. In addition, as stated above, each subpart has been reorganized to be a standalone set of definitions and requirements for each specific grant program. Defined terms have been capitalized throughout the preamble and regulatory text.

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

Subpart A, consisting of §§ 4284.1 through 4284.100, has been removed and reserved. Relevant sections of this subpart were moved to subparts F and K and obsolete sections, definitions, and language were removed.

B. Subpart F—Rural Cooperative Development Grants

1. Section 4284.501, Purpose, was revised to clarify the intent of the RCDG program and to describe generally the organizations that are eligible to apply.

2. The section heading for § 4284.502 was changed from “Policy” to “Organization of subpart”. The policy language was removed because the Agency’s policies are incorporated into the regulation. This new section was added to identify the main sections of the revised subpart and summarize the information in each section.

3. The section heading for § 4284.503 was changed from “Program administration” to “Definitions”. The

program administration language was removed from the subpart to streamline program language. The definitions in this section were formerly located in § 4284.504 and several were added from § 4284.3. The Agency revised some of the definitions to be consistent with the way that 2 CFR part 200 defines terms. Language was also added to this section to clarify that defined terms are capitalized in the subpart and additional defined terms can be found in applicable regulations. The following summarizes the changes to the definitions in this section:

a. Terms moved from subpart A, § 4284.3. The terms Agency, Economic Development, Matching Funds, Nonprofit Institutions, Public Body, Rural and Rural Area, Rural Development, State, State Office and Value-Added were moved to this section from § 4284.3.

b. Revised terms. The definitions for the following terms have been revised:

i. 1994 Institution was revised to indicate that the list of eligible colleges will now be included on the program website.

ii. Center was updated to simplify the definition.

iii. Cooperative Development was updated to simplify the definition and provide clarity around the types of activities that are considered eligible for this program.

iv. Matching Funds was revised to provide clarification on the Matching Funds requirement for this program. Recipients are required by 7 U.S.C. 1932(e) to commit to providing 25 percent (or 5 percent if a 1994 Institution) of private funds and/or in-kind contributions to the Project.

v. Project was revised to clarify the types of activities that can be funded under this program.

vi. Rural and Rural Area were updated to be consistent with the definition used by the Agency.

vii. State was updated to be consistent with the definition used across the Agency.

viii. Value-Added was updated to be more consistent with the value-added methods that are applicable to the program.

ix. The definitions for Federal Award, Institutions of Higher Education, Period of Performance, Project Cost, and Recipient were revised to be in accordance with the definitions in 2 CFR part 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards).

c. Newly defined terms. Definitions for the following terms: Adverse Decision, Adverse Decision Letter,

Applicant, Board of Directors, Cooperative, Grant Agreement/Financial Assistance Agreement, Key Personnel, Mutually-Owned Business, Networking, New Cooperative Approach, Operating Costs, Research and Development, Subaward, Technical Assistance, and Underserved and Economically Distressed were added to the definitions in this subpart in order to provide clarity and additional guidance on terms being used in the subpart.

4. The section heading for § 4284.504 was changed from “Definitions” to “Exception authority”. The definitions were moved to § 4284.503. Exception authority was added to explain the circumstances under which the Agency may grant an exception to any requirement or provision of this subpart. The circumstances are consistent with other programs administered by the Agency.

5. Section 4284.506 was unreserved and titled “Conflict of interest”. The definition of conflict of interest and the Member delegate clause, § 4284.17, were moved to this section. This section was added to clarify and expand the Agency’s policy on conflicts of interest for the RCDG program, and on Recipient conflict of interest requirements from 2 CFR part 200.

6. Section 4284.507 was removed and reserved. The eligibility information from this section was moved to the sections on Applicant and Project eligibility, §§ 4284.520 and 4284.522.

7. The section heading for § 4284.508 was changed from “Use of grant funds” to “Compliance with other laws and regulations”. The use of funds information from this section was moved to § 4284.525. The information now in this section was relocated from § 4284.16 and includes an updated and more comprehensive list of applicable Federal laws, Federal regulations, departmental regulations, and Agency regulations. It also identifies the current official uniform resource locations that can be used to access the information.

8. Section 4284.509 was removed and reserved. The limitations on grants information was moved to § 4284.522, Project eligibility.

9. Section 4284.510 was removed and reserved. The application processing information was moved to § 4284.531, Application requirements.

10. Sections 4284.511, .512 and .513 were removed and reserved. The evaluation screening information, evaluation process information, and evaluation criteria and weights were moved to § 4284.540, Application processing.

11. Section 4284.514 was removed and reserved. The grant closing

information was moved to § 4284.551, Notification of successful Applicants.

12. Section 4284.520 was unreserved and titled “Applicant eligibility”. The information in this section was relocated from § 4284.507 and updated to: (a) Specify that the Applicant must be located within the 50 United States or within a United States territory; (b) Add the Federal requirements for System for Award Management (SAM) registration and unique entity identifier (UEI); (c) Clarify that the Agency will only accept one application per Applicant; and (d) Include specific reasons certain applicants are ineligible.

13. Section 4284.522 was unreserved and titled “Project eligibility”. The information in this section was relocated from §§ 4284.507 and 4284.509 and updated to: (a) Include information on the eligible location of the Project, Project focus, grant amount requested, and how long the Period of Performance is; (b) Provide clarification on what sources of Matching Funds are allowable and how they must be used; and (c) Include specific reasons a Project is not eligible.

14. Section 4284.525 was unreserved and titled “Use of grant and Matching Funds”. The information in this section was relocated from § 4284.508 and updated as follows:

a. More detail was provided on what costs will be considered allowable for establishing and operating a Center.

b. The definitions of Technical Assistance and Cooperative Development are included in this section by reference because they have been updated to capture the eligible activities under this program.

c. Language regarding provision of loans and grants was updated to make it clear that these must be provided as Subawards in accordance with 2 CFR part 200 and are only available for Technical Assistance, including Cooperative Development.

d. The unallowable uses of funds for this program were added for clarity.

15. Section 4284.530 was unreserved and titled “Notifications”. The information in this section was relocated from § 4284.510(a) and updated to clarify the process that the Agency will use to notify the public about the amount of funding available, where and when Applicants can find the requirements for identifying Underserved and Economically Distressed Areas, and other future requirements not addressed in this subpart.

16. Section 4284.531 was unreserved and titled “Application requirements”. The information in this section was relocated from § 4284.510 and

rearranged to present the information in a more clear and logical order which also included updates that streamline the requirements for applying to this program. The updates included:

a. The term “Required forms.” was changed to “Application forms.”

b. The requirement for “Assurances-Non-Construction Program” was removed as they are now captured under SAM.

c. The executive summary requirement was streamlined to reduce duplication.

d. The proposal narrative section was revised to remove burden and reduce duplication. These revisions include:

1. The requirements to include a Project Title and Information Sheet were removed.

2. The title “Goals of the project” was removed, and the section revised to make it clear that Applicants are now required to submit a plan for establishing and operating a Center for Cooperative Development, including providing a description of how the Center will: (i) serve Rural areas, (ii) improve economic conditions, and (iii) seek to incorporate the knowledge and expertise from other organizations. In addition, the plan must describe how the Center plans to remain sustainable in accordance with 7 U.S.C. 1932(e).

3. The title “Work Plan” was revised to “Work plan and budget” and moved under the merit evaluation criteria addressed in (4) below. The requirements for this section were revised to include a demonstration of the Applicant’s commitment to providing Technical Assistance to Underserved and Economically Distressed areas and a commitment to Networking.

4. The Agency will utilize the information provided in response to the Application Requirements to evaluate the merit of each Applicant. Therefore, the merit evaluation criteria, formerly “Evaluation criteria” were incorporated into this section and include: (i) An evaluation of the Applicant’s experience with Technical Assistance, including Cooperative development, (ii) Work plan and budget, (iii) Qualifications of Key Personnel, and (iv) Verification of Matching funds.

5. The title “Performance Evaluation Criteria” was revised to “Project outcomes” and incorporates the Agency’s baseline performance metrics.

6. The title “Undertakings” was removed and these items will be captured under (d)(4)(ii) above.

7. “Delivery of Cooperative development assistance” was changed to “Experience” and moved under merit evaluation criteria to reduce

duplication. The section was revised to simplify the requirements.

e. “Qualifications of Personnel” was revised to “Qualifications of Key Personnel” and moved under merit evaluation criteria. The section was updated to simplify requirements.

f. “Support and commitments” and “Future Support” were removed to streamline and prevent duplication. The requirements are now captured under the proposal narrative.

g. “Verification of Matching Funds” was placed under “Merit evaluation criteria” and was updated to simplify the requirement.

17. Section 4284.533 was unreserved and titled “Submission requirements”. The information in this section was relocated from § 4284.7 and updated to provide specific information on the submission period, the submission address, and the submission format. This information was previously supplied in an annual notification.

18. Section 4284.540 was unreserved and titled “Application processing”. The information in this section was relocated from §§ 4284.511, 4284.512, and 4284.513 and revised as follows:

a. The process by which the Agency processes applications received by the program was added. This includes the Agency’s risk evaluation process, required by 2 CFR 200.206, which requires Federal awarding agencies to have a framework in place for evaluating the risks posed by Applicants being considered for a Federal award.

b. The merit evaluation criteria were revised to: (1) better reflect the goals of the program, (2) remove duplication, and (3) streamline the evaluation process. The evaluation criteria now include the scoring ranges for each criterion.

c. “Administrative capabilities” was removed and the information required to determine if an applicant has the necessary experience to successfully run this program is now captured under “Qualifications of Key Personnel”.

d. The sections titled “Technical assistance and other services”, “Economic development”, and “Delivery” were merged, and the title was changed to “Experience” to streamline and reduce duplication.

e. The sections titled “Commitment” and “Linkages” were removed and now captured under “Work plan and budget”. Reference to horizontal and vertical linkages was modified to express that Centers should be Networking with other Centers and/or organizations involved in Rural Economic Development efforts. This includes organizations in other States.

f. The “Matching Funds” section was revised to reflect that points will only be awarded for eligible Projects that meet the 25 percent Matching Funds requirement. No additional points will be awarded for cash or in-kind contributions above the Matching Funds requirement.

g. The title “Work plan/Budget” was revised to “Work plan and budget.” The section was streamlined to include an evaluation of the Applicant’s commitment to Underserved and Economically Distressed Areas, as well as its commitment to Networking.

h. The title “Qualifications of those Performing the Tasks” was revised to “Qualifications of Key Personnel” and streamlined to reduce burden and clarify the requirements for demonstrating how Key Personnel are qualified to perform the Project tasks.

i. The sections on “Local support” and “Future support” were removed to streamline and reduce burden.

19. Section 4284.541 was unreserved and titled “Application withdrawal”. This is a new section that explains how an applicant can withdraw an application from consideration. The language is consistent with other Agency programs.

20. Section 4284.550 was unreserved and titled “Award selection”. The information in this section was relocated from § 4284.512 and updated to clarify how applications will be selected for an award.

21. Section 4284.551 was unreserved and titled “Notification of successful Applicants”. The information in this section was relocated from § 4284.514 and updated to clarify and expand the process on how applicants will be notified if their applications have been selected for an award.

22. Section 4284.552 was unreserved and titled “Notification of unsuccessful Applicants”. This section was added to clearly state the process used to notify unsuccessful applicants and to place this information in a section of the regulation that corresponds to the sequential order of events in the application processing timeline.

23. Section 4284.553 was unreserved and titled “Award approval”. The information in this section was relocated from § 4284.514. and clarifies how an award is approved.

24. Section 4284.554 was unreserved and titled “Multi-year award”. This section was added to notify Applicants that the program may accept applications for multi-year awards in the future. Any details regarding the requirements for the multi-year process will be published in the annual notification.

25. Section 4284.560 was unreserved and titled “Reporting requirements”. The information in this section was relocated from § 4284.12. The financial and performance reporting requirements were updated, and guidance was provided on what information must be in the reports as well as the report format and timing. The program also added the requirement that the Recipient, once the project is complete, provide two annual outcome performance reports. The additional reports are needed to demonstrate the viability and final outcome of the Project.

26. Section 4284.561 was unreserved and titled “Monitoring awards”. The information in this section was relocated from § 4284.14 and the description of how awards will be monitored was updated.

C. Subpart J—Value-Added Producer Grants

1. Section 4284.901, Purpose, was revised to clarify that the VAPG program is intended to support for-profit businesses.

2. The section heading for § 4284.902 was changed from “Definitions” to “Organization of subpart”. This is a new section and was added to explain how the subpart is organized. The definition section was moved to § 4284.903.

3. The section heading for § 4284.903 was changed from “Review or appeal rights” to “Definitions”. The Review or appeal rights information was moved to § 4284.952, Notification of unsuccessful Applicants, and the definitions in this section were relocated from § 4284.902. The format of this section was revised to be consistent with the format of the definitions section in 2 CFR part 200. Also, language was added to clarify that defined terms are capitalized in the subpart and additional defined terms can be found in applicable regulations cited in § 4284.908. The following terms were removed, revised or newly added:

a. Removed terms. The following terms have been removed from this section:

i. Administrator was removed to eliminate redundancy.

ii. Conflict of interest has been removed as a definition and is discussed in § 4284.906.

iii. Departmental regulations was removed. The term is only used in § 4284.908 and its meaning is included there. A separate definition is no longer needed.

iv. State Office was removed. The term is only used once in the regulation and the meaning of State Office is included there.

v. Total project cost was removed. The term is no longer used in the regulation.

vi. Venture was removed. The term is no longer used in the regulation.

b. Revised terms. The definitions for the following terms have been revised:

i. Agricultural Commodity was revised to now include horses.

ii. Agricultural Food Product, Change in Physical State, Harvester, Local or Regional Supply Network, Physical Segregation, and Produced in a Manner that Enhances the Value of the Agricultural Commodity were revised to remove the examples from the defined terms. Examples for each are now included in the application tool kit for the program.

iii. Agricultural Producer was revised to have the same meaning as Independent Producer and Producer. After much experience in administering the program and receiving feedback from stakeholders, it was determined that the previous Independent Producer term was confusing because it directed the reader to the Agricultural Producer definition to understand the meaning of the Independent Producer term but did not include language that differentiated the terms from one another.

Additionally, the terms have been used interchangeably in explanatory material prepared on the program. The term ‘Producer’ is utilized in the 2018 Farm Bill definition for Majority-controlled producer-based business venture and has the same meaning as Agricultural Producer and Independent Producer. Therefore, the three terms all have the same meaning. While reworking the definition, the information on Tribes and Tribal entities was moved to § 4284.920, Applicant eligibility.

iv. Applicant was revised to clarify that the term refers to the legal entity and/or owners of the legal entity regardless of ownership percentage.

v. Beginner Farmer or Rancher was revised to remove the language discussing eligibility for reserved funding and priority points. Reserved funding eligibility is now discussed in § 4284.923, Reserved Funds Eligibility and priority points eligibility is now discussed in § 4284.924, Priority points eligibility.

vi. Emerging Market and Farm-or Ranch-Based Renewable Energy were revised to simplify the language.

vii. Family Farm was revised to add more flexibility regarding eligibility.

viii. Feasibility Study was revised to remove the language requiring a Qualified Consultant to conduct a Feasibility Study. That requirement is now discussed in § 4284.931, Application requirements. Also,

clarification was added that the Feasibility Study must provide a comprehensive analysis of the proposed Project.

ix. Independent Producer now has the same meaning as Agricultural Producer. Applicant eligibility requirements previously included in the term are now discussed in § 4284.920, Applicant eligibility.

x. Majority-Controlled Producer-Based Business Venture was revised to match the definition in the 2018 Farm Bill.

xi. Matching Funds has been revised to simplify the language. Matching Funds requirements have been removed and are now discussed in § 4284.922, Project eligibility.

xii. Mid-Tier Value Chain has been revised to move supply chain requirements to § 4284.923, Reserved funds eligibility.

xiii. Socially-Disadvantaged Farmer or Rancher has been revised to move reserved fund eligibility requirements to § 4284.923, Reserved funds eligibility.

xiv. Veteran Farmer or Rancher was revised to move discussion on priority points eligibility to § 4284.924, Priority points eligibility.

c. Newly defined terms. The following terms were added to the definitions in this section:

i. Food Safety, as defined by USDA, was added to incorporate 2018 Farm Bill requirements into the program.

ii. Key Personnel was added to clarify who should be listed in the application as a member of Key Personnel.

iii. Market Expansion was added to provide clarity on eligibility.

iv. The terms Equipment, Letter of Conditions, Period of Performance, Program Income, Project Cost, Producer, Recipient, and TTB Permit were added to this subpart in order to provide clarity and additional guidance on terms being used in the subpart.

4. Section 4284.904, Exception authority, was updated to simplify the language used.

5. Section 4284.905 has been removed and reserved. The Nondiscrimination and compliance with other Federal laws information has been moved to § 4284.908, Compliance with other laws and regulations, to condense all sections that discuss compliance with laws and regulations into one section.

6. The section heading for § 4284.906 was changed from "State laws, local laws, regulatory commission regulations" to "Conflict of interest". The State laws, local laws, regulatory commission regulations information was moved to § 4284.908, Compliance with other laws and regulations, to condense all sections that discuss

compliance with laws and regulations into one section. This new section was added to provide clarity on the Agency's policy regarding conflict of interest and on Recipient conflict of interest requirements from 2 CFR part 200.

7. Section 4284.907 has been removed and reserved. The environmental requirements have been moved to § 4284.908 to condense all sections that discuss compliance with laws and regulations into one section.

8. Section 4284.908, Compliance with other laws and regulations, has been revised to condense all sections that discuss compliance with laws and regulations into one section.

9. Section 4284.909 has been removed and reserved. The forms, regulations, and instructions information were removed and will now be discussed in the annual notification for the program.

10. Section 4284.915 has been removed and reserved. The information pertaining to notifications was moved to § 4284.930, Notifications.

11. Section 4284.916 was unreserved and titled "Reserved funds". This section has been added to provide a listing of the reserved funds and their respective percentage of total program funding that will be available each Fiscal Year. The deadline for the obligation of reserves has been changed from June 30 to September 30, as required by the 2018 Farm Bill.

12. The section heading for § 4284.920 was changed from "Applicant eligibility" to "Eligible Applicants". The following revisions and updates were made to this section:

a. The section was revised into eight distinct paragraphs to clarify the Applicant eligibility requirements.

b. SAM and UEI requirements were added to further clarify that SAM registration and a UEI number are required to be an eligible Applicant for the program.

c. Legal authority paragraph was added to clarify that all applicants must demonstrate legal authority and good standing in the State in which they operate.

d. All Applicant eligibility requirements regarding ownership and control of the Agricultural Commodity have been moved to a new paragraph titled "Ownership and control" for easier identification.

e. The language regarding the submission of multiple grants was revised to clarify that an Applicant may only submit one application each grant cycle unless they are also applying as a member of a Farmer or Rancher Cooperative or an Agricultural Producer Group.

13. Section 4284.921, Ineligible Applicants, was revised to include additional items that would render a VAPG Applicant ineligible.

14. Section 4284.922, Project eligibility, has been revised as follows:

a. Project eligibility requirements were broken into six distinct paragraphs to provide more clarity.

b. Clarification was added that the Applicant must be currently producing the Agricultural Commodity that is the subject of the Project.

c. Language was included to clarify that only a Qualified Consultant can complete a feasibility study.

d. Clarified that Applicant in-kind contributions may satisfy 100 percent of the Matching Funds requirement whereas third-party in-kind contributions can only be used to satisfy up to 49 percent of the Matching Funds requirement.

e. Information that does not pertain to general project eligibility requirements was moved to sections deemed more appropriate.

i. Discussion on the work plan and budget was moved to § 4284.940, Application processing.

ii. Discussion on Feasibility Studies, Business Plans, and Market Expansion Projects was moved to § 4284.931, Application requirements.

iii. Discussion on simplified applications was moved to § 4284.932, Simplified application.

iv. Discussion on the Applicant eligibility requirement regarding quantity of the Agricultural Commodity that will be provided for the project was moved to § 4284.920, Applicant eligibility.

15. Section 4284.923, Reserved funds eligibility, was rearranged to present eligibility requirements in a more clear and logical order. It was also updated to include the new Food Safety reserved fund. The current subpart requires Beginning Farmers or Ranchers and Socially-Disadvantaged Farmers or Ranchers Applicants with multiple owners to be "comprised entirely" of individuals that meet the applicable reserved funds definition. This requirement was changed to "comprised of more than 50 percent" to match the requirement for receiving priority points in these categories.

16. Section 4284.924, Priority points eligibility, was revised to allow Applicants that qualify for priority points to self-certify their status as a Beginning Farmers or Rancher, Socially-Disadvantaged Farmers or Rancher, Veteran Farmers or Rancher, operator of a Small- or Medium-Sized Farms or Ranches that is structured as a Family

Farm, or Farmer or Rancher Cooperative.

17. The section heading for § 4284.925 was changed from “Eligible uses of grant and Matching Funds” to “Allowable use of grant and Matching Funds” to match the language used in 2 CFR part 200. The section has been revised to move language related to valuation of in-kind Matching Funds to § 4284.922, Project eligibility. The section has also been revised to include the Food Safety equipment exception of \$6,500 as an allowable use of funds.

18. The section heading for § 4284.926 was changed from “Ineligible uses of grant and matching funds” to “Unallowable use of grant and Matching Funds” to match the language used in 2 CFR part 200. This section has been updated to move language related to conflict of interest to § 4284.906, Conflict of interest. Clarifying language was added to include labor related to the care of live plants as an unallowable activity. Also, several of the unallowable uses of grant and Matching Funds listed were clarified further.

19. Section 4284.927 has been removed and reserved. The information from this section on funding limitations has been moved to § 4284.928, Funding limitations.

20. Section 4284.928 was unreserved and titled “Funding limitations”. The information in this section was relocated from § 4284.927 and revised as follows:

a. Language related to project eligibility was relocated to § 4284.922, Project eligibility.

b. The 2018 Farm Bill requirement to change the Agricultural Marketing Resource Center yearly appropriation to no more than 2.5 percent of VAPG funds has been included.

c. The discussion on reserved funds was moved to § 4284.916, Reserved funds.

21. The section heading for § 4284.930 was changed from “Preliminary Review” to “Notifications”. The information on preliminary reviews has been removed. Agency resources are not available to conduct thorough eligibility reviews of applications both before the application deadline and after it. However, Applicants are still able to contact Agency staff to ask questions and discuss Applicant and Project eligibility potential.

The notification information in this section was relocated from § 4284.915 and rearranged to present the information on public notifications in a more clear and logical order. In addition, the section was revised to change the notification method to the program website versus through the

Federal Register and the timing of notifications was updated to clarify that public notifications will be published no later than the date the application period opens. The annual notice of funding opportunity will continue to be published in the **Federal Register**. This change allows the Agency to use the program website for other types of programmatic changes.

22. The section heading for § 4284.931 was changed from “Application package” to “Application requirements” to more clearly identify what is covered in the section. In addition, this section was updated as follows:

a. All elements that must be included in an application for the program were included.

b. The application forms no longer collected by the Agency because the information is now being collected by SAM were removed.

c. The discussion on the type of performance data that should be collected was moved to § 4284.960, Reporting requirements.

d. The detailed discussion on Matching Funds requirements was moved to § 4284.922, Project eligibility.

e. Added ‘Customer Base and Revenue Increase Metrics’ paragraph to ensure all data needed for metrics required by the program’s statute is submitted by Applicants.

23. Section 4284.932, Simplified application, was revised to add a simplified application process for Food Safety Projects. Also, clarification was added that Agricultural Producers requesting a working capital grant of \$50,000 or more may submit a simplified application.

24. The section heading for § 4284.933 was changed from “Filing instructions” to “Submission requirements” to match the language used in 2 CFR part 200.

The section format was revised to separately address the three critical questions that must be answered to successfully submit an application for the program: how, where, and when to submit an application. Additionally, an open application period of November 1 through February 15 was codified to allow grant applications to be accepted at a consistent time each funding cycle.

25. Section 4284.940, Application processing, was revised to update the procedure used by the Agency to process applications received for the program. In addition, the following revisions were made:

a. A risk evaluation section was added to comply with the language in 2 CFR part 200 requiring Federal awarding agencies to have a framework in place for evaluating the risks posed by

Applicants before they receive Federal Awards.

b. Scoring ranges were added to each evaluation criterion. This will codify the evaluation criteria so the Agency will no longer have to include this information in the annual notification for the program.

c. Criterion 3, Commitments and support, was revised to award additional points to Applicants that have not received a VAPG award previously.

d. Criterion 4, Work plan and budget, was updated to include language clarifying that the basis for valuation of proposed expenses must be included.

e. The sections titled Notifications and Resubmittal by Applicants were removed because the described process was obsolete.

f. The discussion on notifying an Applicant of an ineligible determination has been moved to § 4284.952, Notification of unsuccessful Applicants.

26. Section 4284.942 has been removed and reserved. The proposal evaluation criteria and scoring information was moved to § 4284.940, Application processing.

27. The section heading for § 4284.950 was changed from “Award process” to “Award selection” to identify more clearly what is covered in the section. The section was revised as follows:

a. Additional information on the award and ranking process for awards, including the minimum acceptable score for funding was added.

b. The discussion on notifying Applicants whether or not they have been selected for funding was moved to §§ 4284.951 and 4284.952 on notifying successful and unsuccessful applications.

c. Discussion on Intergovernmental review (IR) was removed. This process does not apply to the VAPG program as determined by the Agency and in concurrence with the USDA Office of the Chief Financial Officer (OCFO). OCFO maintains a website page that describes the IR process and includes a listing of USDA financial assistance programs and activities that are subject to IR requirements. See www.usda.gov/ocfo/federal-financial-assistance-policy/intergovernmental-review.

28. The section heading for § 4284.951 was changed from “Obligate and award funds” to “Notification of successful Applicants” to identify more clearly what is covered in the section. This section was revised to remove application forms no longer collected by the Agency because the information is now being collected by SAM. The section was also revised to add the requirement for a valid producer license

for hemp-related projects, documentation of legal rights for Harvesters, and organizational documents demonstrating legal authority and good standing.

29. Section 4284.952 was unreserved and titled “Notification of unsuccessful Applicants”. This section was added to clearly state the process used to notify unsuccessful Applicants and to place this information in a section of the regulation that corresponds to the sequential order of events in the application processing timeline.

30. The section heading for § 4284.960 was changed from “Monitoring and reporting program performance” to “Reporting requirements”. Monitoring information was moved to § 4284.961, Grant monitoring. The reporting requirements were revised to clearly separate the discussion on financial and performance reporting requirements into two separate sections. The Agency also corrected a technical error to change the reporting period from 45 days to 30 days.

31. The section heading for § 4284.961 was changed from “Grant servicing” to “Grant monitoring” to identify more clearly what is covered in the section. The monitoring discussion from § 4284.960 was incorporated into this section. The information on compliance with specific regulations was moved to § 4284.908, Compliance with other laws and regulations.

32. Section 4284.1000 was added to include the Office of Management and Budget (OMB) control Number 0570–0064, for the burden associated with the VAPG Program.

D. Subpart K—Agriculture Innovation Center Demonstration Program

1. Section 4284.1001, Purpose, was updated to simplify the language and to provide clarity on what services the Centers must provide.

2. The section heading for § 4284.1002 was changed from “Policy” to “Organization of subpart”. The policy language was removed because the Agency’s policies are incorporated into the regulation. This section was added to identify the main sections of the revised subpart and to summarize the information included in each section.

3. The section heading for § 4284.1003 was changed from “Program administration” to “Definitions”. The program administration information is now incorporated throughout the subpart by identifying when the Agency is responsible for a process. The definitions in this section were formerly located in § 4284.1004 and several were moved from § 4284.3. The Agency revised some definitions to be

consistent with the way that 2 CFR part 200 defines terms. Language was also added to this section to clarify that defined terms are capitalized in the subpart. The following summarizes the changes to the definitions in this section:

a. Terms moved from subpart A, § 4284.3. The terms Agency, Agricultural Producer, Equipment, Matching Funds, Nonprofit Institution, State, State Office and Value-Added were moved to this section from § 4284.3.

b. Removed terms. Scale production assessments was removed because the definition is now incorporated into the definition for Producer Services.

c. Revised terms. The definitions for the following terms have been revised:

i. Center was revised to simplify the definition.

ii. Equipment replaces the former term “fixed equipment” to be consistent with 2 CFR part 200.

iii. Nonprofit Organization replaces the former term “Nonprofit Institution” and the definition was revised to reference 2 CFR part 200 as the location for how the term is to be defined.

iv. Producer Services was revised to clarify the types of services that Centers may provide.

v. Qualified Board of Directors was revised to incorporate the required changes from the 2018 Farm Bill. The first change was to allow a State Legislator to serve on the Board of Directors instead of a representative from the State department of agriculture, or its equivalent. The second change was to allow representation from any four Agricultural Commodity Organizations instead of organizations representing the four highest grossing Commodities in the State.

vi. Value-Added Agricultural Product replaces the term Value-Added and the definition was updated to reference the VAPG program.

d. Newly defined terms. Definitions for the following terms: Adverse Decision, Adverse Decision Letter, Agricultural Commodity Organization, Agricultural Food Product, Applicant, Business Plan, Change in Physical State, Commercial Organization, Family Farm, Farm or Ranch, Farm- or Ranch-Based Renewable Energy, Feasibility Study, Federal Award, Financial Assistance Agreement, General Agricultural Organization, Harvester, Indian Tribe, Indirect Costs, Institution of Higher Education, Key Personnel, Letter of Conditions, Local Agricultural Producer, Local Government, Locally-Produced Agricultural Food Product, Period of Performance, Physical

Segregation, Produced in a Manner that Enhances the Value of the Agricultural Commodity, Program Income, Project Costs, Real Property, Recipient, Third Party In-Kind Contributions, and Underserved and Economically Distressed were added to this subpart in order to provide clarity and additional guidance on terms being used in the subpart.

4. The section heading for § 4284.1004 was changed from “Definitions” to “Exception authority”. The definitions were moved to § 4284.1003. This section was added to explain the circumstances under which the Agency may grant an exception to any requirement or provision of this subpart. The circumstances are consistent with other programs administered by the Agency.

5. Section 4284.1006 was unreserved and titled “Conflict of interest”. The contents of this section were relocated from §§ 4284.3 and 4284.17. This section was made a stand-alone section to clarify and expand the Agency’s policy on conflicts of interest for the AIC program and on Recipient conflict of interest requirements from 2 CFR part 200.

6. Section 4284.1007 has been removed and reserved. The eligibility information from this section was moved to the sections on Applicant and project eligibility, §§ 4284.1020 and 4284.1022.

7. The section heading for § 4284.1008 was changed from “Use of grant funds” to “Compliance with other laws and regulations”. The use of funds information was moved to § 4284.1025, Use of funds. The compliance information was relocated from § 4284.16 and includes an updated and more comprehensive list of applicable Federal laws and regulations, departmental regulations, and agency regulations. It also identifies the current official uniform resource locations that can be used to access the information.

8. Section 4284.1009 has been removed and reserved. The limitations on awards information was moved to § 4284.1022, Project eligibility.

9. Section 4284.1010 was removed and reserved. The application processing information was moved to § 4284.1031, Application requirements.

10. Sections 4284.1011, 4284.1012, and 4284.1013 were removed and reserved. The information on evaluation screening, evaluation process, and the evaluation criteria and weights was moved to § 4284.1040, Application processing.

11. Section 4284.1014 was removed and reserved. The grant closing information was moved to § 4284.1051, Notification of successful Applicants.

12. Section 4284.1020 was unreserved and titled “Applicant eligibility”. The information in this section was relocated from §§ 4284.6 and 4284.1007 and has been updated as follows:

a. The Federal requirement for a UEI was added and program requirements were clarified.

b. The requirement to provide information on technical expertise was combined with the requirement to demonstrate experience with providing Producer Services to remove duplication.

c. The paragraph on Matching Funds was moved to § 4284.1022, Project eligibility, because it fits better in that section.

d. Specific reasons applicants are not eligible was added.

13. Section 4284.1022 was unreserved and titled “Project eligibility”. The information in this section was relocated from §§ 4284.1007 and 4284.1009 and updated to include information on what “local” means, what the minimum award size is, how long the Period of Performance is, and limitations on contracts with other Centers. The section also clarifies how Matching Funds are calculated and what sources can be used.

14. Section 4284.1025 was unreserved and titled “Use of funds”. The information in this section was relocated from §§ 4284.10 and 4284.1008 and updated to clarify allowable and unallowable uses of funds.

15. Section 4284.1030 was unreserved and titled “Notifications”. The information in this section was relocated from § 4284.1010(a) and updated to clarify the process that the Agency will use to notify the public about the amount of funding available and any other future requirements not addressed by this subpart.

16. Section 4284.1031 was unreserved and titled “Application requirements”. The information in this section was relocated from § 4284.1010 and updated to streamline the requirements for an application. In particular, the program has moved to a form submission in lieu of a narrative. The new form will be provided to the Office of Information and Regulatory Affairs for review and approval along with the updated information and collection package prior to it being provided to Applicants. The burden for some requirements, such as verification of Matching Funds and demonstrating a Qualified Board of Directors, has been moved to the award phase of the process to reduce burden on Applicants who are not successful in obtaining funding.

17. Section 4284.1033 was unreserved and titled “Submission requirements”. The information in this section was relocated from § 4284.7 and updated to provide specific information on the submission period, address, and format. This information was previously supplied in an annual notification to provide more detail but will now be codified.

18. Section 4284.1040 was unreserved and titled “Application processing”. The information in this section was relocated from §§ 4284.1011, 4284.1012, and 4284.1013 to combine all the application evaluation information into one section. The information was updated as follows:

a. The Agency’s risk evaluation process, required by 2 CFR 200.206, was added.

b. The merit evaluation criteria, also called scoring criteria, were revised to better reflect the goals of the program, remove duplication, and streamline the evaluation process.

c. Priority points were added to reflect the Agency’s commitment to prioritizing projects that meet current mission area priorities.

19. Section 4284.1041 was unreserved and titled “Application withdrawal”. This section was added to explain how an Applicant can withdraw an application from consideration. The language is consistent with other Agency programs.

20. Section 4284.1050 was unreserved and titled “Award selection”. The information in this section was relocated from § 4284.1012 and clarifies how applications will be selected for an award.

21. Section 4284.1051 was unreserved and titled “Notification of successful Applicants”. The information in this section was relocated from § 4284.1014 and updated to clarify and expand the process for how Applicants will be notified if their applications have been selected for an award.

22. Section 4284.1052 was unreserved and titled “Notification of unsuccessful Applicants”. The information in this section was relocated from § 4284.4 and was updated to provide information about how unsuccessful Applicants will be notified.

23. Section 4284.1053 was unreserved and titled “Award approval”. The information in this section was relocated from § 4284.1014 and clarifies how an award is approved.

24. Section 4284.1060 was unreserved and titled “Reporting requirements”. The information in this section was relocated from §§ 4284.12 and 4284.1014 and updated to clarify the financial and performance reporting

requirements to include additional guidance on content and report format.

25. Section 4284.1061 was unreserved and titled “Monitoring awards”. The information in this section was relocated from § 4284.14 and updated to better describe how awards will be monitored.

V. Executive Orders

A. Executive Order 12866—*Classification*

This final rule has been determined to be not significant for purposes of Executive Order 12866 and, therefore, has not been reviewed by OMB.

B. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this final rule as not a major rule, as defined by 5 U.S.C. 804(2).

C. Assistance Listing Number (*Formally Known as the Catalog of Federal Domestic Assistance*)

The assigned Assistance Listing Number for the AIC Program is 10.377, for the RCDG Program is 10.771, and for the VAPG Program is 10.352. The Assistance Listing Numbers are available on the internet at sam.gov/.

D. Executive Order 12372—*Intergovernmental Consultation*

These programs are not subject to the requirements of Executive Order 12372, “Intergovernmental Review of Federal Programs,” as implemented under USDA’s regulations at 2 CFR 415, subpart C.

E. Paperwork Reduction Act

The information collection and recordkeeping requirements contained in this rulemaking are covered under three (3) OMB Control Numbers:

1. RCDG (OMB No. 0570–0006). The information collection and recordkeeping requirements for this subpart were updated as part of the three (3) year renewal/revision process and has been provided to OMB in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35).

2. AIC (OMB No. 0570–0045). The information collection and recordkeeping requirements for this subpart were reviewed and approved by OMB pursuant to the Paperwork Reduction Act 1995 (44 U.S.C. chapter 35).

3. VAPG (OMB No. 0570–0064). The VAPG subpart contains no new reporting or recordkeeping burdens that would require approval under the

Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35).

F. National Environmental Policy Act

In accordance with the National Environmental Policy Act of 1969, Public Law 91–190, this final rule has been reviewed in accordance with 7 CFR part 1970 (“Environmental Policies and Procedures”). The Agency has determined that (i) this rulemaking action is a categorical exclusion in accordance with 7 CFR 1970.53(f); (ii) no extraordinary circumstances exist; and (iii) the action is not “connected” to other actions with potentially significant impacts, is not considered a “cumulative action,” and is not precluded by 40 CFR 1506.1. Therefore, the Agency has determined that the action does not have a significant effect on the human environment, and therefore neither an Environmental Assessment nor an Environmental Impact Statement is required.

G. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) (“RFA”) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act (“APA”) or any other statute. The APA exempts from notice and comment requirements rules “relating to agency management or personnel or to public property, loans, grants, benefits, or contracts” (5 U.S.C. 553(a)(2)), so therefore an analysis has not been prepared for this final rule.

H. Executive Order 12988—Civil Justice Reform

This final rule has been reviewed under Executive Order 12988. In accordance with this rule: (1) unless otherwise specifically provided, all State and local laws that conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule except as specifically prescribed in the rule; and (3) administrative proceedings of the National Appeals Division of the Department of Agriculture (7 CFR part 11) must be exhausted before bringing suit in court that challenges action taken under this rule.

I. Executive Order 13132—Federalism

The policies contained in this final rule do not have any substantial direct effect on States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Nor does this final rule impose substantial direct

compliance costs on State and local governments. Therefore, consultation with the States is not required.

J. Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

This executive order imposes requirements on RBCS in the development of regulatory policies that have Tribal implications or preempt Tribal laws. RBCS has determined that the final rule does not have a substantial direct effect on one or more Indian Tribe(s) or on either the relationship or the distribution of powers and responsibilities between the Federal Government and Indian Tribes. Thus, this final rule is not subject to the requirements of Executive Order 13175. If Tribal leaders are interested in consulting with RBCS on this final rule, they are encouraged to contact USDA’s Office of Tribal Relations or RD’s Native American Coordinator at: AIAN@usda.gov to request such a consultation.

K. E-Government Act Compliance

Rural Development is committed to the E-Government Act, which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible and to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

L. Administrative Pay-As-You-Go-Act of 2023

Section 270 of the Administrative Pay-As-You-Go-Act of 2023 (Pub. L. 118–5, div. B, title III, 137 Stat 31) amended 5 U.S.C. 801(a)(2)(A) to require U.S. Government Accountability Office (GAO) to assess agency compliance with the Act, which establishes requirements for administrative actions that affect direct spending, in GAO’s major rule reports. The Act does not apply to this final rule because it does not increase direct spending.

M. Civil Rights Impact Analysis

Rural Development has reviewed this final rule in accordance with USDA Regulation 4300–004, Civil Rights Impact Analysis, to identify any major civil rights impacts the rule might have on program participants on the basis of age, race, color, national origin, sex, disability, marital or familial status. Based on the review and analysis of the rule and all available data, issuance of this Final Rule is not likely to negatively

impact low and moderate-income populations, minority populations, women, Indian tribes or persons with disability, by virtue of their age, race, color, national origin, sex, disability, or marital or familial status. No major civil rights impact is likely to result from this final rule.

N. USDA Non-Discrimination Statement

In accordance with Federal civil rights laws and USDA civil rights regulations and policies, the USDA, its Mission Areas, agencies, staff offices, employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (*e.g.*, Braille, large print, audiotope, American Sign Language) should contact the responsible Mission Area, agency, or staff office; or the 711 Relay Service.

To file a program discrimination complaint, a complainant should complete a Form AD–3027, *USDA Program Discrimination Complaint Form*, which can be obtained online at www.usda.gov/sites/default/files/documents/ad-3027.pdf from any USDA office, by calling (866) 632–9992, or by writing a letter addressed to USDA. The letter must contain the complainant’s name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD–3027 form or letter must be submitted to USDA by:

- a. *Mail*: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250–9410; or
- b. *Fax*: (833) 256–1665 or (202) 690–7442; or
- c. *Email*: program.intake@usda.gov.

List of Subjects in 7 CFR Part 4284

Agriculture, Business and industry, Business development, Economic development, Grant programs—technical assistance, Grant programs—business development, Reporting and recordkeeping requirements, Rural areas.

For the reasons set forth in the preamble, the Agency amends 7 CFR part 4284 as follows:

PART 4284—GRANTS

- 1. The authority citation for part 4284 is revised to read as follows:

Authority: 5 U.S.C. 301 and 7 U.S.C. 1989.

Subpart F also issued under 7 U.S.C. 1932(e).

Subpart J also issued under 7 U.S.C. 1627c.

Subpart K also issued under 7 U.S.C. 1632b.

Subpart A [Removed and Reserved]

- 2. Remove and reserve subpart A, consisting of §§ 4284.1 through 4284.100.

- 3. Revise subpart F to read as follows:

Subpart F—Rural Cooperative Development Grants

Sec.	
4284.501	Purpose.
4284.502	Organization of subpart.
4284.503	Definitions.
4284.504	Exception authority.
4284.505	[Reserved]
4284.506	Conflict of interest.
4284.507	[Reserved]
4284.508	Compliance with other laws and regulations.
4284.509–4284.519	[Reserved]
4284.520	Applicant eligibility.
4284.521	[Reserved]
4284.522	Project eligibility.
4284.523–4284.524	[Reserved]
4284.525	Use of grant and Matching Funds.
4284.526–4284.529	[Reserved]
4284.530	Notifications.
4284.531	Application requirements.
4284.532	[Reserved]
4284.533	Submission requirements.
4284.534–4284.539	[Reserved]
4284.540	Application processing.
4284.541	Application withdrawal.
4284.542–4284.549	[Reserved]
4284.550	Award selection.
4284.551	Notification of successful Applicants.
4284.552	Notification of unsuccessful Applicants.
4284.553	Award approval.
4284.554	Multi-year award.
4284.555–4284.559	[Reserved]
4284.560	Reporting requirements.
4284.561	Monitoring awards.
4284.562–4284.599	[Reserved]
4284.600	OMB control number.

§ 4284.501 Purpose.

This subpart implements the Rural Cooperative Development Grant (RCDG) Program. Grants are made to Nonprofit Institutions who in turn provide Technical Assistance including Cooperative Development to start, expand or improve Cooperatively and Mutually Owned Businesses in Rural Areas.

§ 4284.502 Organization of subpart.

The information in this subpart is organized into six main topics:

(a) *General information.* Sections 4284.501 through 4284.519 discuss the purpose of the program, definitions, exception authority, conflict of interest, and compliance with other laws and regulations.

(b) *Eligibility information.* Sections 4284.520 through 4284.529 discuss the eligibility requirements for the program. The sections include information on Applicant eligibility, Project eligibility, and the use of funds. See § 4284.522 for information about the award amounts, Period of Performance, and Matching Funds requirements.

(c) *Application requirements information.* Sections 4284.530 through 4284.539 discuss the requirements for submitting an application. The sections include information on what forms and other information are required for a complete application as well as the format of the application, the application deadline, and how to submit the application.

(d) *Application processing information.* Sections 4284.540 through 4284.549 discuss how the Agency will process applications. The sections include information on how applications will be reviewed for eligibility, how applications will be evaluated for merit, and how an Applicant can withdraw an application from consideration.

(e) *Award information.* Sections 4284.550 through 4284.559 discuss how the Agency will make awards. The sections include information about how applications will be selected for funding, how Applicants will be notified if their applications are selected for funding, how Applicants can resolve disputes regarding funding selections, and the requirements for an Applicant to accept an award and be approved as a Recipient of an award.

(f) *Post-award information.* Sections 4284.560 through 4284.561 discuss the reporting requirements for Recipients after an award is approved as well as monitoring procedures that the Agency will use.

(g) *Other.* (1) Sections 4284.562 through 4284.599 are reserved.

(2) Section 4284.600 includes the Office of Management and Budget (OMB) control number for reporting and recordkeeping requirements under this subpart.

§ 4284.503 Definitions.

These are the definitions for terms used in this subpart. Additional terms used in this subpart are found in the applicable laws and regulations, in particular 2 CFR part 200 and 7 CFR part 11.

1994 Institution means a college identified as such for purposes of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note).

Adverse Decision has the meaning located at 7 CFR 11.1.

Adverse Decision Letter means a letter issued by the Agency to the Applicant or Recipient that explains the Adverse Decision.

Agency means the Rural Business-Cooperative Service (RBCS or the Agency), an agency of the United States Department of Agriculture (USDA or the Department), or a successor agency.

Applicant means the Nonprofit Institution that is applying for funding through the RCDG program.

Board of Directors (Board) means the group of individuals that manage or direct the Center.

Business Plan means 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 Project. It may also contain background information about the organization or team attempting to reach those goals.

Center means the Rural Cooperative Development Center to be established and/or operated by a Recipient of the RCDG program.

Cooperative means a business or organization owned, democratically governed, controlled and operated by those who use and benefit from it. Profits and losses generated by the organization are distributed in proportion to use as patronage to the user-owners, also known as members. Investment returns to non-members are limited.

Cooperative Development refers to a type of Technical Assistance that establishes and promotes Cooperative businesses through hands-on activities, often but not exclusively, assisting a group through a series of stages. These stages include but are not limited to the following: idea exploration by a group with shared needs, member-use analysis, identifying a steering

committee and guiding them through the development process, modeling effective democratic processes and good governance practices, creation of legal and policy documents, conducting a membership drive, raising member equity, acquiring sufficient capital, supporting operations, ongoing education and training, ongoing Board development and relations with management, supporting decision-making regarding patronage, and fostering an environment that is supportive of Cooperatives.

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

Equipment has the meaning located at 2 CFR 200.1.

Feasibility Study means a comprehensive analysis of the economic, market, technical, financial, and management capabilities of a Project or business in terms of the Project's expectation for success.

Federal Award has the meaning located at 2 CFR 200.1.

Grant Agreement or Financial Assistance Agreement has the meaning located at 2 CFR 200.1.

Institutions of Higher Education has the meaning located at 2 CFR 200.1.

Key Personnel means employees, new hires, consultants, and/or contractors of the Center who provide Technical Assistance including Cooperative Development and oversee and/or complete the tasks in the work plan.

Letter of Conditions means the letter that the Agency issues to an entity whose application is selected for funding. The letter outlines all the conditions of the award that must be met before the award can be approved. Other agencies may call this letter an award letter or award notice.

Matching Funds means a cost-sharing contribution to the Project that is 25 percent of the eligible Project Cost. For 1994 Institutions, a cost-sharing contribution that is 5 percent of the eligible Project Cost.

Mutually Owned Business means a business not incorporated under a Cooperative statute but operating as a Cooperative. Cooperative operation of the business is reflected in the articles and by-laws.

Networking means the creation and sharing of knowledge, best practices and

transferrable strategies, engaging in mentor/mentee relationships amongst Centers, and developing joint Technical Assistance Projects with other Centers and other organizations engaged in Economic Development with the intent of advancing Cooperative Development and its practice.

New Cooperative Approach refers to development of a Cooperatively or Mutually Owned Business approach in a new industry, utilizing a new Cooperative structure, or serving a new function. This industry, structure, or function must be new to the Center or new to the service area.

Nonprofit Institution means any organization or institution, including an accredited Institution of Higher Education, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

Operating Cost means the day-to-day expenses of running a business; for example: utilities, rent on the office space a business occupies, salaries, depreciation, marketing and advertising, and other basic overhead items.

Period of Performance has the meaning located at 2 CFR 200.1.

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

Project Cost has the meaning located at 2 CFR 200.1.

Public Body means any State, county, city, township, incorporated town or village, borough, authority, district, Economic Development authority, or Indian tribe on Federal or State reservations or other federally recognized Indian tribe.

Real Property has the meaning located at 2 CFR 200.1.

Recipient has the meaning located at 2 CFR 200.1.

Research and Development (R&D) has the meaning located at 2 CFR 200.1.

Rural and Rural Area means any area of a State not in a city or town that has a population of more than 50,000 inhabitants, according to the latest decennial census of the United States, or in the urban area contiguous and adjacent to a city or town that has a population of more than 50,000 inhabitants, and any area that has been determined to be "rural in character" by the Under Secretary for Rural Development (RD), or as otherwise identified in this definition as follows:

(1) An area that is attached to the urban area of a city or town with more than 50,000 inhabitants by a contiguous area of urbanized census blocks that is not more than two (2) census blocks wide. Applicants from such an area should work with their RD State office

to request a determination of whether their project is located in a Rural Area under this provision.

(2) For the purposes of this definition, cities and towns are incorporated population centers with definite boundaries, local self-government, and legal powers set forth in a charter granted by the State.

(3) For the purposes of this definition, populations of individuals incarcerated on a long-term or regional basis shall not be included in determining whether an area is "rural" or a "rural area".

(4) For the purposes of this definition, the first 1,500 individuals who reside in housing located on a military base shall not be included in determining whether an area is "rural" or a "rural area".

(5) For the Commonwealth of Puerto Rico, the island is considered Rural and eligible for Business Programs assistance, except for the San Juan Census Designated Place (CDP) and any other CDP with greater than 50,000 inhabitants. CDPs with greater than 50,000 inhabitants, other than the San Juan CDP, may be determined to be eligible if they are "not urban in character."

(6) For the State of Hawaii, all areas within the State are considered Rural and eligible for Business Programs assistance, except for the Honolulu CDP within the County of Honolulu.

(7) For the purpose of defining a Rural Area in the Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands, the Agency shall determine what constitutes Rural and Rural Area based on available population data.

(8) The determination that an area is "rural in character" will be made by the Under Secretary of RD. The process to request a determination under this provision is outlined in paragraph (8)(ii) of this definition.

(i) The determination that an area is "rural in character" under this definition will apply to areas that are within:

(A) An urban area that has two points on its boundary that are at least 40 miles apart, which is not contiguous or adjacent to a city or town that has a population of greater than 150,000 inhabitants or the urban area of such a city or town; or

(B) An urban area contiguous and adjacent to a city or town of greater than 50,000 inhabitants that is within one-quarter mile of a Rural Area.

(ii) Units of local government may petition the Under Secretary of RD for a "rural in character" designation by submitting a petition to both the appropriate RD State Director and the Administrator on behalf of the Under

Secretary. The petition shall document how the area meets the requirements of paragraph (8)(i)(A) or (B) of this definition and discuss why the petitioner believes the area is “rural in character,” including, but not limited to, the area’s population density, demographics, and topography and how the local economy is tied to a rural economic base. Upon receiving a petition, the Under Secretary will consult with the applicable Governor or leader in a similar position and request comments to be submitted within five (5) business days, unless such comments were submitted with the petition. The Under Secretary will release to the public a notice of a petition filed by a unit of local government not later than 30 days after receipt of the petition by way of publication in a local newspaper and posting on the Agency’s website, and the Under Secretary will make a determination not less than 15 days, but no more than 60 days, after the release of the notice. Upon a negative determination, the Under Secretary will provide to the petitioner an opportunity to appeal a determination to the Under Secretary, and the petitioner will have 10 business days to appeal the determination and provide further information for consideration.

Rural Development (RD) refers to a mission area within the USDA which includes RBCS, the Rural Housing Service, and the Rural Utilities Service, and their successors.

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

State Office refers to USDA RD offices located in each State.

Subaward has the meaning located at 2 CFR 200.1.

Technical Assistance means the process of providing targeted support for the startup, expansion, and operational improvement of Cooperatively and Mutually Owned Businesses typically delivered via multiple contacts over a period of time. It includes the transfer of skills and knowledge through research and collection of information to provide guidance and advice; assessment and analysis through Feasibility Studies and Business Plans, customized training, written information, in person or virtual exchanges, web-based curricula, and webinars.

Underserved and Economically Distressed has the meaning located in the annual notification issued on the program website.

Value-Added means the incremental profit earned from each transaction or step in processing after deducting processing costs, depreciation, and other relevant expenses. Each stage of processing or ownership transfer typically adds value to a good, product, or service.

§ 4284.504 Exception authority.

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

§ 4284.505 [Reserved]

§ 4284.506 Conflict of interest.

No conflict of interest or appearance of conflict of interest will be allowed.

(a) *Description.* A conflict of interest occurs in a situation in which a person or entity has a competing, or the appearance of a competing, personal, professional, or financial interest that makes it difficult for the person or entity to act impartially. For purposes of this subpart, interactions among the following individuals constitute a conflict of interest or appearance of a conflict of interest:

- (1) Applicant Board, employees, consultants, and contractors.
- (2) Recipient Board, employees, consultants, and contractors.
- (3) Center Board, employees, consultants, and contractors.
- (4) Subrecipients and their employees, consultants, and contractors.
- (5) Immediate family members of those listed in paragraphs (a)(1) through (4) of this section.

(b) *Written disclosure.* Recipients must comply with 2 CFR 400.2(b), which requires written disclosure of any potential conflicts of interest and maintaining written standards of conduct covering conflicts of interest and governing the performance of its employees in the selection, award, and administration of Federal Awards.

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

(d) *Member/delegate clause.* No member of or delegate to Congress shall receive any share or part of this grant or any benefit that may arise therefrom; but

this provision shall not be construed to bar, as a contractor under the grant, a publicly held corporation whose ownership might include a member of Congress.

§ 4284.507 [Reserved]

§ 4284.508 Compliance with other laws and regulations.

The Agency, Applicants, and Recipients must comply with all applicable laws and regulations. An effort has been made to identify the most-commonly cited laws and regulations and to reference them as follows:

(a) *Federal laws.* Federal laws are codified in the United States Code (U.S.C.). A selection of laws is identified as follows:

- (1) Equal Credit Opportunity Act (15 U.S.C. 1691 *et seq.*).
- (2) Consumer Credit Protection Act (15 U.S.C. 1601 *et seq.*).
- (3) Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*).
- (4) The Civil Rights Act of 1964, Title VI (42 U.S.C. 2000d *et seq.*).
- (5) The Rehabilitation Act of 1973, Section 504 (29 U.S.C. 794).

(b) *Federal regulations.* Federal regulations are codified in the Code of Federal Regulations (CFR). In particular, 2 CFR parts 1 through 200 address items such as universal identifiers, reporting Subaward and executive compensation, debarment and suspension, drug-free workplaces, administrative requirements, cost principles, and audit requirements. We particularly encourage Applicants and Recipients to become familiar with 2 CFR part 200 in its entirety.

(c) *Departmental regulations.* Departmental regulations are those regulations that are specific to awards made through the USDA. They are codified in the CFR. A selection of applicable regulations is identified as follows:

(1) *2 CFR parts 400 through 499.* These parts include USDA’s adoption of Federal administrative requirements and cost principles. They also include regulations on debarment and suspension, lobbying, drug-free workplaces, and research awards.

(2) *7 CFR part 11.* This part includes USDA’s procedures for administrative appeals, as handled by its National Appeals Division.

(3) *7 CFR part 15.* This part includes USDA’s procedures for compliance with nondiscrimination laws and regulations.

(d) *Agency regulations.* Agency regulations are those regulations that are specific to awards made through the Agency and they may also be specific to

a program. They are codified in the CFR. A selection of those regulations is as follows:

(1) *7 CFR part 1900*. This part covers delegations of authority, Adverse Decisions and administrative appeals, applicability of Federal law, and processing and servicing grant awards.

(2) *7 CFR part 1901, subpart E*. This subpart covers civil rights compliance requirements.

(3) *7 CFR part 1951*. This part covers servicing grant awards, including unauthorized assistance.

(4) *7 CFR part 1970*. This part covers environmental policies and considerations.

(e) *Access to laws and regulations*. (1) Laws may be accessed through the U.S.C. At the time this subpart was published, the U.S.C. may be accessed electronically at this website: <https://uscode.house.gov/>.

(2) Regulations may be accessed through the CFR. At the time this subpart was published, the CFR may be accessed electronically at this website: <https://www.ecfr.gov/>.

§§ 4284.509–4284.519 [Reserved]

§ 4284.520 Applicant eligibility.

(a) *Eligible Applicants*. Applicants are eligible for assistance through this program if they meet the following requirements:

(1) *Applicant type*. A Nonprofit Institution.

(2) *Applicant location*. Applicant must be located in a State.

(3) *Unique entity identifier (UEI)*. Applicants must have a UEI and active registration through the System for Award Management (SAM) at SAM.gov unless exempt under 2 CFR 25.110.

(4) *Multiple grant eligibility*. An Applicant may submit only one application in response to a solicitation. All applications submitted, regardless of the Applicant entity name, that include the same Executive Director, employees, Board, advisory boards or committees of an existing Center or a majority thereof will be determined ineligible for funding.

(b) *Ineligible Applicants*. Applicants are ineligible for assistance through this program if one or more of the following occurs:

(1) The Applicant is an individual, for-profit entity, or Public Body.

(2) 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.” See 2 CFR part 417 for more information.

(3) The Applicant has an outstanding judgment obtained against the

organization by the United States in a Federal Court (other than United States Tax Court).

(4) The Applicant is delinquent on the payment of Federal income taxes.

(5) The Applicant is delinquent on Federal debt.

(6) The Applicant has been convicted of a felony criminal violation under any Federal law within the past 24 months.

(7) The Applicant has unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

(8) The Applicant has an award through this program that is not scheduled to end until after September 30 (for awards that began the preceding October 1) of the current Federal fiscal year, or December 31 (for awards that began the preceding January 1) of the current calendar year.

§ 4284.521 [Reserved]

§ 4284.522 Project eligibility.

(a) *Eligible Projects*. Eligible Projects must meet all of the following requirements. Failure to meet one or more of these requirements means that the application will not be considered for funding.

(1) *Rurality*. All Project activities must serve individuals, Cooperatively and Mutually Owned Businesses, small businesses, or other similar entities in Rural Areas.

(2) *Project focus*. The Project must focus on establishing or operating a Center with the goals of creating jobs in Rural Areas through the development of new Rural Cooperatives, Value-Added processing, and Rural businesses.

(3) *Amount requested*. The amount requested must not exceed any maximum amounts specified in the annual notification issued on the program website.

(4) *Matching Funds*. Matching Funds may be provided in cash by the Applicant, or cash or in-kind by a third party and are required for 25 percent (or 5 percent if a 1994 Institution) of the Project Cost. For example, if an Applicant requests an award amount of \$150,000, the Matching Funds contribution must be \$50,000, and the overall Project Cost is \$200,000.

(i) *Matching Funds*. (A) Must be spent on eligible expenses.

(B) Must be from non-Federal sources unless authorized to be used as Matching Funds by the legislation authorizing the Federal source of funding.

(C) Must be spent in advance or as a pro-rata portion of grant funds being spent.

(ii) *In-kind contributions*. (A) Cannot include over-valued, in-kind contributions.

(B) You must be able to document and verify the number of hours worked and the value associated with any in-kind contribution being used to meet a Matching Funds requirement.

(C) In-kind contributions provided by individuals, businesses, or Cooperatives which are being assisted by the Center cannot be provided for the direct benefit of their own Projects as USDA RD considers this to be a conflict of interest.

(5) *Use of funds*. The Project must use grant and Matching Funds for allowable purposes. See § 4284.525.

(6) *Period of Performance*. The Period of Performance cannot exceed one (1) year. The grant period should begin no earlier than October 1 (the beginning of the Federal fiscal year) and no later than January 1 (the beginning of the calendar year).

(b) *Ineligible Projects*. Projects are ineligible for assistance through this program if the application:

(1) Requests more than the maximum grant amount;

(2) Focuses assistance on one Cooperatively or Mutually Owned Business;

(3) Includes a conflict of interest (see § 4284.506) where the expenses associated with the conflict of interest exceed 10 percent of the Project Cost. If the costs associated with the conflict of interest are 10 percent or less, the process in paragraph (b)(4) of this section will be followed;

(4) Includes unallowable costs (see § 4284.525) totaling more than 10 percent of Project Costs. If the application includes 10 percent or less of Project Costs in unallowable costs, and the application is otherwise eligible and selected for funding, those unallowable costs must be removed. If time permits, the Agency may allow those unallowable costs to be replaced with allowable costs. Otherwise, the amount of the Award will be reduced accordingly. If we cannot determine the percentage of unallowable costs, your application will not be considered for funding.

§§ 4284.523–4284.524 [Reserved]

§ 4284.525 Use of grant and Matching Funds.

(a) *Allowable uses of grant and Matching Funds*. The following types of activities and expenses are allowable:

(1) Costs associated with establishing or operating a Center, including legal

services, accounting services, clerical assistance, technical services, office supplies, hiring employees, monitoring contracts, professional development for staff, attending conferences that would advance Cooperative Development and its practice, and Board travel;

(2) Technical Assistance including Cooperative Development as defined in § 4284.503;

(3) Costs for coordination of services and sharing of information among the Centers; and

(4) Providing loans and/or grants as Subawards per 2 CFR part 200 for Technical Assistance including Cooperative Development.

(b) *Unallowable uses of grant and Matching Funds.* No funds under this subpart shall be used to:

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

(2) Pay any costs of the Project incurred prior to the date of grant approval;

(3) Pay expenses not directly related to the funded Project;

(4) Pay for Board/advisory council member's time;

(5) Pay for the Operating Costs of any entity receiving assistance from the Recipient;

(6) Fund R&D;

(7) Duplicate activities paid for by another Federal grant program or activities charged to a previous RCDG Project;

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

(9) Pay for any goods or services from a person or entity who has a conflict of interest with the Recipient;

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

(11) Purchase or make improvements to Real Property;

(12) Plan, develop, repair, rehabilitate, acquire, or construct a building or facility;

(13) Purchase, lease purchase, or install Equipment;

(14) Purchase or pay for the repair of vehicles; or

(15) Fund activities considered unallowable by the applicable cost principles, mostly of which are included in 2 CFR part 200, subpart E, or successor regulation.

§§ 4284.526–4284.529 [Reserved]

§ 4284.530 Notifications.

The Agency will issue any program notifications on the program website.

(a) *Amount of funding available.* The Agency will publish the amount of funding available for awards during each Fiscal Year within 30 calendar days of notification from OMB of the amount available.

(b) *Underserved and Economically Distressed Areas.* The Agency will publish the source for identifying Underserved and Economically Distressed areas no later than the date the application period opens.

(c) *Additional merit evaluation criteria.* The Agency may establish additional merit evaluation criteria to meet the Department's or Agency's key priorities, goals, and objectives. Any such criteria will be published no later than the date the application period opens.

(d) *Other.* The Agency will publish any other additional requirements or programmatic changes no later than the date the application period opens.

§ 4284.531 Application requirements.

All applications must include the following:

(a) *Application forms.* The following forms must be completed, signed, and submitted as part of the application. Any additional forms that may be required will be published in the applicable annual notification.

(1) SF-424, "Application for Federal Assistance."

(2) SF-424 A, "Budget Information—Non-Construction Programs."

(b) *Proposal.* Each proposal must contain the following items. Additional items may be requested and will be published in the applicable annual notification.

(1) Title page.

(2) Table of contents.

(3) A summary of the proposal should briefly describe the Center, the goals of the Project, and the amount requested.

(4) Applicants must discuss how the following are met:

(i) Eligibility requirements in § 4284.520; including how they identify as an Institution of Higher Education or Nonprofit Institution.

(ii) Project eligibility requirements in § 4284.522; and

(iii) Eligible use of grant and Matching Funds requirements in § 4284.525.

(5) The proposal narrative should address how the Center will improve the economic conditions of Rural Areas by providing Technical Assistance including Cooperative Development. In particular, the Applicant must:

(i) Substantiate that the Center will use RCDG funds to serve Rural Areas in the United States as defined in § 4284.503.

(ii) Provide a description of the contributions that this Project is likely

to make that will improve the economic conditions of the Rural Areas served by the Center.

(iii) Discuss how the Center, in carrying out the activities, will seek, where appropriate, the advice, participation, expertise, and assistance of representatives of business, industry, educational institutions, the Federal Government, Tribal Governments, and State and local governments.

(iv) Discuss how the Center intends to take all practicable steps to develop continuing sources of financial support for the Center, particularly from sources in the private sector. Applicants should indicate what financial support has been received in the past three (3) years from private sources and share plans of how the Applicant intends to secure long term sustainability of the Center.

(v) Merit evaluation criteria must be addressed in narrative form by the Applicant.

(A) *Experience.* Describe the Center's experience in Technical Assistance including Cooperative Development. Include the Center's role and accomplished outcomes for each organization assisted. Described experience must be within the last three (3) years. Centers that are not yet established should discuss the expertise and track record of Key Personnel expected to perform activities related to the Project. Provide the following for each organization assisted:

(1) Name of organization;

(2) Organization's complete address;

(3) Indicate whether the service location is Rural;

(4) Indicate whether the organization is Cooperatively or Mutually owned;

(5) Discussion on the Applicant's role(s) in providing Technical Assistance, including Cooperative Development;

(6) Date(s) of service;

(7) Indicate if a Cooperatively or Mutually Owned Business was established as a result of the Cooperative Development services provided;

(8) Date the Cooperatively or Mutually Owned Business was established;

(9) Indicate whether the Cooperatively or Mutually Owned Business is active or inactive;

(10) Discussion on any New Cooperative Approach used; and

(11) Discussion on the outcomes of the assistance, including but not limited to, the retention of Cooperatively or Mutually Owned Businesses, jobs created and/or saved, or other economic conditions (e.g., number of housing units, number of childcare spaces, etc.).

(B) *Work plan and budget.* All tasks in the work plan and budget must be for

allowable uses of funds. For each task, the following must be provided:

(1) A detailed narrative description, for each of the Technical Assistance, Cooperative Development, and Networking tasks as well as any Subawards for loans and/or grants. Applicants must identify project partners for Networking tasks;

(2) A detailed breakdown of all estimated Project Costs including Operating Costs, with grant and Matching Funds identified separately;

(3) Key Personnel that will be responsible for overseeing and/or conducting each task;

(4) A specific timeframe corresponding to the actual time each task is estimated to be completed; and

(5) Zip code for each of the organizations being assisted who are located in Underserved and Economically Distressed areas.

(C) *Qualifications of Key Personnel.* Key Personnel are expected to be qualified, committed, and available during the Period of Performance. The following must be provided for each Key Personnel identified in the work plan and budget.

(1) Name of Key Personnel;

(2) A summary of formal training and/or skills and years of experience directly related to the task(s) to be performed as outlined in the work plan and budget; and

(3) For Key Personnel to be hired, list the necessary qualifications needed to complete Project task(s).

(D) *Verification of Matching Funds.* Applicants must provide authentic documentation from the source(s) of Matching Funds to confirm the eligibility and availability of both cash and in-kind contributions that meet the Matching Funds requirements as defined in §§ 4284.503 and 4284.522. If selected for funding, Matching Funds will be reverified before a Financial Assistance Agreement is executed.

(vi) Applicants must certify that Matching Funds will be spent at the same time grant funds are anticipated to be spent and that expenditures of Matching Funds shall be pro-rated or spent in advance of grant funding, such that for every dollar of the grant funds requested, at least 25 cents (5 cents for 1994 Institutions) of Matching Funds will be expended.

(vii) To measure the success of the Project in a quantitative way, Applicants must have baseline and target performance metrics and will have a baseline metric of zero. Applicants must provide a target metric for each of the following performance metrics:

(A) Number of Rural groups assisted.

(B) Number of Cooperatives assisted.

(1) Number of jobs created/saved.

(2) Number of jobs created/saved in Underserved and Economically Distressed areas.

(C) Number of Mutually Owned Businesses (LLC/LLP) assisted.

(1) Number of jobs created/saved.

(2) Number of jobs created/saved in Underserved and Economically Distressed areas.

(D) Number of other businesses assisted.

(1) Number of jobs created/saved.

(2) Number of jobs created/saved in Underserved and Economically Distressed areas.

(E) Number of Business Plans developed.

(F) Number of Cooperatives incorporated.

(G) Number of Feasibility Studies completed.

(H) Number of workshops/seminars conducted.

(I) Number of conferences held.

(1) Number of conferences conducted with other Centers.

(2) Number of conferences conducted with other organizations.

(J) If working with housing, number of housing units created/saved.

(K) For consumer co-ops (grocery, retail) number of people with access to goods or services.

(L) Financial loss avoided as a result of 'no-go' decision in the Cooperative Development process.

(M) Any additional performance measures as outlined in your Financial Assistance Agreement, or specified in the annual notification.

(1) It is permissible to have a zero in a performance metric. Jobs created targets must be calculated based upon actual jobs to be created by the Center because of RCDG funding or actual jobs to be created by Cooperatively or Mutually Owned Businesses as a result of the assistance from the Center. Jobs saved targets must be calculated only on actual jobs that would have been lost if the Center did not receive RCDG funding or actual jobs that would have been lost without assistance from the Center.

(2) Additional performance metrics can be suggested, for example; where jobs created or jobs saved may not be a relevant indicator (e.g., housing). These additional criteria must be specific and measurable performance metrics to be included in a Federal Financial Assistance Agreement.

§ 4284.532 [Reserved]

§ 4284.533 Submission requirements.

Unless otherwise specified in an annual notification issued under

§ 4284.530, the following requirements apply to all applications.

(a) *Submission period.* The application period opens on March 1 and closes 11:59 p.m. Eastern time, on June 1. Applicants are encouraged to submit their applications well in advance of the closing date to ensure timely receipt by the Agency.

(b) *Submission process.* The annual notification will be published on the OMB-designated governmentwide website and will provide instructions on how and where to submit completed applications for RCDG funding. All items required for the application must be submitted in a single application package. Revisions or additional information will not be accepted after the application period closes. Incomplete applications will be rejected and not considered for funding.

§§ 4284.534–4284.539 [Reserved]

§ 4284.540 Application processing.

The following information describes the way the Agency will process applications, including the evaluation of eligibility, risk, and merit.

(a) *Eligibility evaluation.* The Agency will review all applications to determine if they are eligible for assistance based on the requirements in this subpart and other applicable Federal laws and regulations. In particular, the Agency will check the OMB designated repository of government information and, applicants that are excluded from Federal funding will be determined ineligible (see 2 CFR 200.206 for more information). An application must include all application requirements identified in § 4284.531, or the Agency will determine that it is ineligible for assistance.

(b) *Risk evaluation.* The Agency will review those applications that are determined to be eligible for the program.

(1) Typically, the Agency will not determine that an application is ineligible for funding based on the results of the risk evaluation, unless the Agency cannot find a way to reasonably mitigate the risk posed by making an award.

(2) If risk evaluation findings identify significant shortcomings in the Applicant's ability to manage Federal funds, the Agency may determine that the application is ineligible for funding.

(3) The Agency will determine if the Applicant has satisfactory performance for all Federal Awards received in the last five (5) years, based upon review of deficiencies reported in the Federal Awardee Performance and Integrity Information System, or its successor

system, the Do Not Pay system, or its successor system, and the Agency's own internal financial and record-keeping systems and files. Satisfactory performance includes timely submission of required reports and documents, timely completion of tasks, and proper use of funds, including achieving the level of funds approved and committed for Underserved and Economically Distressed areas.

(c) *Merit evaluation (Up to 100 total points)*. The Agency will conduct a merit evaluation for those applications that are determined to be eligible for the program. The merit evaluation will be conducted by a panel of USDA employees who will convene to reach a consensus on the merit of each eligible application. The merit evaluation will be based on the following criteria:

(1) *Experience (Up to 30 points)*. The Agency will evaluate the Applicant's demonstrated experience in Technical Assistance including Cooperative Development; and effectiveness in accomplishing effective outcomes through the development of Cooperatively and Mutually Owned Businesses. Points will be awarded based on the following:

(i) Up to 5 points for track record in providing Technical Assistance to promote and assist the development of Cooperatively and Mutually Owned Businesses.

(ii) Up to 5 points for ability to facilitate Cooperative Development that results in the establishment of Cooperatively and Mutually Owned Businesses in Rural Areas.

(iii) Up to 5 points for ability to facilitate the establishment of New Cooperative Approaches in Rural Areas.

(iv) Up to 5 points for the ability to assist in the retention of businesses in Rural Areas.

(v) Up to 5 points for ability to create and/or save jobs that improve economic conditions of Rural Areas.

(vi) Up to 5 points for ability to improve other economic conditions in Rural Areas.

(2) *Work plan and budget (Up to 45 points)*. The Agency will evaluate the Applicant's work plan and budget on its ability to provide a clear, logical, realistic and efficient use of grant and Matching Funds; level of commitment to Underserved and Economically Distressed areas; and Networking with States, Centers and other organizations engaged in Economic Development efforts in Rural Areas. Points will be awarded based on the following:

(i) *Work plan and budget detail*. Up to 30 points will be awarded as follows:

(A) 0 points will be awarded if the application does not address paragraphs (c)(2)(i)(B) through (E) of this section.

(B) Up to 10 points will be awarded if the application provides a detailed narrative description for each of the specific tasks to be completed.

(C) Up to 10 points will be awarded if the application provides a detailed breakdown of all estimated Project Costs, including Operating Costs, for each task with grant and Matching Funds identified separately.

(D) Up to 5 points will be awarded if the application identifies the Key Personnel associated with each task.

(E) Up to 5 points will be awarded if the application provides specific timeframes for each task.

(ii) *Underserved and Economically Distressed*. Up to 15 points will be awarded to Applicants whose work plans and budgets demonstrate their commitment to Underserved and Economically Distressed area(s) as defined in the annual notification.

(A) 0 points will be awarded if the application does not identify tasks and a budget commitment to Underserved and Economically Distressed area(s).

(B) Up to 5 points will be awarded if the Applicant identifies the Underserved and Economically Distressed area(s) within their service area.

(C) Up to 10 points will be awarded if the Applicant's budget commitment (grant and Matching Funds) to Underserved and Economically Distressed areas is:

(1) Less than 5 percent budget commitment = 2 points.

(2) 5 percent or greater but less than 10 percent budget commitment = 4 points.

(3) 10 percent or greater but less than 25 percent budget commitment = 6 points.

(4) 25 percent or greater but less than 50 percent budget commitment = 8 points.

(5) 50 percent or more budget commitment = 10 points.

(3) *Networking*. Up to 10 points will be awarded to Applicants who demonstrate a commitment to Networking and plan to develop multi-organizational and multi-State Cooperative Development approaches.

(i) Up to 5 points will be awarded if the Applicant describes how it intends to create and share best practices and transferrable strategies with other Centers or organizations engaged in Economic Development.

(ii) Up to 5 points will be awarded if the Applicant describes how it will develop joint Technical Assistance, including Cooperative Development,

projects and mentor/mentee relationships with other Centers and other organizations engaged in Economic Development.

(4) *Qualifications of Key Personnel (Up to 10 points)*. The Agency will evaluate if the Key Personnel listed in the work plan and budget are qualified for their related task(s). Points will be awarded as follows:

(i) 0 points will be awarded if the Applicant does not identify formal training, skills, and years of experience for any Key Personnel.

(ii) 1 to 5 points will be awarded if the Applicant details the formal training, skills, and years of experience of some, but not all of the Key Personnel.

(iii) 6 to 10 points will be awarded if the Applicant details the formal training, skills, and years of experience of all Key Personnel.

(5) *Matching Funds commitment (5 points)*. Applicants must meet the Matching Funds requirement to be considered for points. Applicants who meet the 25 percent (5 percent for 1994 Institutions) Matching Funds requirement will receive 5 points.

§ 4284.541 Application withdrawal.

During the period between the submission of the application and award approval, the Applicant must notify the Agency if the Project is no longer viable, or the Applicant is no longer requesting financial assistance for the Project. When the Applicant notifies the Agency, the application will be withdrawn from consideration for funding.

§§ 4284.542–4284.549 [Reserved]

§ 4284.550 Award selection.

Applications will be selected for further processing and consideration of an award after the merit evaluation process is completed for all eligible applications. Applications will be ranked solely based on the points awarded, and they will be funded in rank order until available funds are expended. If there is a tie, the Administrator of the Agency will use discretion to break the tie to improve the geographic diversity of Recipients and/or prioritize Projects that advance the Department or Agency's key priorities, goals, and objectives. If an application cannot be fully funded, the Agency may offer partial funding to the extent funds are available. If an application is ranked and not funded, it will not be carried forward into the next funding competition.

§ 4284.551 Notification of successful Applicants.

(a) The Agency will notify the Applicants whose applications can be funded using available funds with a Letter of Conditions. The Letter of Conditions will provide the conditions under which an award can be approved as well as a copy of the term of the award.

(b) Applicants receiving a Letter of Conditions will have 60 calendar days to meet the conditions of the award. Some awards may be subject to additional conditions, depending on the nature of the Project and the Agency's determination of risk. The following additional forms must be completed by all successful Applicants:

(1) Form RD 1942–46, “Letter of Intent to Meet Conditions.”

(2) Form RD 1940–1, “Request for Obligation of Funds.”

(3) Form RD 400–4, “Assurance Agreement.”

(4) SF–LLL, “Disclosure of Lobbying Activities,” for entities that engage in lobbying activities.

(5) Form RD 4280–2, “Rural Business-Cooperative Service Financial Assistance Agreement.”

§ 4284.552 Notification of unsuccessful Applicants.

Applicants whose applications are ineligible for financial assistance or did not score high enough to be funded will be notified as soon as is practicable. The notification will be in writing using an Adverse Decision Letter. This letter will outline the reason(s) for the Agency's decision and any dispute resolution alternatives available to the Applicant.

§ 4284.553 Award approval.

Applicants whose applications are eligible for financial assistance and that score high enough to be funded will have their awards approved by the Agency once the Applicant has met all of the conditions of the award. The approval will be conveyed through the execution of Form RD 4280–2, which is the Financial Assistance Agreement, and provides all terms of the award. Once the award has been approved, the Recipient may begin work on the Project and incur costs.

§ 4284.554 Multi-year award.

The Agency may provide a multi-year funding opportunity to previous Recipients. If the Agency provides a multi-year funding opportunity, the application requirements and award process will be included in the annual notification.

§§ 4284.555–4284.559 [Reserved]**§ 4284.560 Reporting requirements.**

Recipients are required to submit financial reports and performance reports on a semi-annual basis. A final financial report and performance report must also be submitted within 120 days after the expiration or termination of the grant.

(a) Failure to submit either a financial report or a performance report within the specified timeframes may result in the Agency withholding grant funds.

(b) Recipients must complete the Project in accordance with the terms and conditions specified in the approved work plan and budget, the Financial Assistance Agreement, and the Letter of Conditions.

(c) Recipients must expend funds only for eligible purposes and will be monitored by the Agency for compliance. Recipients must maintain a financial management system and maintain compliance with Federal Cost Principles in accordance with 2 CFR parts 200 through 299.

(1) *Reporting format and timing.* All performance reports must include a discussion on the performance metrics discussed in the application to determine whether the primary goals and objectives proposed in the approved work plan and budget were accomplished during the reporting period. Formatting of financial reports and performance reports, as well as timing for submission of these reports can be found in the Financial Assistance Agreement.

(2) *Project outcome performance report.* Once the Project is complete, the Recipient must provide the Agency with two annual outcome performance reports. Formatting and submission requirements for this report are included in the Financial Assistance Agreement.

§ 4284.561 Monitoring awards.

Awards will be monitored by Agency personnel in accordance with applicable laws, regulations, and policies (see § 4284.508 for more information). The Agency will designate a contact person for each award. The Agency may terminate or suspend the award for lack of adequate or timely progress, reporting, documentation, or for failure to comply with Agency requirements.

§§ 4284.562–4284.599 [Reserved]**§ 4284.600 OMB control number.**

The reporting and recordkeeping requirements contained in this subpart have been approved by OMB and have been assigned OMB control number

0570–0006 in accordance with the Paperwork Reduction Act of 1995.

■ 4. Revise subpart J to read as follows:

Subpart J—Value-Added Producer Grant Program

Sec.	
4284.901	Purpose.
4284.902	Organization of subpart.
4284.903	Definitions.
4284.904	Exception authority.
4284.905	[Reserved]
4284.906	Conflict of interest.
4284.907	[Reserved]
4284.908	Compliance with other laws and regulations.
4284.909–4284.915	[Reserved]
4284.916	Reserved funds.
4284.917–4284.919	[Reserved]
4284.920	Eligible Applicants.
4284.921	Ineligible Applicants.
4284.922	Project eligibility.
4284.923	Reserved funds eligibility.
4284.924	Priority points eligibility.
4284.925	Allowable uses of grant and Matching Funds.
4284.926	Unallowable uses of grant and Matching Funds.
4284.927	[Reserved]
4284.928	Funding limitations.
4284.929	[Reserved]
4284.930	Notifications.
4284.931	Application requirements.
4284.932	Simplified application.
4284.933	Submission requirements.
4284.934–4284.939	[Reserved]
4284.940	Application processing.
4284.941	Application withdrawal.
4284.942–4284.949	[Reserved]
4284.950	Award selection.
4284.951	Notification of successful Applicants.
4284.952	Notification of unsuccessful Applicants.
4284.953–4284.959	[Reserved]
4284.960	Reporting requirements.
4284.961	Grant monitoring.
4284.962	Transfer of obligations.
4284.963–4284.999	[Reserved]
4284.1000	OMB control number.

§ 4284.901 Purpose.

This subpart implements the Value-Added Agricultural Product Market Development grant program (Value-Added Producer Grants (VAPG)) that provides grants to support Agricultural Producers' for-profit businesses that produce and market Value-Added Agricultural Products.

§ 4284.902 Organization of subpart.

The information in this subpart is organized into six main topics:

(a) *General information.* Sections 4284.901 through 4284.919 discuss the purpose of the program, definitions, exception authority, conflict of interest, compliance with other laws and regulations, and reserved funds.

(b) *Eligibility information.* Sections 4284.920 through 4284.929 discuss the eligibility requirements for the program.

The sections include information on Applicant eligibility, Project eligibility, reserved funds eligibility, priority points eligibility, and the use of funds.

(c) *Application requirements information.* Sections 4284.930 through 4284.939 discuss the requirements for submitting an application. The sections include information on what forms and other information are required for a complete application as well as the format of the application, the application deadline, and how to submit the application.

(d) *Application processing information.* Sections 4284.940 through 4284.949 discuss how the Agency will process applications. The sections include information on how applications will be reviewed for eligibility, how applications will be evaluated for merit, and how an Applicant can withdraw an application from consideration.

(e) *Award information.* Sections 4284.950 through 4284.959 discuss how the Agency will make awards. The sections include information about how applications will be selected for funding, how Applicants will be notified whether their applications have been selected for funding, how Applicants can resolve disputes regarding funding selections, and the requirements for an Applicant to accept an award and be approved as a recipient of an award.

(f) *Post-award information.* Sections 4284.960 through 4284.962 discuss the reporting requirements for recipients after an award is approved as well as monitoring procedures that the Agency will use.

(g) *Other.* (1) Sections 4284.963 through 4284.999 are reserved.

(2) Section 4284.1000 includes the Office of Management and Budget (OMB) control number for reporting and recordkeeping requirements under this subpart.

§ 4284.903 Definitions.

These are the definitions for terms used in this subpart. Additional defined terms used in this subpart may be found in the applicable laws and regulations cited in § 4284.908, in particular 2 CFR part 200. If a term is defined differently in an applicable regulation and in this subpart, such term shall have the meaning as found in this subpart.

Agency means the Rural Business-Cooperative Service (RBCS or the Agency), an agency of the United States Department of Agriculture (USDA or the Department), or a successor agency.

Agricultural Commodity means an unprocessed product of Farms, Ranches, nurseries, and forests and natural and

man-made bodies of water, that the Agricultural 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 animals raised or sold as pets, such as cats, dogs, and ferrets.

Agricultural Food Product refers to raw, cooked, or processed edible substances, beverages, or ingredients intended for human consumption.

Agricultural Producer, Independent Producer or Producer means a for-profit agricultural business, or entity that is 100 percent owned and controlled by an individual, entity or Family Farm 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.

Agricultural Producer Group means a non-profit membership organization that represents Agricultural Producers and whose mission includes working on behalf of Agricultural Producers and more than 50 percent of whose membership and board of directors is comprised of Agricultural Producers.

Applicant means the legal entity and/or owner(s) of the legal entity (regardless of ownership percentage), submitting an application to participate in the competition for program funding.

Beginning Farmer or Rancher means an Agricultural Producer (other than a Harvester) that has operated a Farm or Ranch for no more than 10 years or an eligible Applicant entity that has an 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.

Business Plan means 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 Project. It may also contain background information about the organization or team attempting to reach those goals.

Change in Physical State means an irreversible processing activity that alters the Agricultural Commodity into a substantially different, 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.

Emerging Market means a developing, geographic or demographic market that has been supplied by the Applicant or the Applicant's product for two (2) years or less.

Equipment has the meaning located at 2 CFR 200.1.

Family Farm means a Farm or Ranch whose owner(s) are primarily responsible for daily physical labor, business and/or strategic management; whose hired help only supplements family labor; and whose owners are related by blood or marriage or are Immediate Family.

Farm or Ranch means any place from which \$1,000 or more of Agricultural Commodities were raised and sold or would have been raised and sold during the previous year, but for an event beyond the control of the farmer or rancher.

Farm- or Ranch-Based Renewable Energy means renewable energy generated by use of an Agricultural Commodity on a Farm or Ranch, owned or leased by an Agricultural Producer, which provides the Agricultural Producer with an expanded customer base and increased revenues.

Farmer or Rancher Cooperative means a business owned and controlled by Agricultural Producers that is incorporated, or otherwise identified by the State in which it operates, as a cooperatively operated business. The Agricultural Producers, on whose behalf the value-added work will be done, must be identified by name or class.

Feasibility Study means a comprehensive analysis of the economic, market, technical, financial, and management capabilities of a Project or business in terms of the Project's expectation for success.

Fiscal Year means the Federal Government's fiscal year, October 1 of a given year through September 30 of the succeeding year.

Food Safety refers to conditions and practices that preserve the quality of food to prevent contamination and food-borne illnesses.

Harvester means an Agricultural Producer that can document legal rights to access and harvest the Agricultural Commodity that will be used for the Value-Added Agricultural Product. This does not include harvesting rights for cultivated commodities. 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.

Independent Producer has the same meaning as Agricultural Producer in this section.

Immediate Family means 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.

Key Personnel means the owners, employees, new hires, consultants, and/or contractors who will be overseeing and/or completing the tasks in the work plan.

Letter of Conditions means the letter that the Agency issues to an entity whose application is selected for funding. The letter outlines all of the conditions of the award that must be met before the award can be approved. Other agencies may call this letter an Award Letter or Award Notice.

Local or Regional Supply Network means 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 a State.

Locally-Produced Agricultural Food Product refers to raw, cooked, or processed edible substances, beverages, or ingredients intended for human consumption that are raised, produced, and distributed in:

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

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

Majority-Controlled Producer-Based Business Venture refers to a venture greater than 50 percent of the ownership and control of which is held by—

(1) One or more Producers (Agricultural Producers); or

(2) One or more entities, 100 percent of the ownership and control of which is held by one or more Producers (Agricultural Producers). The term ‘entity’ means—

(i) A partnership;

(ii) A limited liability corporation;

(iii) A limited liability partnership; or

(iv) A corporation.

Market Expansion means a Project in which the Agricultural Producer Applicant seeks to expand the market either geographically or demographically for an existing Value-Added Agricultural Product produced and marketed by the Applicant for at least two (2) years at the time of the application through sales to demonstrably new markets or new customers in existing markets.

Marketing Plan means a plan for the Project that identifies a market window, potential buyers, a description of the

distribution system and possible promotional campaigns.

Matching Funds means a cost-sharing contribution to the Project that is at least equal to the grant amount. Combined grant and Matching Funds equal 100 percent of the Project Costs.

Medium-Sized Farm or Ranch means 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 (3) years.

Mid-Tier Value Chain refers to local and regional supply networks that link Agricultural 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.

Period of Performance has the meaning located at 2 CFR 200.1.

Physical Segregation means 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.

Planning Grant means a grant to facilitate the development of a defined program of economic planning activities to determine the viability of a potential value-added Project, 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 refers to the use of a recognizably coherent set of agricultural production practices in the growing or raising of the Agricultural Commodity, such that a differentiated market identity is created for the resulting product.

Producer has the same meaning as Agricultural Producer in this section.

Pro forma Financial Statement means 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 (3) years in the form of cash flow statements, income statements, and balance sheets.

Program Income has the meaning located at 2 CFR 200.1.

Project means all of the eligible activities to be funded by the grant and Matching Funds.

Project Cost has the meaning located at 2 CFR 200.1.

Qualified Consultant means a 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.

Recipient has the meaning located at 2 CFR 200.1.

Rural Development (RD) means a mission area within USDA, which includes the Rural Housing Service, Rural Utilities Service, and RBCS.

Small-Sized Farm or Ranch means a Farm or Ranch that is structured as a Family Farm that has averaged \$500,000 or less in annual gross sales of Agricultural Commodities in the previous three (3) years.

Socially-Disadvantaged Farmer or Rancher means a farmer or rancher who is a member of a Socially-Disadvantaged Group.

Socially-Disadvantaged Group means 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 means any of the 50 States of the United States, the District of Columbia, 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.

Steering Committee means an unincorporated group comprised wholly of specifically identified Agricultural Producers in the process of organizing one of the program eligible Applicant types.

TTB Permit means a permit issued by the Alcohol and Tobacco Tax and Trade Bureau (TTB), U.S. Department of the Treasury, granting approval to operate a TTB-regulated alcohol business.

Value-Added Agricultural Product means any Agricultural Commodity produced in a State that:

(1) Meets one of the following methodologies:

- (i) Has undergone a Change in Physical State;
- (ii) Is 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; and

(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.

Veteran Farmer or Rancher means a farmer or rancher who has served in the Armed Forces, as defined in 7 U.S.C. 2279, and who either has not operated a Farm or Ranch or has operated a Farm or Ranch for not more than 10 years; or is a Veteran who first obtained status as a veteran during the most recent 10-year period.

Working Capital Grant means 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.

§ 4284.904 Exception authority.

Except as specified in paragraphs (a) and (b) of this section, the Administrator of the Agency may, on a case-by-case basis, grant an exception to any requirement or provision of this subpart provided that such an exception is in the best financial interests of the Federal Government. Exercise of this authority cannot be in conflict with applicable law.

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

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

§ 4284.905 [Reserved]

§ 4284.906 Conflict of interest.

No conflict of interest or appearance of a conflict of interest will be allowed.

(a) *Description.* A conflict of interest occurs in a situation in which a person or entity has competing personal, professional, or financial interests that make it difficult for the person or entity

to act impartially. For the purposes of this subpart, relationships that can involve a conflict of interest include, but are not limited to:

(1) Recipient owners, employees, officers, agents, consultants, and contractors.

(2) Immediate family members of those listed in paragraph (a)(1) of this section.

(b) *Written disclosure.* Recipients must comply with 2 CFR 400.2(b), which includes providing written disclosure of any potential conflicts of interest and maintaining written standards of conduct covering conflicts of interest and governing the performance of its employees in the selection, award, and administration of Federal Awards.

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

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

§ 4284.907 [Reserved]

§ 4284.908 Compliance with other laws and regulations.

The Agency, Applicants, and recipients must comply with all applicable laws and regulations. An effort has been made to identify the most-commonly cited laws and regulations and reference them as follows:

(a) *Federal laws.* Federal laws are codified in the United States Code (U.S.C.). A selection of applicable laws is identified as follows:

(1) Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*);

(2) The Civil Rights Act of 1964, Title VI (42 U.S.C. 2000d *et seq.*); and

(3) The Rehabilitation Act of 1973, Section 504 (29 U.S.C. 794).

(b) *Federal regulations.* Federal regulations are codified in the Code of Federal Regulations (CFR). A selection of applicable regulations is identified as follows:

(1) 2 CFR parts 1 through 200. These parts address items such as universal identifiers, reporting subaward and executive compensation, debarment and suspension, drug-free workplaces, administrative requirements, cost principles, and audit requirements. We particularly encourage Applicants and

Recipients to become familiar with 2 CFR part 200 in its entirety.

(2) 27 CFR part 1. This part is applicable to Applicants that will produce and market value-added products in the industries of wine, beer, distilled spirits or other alcoholic merchandise.

(c) *Departmental regulations.*

Departmental regulations are those regulations that are specific to awards made through USDA. They are codified in the CFR. A selection of applicable regulations is identified as follows:

(1) 2 CFR parts 400 through 499.

These parts include USDA's adoption of Federal administrative requirements and cost principles. They also include regulations on debarment and suspension, lobbying, drug-free workplaces, and research awards.

(2) 7 CFR part 11. This part includes USDA's procedures for administrative appeals, as handled by its National Appeals Division.

(3) 7 CFR part 15d. This part includes USDA's procedures for compliance with nondiscrimination laws and regulations. The Agency will not discriminate against Applicants on the basis of race, color, religion, national origin, sex, marital status, disability, or age (provided that the Applicant has the capacity to contract); because all or part of the Applicant's income derives from any public assistance program; or because the Applicant has in good faith exercised any right under the Consumer Credit Protection Act, 15 U.S.C. 1601 *et seq.*

(d) *Agency regulations.* Agency regulations are those regulations that are specific to awards made through the Agency and they may also be specific to a program. They are codified in the CFR. A selection of applicable regulations is identified as follows:

(1) 7 CFR part 1900. This part covers delegations of authority, adverse decisions and administrative appeals, applicability of Federal law, and processing and servicing grant awards.

(2) 7 CFR part 1901, subpart E. This subpart covers civil rights compliance requirements.

(3) 7 CFR part 1951. This part covers servicing grant awards, including unauthorized assistance.

(4) 7 CFR part 1970. This part covers environmental policies and procedures.

(5) 7 CFR part 990. This part applies to Applicants who are proposing to produce, procure, supply or market any component of the hemp plant or hemp related by-products. Applicable Food and Drug Administration and Drug Enforcement Administration regulatory requirements must also be met.

(e) *Access to laws and regulations.* (1) Laws may be accessed through the U.S.C. At the time this subpart was published, the U.S.C. may be accessed electronically at this website: <https://uscode.house.gov/>.

(2) Regulations may be accessed through the CFR. At the time this subpart was published, the CFR may be accessed electronically at this website: <https://www.ecfr.gov/>.

§§ 4284.909–4284.915 [Reserved]

§ 4284.916 Reserved funds.

(a) The following reserved funds will be made available each Fiscal Year:

(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 where a majority of the requested grant amount goes to improving Food Safety for the purpose of enhancing market access; and

(3) 10 percent of total program funding to fund Projects that propose development of Mid-Tier Value Chains.

(b) Reserved funds not obligated by September 30 of each Fiscal Year shall be available to the Secretary in the next Fiscal Year to make grants under this subpart to eligible Applicants in the general funds competition.

§§ 4284.917–4284.919 [Reserved]

§ 4284.920 Eligible Applicants.

Applicants are eligible for assistance through this program if all of the following requirements are met:

(a) *System for Award Management (SAM) registration, General Certifications and Representations and unique entity identifier (UEI).* At the time of application, each Applicant must have an active registration in SAM before submitting its application in accordance with 2 CFR part 25. This registration must remain current, accurate and complete at all times during which the Applicant has an active Federal award or an application under consideration. The Applicant must also obtain a UEI through [SAM.gov](https://sam.gov).

(b) *Legal authority.* Applicants must certify that they have the legal authority to carry out the purpose of the grant, and/or their business is in good standing in the State where it is incorporated and/or in the State that is the primary location of an applicant's business operations for the VAPG Project.

(c) *Applicant type.* The Applicant meets the definition for one of the

following Applicant types—Agricultural Producer, Agricultural Producer Group, Farmer or Rancher Cooperative, or Majority-Controlled Producer-Based Business Venture.

(1) *Agricultural Producer.* An Applicant applying as an Agricultural Producer must identify each owner member by name or class, provide the percentage of ownership of each owner member, and discuss how each owner member meets the definition of Agricultural Producer.

(i) A Steering Committee must apply as an Agricultural Producer and discuss how it intends to form a program-eligible legal entity prior to execution of the Financial Assistance Agreement by the Agency.

(ii) A Harvester must apply as an Agricultural Producer and document its legal right to access and harvest the Agricultural Commodity that will be used for the Value-Added Agricultural Product.

(2) *Agricultural Producer Group.* An Applicant applying as an Agricultural Producer Group must identify each Agricultural Producer member by name or class, provide the percentage of ownership of each member, discuss how each member meets the definition of Agricultural Producer, and discuss how the Applicant meets the definition of Agricultural Producer Group.

(3) *Farmer or Rancher Cooperative.* An Applicant applying as a Farmer or Rancher Cooperative must discuss how they meet the definition of Farmer or Rancher Cooperative.

(4) *Majority-Controlled Producer-Based Business Venture.* An Applicant applying as a Majority-Controlled Producer-Based Business Venture must discuss how it meets the definition of Majority-Controlled Producer-Based Business Venture.

(d) *Ownership and control.* (1) For the Project, the Applicant must produce and own more than 50 percent of the Agricultural Commodity to which value will be added. Agricultural 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. All Applicants applying for Working Capital Grant funds must document the quantity of each 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 each 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.

(2) Applicants who produce the Agricultural Commodity under contract for another entity, but do not own the Agricultural Commodity or Value-Added Agricultural Product produced, are not considered Agricultural Producers. Entities that contract out the production of an Agricultural Commodity are not considered Agricultural Producers. Agricultural Producer entities must confirm their owner members as eligible and must identify them by name or class.

(3) The Agency will determine the Agricultural 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 more than 50 percent of the Agricultural Commodity necessary for the Project.

(e) *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 it is entering into an Emerging Market as a result of the Project. An Agricultural Producer Applicant type that has produced and marketed the Value-Added Agricultural Product for less than two (2) years must also demonstrate that it is entering an Emerging Market.

(f) *Citizenship.* An Applicant must certify that it is more than 50 percent owned by individuals who are either a citizen or national of a State or reside in the United States after legal admittance for permanent residence.

(g) *Multiple grants.* An Applicant must submit only one application in response to a solicitation and may have only one active VAPG award at any given time unless the Applicant is also applying as a member of a Farmer or Rancher Cooperative or an Agricultural Producer Group. In addition, the following restrictions apply:

(1) Applicants who have already received a Planning Grant for the Project cannot receive another Planning Grant for the same Project; and

(2) Applicants who have already received a Working Capital Grant for the Project cannot receive any additional grants for that Project.

(h) *Current VAPG award.* If an Applicant has a current VAPG award at the time of subsequent competition, the Applicant must exhaust all VAPG award funds and submit final financial and performance reports to the Agency by

the application submission deadline for the subsequent VAPG competition. If VAPG award funds will not be spent by the subsequent VAPG application submission deadline, the Applicant must request a cancellation of the current VAPG award prior to the subsequent application submission deadline.

§ 4284.921 Ineligible Applicants.

Applicants are ineligible for assistance through this program if one or more of the following has occurred:

(a) The Applicant is debarred or suspended or is otherwise excluded from, or ineligible for participation in, Federal assistance programs under Executive Order 12549, “Debarment and Suspension.”

(b) An outstanding judgement has been obtained against the Applicant by the United States in a Federal court (other than U.S. Tax Court).

(c) The Applicant is delinquent on the payment of Federal income taxes or is delinquent on Federal debt.

(d) The Applicant has been convicted of a felony criminal violation under any Federal law within the past 24 months.

(e) The Applicant has unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

(f) The Applicant submits multiple applications from separate entities, owners, and/or owner(s) of the legal entity (regardless of ownership percentage), or from a parent, subsidiary or affiliated organization (with “affiliation” defined by the Small Business Administration regulation 13 CFR 121.103, or successor regulation) during the same grant cycle. This is not applicable to Applicants who are also applying as a member of a Farmer or Rancher Cooperative or an Agricultural Producer Group.

§ 4284.922 Project eligibility.

Eligible Projects must meet all of the following requirements. Failure to meet one or more of these requirements means that the application will not be eligible for funding.

(a) *Project focus.* The Project must focus on allowable Planning or Working Capital Grant activities as described at § 4284.925, as applicable, with eligible tasks directly related to the processing and/or marketing of the subject Value-Added Agricultural Product.

(b) *Project type.* The Project must fit one of the following purposes:

(1) Emerging Market Project as defined in § 4284.903.

(2) Market Expansion Project as defined in § 4284.903.

(3) Food Safety Project as defined in § 4284.903.

(c) *Product(s).* Each product that is the subject of the Project must meet the definition of a Value-Added Agricultural Product. The Applicant must be currently producing the Agricultural Commodity for each Value-Added Agricultural Product that is the subject of the Project. All Applicants seeking Working Capital Grant funds must also be marketing the subject Value-Added Agricultural Product(s) or ready to implement the Working Capital Grant activities in accord with the budget and work plan timeline.

(d) *Amount requested.* The amount requested must not exceed any maximum amounts specified in the annual notification issued on the program website, per § 4284.930.

(e) *Period of Performance.* The Period of Performance cannot exceed three (3) years.

(f) *Matching Funds.* Matching Funds must come from eligible sources without a real or apparent conflict of interest and be used for eligible Project expenses during the Period of Performance. Matching Funds must be confirmed and provided in the form of:

(1) Applicant or third-party cash;

(2) Applicant loan, or line of credit;

(3) Non-Federal grant sources (unless otherwise provided by law); or

(4) Applicant, family member, or third-party in-kind contribution.

(i) In-kind contributions must be appropriately valued with an adequate explanation of the basis for the valuation (e.g., reference comparable market values, salary and wage data, expertise or experience of the contributor, per unit costs, industry norms).

(ii) Applicant in-kind contributions may include the value of the Agricultural Commodity inventory to be used in the Project and can be used to satisfy up to 100 percent of the Matching Funds requirement. Third-party in-kind contributions of the Agricultural Commodity inventory to be used in the Project can be used to satisfy up to 49 percent of the Matching Funds requirement.

(iii) Applicant in-kind contributions may also include Applicant or family time spent on eligible tasks; however, the valuation cannot exceed 50 percent of the Matching Funds required for the Project. Final valuation for Applicant or family member in-kind contributions is at the discretion of the Agency.

§ 4284.923 Reserved funds eligibility.

Applicants must meet the applicable requirements in this section to compete for reserved funds.

(a) *Beginning Farmer or Rancher.* Applicants must demonstrate that they meet the definition of a Beginning Farmer or Rancher. The Applicant must self-certify that more than 50 percent of its owners are a Beginning Farmer or Rancher.

(b) *Socially-Disadvantaged Farmer or Rancher.* Applicants must demonstrate that an individual or individuals that qualify as a Socially-Disadvantaged Farmer or Rancher own more than 50 percent of the Applicant Farm or Ranch organization. Applicants must provide a self-certification from the individual owner(s) indicating they are a member of a Socially-Disadvantaged Group.

(c) *Food Safety.* If the Applicant is applying for Food Safety reserved funds, the Applicant must describe the need or requirement for training, certifications, and/or supplies and equipment. This reserve is for Applicants where more than 50 percent of the Project Cost is for post-harvest Food Safety purposes related to the processing and/or marketing of a Value-Added Agricultural Product.

(d) *Mid-Tier Value Chain.* The Applicant 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 a State, including a description of the network, its component members, either by name or by class, and its purpose. Applicant ownership of the Agricultural Commodity and Value-Added Agricultural Product from raw through value-added stages is not necessarily required;

(3) Describe at least two alliances, linkages, or partnerships within the value chain that link Agricultural 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 a description of the two Farms or Ranches confirming they meet the Family Farm definition;

(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 Agricultural 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; and

(ii) Agricultural 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 Agricultural Commodity for the Project;

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

§ 4284.924 Priority points 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 certifications specified in § 4284.923(a) or (b), as applicable.

(b) Applicants seeking priority points as Veteran Farmers or Ranchers must provide a self-certification that they meet the definition of a Veteran Farmer or Rancher.

(c) Applicants seeking priority points as operators of Small- or Medium-Sized Farms or Ranches that are structured as a Family Farm must provide a self-certification that they meet the definition of a Small- or Medium-Sized Farm or Ranch that is structured as a Family Farm; that the owners meet the definition of Immediate Family and are primarily responsible for the daily physical labor and management of the Farm or Ranch with hired help merely supplementing the family labor.

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

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

(1) Demonstrate that it is a business owned and controlled by Agricultural Producers that is legally incorporated as a cooperative; or that it is a business owned and controlled by Agricultural 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 Agricultural Producers on whose behalf the value-added work will be done meet the definition requirements for an Agricultural 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 more than 50 percent of the Agricultural Commodity to which value will be added; and

(3) Provide a self-certification statement that the entity is owned and controlled by Agricultural Producers that are incorporated, or otherwise identified by the State in which they operate, as a cooperatively owned

business(es); that the owner(s)/ member(s) substantially participate in the production of more than 50 percent of the Agricultural Commodity to which value will be added; is in “good standing” as a cooperatively operated business in the State of incorporation or operations, as applicable.

(f) Applicants applying as Agricultural Producer Groups, Farmer or 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. See § 4284.940(c)(6) for instructions and documentation requirements for group Applicants to apply for these additional priority points.

§ 4284.925 Allowable uses of grant and Matching Funds.

(a) *Planning grants.* Funds may only be used to pay a Qualified Consultant to conduct and develop a Feasibility Study, Business Plan, and/or Marketing Plan associated with the post-harvest processing and/or marketing of a Value-Added Agricultural Product.

(b) *Working capital grants.* Funds may be used to pay the Project’s eligible post-harvest operational costs directly related to the processing and/or marketing of the Value-Added Agricultural Product. Examples of eligible working capital expenses include purchasing a financial accounting system for the Project; paying salaries of employees (excluding owners and Immediate Family) to process and/or market and deliver the Value-Added Agricultural Product to consumers; paying for additional Agricultural 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; paying for a marketing campaign for the Value-Added Agricultural Product; paying costs incurred in obtaining post-harvest Food Safety certification; and using up to \$6,500 of the amount of a grant to purchase or upgrade post-harvest Equipment to improve Food Safety.

§ 4284.926 Unallowable uses of grant and Matching Funds

(a) Unallowable uses of grant and Matching Funds awarded under this subpart include, but are not limited to:

(1) Support costs for services or goods going to or coming from a person or entity with a real or apparent conflict of interest, such as paying the salary of an Immediate Family member of a Recipient owner, employee, officer, or Agency, except as specifically noted for in-kind Matching Funds in § 4284.922;

(2) Pay costs for scenarios with noncompetitive trade practices;

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

(4) Purchase, lease purchase, or install fixed Equipment, including processing Equipment, except as specifically noted in § 4284.925(b);

(5) Purchase or repair vehicles, including boats;

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

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

(8) Fund research and development;

(9) Fund any activities prohibited by 2 CFR parts 200 through 400, and 48 CFR part 31, subpart 31.2;

(10) Fund architectural or engineering design work;

(11) 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, labor for repotting and/or maintenance of live plants, and delivery of Agricultural Commodity to a processing facility;

(12) Conduct activities on behalf of anyone other than a specifically identified Agricultural Producer or group of Agricultural 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 Agricultural Producers;

(13) Duplicate activities charged to another Federal award or previous VAPG Planning or Working Capital Grant Project by an Applicant;

(14) 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;

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

(16) Purchase or improve real property;

(17) Pay for costs associated with illegal activities;

(18) Purchase the Agricultural Commodity to which value will be added from the Applicant entity; Applicant-owned or related entity, or members of the Applicant entity;

(19) Use Planning Grant funds to evaluate the agricultural production of the commodity itself, or compensate Applicants or family members for participation in Feasibility Studies; or

(20) Indirect Costs.

(b) Applications that propose unallowable costs in excess of 10 percent of Project Costs will be deemed ineligible to compete for funds.

Applicants who submit applications containing ineligible expenses totaling less than 10 percent of Project Costs must remove those expenses from the Project budget or replace with eligible expenses, if selected for an award.

§ 4284.927 [Reserved]

§ 4284.928 Funding limitations.

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

(b) The maximum grant amount provided to a Recipient in any one (1) year shall not exceed the amount announced in an annual notification issued on the program website pursuant to § 4284.930, but in no event may the total amount of grant funds provided to a grant Recipient exceed \$500,000.

(c) 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.

(d) Not more than 2.5 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 Agricultural Producers and processors.

§ 4284.929 [Reserved]

§ 4284.930 Notifications.

The Agency will issue any public notifications on the program website.

(a) *Amount of funding available.* The Agency will publish the amount of funding available for awards during each Fiscal Year within 30 calendar days of notification from OMB of the amount available.

(b) *Administrator/State Director points.* The Agency will publish the priority categories to be used for awarding Administrator or State Director points no later than the date the application period opens. Priority

categories may include any of the following:

(1) Unserved or underserved areas;

(2) Geographic diversity;

(3) Emergency conditions; or

(4) Priority Department and mission area priorities, goals, and objectives.

(c) *Other.* The Agency will publish any other additional requirements or programmatic changes no later than the date the application period opens.

§ 4284.931 Application requirements.

All applications must include the following items:

(a) *Application forms.* The application must include the following forms (or their successor) and any additional forms listed in the annual notification for the program.

(1) *SF-424, "Application for Federal Assistance."* This form must be filled out completely and signed by an authorized representative of the Applicant organization.

(2) *SF-424A, "Budget Information-Non-Construction Programs."* This form must be filled out completely.

(b) *Executive summary.* Applications must include a one-page executive summary containing the legal name of the Applicant entity, application type (Planning or Working Capital Grant), Applicant type, amount of grant request, a Project summary, whether a simplified application is being submitted, and must explicitly state whether reserved funds are being requested.

(c) *Eligibility discussion.* The Applicant must discuss how:

(1) Applicant eligibility requirements in § 4284.920 are met;

(2) Project eligibility requirements in § 4284.922 are met; and

(3) Allowable use of grant and Matching Funds requirements in § 4284.925 are met.

(d) *Proposal evaluation criteria.*

Applicants for both Planning and Working Capital Grants must address each proposal evaluation criterion identified in § 4284.940 in narrative form.

(e) *Certification of Matching Funds.* Applicants must certify that:

(1) 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

(2) 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 budget.

(f) *Reserved funds/priority points documentation.* Applicants must

identify their priority category, as applicable, and provide the required supporting documentation indicated in §§ 4284.923 and 4284.924 for that category to demonstrate eligibility.

(g) *Business Plan*. For Working Capital Grant applications, Applicants must provide a copy of the Business Plan that was completed for the value-added Project, except as provided for in § 4284.932. The Agency must concur in the acceptability or adequacy of the Business Plan.

(h) *Feasibility Study*. Applicants for Working Capital Grants must provide a copy of a Feasibility Study prepared by a Qualified Consultant that was completed for the value-added Project, except as provided for at § 4284.932. The name and credentials of the Qualified Consultant must be provided along with the date the Feasibility Study was completed. The Feasibility Study must demonstrate a viable Project with a likelihood of success and be a thorough assessment of the practicality of the Project. The thorough assessment must include an analysis of the proposed Project that discusses its strengths and weaknesses, potential opportunities and threats, and resources required to carry it out. The Agency must concur in the acceptability or adequacy of the Feasibility Study and whether the Qualified Consultant who prepared the Feasibility Study possesses the necessary knowledge, expertise, and experience.

(i) *Customer Base and Revenue Increase Metrics*. Applicants must include a discussion on how their Project will result in an expanded market to new customers and increased revenue to the Agricultural Producer Applicant. Working Capital Grant Applicants must also provide estimates for increases in customer base and revenue returns and must include a description of the direct or indirect producer or food business benefits intended by the eligible entity to result from the proposed Project within a reasonable period of time after the receipt of a grant.

§ 4284.932 Simplified application.

Applicants that will submit an application where paragraphs (a), (b), and/or (c) of this section apply may submit a simplified application, which means submission of a Feasibility Study or Business Plan for the Project is not required. The waiver of the requirement to submit a Feasibility Study and Business Plan does not change the proposal evaluation or scoring criteria that pertain to issues that might be supported by a Feasibility Study or Business Plan, so Applicants are

encouraged to thoroughly document applications with their Project plans and expectations for success. All other eligibility requirements remain the same.

(a) *Working Capital Grant request of less than \$50,000*. Applicants requesting less than \$50,000 may submit a Market Expansion or Emerging Market simplified application. These types of applications must provide adequate documentation to demonstrate the expected increases in customer base and revenues resulting from the Project that will benefit the Applicant(s) supplying more than 50 percent of the Agricultural Commodity for the Project.

(b) *Market Expansion request of \$50,000 or more*. Agricultural Producers who can demonstrate that their Project meets the definition of Market Expansion, may submit a simplified application. Applicants must submit a Marketing Plan with their simplified application. However, a Business Plan may be submitted in lieu of a Marketing Plan. Agricultural Producer Group, Farmer or Rancher Cooperative, and Majority-Controlled Producer-Based Business Venture applicant types are not eligible for Market Expansion Projects.

(c) *Food Safety*. Applicants that will submit an application where more than 50 percent of the Project Costs will be used for post-harvest Food Safety purposes related to the processing and/or marketing of a Value-Added Agricultural Product may submit a simplified application.

§ 4284.933 Submission requirements.

Unless otherwise specified in a notification issued under § 4284.930, the following requirements apply to all applications.

(a) *Submission period*. (1) The application period opens November 1. Applications received prior to the opening date in a given Fiscal Year will automatically be considered ineligible and will not be evaluated further.

(2) The application period closes on February 15. Applications received after the closing date will not be considered for funding. Thus, applicants are encouraged to submit their applications well in advance of the closing date to ensure timely receipt by the Agency. Revisions or additional information will not be accepted after the application period closes on February 15.

(b) *Submission process*. All items required for the application must be submitted in a single application. No attachments other than the required items will be considered. Incomplete applications will automatically be considered ineligible and will not be

evaluated further. The annual notification for the program will be published on the OMB-designated governmentwide website and will provide instructions on how and where to submit completed applications for VAPG funding.

§§ 4284.934–4284.939 [Reserved]

§ 4284.940 Application processing.

(a) *Eligibility evaluation*. The Agency will review all applications to determine if they are eligible for assistance based on the requirements in this subpart and other applicable Federal laws and regulations. An application must include all application requirements identified in § 4284.931, or the Agency will determine that it is not eligible for assistance.

(b) *Risk evaluation*. (1) The Agency will review those applications that are determined to be eligible for the program for risk based on the following information. Typically, the Agency will not determine that an application is ineligible for funding based on the results of the risk evaluation, unless the Agency cannot find a way to reasonably mitigate the risk posed by making an award. However, if risk evaluation findings identify significant shortcomings in the Applicant's ability to manage Federal funds, the Agency may determine that the application is not eligible for funding.

(2) The Agency will determine if the Applicant has satisfactory performance for all Federal awards received in the last five (5) years, based upon review of deficiencies reported in the Federal Awardee Performance and Integrity Information System, or its successor system, the Do Not Pay system, or its successor system, and the Agency's own internal financial and record-keeping systems and files. Satisfactory performance includes timely submission of required reports and documents, timely completion of tasks, and proper use of funds.

(c) *Merit evaluation*. The Agency will conduct a merit evaluation for those applications that are determined to be eligible for the program. The maximum number of points that will be awarded to an application is 100 points. The Agency's annual notification will provide additional instructions to assist Applicants when responding to the criteria in paragraphs (c)(1) through (7) of this section. The merit evaluation will be based on the following criteria, but may be amended at the Agency's discretion:

(1) *Nature of the proposed venture (0 to 30 points)*. Applicants must describe the technological feasibility, operational

efficiency, and profitability and economic sustainability of the Project. Applications that demonstrate a high likelihood of success in these areas will receive higher points. In response to this criterion, Working Capital Grant Applicants must provide accurate and factual information for the Project that demonstrates a viable Project ready to be implemented upon award. Planning Grant Applicants only need to discuss anticipated needs and expected outcomes for the Project.

(i) Technological feasibility should include discussion of the value-added process; the Applicant's expectations for sufficient Agricultural Commodity as well as the value to be added to the Agricultural Commodity through the value-added process; potential markets and distribution channels; Applicant's experience in marketing the proposed or similar product; and any other relevant information that supports the feasibility of the Project.

(ii) Operational efficiency should include discussion of the cost of inputs; cost of processing commodity; sufficient labor and expertise; use of own facility, shared space, or contracted processing; adequate processing equipment; and logistics for storage, distribution, transportation, and/or shipping of the Value-Added Agricultural Product. Applicants should also address any anticipated challenges or risks associated with the Project.

(iii) Profitability and economic sustainability should include discussion of the market expansion strategy and break-even point analysis completed for the Project. Include a summary of historical financial and pro forma financial projections, as applicable, to support the viability of the Project. Other relevant sources such as a Business Plan or Feasibility Study may be cross-referenced.

(2) *Qualifications of Key Personnel (0 to 20 points)*. Applicants must provide the qualifications and expertise of all identified Key Personnel. If staff or consultants have not been hired at the time of application, Applicants must provide specific descriptions of the qualifications required for the positions to be filled. Applications that demonstrate Key Personnel with strong credentials will receive higher points.

(3) *Work plan and budget (0 to 20 points)*. Applicants must submit a comprehensive work plan and budget. Applications that provide a clear, comprehensive work plan detailing all Project goals, tasks, timelines, costs, and Key Personnel in a logical and realistic manner demonstrating a high likelihood of success will receive higher points. The Project work plan and budget must

demonstrate eligible sources and allowable 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 completing 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) Identify the basis of the valuation of the grant and Matching Funds for all activities and tasks specified in the budget.

(4) *Matching Funds commitment (up to 5 points)*. Applications that demonstrate financial commitment in the form of cash matching contributions will receive more points. Applications with a higher percentage of cash match will receive more points.

(5) *Prior VAPG assistance (up to 5 points)*. The Applicant must disclose the number of prior VAPG awards they have received. Applicants that have not received a VAPG award will receive more points.

(6) *Priority points (0 to 10 points)*. Priority points may be awarded in both the general funds and the reserved funds competitions. Points will be awarded as follows:

(i) 5 priority points will be awarded if the Applicant meets the requirements for one of the following categories and provides the documentation described in §§ 4284.923 and 4284.924, as applicable: Beginning Farmer or Rancher, Socially-Disadvantaged Farmer or Rancher, Veteran Farmer or Rancher, or operator of a Small- or Medium-Sized Farm or Ranch that is structured as a Family Farm, Farmer or Rancher Cooperative, or are proposing a Mid-Tier Value Chain Project. Applicants will not be awarded more than five (5) points even if they qualify for more than one of the priority categories.

(ii) 5 additional priority points will be awarded if the Applicant is an Agricultural Producer Group, Farmer or Rancher Cooperative, or Majority-Controlled Producer-Based Business Venture whose Project "best contributes to creating or increasing marketing opportunities" for operators of Small- and Medium-Sized Farms or Ranches

that are structured as Family Farms, Beginning Farmers or Ranchers, Socially-Disadvantaged Farmers or Ranchers, or Veteran Farmers or Ranchers.

(7) *Administrator/State Director priority categories (0 to 10 points)*. Unless otherwise specified in a notification issued under § 4284.930, the Administrator of the Agency or State Director has discretion to award up to 10 points to an application to improve the geographic diversity of recipients in a Fiscal Year, fund unserved or underserved areas, assist areas experiencing emergency conditions, or prioritize Projects that advance the Department or Agency's key priorities, goals, and objectives. In the event of a national competition, the Administrator will award points and for a State-allocated competition, the State Director will award points.

§ 4284.941 Application withdrawal.

During the period between the submission of the application and award approval, the Applicant must notify the Agency if the Project is no longer viable or the Applicant is no longer requesting financial assistance for the Project. When the Applicant notifies the Agency, the application will be withdrawn from consideration for funding.

§§ 4284.942–4284.949 [Reserved]

§ 4284.950 Award selection.

(a) Applications will be selected for further processing and consideration of an award after the merit evaluation process is completed for all eligible applications. Each eligible application will be scored on criteria 1 through 6 as detailed in the annual notification. The scores will be ranked highest to lowest and this will comprise the initial application ranking. Applications will be ranked solely on the points awarded by the reviewers, unless there is a tie. In that case, the Administrator of the Agency (or State Director) will break the tie at his or her discretion based on evaluation criterion 7.

(b) Applications for reserved funds will be funded in rank order until funds are depleted. Unfunded reserve applications will then compete for general funds where applications will be funded in rank order until available funds are expended or the minimum score for funding of 50 points is reached. Funding for Majority Controlled Producer-Based Business Ventures is limited to 10 percent of total grant funds expected to be obligated each funding cycle. These applications

will be funded in rank order until the funding limitation has been reached.

(c) If an application cannot be fully funded, the Agency will offer partial funding to the extent funds are available. If the Applicant offered partial funding does not accept, the Agency will offer the funding to the next highest-ranked Applicant until an Applicant is found that accepts the funding or no additional eligible Applicants exist. If an application is ranked and not funded, it will not be carried forward into the next Fiscal Year competition.

§ 4284.951 Notification of successful Applicants.

(a) The Agency will notify the Applicants whose applications can be funded with a Letter of Conditions. The Letter of Conditions will provide the conditions under which an award can be approved as well as a copy of the term of the award. Applicants receiving a Letter of Conditions will have up to 90 calendar days to meet the conditions of the award. If the Applicant agrees with the conditions, the Applicant must complete an applicable Form RD 1942–46, 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 processed further. 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. However, if an Applicant does not meet the conditions, the Agency will discontinue processing the application.

(b) All successful Applicants must complete the following additional forms and provide the following additional documentation:

(1) *Form RD 1942–46, “Letter of Intent to Meet Conditions.”* Completion of this form confirms the Applicant’s commitment to meeting the conditions of the award.

(2) *Form RD 400–4, “Assurance Agreement.”* Completion of this form confirms the Applicant’s commitment to complying with Federal laws and policies regarding prohibition of discrimination.

(3) *Form SF–LLL, “Disclosure of Lobbying Activities.”* Completion of this form is only required for those entities that engage in lobbying activities.

(4) *Form RD 4280–2, “Rural Business-Cooperative Service Financial Assistance Agreement.”* This form must be filled out completely and signed by

an authorized representative of the Applicant organization and an authorized representative from the Agency for the grant award to be considered a valid agreement between the parties.

(5) *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. Specific information must be provided about plans to track and evaluate progress toward these outcomes as a way for the Agency to determine whether or not the primary program goals and Project goals included in the work plan are likely to be accomplished during the Period of Performance as specified in § 4284.960.

(6) *Verification of Matching Funds.* Provide authentic documentation from the source to confirm the eligibility and availability of both cash and in-kind contributions that meet the requirements for Matching Funds in § 4284.922.

(7) *Valid permit/license.* If the Project will produce and market a Value-Added Agricultural Product in the industries of wine, beer, distilled spirits or other alcoholic merchandise, a valid TTB Permit must be provided. If the Project will market a Value-Added Agricultural Product made from hemp, a copy of a valid producer license issued by a State, Tribe, or USDA must be provided, as applicable in accordance with 7 CFR part 990. If the Applicant applied as a Harvester, the Applicant must provide executed copies of contracts, licensing or equivalent documentation establishing “legal rights” to access and harvest the subject Agricultural Commodity.

(8) *Organizational documents.* Provide a copy of Applicant’s organizational documents that demonstrate legal authority and good standing such as by-laws, articles of incorporation or organization, and Letter or Certificate of Good Standing from your Secretary of State or equivalent agency. Sole Proprietors must submit a copy of their IRS tax forms showing farm income.

§ 4284.952 Notification of unsuccessful Applicants.

Applicants whose applications are not eligible for financial assistance or did not score high enough to be funded will be notified. The notification will be in writing using an adverse decision letter. This letter will outline the reason(s) for the Agency’s decision and provide dispute resolution alternatives.

§§ 4284.953–4284.959 [Reserved]

§ 4284.960 Reporting requirements.

Recipients are required to submit financial reports and performance reports on a semiannual basis. Semiannual periods end on March 31st and September 30th. Reports are due 30 calendar days after the end of the semiannual period. A final financial report and performance report must also be submitted within 120 days after the expiration or termination of the grant. Failure to submit a performance report within the specified timeframes may result in the Agency withholding grant funds.

(a) *Financial reports.* Form SF–425, “Federal Financial Report,” must be used for financial reporting. Financial reports must also include evidence of receipt of Matching Funds. Recipients must complete the Project per the terms and conditions specified in the approved work plan and budget, the Financial Assistance Agreement, and Letter of Conditions. Recipients will expend funds only for eligible purposes and will be monitored by the Agency for compliance. Recipients must maintain a financial management system and property and procurement standards in accordance with 2 CFR parts 400 through 499.

(b) *Performance reports.* All performance reports must include a discussion on the performance benchmarks suggested in the application to determine whether the primary goals and objectives proposed in the approved work plan and budget were accomplished during the reporting period. In the section of the report that compares actual accomplishments to the objectives for that reporting period, objectives should be reported by specific task breakdown as described in the approved work plan and budget.

(1) For Working Capital Grant Projects, final performance reports must include the following metrics:

(i) Expansion of customer base as a result of the Project;

(ii) Increased revenue returned to the Producer as a result of the Project; and

(iii) Jobs created or saved as a result of the Project.

(2) For all Projects, we may request additional information, including but not limited to, the following:

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

(A) Business starts and clients served; and

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

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

(A) The Producer's experience related to financial management, budgeting, and running a business enterprise;

(B) 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

(C) Recommendations from Beginning Farmers or Ranchers, Socially-Disadvantaged Farmers or Ranchers, and/or Veteran Farmers or Ranchers.

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

(3) If any special conditions have been placed on the use of award funds, compliance with those conditions must be discussed in each performance report.

§ 4284.961 Grant monitoring.

Awards will be monitored by Agency personnel in accordance with applicable laws, regulations, and policies (see § 4284.908 for more information). The Agency may terminate or suspend the award for lack of adequate or timely progress, reporting, documentation, or for failure to comply with Agency requirements.

§ 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.

(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]

§ 4284.1000 OMB control number.

The reporting and recordkeeping requirements contained in this subpart have been approved by the OMB and have been assigned OMB control number 0570–0064 in accordance with the Paperwork Reduction Act of 1995.

■ 5. Revise subpart K to read as follows:

Subpart K—Agriculture Innovation Center Demonstration Program

Sec.

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- 4284.1002 Organization of subpart.
- 4284.1003 Definitions.
- 4284.1004 Exception authority.
- 4284.1005 [Reserved]
- 4284.1006 Conflict of interest.
- 4284.1007 [Reserved]
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Eligibility Information

- 4284.1020 Applicant eligibility.
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- 4284.1031 Application requirements.
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- 4284.1040 Application processing.
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- 4284.1042–4284.1049 [Reserved]

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- 4284.1050 Award selection.
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- 4284.1054–4284.1059 [Reserved]

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- 4284.1060 Reporting requirements.
- 4284.1061 Monitoring awards.

Other

- 4284.1062–4284.1099 [Reserved]
- 4284.1100 OMB control number.

General Information

§ 4284.1001 Purpose.

This subpart implements the Agriculture Innovation Center Demonstration (AIC) program. Through the AIC program, the Agency makes grants to Centers that provide Producer Services to Agricultural Producers seeking to develop and market Value-Added Agricultural Products.

§ 4284.1002 Organization of subpart.

The information in this subpart is organized into seven main topics:

(a) *General information.* Sections 4284.1001 through 4284.1019 discuss the purpose of the program, definitions, exception authority, conflict of interest, and compliance with other laws and regulations.

(b) *Eligibility information.* Sections 4284.1020 through 4284.1029 discuss the eligibility requirements for the program. These sections include information on applicant eligibility, project eligibility, and the use of funds. See § 4284.1022 for information about the award amounts, Period of Performance, and Matching Funds requirements.

(c) *Application requirements information.* Sections 4284.1030 through 4284.1039 discuss the requirements for submitting an application. These sections include information on what forms and other information are required for a complete application as well as the format of the application, the application deadline, and how to submit the application.

(d) *Application processing information.* Sections 4284.1040 through 4284.1049 discuss how the Agency will process applications. These sections include information on how applications will be reviewed for eligibility, how applications will be evaluated for merit, and how an applicant can withdraw an application from consideration.

(e) *Award information.* Sections 4284.1050 through 4284.1059 discuss how the Agency will make awards. These sections include information about how applications will be selected for funding, how applicants will be notified whether their applications have been selected for funding, how applicants can resolve disputes regarding funding selections, and the requirements for an applicant to accept an award and be approved as a Recipient of an award.

(f) *Post-award information.* Sections 4284.1060 through 4284.1061 discuss the reporting requirements for Recipients after an award is approved as well as monitoring procedures that the Agency will use.

(g) *Other.* (1) Sections 4284.1062 through 4284.1099 are reserved.

(2) Section 4284.1100 includes the Office of Management and Budget (OMB) control number for reporting and recordkeeping requirements under this subpart.

§ 4284.1003 Definitions.

These are the definitions for terms used in this subpart. Additional terms used in this subpart are found in the applicable laws and regulations, in particular 2 CFR part 200 and 7 CFR part 11.

Adverse Decision has the meaning located at 7 CFR 11.1.

Adverse Decision Letter means a letter issued by the Agency to the Applicant

or Recipient that explains the Adverse Decision.

Agency means the Rural Business-Cooperative Service (RBCS or the Agency), an agency of the United States Department of Agriculture (USDA), or a successor agency.

Agricultural Commodity has the meaning located at § 4284.903.

Agricultural Commodity Organization means an organization that exclusively represents a single Agricultural Commodity or group of similar commodities either on behalf of the commodity itself or on behalf of the Agricultural Producers who grow or raise it. The representation can be at a local, State, regional, or national level. Examples are Agricultural Commodity Marketing Boards established by States, a national association representing corn growers, and a regional association representing fruit and vegetable growers.

Agricultural Food Product has the meaning located at § 4284.903.

Agricultural Producer has the meaning located at § 4284.903.

Applicant means the entity that is applying for funding through the AIC program.

Board of Directors means the group of individuals who govern the Center.

Business Plan has the meaning located at § 4284.903.

Center means the Agriculture Innovation Center to be established and operated by a Recipient of the AIC program. It must be governed by a Qualified Board of Directors.

Change in Physical State has the meaning located at § 4284.903.

Commercial Organization means any business that sells goods or services for the purpose of making a profit.

Equipment has the meaning located at 2 CFR 200.1.

Family Farm has the meaning located at § 4284.903.

Farm or Ranch has the meaning located at § 4284.903.

Farm- or Ranch-Based Renewable Energy has the meaning located at § 4284.903.

Feasibility Study has the meaning located at § 4284.903.

Federal Award has the meaning located at 2 CFR 200.1.

Financial Assistance Agreement means Form RD 4280-2 and any attachments, as executed by RBCS and the Recipient.

General Agricultural Organization means an organization that represents agriculture in general, without restriction to any specific group, commodity, or sector. The sole purpose of the organization must be representing agriculture through policymaking,

education, and/or marketing. The organization must represent Agricultural Producers, although it may represent processors and other stakeholders as well. The representation can occur at the State, regional, or national level. Examples include organizations that represent farmers and ranchers and organizations that represent organic or sustainable farming. Note that credit organizations are not included in this definition.

Harvester has the meaning located at § 4284.903.

Indian Tribe has the meaning located at 2 CFR 200.1.

Indirect Costs has the meaning located at 2 CFR 200.1.

Institutions of Higher Education has the meaning located at 2 CFR 200.1.

Key Personnel means the employees and/or contractors of the Center who provide Producer Services. It also includes the Project Director.

Letter of Conditions means the letter that the Agency issues to an entity whose application is selected for funding. The letter outlines all the conditions of the award that must be met before the award can be approved. Other agencies may call this letter an award letter or award notice.

Local Government has the meaning located at 2 CFR 200.1.

Local Agricultural Producer means an Agricultural Producer located within 400 miles of the Center or in the same State.

Locally-Produced Agricultural Food Product has the meaning located at § 4284.903.

Matching Funds has the meaning located at 2 CFR 200.1.

Nonprofit Organization has the meaning located at 2 CFR 200.1.

Period of Performance has the meaning located at 2 CFR 200.1.

Physical Segregation has the meaning located at § 4284.903.

Produced in a Manner That Enhances the Value of the Agricultural Commodity has the meaning located at § 4284.903.

Producer Services means services provided by the Centers to Agricultural Producers seeking to develop and market Value-Added Agricultural Products. The services provided must directly assist the Agricultural Producer with the process of developing and/or marketing a Value-Added Agricultural Product. The services include the following:

(1) Business development services, such as Feasibility Studies, Business Plans, and other types of technical assistance that supports business development.

(2) Market development services, such as marketing plans, branding, and customer identification.

(3) Organizational assistance, such as legal and technical advisory services related to the development, expansion, or operation of a business.

(4) Financial advisory services related to the development, expansion, or operation of a business, such as assistance with obtaining credit for operating costs, training on using financial management software, and guidance on use of cash flow.

(5) Process development services, such as the following:

(i) Engineering services, including scale-up of production systems (not to include cost of renovating or constructing a facility or system);

(ii) Scale production assessments, which are studies that analyze processing facilities to determine the size that optimizes construction and other cost efficiencies associated with manufacturing or processing a Value-Added Agricultural Product;

(iii) Systems development; and

(iv) Other technical assistance and applied research related to development, implementation, improvement and operations of processes and systems to develop and market a Value-Added Agricultural Product.

(6) Product development, such as idea generation, concept testing, feasibility and cost analysis, product taste-testing, demographic and other types of consumer analysis, production analysis, recipe development, evaluation of packaging and labeling options, and brand development for a Value-Added Agricultural Product.

(7) Value chain coordination, or directly working with an Agricultural Producer to connect that producer to a distribution system, processing facility, or commercial kitchen.

(8) Grants to Agricultural Producers for the services in paragraphs (1) through (7) of this definition, where the individual award does not exceed \$5,000 and the aggregate amount of grants made by the Center does not exceed \$50,000. Note that these grants are considered pass-through awards. Therefore, Centers and subrecipients must comply with all Federal and programmatic requirements for pass-through entities and awards, as described in 2 CFR part 200. Additionally, subrecipients of these grants must be eligible to receive a Federal Award, use grant and Matching Funds for allowable costs, provide at least one-third of the Project Cost in Matching Funds, and meet all other

Federal and program requirements for the AIC program.

Program Income has the meaning located at 2 CFR 200.1.

Project Cost has the meaning located at 2 CFR 200.1.

Qualified Board of Directors means a Board of Directors that includes, but is not limited to, representatives from each of the groups identified in paragraphs (1) through (3) of this definition. It should be noted that no representative may represent more than one group or organization and Board of Director representatives must not have any conflicts of interest. See § 4284.1006 for additional information on conflicts of interest.

(1) Two General Agricultural Organizations with the greatest number of members in the State in which the Center is located;

(2) The department of agriculture, or similar State department or agency, or a State legislator, of the State in which the Center is located; and

(3) Four Agricultural Commodity Organizations representing different Agricultural Commodities produced in the State in which the Center is located.

Real Property has the meaning located at 2 CFR 200.1.

Recipient has the meaning located at 2 CFR 200.1.

State has the meaning located at 2 CFR 200.1.

State Office means the USDA Rural Development (RD) offices located in each State.

Third-Party In-Kind Contributions has the meaning located at 2 CFR 200.1.

Underserved and Economically Distressed Area means an area so designated on the program website.

Value-Added Agricultural Product has the meaning located at § 4284.903.

§ 4284.1004 Exception authority.

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

§ 4284.1005 [Reserved]

§ 4284.1006 Conflict of interest.

No conflict of interest or appearance of a conflict of interest will be allowed.

(a) *Description.* A conflict of interest occurs in a situation in which a person or entity has competing personal, professional, or financial interests that make it difficult for the person or entity to act impartially. For the purposes of this subpart, relationships that can

include conflict of interest include, but are not limited to:

(1) Parent, Applicant, or Recipient Board of Directors, employees, consultants, and contractors.

(2) Center Board of Directors, employees, consultants, and contractors.

(3) Subrecipients and their employees, consultants, and contractors.

(4) Immediate family members of those listed in paragraphs (a)(1) through (3) of this section.

(b) *State Departments of Agriculture.* A conflict of interest does not include the situation when the State's Secretary of Agriculture or an employee of the State's Department of Agriculture, or similar agency, acts as a member of the Center's board of directors because this representation is a requirement for the program.

(c) *Written disclosure.* Recipients must comply with 2 CFR 400.2(b), which includes providing written disclosure to the Agency of any potential conflicts of interest and maintaining written standards of conduct covering conflicts of interest and governing the performance of its employees in the selection, award, and administration of Federal Awards.

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

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

§ 4284.1007 [Reserved]

§ 4284.1008 Compliance with other laws and regulations.

The Agency, Applicants, and Recipients must comply with all applicable laws and regulations. An effort has been made to identify the most-commonly cited laws and regulations and reference them as follows:

(a) *Federal laws.* Federal laws are codified in the United States Code (U.S.C.). A selection of laws applicable to this program is identified as follows:

(1) Equal Credit Opportunity Act (15 U.S.C. 1691 *et seq.*).

(2) Consumer Credit Protection Act (15 U.S.C. 1601 *et seq.*).

(3) Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*).

(4) The Civil Rights Act of 1964, Title VI (42 U.S.C. 2000d *et seq.*).

(5) The Rehabilitation Act of 1973, Section 504 (29 U.S.C. 794).

(b) *Federal regulations.* Federal regulations are codified in the Code of Federal Regulations (CFR). In particular, 2 CFR parts 1 through 200 are applicable to all Federal grant programs. These parts address items such as universal entity identifiers, reporting subaward and executive compensation, debarment and suspension, drug-free workplaces, administrative requirements, cost principles, and audit requirements. We particularly advise Applicants and Recipients to become familiar with 2 CFR part 200 in its entirety.

(c) *Departmental regulations.* Departmental regulations are those regulations that are specific to awards made through USDA. They are codified in the CFR. A selection of applicable regulations is identified as follows:

(1) *2 CFR parts 400 through 499.* These parts include USDA's adoption of Federal administrative requirements and cost principles. They also include regulations on debarment and suspension, lobbying, drug-free workplaces, and research awards.

(2) *7 CFR part 11.* This part includes USDA's procedures for administrative appeals, as handled by its National Appeals Division.

(3) *7 CFR part 15.* This part includes USDA's procedures for compliance with nondiscrimination laws and regulations.

(d) *Agency regulations.* Agency regulations are those regulations that are specific to awards made through the Agency and they may also be specific to a program. They are codified in the CFR. A selection of those regulations is as follows:

(1) *7 CFR part 1900.* This part covers delegations of authority, Adverse Decisions and administrative appeals, applicability of Federal law, and processing and servicing grant awards.

(2) *7 CFR part 1901, subpart E.* This subpart covers civil rights compliance requirements.

(3) *7 CFR part 1951.* This part covers servicing grant awards, including unauthorized assistance.

(4) *7 CFR part 1970.* This part covers environmental policies and considerations.

(e) *Access to laws and regulations.* (1) Laws may be accessed through the U.S.C. At the time this subpart was published, the U.S.C. may be accessed electronically at this website: <https://uscode.house.gov/>.

(2) Regulations may be accessed through the CFR. At the time this subpart was published, the CFR may be accessed electronically at this website: <https://www.ecfr.gov/>.

§§ 4284.1009–4284.1019 [Reserved]**Eligibility Information****§ 4284.1020 Applicant eligibility.**

Applicants must meet certain requirements to be eligible for funding through this program. Those requirements are described as follows:

(a) *Eligible entities.* Entities are eligible for assistance through this program if all the following requirements are met:

(1) *System for Award Management (SAM) registration and unique entity identifier (UEI).* Entities must have an active registration in SAM. This registration must remain current, accurate, and complete at the time of application, while the application is under consideration for funding, and while a Recipient has an active Federal Award. This registration includes obtaining a UEI, or its successor, through *SAM.gov*.

(2) *Entity type.* The entity is organized or incorporated in a State, and it is one of the following types of organizations: Commercial Organization, Indian Tribe, Institution of Higher Education, Local Government, Nonprofit Organization, or State government. A consortium is also eligible to apply, but it must select a single organization to represent the consortium as the Applicant. Only the Applicant organization must meet the eligibility requirements.

(3) *Board of Directors.* The entity proposes to create or to continue to operate a Center that is governed by a Qualified Board of Directors.

(4) *Experience/capability to provide services.* The entity demonstrates that it has provided at least three (3) years of Producer Services prior to application or that it has the capability to provide Producer Services by hiring at least two Key Personnel who have at least three (3) years of experience providing Producer Services.

(5) *Financial capability.* The entity has the financial capability for the proposed project. In particular, the following must be true:

(i) The most recent independent audit confirms that the entity has a current ratio of at least 1:1 at the end of the fiscal year; and

(ii) The most recent independent audit confirms that the entity has sufficient cash on hand at the end of the fiscal year to cover at least three months of expenses for the proposed project.

(b) *Ineligible entities.* Entities are ineligible for assistance from this program if any of the following occurs:

(1) An outstanding judgment has been obtained against the entity by the United States in a Federal Court (other

than in the United States Tax Court). The entity is ineligible for assistance until the judgment is paid in full or otherwise satisfied. Funds from this program may not be used to satisfy the judgment.

(2) The entity is delinquent on the payment of Federal income taxes.

(3) The entity is delinquent on Federal debt.

(4) The entity is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, “Debarment and Suspension.” (See 2 CFR part 417 for more information.)

(5) The entity has been convicted of a felony criminal violation under any Federal law within the past 24 months.

(6) The entity has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, unless a Federal agency has considered suspension or debarment of the organization and has made a determination that this further action is not necessary to protect the interests of the Government.

(7) The entity is an individual.

(8) The entity has an award through this program that is not scheduled to end until after September 30 of the year in which the application is submitted.

§ 4284.1021 Ultimate beneficiary eligibility.

Centers must provide Producer Services only to Agricultural Producers. The Agricultural Producers may purchase or intend to purchase up to 49 percent of the primary Agricultural Commodity needed for the Value-Added Agricultural Product that is being developed and/or marketed. Note that the primary Agricultural Commodity is considered the commodity for which the greatest volume is required to produce the Value-Added Agricultural Product. The Agricultural Producers must maintain ownership of the primary Agricultural Commodity from production through the sale of the Value-Added Agricultural Product. See § 4284.1003 for the definitions of Agricultural Commodity, Agricultural Producer, and Value-Added Agricultural Product.

§ 4284.1022 Project eligibility.

Projects must meet certain requirements to be eligible for funding through this program. Those requirements are as follows:

(a) *Eligible projects.* Eligible projects must meet all of the following requirements. Failure to meet one or more of these requirements will render the application ineligible for funding.

(1) *Project purpose.* The sole purpose of the project must be to increase and improve the ability of Agricultural Producers to market Value-Added Agricultural Products, with at least one goal related to increasing and improving the ability of Local Agricultural Producers to market Value-Added Agricultural Products

(2) *Amount requested.* The minimum amount requested for an award must be \$600,000 and the maximum amount that can be requested is \$1,000,000.

(3) *Matching Funds.* Matching Funds are required for at least one-third of the Project Cost. For example, if the Project Cost is \$1,500,000, Matching Funds must be at least \$500,000. Matching Funds must be from non-Federal sources (unless otherwise provided by statute) and may be provided in cash by the applicant or by a third party or in-kind by a third party. They must be available for use during the Period of Performance, and they must be used for allowable expenses. Applicants may not use unrecovered Indirect Costs as Matching Funds.

(4) *Allowable use of funds.* The project must use award and Matching Funds for allowable purposes. See § 4284.1025 for additional information.

(5) *Agricultural support.* The project has the support of at least three organizations whose primary mission is to support agriculture in the State in which the Center is located.

(6) *Period of Performance.* The Period of Performance must be three (3) years. The Period of Performance must start within 90 days of award approval, unless otherwise authorized by the Agency.

(7) *Contracts with other Centers.* Contracts and/or subawards with other Centers funded through this program must be limited to 10 percent or less of total Project Costs.

(b) *Ineligible projects.* Projects are ineligible for assistance through this program if the application:

(1) Includes a conflict of interest (see § 4284.1006 for more information), where the expenses associated with the conflict of interest exceed 10 percent of the Project Cost. If the costs associated with the conflict of interest are 10 percent or less, the process in paragraph (b)(5) of this section will be followed.

(2) Requests less than the minimum or more than the maximum grant amount.

(3) Focuses assistance on only one Agricultural Producer or business.

(4) Earns revenue from processing or selling a product as part of the project. Centers may charge fees for services provided, but they cannot earn revenue from processing a product or from sales associated with a product they helped develop.

(5) Includes unallowable costs totaling more than 10 percent of Project Costs. If the application includes 10 percent or less of Project Costs in unallowable costs, and the application is otherwise eligible and selected for funding, those unallowable costs must be removed. If time permits, the Agency may allow those unallowable costs to be replaced with allowable costs.

Otherwise, the amount of the Award will be reduced accordingly. If we cannot determine the percentage of unallowable costs, your application will not be considered for funding.

§§ 4284.1023–4284.1024 [Reserved]

§ 4284.1025 Use of funds.

Allowable and unallowable uses of funds are described as follows:

(a) *Allowable uses of funds.* The following types of activities and expenses are allowable:

(1) Producer Services as defined in § 4284.1003.

(2) Costs associated with establishing and operating a Center, including legal services, accounting services, clerical assistance, technical services, office supplies, hiring employees, monitoring contracts, professional development for staff, attending conferences related to value-added agriculture and marketing food products, and Board of Directors travel.

(3) Additional information on allowability of costs can be found at 2 CFR part 200, subpart E, for all organization types.

(b) *Unallowable uses of funds.* The following types of activities and expenses are unallowable:

(1) Provide services to entities other than Agricultural Producers.

(2) Fund manufacturing or processing expenses, including test, trial, or initial production runs.

(3) Pay for interns or internships.

(4) Provide tuition remission or other financial support to students at any level of education.

(5) Provide participant support costs outside of the grants to Agricultural Producers.

(6) Fund any direct expenses for the production of any Agricultural Commodity or product to which value will be added, including seed, rootstock, labor for harvesting the crop, and delivery of the commodity to a processing facility; to include the purchase of an Agricultural Commodity.

(7) Plan, fund architectural work, repair, rehabilitate, acquire, or construct a building or facility, including a processing facility.

(8) Purchase Real Property.

(9) Purchase, rent, or install Equipment.

(10) Purchase or repair vehicles, including boats.

(11) Pay for the preparation of the grant application.

(12) Pay expenses not directly related to the funded project.

(13) Pay for any goods or services from a person or entity who has a conflict of interest with the Recipient (see § 4284.1006).

(14) Duplicate activities paid for by another Federal grant program.

(15) Pay costs of the project incurred prior to the date of award approval, unless authorized by the Agency at the time of award approval.

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

(17) Pay any judgment or debt owed to the United States.

(18) Fund any activities considered unallowable by the applicable cost principles, most of which are included in 2 CFR part 200, subpart E.

§§ 4284.1026–4284.1029 [Reserved]

§ 4284.1030 Notifications.

The Agency will issue any program notifications identified in paragraphs (a) through (c) of this section on the program website. An annual notification will also be published on the OMB-designated governmentwide website.

(a) *Amount of funding available.* The Agency will publish the amount of funding available for awards during each fiscal year within 30 calendar days of receiving notification from OMB of the amount of funding available.

(b) *Priority points.* The Agency will publish the priorities applicable to the program no later than the application period opening date each year. Points will be awarded in accordance with § 4284.1040(d).

(c) *Other.* The Agency will publish any other additional requirements or programmatic changes no later than the date the application period opens.

Application Requirements

§ 4284.1031 Application requirements.

All applications must include the following items:

(a) *Form SF-424, “Application for Federal Assistance.”* This form must be

filled out completely and signed by an authorized representative of the Applicant organization.

(b) *Form RD 4284-1, “Application for the Agriculture Innovation Center Program.”* This form must be filled out completely. Failure to complete any section on the form will result in the application being determined ineligible for funding.

§ 4284.1032 [Reserved]

§ 4284.1033 Submission requirements.

The following information identifies when applications can be submitted, where applications must be submitted, and the format of applications.

(a) *Submission period.* (1) The application period opens on November 1. Applications received prior to the opening date in a given fiscal year will not be considered.

(2) The application period closes at 11:59 p.m. Eastern time (ET) on January 31 of the following year. Applications received after the closing date will not be considered. This means that if the application is emailed prior to 11:59 p.m. ET on the closing date, but the Agency’s system does not receive it until after the deadline, the application will not be considered for funding. Thus, applicants are encouraged to submit their applications well in advance of the closing date to ensure timely receipt by the Agency.

(b) *Submission address.* Applications must be submitted electronically to the email address listed on the program website.

(c) *Submission format.* All items required for the application must be submitted in a single application. No attachments other than the required items will be considered. Incomplete applications will be rejected.

§§ 4284.1034–4284.1039 [Reserved]

Application Processing

§ 4284.1040 Application processing.

The following information describes the way the Agency will process applications, including evaluating eligibility, risk, and merit.

(a) *Eligibility evaluation.* The Agency will review all complete applications to determine if they are eligible for assistance based on the requirements in this subpart and other applicable Federal laws and regulations. In particular, the Agency will check the OMB-designated repository of government information, and Applicants that are excluded from Federal funding will be determined ineligible (see 2 CFR 200.206 for more information). An application must

include all application requirements identified in § 4284.1031, or the Agency will determine that it is ineligible for assistance.

(b) *Risk evaluation.* The Agency will review those applications that are determined to be eligible for the program for risk based on financial risk and satisfactory past performance as described in paragraphs (b)(1) and (2) of this section. Typically, the Agency will not determine that an application is ineligible for funding based on the results of the risk evaluation, unless the Agency cannot find a way to reasonably mitigate the risk posed by making an award. For example, if an Applicant lacks appropriate internal controls, but has not experienced significant audit findings as a result, the Agency may choose to mitigate the lack of internal controls by requiring funds to be disbursed on a reimbursement basis until adequate internal controls are in place. However, if audit findings identify significant shortcomings in the Applicant's ability to manage Federal funds, the Agency may determine that the application is not eligible for funding.

(1) *Financial risk.* The Agency will review the organization's most recent independent audit and financial statements, provided that the most recent audit and financial statements have been created during the previous year.

(2) *Satisfactory past performance.* The entity has satisfactory performance for all Federal Awards received within the last five (5) years, based on a review of deficiencies reported by the Federal Awardee Performance and Integrity Information System, or its successor system, the Do Not Pay system, or its successor system, and the Agency's own internal financial and record-keeping systems and files. Satisfactory performance includes timely submission of required reports and documents, timely completion of tasks, and proper use of funds.

(c) *Merit evaluation.* The Agency will conduct a merit evaluation for those applications that are determined to be eligible for the program. The merit evaluation will be conducted by a panel of USDA employees, who will convene to reach a consensus on the merit of each eligible application. The total points available are 90. The merit evaluation will be based on the following criteria:

(1) *Federal Award management (0 to 10 points).* Applicants who have managed Federal Awards with the primary purpose of providing technical assistance with Periods of Performance that have start and end dates within the

last five (5) years of the date of application will receive points as described in paragraphs (c)(1)(i) through (iii) of this section. Note that an award for which a performance deficiency is identified will not be scored. The Agency will use *USASpending.gov*, or its successor system, to verify the award information provided in the application. The Agency will also use *SAM.gov*, or its successor system, in addition to USDA internal systems to check for performance deficiencies. Examples of performance deficiencies are performance and/or financial reports that are more than 90 calendar days overdue and failure to accomplish the approved scope of work.

(i) *Amount (0 to 3 points).* Zero points will be awarded if no Federal Awards are identified. Applications that identify multiple Federal Awards for amounts greater than \$600,000 will receive more points.

(ii) *Time period (0 to 3 points).* Zero points will be awarded if no Federal Awards are identified. Applications that identify multiple Federal Awards for time periods of at least three (3) years will receive more points.

(iii) *Provision of technical assistance (0 to 4 points).* Zero points will be awarded if no Federal Awards are identified. Applications that identify multiple Federal Awards in which the Applicant provided technical assistance will receive more points.

(2) *Qualifications of Key Personnel (0 to 20 points).* Projects that have qualified Key Personnel will receive points as described in paragraphs (c)(2)(i) through (v) of this section. Only Key Personnel that are currently employed or on contract with the Center will be considered. Key Personnel are considered qualified if they have at least five (5) years of experience in providing at least one Producer Service that the Center proposes to offer in its application. The Agency will consider years of experience, the number of times a service has been provided, the number of services provided, the complexity of the role the person played in providing the service, and the outcomes of the services when awarding points for qualifications.

(i) *Zero Key Personnel (0 points).* No qualified Key Personnel are identified.

(ii) *One Key Personnel (0 to 5 points).* One qualified person is identified. Zero points will be awarded if the person identified is not qualified. One point will be awarded to applications that demonstrate the person meets the qualifications. Two to three points will be awarded to applications that demonstrate the person exceeds the qualifications. Four to five points will

be awarded to applications that demonstrate the person has exceptional qualifications.

(iii) *Second Key Personnel (0 to 5 points).* A second qualified person is identified. Zero points will be awarded if the person identified is not qualified. One point will be awarded to applications that demonstrate the person meets the qualifications. Two to three points will be awarded to applications that demonstrate the person exceeds the qualifications. Four to five points will be awarded to applications that demonstrate the person has exceptional qualifications.

(iv) *Third Key Personnel (0 to 5 points).* A third qualified person is identified. Zero points will be awarded if the person identified is not qualified. One point will be awarded to applications that demonstrate the person meets the qualifications. Two to three points will be awarded to applications that demonstrate the person exceeds the qualifications. Four to five points will be awarded to applications that demonstrate the person has exceptional qualifications.

(v) *Fourth Key Personnel (0 to 5 points).* A fourth qualified person is identified. Zero points will be awarded if the person identified is not qualified. One point will be awarded to applications that demonstrate the person meets the qualifications. Two to three points will be awarded to applications that demonstrate the person exceeds the qualifications. Four to five points will be awarded to applications that demonstrate the person has exceptional qualifications.

(3) *Outreach plan (0 to 20 points).* Applications that have a well-designed outreach plan will receive points as described in paragraphs (c)(3)(i) through (iii) of this section.

(i) *Goals (0 to 6 points).* The goals are clear and include a way to measure the success of the project in a quantitative way, including the baseline of the metric, and a target for the metric. Zero points will be awarded if the application does not include at least one goal, performance measurement, baseline of the metric, and target for the metric. One or two points will be awarded if the application has at least one goal, one metric, the baseline of the metric, and a target for the metric. Three or four points will be awarded to applications that exceed this threshold. Five or six points will be awarded to applications that exceed the threshold and have exceptional goals, metrics, baselines, and targets.

(ii) *Identified need (0 to 8 points).* The application identifies a clear need in the proposed service area that connects to

the goals of the project. Zero points will be awarded if the application does not identify a clear need in the proposed service area that connects to the goals of the project. One to five points will be awarded to applications that identify clear needs in the proposed service area that connect to the goals of the project. One or two additional points will be awarded to applications that describe how the need was identified. One additional point will be awarded to applications that describe an identified need in an Underserved and Economically Distressed Area.

(iii) *Customer identification (0 to 6 points)*. The application describes how the Center will identify customers for the Producer Services it proposes to provide. Zero points will be awarded if the application does not identify how the Center will identify its customers. One to five points will be awarded to applications that describe a basic plan for identifying customers. One additional point will be awarded to applications that describe a plan for identifying customers in an Underserved and Economically Distressed Area.

(4) *Coordination, collaboration, and partnerships (0 to 20 points)*. Coordination, collaboration, or a partnership exists if there is a formal arrangement between the Center and another organization to either provide one or more Producer Services or for the other organization to provide a different type of service that supports one or more project goals. (Note that a formal arrangement means a written agreement that is signed by both parties and includes a purpose statement.) One example is a Center that provides product development but does not have a commercial kitchen. The Center could coordinate with a commercial kitchen to work with producers on recipe development or consumer taste testing. Another example is providing a contribution to the project in the form of Matching Funds, where the contribution from a third party is Key Personnel or expert consulting services to provide Producer Services. Applicant organizations who demonstrate that they will coordinate, collaborate, or partner with other organizations for the proposed project will receive more points, based on the description as follows:

(i) *Coordination, collaboration, or partnership with one other organization (0 to 4 points)*. The Agency will evaluate the complexity of the relationship, the significance of the gap in the Center's services that the relationship fills, the quality of the services that the partner

will provide, and the quantity of the services that the partner will provide.

(ii) *Coordination, collaboration, or partnership with a second organization (0 to 4 points)*. The Agency will evaluate the complexity of the relationship, the significance of the gap in the Center's services that the relationship fills, the quality of the services that the partner will provide, and the quantity of the services that the partner will provide.

(iii) *Coordination, collaboration, or partnership with a third organization (0 to 4 points)*. The Agency will evaluate the complexity of the relationship, the significance of the gap in the Center's services that the relationship fills, the quality of the services that the partner will provide, and the quantity of the services that the partner will provide.

(iv) *Coordination, collaboration, or partnership with a fourth organization (0 to 4 points)*. The Agency will evaluate the complexity of the relationship, the significance of the gap in the Center's services that the relationship fills, the quality of the services that the partner will provide, and the quantity of the services that the partner will provide.

(v) *Underserved and Economically Distressed Area (0 to 4 points)*. The Agency will award one point for each coordination, collaboration, or partnership that connects the project to an Underserved and Economically Distressed Area.

(5) *Scope of the project (0 to 20 points)*. The scope of the project will be evaluated based on the service area, the types of services offered, the uniqueness of the services offered, and the number of commodities assisted.

(i) *Service area (0 to 4 points)*. Projects that propose to provide Producer Services to a larger service area will receive more points, based on the following structure:

(A) *Few counties (0 points)*. Projects that propose to provide services to up to 10 percent of the counties in the State will receive 0 points.

(B) *Some counties (1 point)*. Projects that propose to provide services to more than 10 percent and up to 25 percent of the counties in the State will receive 1 point.

(C) *Many counties (2 points)*. Projects that propose to provide services to more than 25 percent and up to 50 percent of the counties in the State will receive 2 points.

(D) *Majority of State (3 points)*. Projects that propose to provide services to more than 50 percent and less than 100 percent of the counties in the State will receive 3 points.

(E) *State-wide (4 points)*. Projects that propose to provide services to all counties in a State will receive 4 points.

(ii) *Types of services (0 to 8 points)*. Projects that offer a greater variety of Producer Services will receive more points. See § 4284.1003 for the definition of Producer Services. Each category of Producer Service offered will receive one point. If no proposed services fit into one of the categories, zero points will be awarded. The categories are as follows:

- (A) Financial advisory services.
- (B) Organizational assistance.
- (C) Value chain coordination.
- (D) Process development.
- (E) Product development.
- (F) Business development services.
- (G) Marketing assistance.
- (H) Grants to Agricultural Producers.

(iii) *Number of commodities (0 to 3 points)*. Projects that have the capacity to provide services to support Value-Added Agricultural Products from multiple Agricultural Commodities in addition to the four represented on the Board of Directors of the Center will receive more points.

(iv) *Unique services (0 to 3 points)*. Projects that will contribute unique services in the proposed service area will receive more points. Unique means that the services are not already provided in the service area.

(v) *Physical location (0 to 2 points)*. Projects that will provide services at more than one physical location will receive more points.

(d) *Priority Points (0 to 10 points)*. Each year, RBCS will select up to two priorities from the current published priorities for the RD mission area that are applicable to the program. These priorities will be published on the program website and in the annual notice no later than the date that the application period is open. Projects will be awarded five points for each priority that they meet, based on the information provided in the application, for a maximum of ten points.

§ 4284.1041 Application withdrawal.

During the period between the submission of the application and award approval, the Applicant must notify the Agency in writing if the project is no longer viable or if the Applicant is no longer requesting financial assistance for the project. When the Applicant notifies the Agency, the application will be withdrawn from consideration for funding.

§§ 4284.1042–4284.1049 [Reserved] Award

§ 4284.1050 Award selection.

(a) The Agency will review applications to determine if they are

eligible for assistance based on requirements in this subpart, and other applicable Federal laws and regulations. If the Agency determines that your application meets the requirements, it will be scored by a panel of USDA employees in accordance with the merit evaluation criteria and point allocation specified in § 4284.1040(c). The review panel will convene to reach a consensus on the scores for each of the eligible applications. Applications will be ranked solely based on the points awarded, and they will be funded in rank order until available funds are expended or a minimum score of 40 points is reached. If an application cannot be fully funded, the Agency may offer partial funding to the extent funds are available.

(b) If an application is ranked and not funded, it will not be carried forward into the next funding competition.

§ 4284.1051 Notification of successful Applicants.

(a) The Agency will notify the Applicants whose applications can be funded using available funds with a Letter of Conditions. The Letter of Conditions will provide the conditions under which an award can be approved as well as a copy of the terms of the award.

(b) An Applicant receiving a Letter of Conditions will have 60 calendar days to meet the conditions of the award. If the applicant does not meet the conditions, the Agency will discontinue processing the application and offer funding to another Applicant based on the ranking from the merit review panel if sufficient time exists for the application to be fully processed and an award approved by September 30 of the current fiscal year. If sufficient time does not exist, the funds will not be awarded.

(c) To view the standard conditions for all awards, please visit the program website.

§ 4284.1052 Notification of unsuccessful applicants.

Applicants whose applications are not eligible for financial assistance or did not score high enough to be funded will be notified as soon as it is practicable. The notification will be in writing using an Adverse Decision Letter. This letter will outline the reason(s) for the Agency's decision and what dispute resolution alternatives the Applicant has. (See also 7 CFR part 11.)

§ 4284.1053 Award approval.

The Agency will approve an award once the Applicant has met all the conditions of the award. The approval will be conveyed through the execution of Form RD 4280-2, which is the Financial Assistance Agreement, and provides all terms of the award. Once the award has been approved, the Recipient may begin work on the project and incur costs.

§§ 4284.1054–4284.1059 [Reserved]

Post-Award

§ 4284.1060 Reporting requirements.

Recipients are required to submit financial reports and performance reports based on the following requirements.

(a) *Financial reports.* Financial reports are required on a semi-annual basis and after the Period of Performance has ended.

(1) *Semi-annual report.* Reporting periods are October 1 through March 31 and April 1 through September 30. Reports are due 30 calendar days after the reporting period ends. The report must include the submission of the SF-425, "Federal Financial Report," and any additional information specified in the Financial Assistance Agreement.

(2) *Final report.* The final financial report is due 120 calendar days after the reporting period ends. The report must include the submission of the SF-425, "Federal Financial Report," and any

additional information specified in the Financial Assistance Agreement.

(b) *Performance reports.* Performance reports are required on a semi-annual basis and after the Period of Performance has ended.

(1) *Semi-annual reports.* Reporting periods are October 1 through March 31 and April 1 through September 30. Reports are due 30 calendar days after the reporting period ends. The report must use the format specified in the Financial Assistance Agreement.

(2) *Final report.* The final report is due 120 calendar days after the end of the Period of Performance. The report must use the format specified in the Financial Assistance Agreement.

§ 4284.1061 Monitoring awards.

Awards will be monitored by Agency personnel in accordance with applicable laws, regulations, and policies (see § 4284.1008 for more information). The Agency will designate a contact person for each award. The Agency may terminate or suspend the award for lack of adequate or timely progress, reporting, documentation, or for failure to comply with Agency requirements.

Other

§ 4284.1062–4284.1099 [Reserved]

§ 4284.1100 OMB control number.

The reporting and recordkeeping requirements contained in this subpart have been approved by OMB and have been assigned OMB control number 0570-0045 in accordance with the Paperwork Reduction Act of 1995.

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[FR Doc. 2024-19804 Filed 9-13-24; 8:45 am]

BILLING CODE 3410-XY-P