PART 4284 - GRANTS

Subpart J - Value-Added Producer Grant Program

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Subpart J – Value-Added Producer Grant Program

§ 4284.901 Purpose.

This subpart implements the value-added agricultural product market development grant program (Value-Added Producer Grants (VAPG)) administered by the Rural Business-Cooperative Service whereby grants are made to enable viable agricultural producers (those who are prepared to progress to the next business level of planning for, or engaging in, value-added production) to develop businesses that produce and market value-added agricultural products. The provisions of this subpart constitute the entire provisions applicable to this Program; the provisions of subpart A of this part do not apply to this subpart.

§ 4284.902 Definitions.

The following definitions apply to this subpart:

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

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

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

Agricultural food product. Agricultural food products can be a raw, cooked, or processed edible substance, beverage, or ingredient intended for human consumption. These products cannot be animal feed, live animals, non-harvested plants, fiber, medicinal products, cosmetics, tobacco products, or narcotics.

Agricultural producer. An individual or entity directly engaged in the production of an agricultural commodity, or that has the legal right to harvest an agricultural commodity, that is the subject of the value-added project. Agricultural producers may “directly engage” either through substantially participating in the labor, management, and field operations themselves or by maintaining ownership and financial control of the agricultural operation. *An agricultural producer is a farmer, rancher, fisherman, or forestry or other harvester who produces or legally harvests and owns the agricultural commodity to which value will be added; and is not an individual or entity who buys an agricultural commodity from someone else and then adds value. Agricultural producers may or may not own the land or other production resources, but must have majority ownership interest in the agricultural commodity to which value is to accrue as a result of the project. That is, over 50 percent of the commodity to which value is being added must be produced by the agricultural producer who is the grant applicant. To be eligible as an Independent Producer, the agricultural harvester must harvest the primary agricultural commodity. Agricultural harvesters are not individuals or entities who glean, gather, or collect residual commodities that result from an initial harvesting or production of a primary agricultural commodity.*

Agricultural producer group. A membership organization that represents independent producers and whose mission includes working on behalf of independent producers and the majority of whose membership and board of directors is comprised of independent producers. The independent producers, on whose behalf the value-added work will be done, must be confirmed as eligible and identified by name or class. *The majority of both the Agricultural Producer Group’s membership and Board of Directors must be comprised of Independent Producers that are individual Agriculture Producers, or entities that are solely owned and controlled by Agricultural Producers. The identity of participating member IPs may be provided by name or class (general description of agricultural product or type of producer), and if the member IP is not an individual agricultural producer, but is an entity, the applicant must also identify the owners of the entity, by name or class and certify their eligibility as Independent Producers*

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

Beginning farmer or rancher. This term has the meaning given it in section 343(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)) and is an entity in which none of the individual owners have operated a farm or a ranch for more than 10 years. For the purposes of this subpart, a beginning farmer or rancher must be an Independent Producer that, at the time of application submission, currently owns and produces more than 50 percent of the agricultural commodity to which value will be added and has an applicant ownership or membership of 51 percent or more beginning farmers or ranchers. Except as provided, for the purposes of § 4284.922(c)(1)(i), to compete for reserved funds, for applicant entities with multiple owners, all owners must be eligible beginning farmers or ranchers.

Branding. The activities involved in the practice of creating a name, symbol or design that identifies and differentiates a product from other products that attracts and retains customers or encourages confidence in the quality and performance of that individual or firm's products or services. *Applications may propose branding, packaging or other product differentiation activities only when the value-added product, itself, is otherwise eligible in one of the five product eligibility categories.*

Business plan. A formal statement of a set of business goals, the reasons why they are believed attainable, and the plan for reaching those goals, including pro forma financial statements appropriate to the term and scope of the project and sufficient to evidence the viability of the venture. It may also contain background information about the organization or team attempting to reach those goals.

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

Conflict of interest. A situation in which a person or entity has competing personal, professional, or financial interests that make it difficult for the person or business to act impartially. Regarding use of both grant and matching funds, Federal procurement standards prohibit transactions that involve a real or apparent conflict of interest for owners, employees, officers, agents, or their immediate family members having a financial or other interest in the outcome of the project; or that restrict open and free competition for unrestrained trade. Specifically, grant and matching funds may not be used to support costs for services or goods going to, or coming from, a person or entity with a real or apparent conflict of interest, including, but not limited to, owner(s) and their immediate family members. See § 4284.923(a) and (b) for limited exceptions to this definition and practice for VAPG.

Departmental regulations. The regulations of the Department of Agriculture's Office of Chief Financial Officer (or successor office) as codified in 7 CFR parts 3000 through 3099, including, but not necessarily limited to, 7 CFR parts 3015 through 3019, 7 CFR part 3021, and 7 CFR part 3052, and successor regulations to these parts.

Emerging market. A new or developing, geographic or demographic market that is new to the applicant or the applicant's product. To qualify as new, the applicant cannot have supplied this product, geographic, or demographic market for more than two years at time of application submission. *The emerging market criterion applies to applications from Agriculture Producer Groups, Farmer or Rancher Cooperatives, and Majority-Controlled Producer Based Businesses. It does not apply to applications from Independent Producers. However, applications from all applicant types must demonstrate an increase in customer base and an increase in revenue returns to the applicant producers supplying the majority of the agricultural commodity to the project.*

Family farm. The term has the meaning given it in Sec. 761.2 of title 7, Code of Federal Regulations as in effect on November 8, 2007 (see 7 CFR parts 700-799, revised as of January 1, 2007), in effect that, a Family Farm produces agricultural commodities for sale in sufficient quantity to be recognized as a farm and not a rural residence, owners are primarily responsible for daily physical labor and management, hired help only supplements family labor, and owners are related by blood or marriage or are immediate family. *To award priority points to an operator of a small- or medium-sized family-owned farm or ranch, the farm or ranch must be structured as a Family farm that meets all requirements in that definition for legal structure and operations; and also meet the average annual gross sales limitations for a small- or medium-sized farm as indicated in those definitions. Examples may include, but are not limited to, a farming operation owned by a sole proprietor, a husband and wife, a parent and child, a brother and sister, or a partnership or Limited Liability Company where all owners/members are related by blood, marriage, or are immediate family members. Applicant entities that are not 100 percent owned by blood-related or married parties or immediate family members, or that do not meet the family labor and management requirements or annual gross sales of agricultural commodity limitations, do not qualify in this category. Traditional Agricultural Producer Groups, Farmer or Rancher Cooperatives, and Majority-Controlled Producer Based Businesses do not typically qualify for Family farm priority points because the applicant is typically not legally structured as a Family farm per the definition herein*. *Further, it is the Agency's position that harvester operations do not meet the definition requirements for a Farm or ranch and will not be eligible to receive Priority Points for a small or medium-sized farm that is structured as a Family Farm. See paragraph (3) for the definition of Independent Producer.*

<u>Farm or ranch</u>. Any place from which $1,000 or more of agricultural products were raised and sold or would have been raised and sold during the previous year, but for an event beyond the control of the farmer or rancher. To be deemed a farm or ranch, *applicants must currently own and produce the majority of the agricultural commodity to which value will be added. In rare circumstances, and on a case-by-case basis, the Agency may consider the eligibility for a farm or ranch that wants to apply to the program but experienced events beyond its control that resulted in failure to produce the majority of the agricultural commodity necessary for the project in the previous year. Such events might include, but are not limited to, natural disasters or death of an owner/operator. In such circumstances, the Agency has the discretion to consider the circumstances with regard to decreased or deficient agricultural production in the previous year, and to permit the applicant to apply for program funds; provided the applicant and project meet all other eligibility requirements, and as long as the applicant demonstrates its ability to produce and own more than 50 percent of the agricultural commodity needed for the value-added*

product during the grant period, and conclude all budgeted value-added activities during the grant period. Further, it is the Agency's position that harvester operations do not meet the definition requirements for a Farm or ranch.

Farm- or Ranch-based renewable energy. An agricultural commodity that is used to generate renewable energy on a farm or ranch owned or leased by the independent producer applicant that produces the agricultural commodity. On-farm generation of energy from wind, solar, geothermal or hydro sources are not eligible. *The application must explain the process used to generate renewable energy and demonstrate that the renewable energy will be generated on a farm or ranch owned or leased by the owners of the applicant organization from an agricultural commodity produced and owned by the applicant organization. Documentation for expansion of customer base may include, but is not limited to, sales of value-added products to off-farm customers, or through use of the value-added products produced by the farm applicant organization itself, to reduce its own farm energy costs for thermal, electric, or liquid fuel needs on the farm. This includes, but is not limited to, net metering of electricity, use of thermal energy for heat or hot water, use of bio-based liquid fuels for tractor or other farm machining operations. Documentation for calculating increased revenue returns to the producer-owner(s) may include, but is not limited to, the savings that result from the use of the value-added products on the farm for farming operations, and/or from the sale of the value-added products to off-farm customers. Increased revenue from the sale or use of the value-added products may include, but is not limited to, thermal, electric or liquid fuel generated on-farm from the agricultural commodity, renewable energy credits, carbon credits for greenhouse gas emission reductions and offsets, or methane, and includes revenue earned from the sale of by-products such as compost, bedding, etc. As applicable, emerging market requirements must be met.*

Farmer or rancher cooperative. A business owned and controlled by independent producers that is incorporated, or otherwise identified by the state in which it operates, as a cooperatively operated business. The independent producers, on whose behalf the value-added work will be done, must be confirmed as eligible and identified by name or class. *Applicants must indicate the percentage of total ownership shares owned by Independent Producers (IPs), and the total number of IPs on whose behalf the project work will be done. The identity of participating member IPs may be provided by name or class (general description of* *agricultural product or type of producer), and if the member IP is not an individual agricultural producer, but is an entity, the applicant must also identify the owners of the entity, by name or class and certify their eligibility as IPs. Note, if a cooperative is owned and controlled by agricultural harvesters (fishermen, loggers), it is eligible to apply only as an Independent Producer and not as a Farmer or rancher cooperative because it is the Agency's position that harvesting operations do not meet the definition requirements for a Farm or ranch; and Priority Points will not be awarded.*

Feasibility study. An analysis by a qualified consultant of the economic, market, technical, financial, and management capabilities of a proposed project or business in terms of the project's expectation for success. *This study may evaluate the feasibility of using a specific location or facility, but may not conduct the architectural or engineering design work related to the acquisition, rehabilitation or construction of an actual facility or building.*

Financial feasibility. The ability of a project or business to achieve the income, credit, and cash flows to financially sustain a venture over the long term. *At time of application submission, and as part of its eligibility determination, the State Office must confirm the financial feasibility of the project or business in terms of the project's expectation for success. The State Office must review the feasibility study and business plan submitted for each working capital project, and concur in the expectation for success of the value-added project. This review and concurrence must be completed prior to the eligibility determination by the State Office. Applications with projects deemed not financially viable will be deemed not eligible to compete for grant funding. Note the two EXCEPTIONS for submission of a feasibility study and/or business plan for working capital applications, cited in § 4284.922 (b)(6)(i) and ii).*

Fiscal year. The Federal government's fiscal year.

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

Independent producers.

(1) Individual agricultural producers or entities that are solely owned and controlled by agricultural producers. Independent producers must produce and own the majority of the agricultural commodity to which value will be added as the subject of the project proposal. Independent producers must maintain ownership of the agricultural commodity or product from its raw state through the production and marketing of the value-added product. Producers who produce the agricultural commodity under contract for another entity, but do not own the agricultural commodity or value-added product produced are not considered independent producers. Entities that contract out the production of an agricultural commodity are not considered independent producers. Independent producer entities must confirm their owner members as eligible and must identify them by name or class. *To document for IP production and ownership of "a majority of the agricultural commodity to which value will be added," all applications for working capital funds must demonstrate the quantity of the agricultural commodity that will be used for the value-added agricultural product, expressed in an appropriate unit of measure, such as acres, pounds, bushels, etc., to demonstrate the scale of the applicant's project. This quantification includes an estimated total quantity of the agricultural commodity needed for the project, the quantity that will be provided by the IP owners or members of the applicant organization, and the quantity that will be purchased or donated from third-party sources. The application must demonstrate that the amount of applicant IP commodity contributed to the project is more than 50 percent of the total agricultural commodity needed for the value-added project.*

(2) A steering committee comprised of specifically identified agricultural producers in the process of organizing one of the four program eligible entity types that will operate a value-added venture and will supply the majority of the agricultural commodity for the value-added project during the grant period. Such entity must be legally authorized before the grant agreement will be approved by the Agency. *A steering committee is an unincorporated group of agricultural producers that intends to form a program eligible legal entity if awarded funds, and before the grant agreement will be approved by the Agency. The steering committee must apply as an Independent Producer and must be 100 percent comprised of Independent Producers at time of application submission. Like other applicants, a DUNS number and CCR registration is required at time of application, and may be*

obtained initially for an authorized individual member representing the steering committee. The entity that the steering committee forms post-award must include the Independent producers identified in the application and it must provide adequate documentation that it meets requirements for one of the four program eligible applicant types. Organizational documents for the legal entity formed must be provided to the State Office before the grant agreement is approved by the Agency.

(3) A harvester of an agricultural commodity that can document their legal right to access and harvest the majority of the agricultural commodity that will be used for the value-added product. *It is the Agency's position that harvesters must apply as Independent Producers because harvester operations do not meet the definition requirements for a farm or ranch. Harvester applicants will not be eligible to receive Reserved Funds and/or Priority Points for a beginning farmer or rancher, socially disadvantaged farmer or rancher, operator of a small or medium-sized farm that is structured as a family farm, or a farmer or rancher cooperative. However, Reserved Funds and/or Priority Points for a Mid-Tier Value Chain project may be requested and documented in the application, as applicable. Further, agricultural harvesters are not individuals or entities who glean, gather, or collect residual commodities that result from an initial harvesting or production of a primary agricultural commodity. To be eligible as an Independent Producer the agricultural harvester must harvest the primary agricultural commodity. Examples of harvesters of an agricultural commodity may include, but are not limited to, a logger who has a legal right to access and harvest logs from the forest that are then converted into boards; a fisherman that has the legal right to access and harvest fish from the ocean or river that are then smoked; an herb gatherer that has the legal right to access and harvest herbs that are then converted into essential oils.*

<u>Local or regional supply network</u>. An interconnected group of entities through which agricultural based products move from production through consumption in a local or regional area of the United States. Examples of participants in a supply network may include agricultural producers, aggregators, processors, distributors, wholesalers, retailers, consumers, and entities that organize or provide facilitation services

and technical assistance for development of such networks. *Mid-tier Value Chain projects must propose development of a supply network that moves agricultural based products from production through consumption in a local or regional area of the United States. Other than for locally produced agricultural food products, the regulation does not specifically define the terms local or regional, so the applicant must describe the territory and affiliations that demonstrate its project serves a local or regional area of the United States.*

Locally-produced agricultural food product. Any agricultural food product, as defined in this subpart, that is raised, produced, and distributed in:

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

(2) The State in which the product is produced. *Applications must document that 100 percent of the agricultural food product will be marketed and distributed within 400 miles of the farm that produced the commodity, or within the same state as that farm. Applications must quantify how local sales and marketing results in added value to the agricultural food product. For example, specific local grapes with characteristics attributable to the growing area will be sold to a processor that will produce a select/vintage local wine; or local corn advertised and sold at a premium as a fresher locally-produced alternative to non-local produce.*

Majority-controlled producer-based business venture. An entity (except farmer or rancher cooperatives) in which more than 50 percent of the financial ownership and voting control is held by independent producers. Independent Producer members must be confirmed as eligible and must be identified by name or class, along with their percentage of ownership. *Applicants must identify all owners, including owners that are IPs and those that are not IPs, and indicate the percentage of financial ownership and percentage of voting control for all owners. If the applicant's owners are entities themselves, the ownership of those entities is also identified, by name or class (general* *description of agricultural product or type of producer), and confirmed as eligible. The statute directs that funding awards to this applicant type is limited to 10 percent of available funds.*

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

Matching funds. A cost-sharing contribution to the project via confirmed cash or funding commitments from eligible sources without a real or apparent conflict of interest, that are used for eligible project purposes during the grant funding period. Matching funds must be at least equal to the grant amount, and combined grant and matching funds must equal 100 percent of the total project costs. All matching funds must be verified by authentic documentation from the source as part of the application. Matching funds must be provided in the form of confirmed applicant cash, loan, or line of credit, or provided in the form of a confirmed applicant or family member in-kind contribution that meets the requirements and limitations in § 4284.923(a) and (b); or confirmed third-party cash or eligible third-party in-kind contribution; or confirmed non-federal grant sources (unless otherwise provided by law). See examples of ineligible matching funds and matching funds verification requirements in §§ 4284.924 and 4284.931. *The source and use of grant and matching funds must be specified in the budget, be related to the processing and/or marketing of the value-added product, and be without a conflict of interest. All matching funds must be properly certified and source verified at time of application.*

Medium-sized farm. A farm or ranch that is structured as a family farm that has averaged $250,001 to $1,000,000 in annual gross sales of agricultural commodities in the previous three years.

Mid-tier value chain (MTVC). Local and regional supply networks that link independent producers with businesses and cooperatives that market value-added agricultural products in a manner that:

(1) Targets and strengthens the profitability and competitiveness of small and medium-sized farms and ranches that are structured as a family farm; and *It is the Agency's position that a minimum of two small or medium-sized farms or ranches that are structured as a Family farm must benefit from the mid-tier value chain project with documentation to confirm the small or medium-sized family farm eligibility in the application.*

(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. *The MTVC application must evidence at least two alliances, linkages or partnerships in the chain; and document that the agricultural producer group, farmer or rancher cooperative or majority-controlled producer based business applicant organization has obtained at least one agreement with another member of the supply network that is engaged in the chain on a marketing strategy; or that the independent producer applicant has obtained at least one agreement from an eligible agricultural producer group, farmer or rancher cooperative or majority-controlled producer based business entity engaged in the value-chain on a marketing strategy. Independent producer applicants must provide documentation to confirm that the agricultural producer group, farmer or rancher cooperative or majority-controlled producer based business partnering entity meets program eligibility definitions, though in this context, the partnering entity does not need to supply any of the raw agricultural commodity for the project. For Planning Grants, examples of 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, examples of agreements may include excerpts from actual agreements or contracts.*

(3) For mid-tier value chain projects, the Agency recognizes that, in a supply chain network, a variety of raw agricultural commodity and value-added product ownership and transfer arrangements may be necessary. Consequently, applicant ownership of the raw agricultural commodity and value-added product from raw through value-added is not necessarily required, as long as the mid-tier value chain proposal can demonstrate an increase in customer base and an increase in revenue returns to the applicant producers supplying the majority of the raw agricultural commodity for the project. *It is the Agency's position that the eligibility requirement of ownership of the raw commodity through to the value-added product is waived ONLY for mid-tier value chain projects; and that each mid-tier value chain application must demonstrate the strategic business relationships in the chain that rely upon organizational interdependence, trust, and transparency in order to operate effectively at regional levels, and to provide significant volumes of high quality, differentiated products through the strategic cooperation and*

aggregation of mid-scale producers. Further, the application must evidence that responsibilities and rewards will be distributed equitably across the supply chain, and that increased customer base and revenue returns to the applicant producers will result from the project.

Planning grant. A grant to facilitate the development of a defined program of economic planning activities to determine the viability of a potential value-added venture, and specifically for the purpose of paying for a qualified consultant to conduct and develop a feasibility study, business plan, and/or marketing plan associated with the processing and/or marketing of a value-added agricultural product.

Produced in a manner that enhances the value of the agricultural commodity. The use of a recognizably coherent set of agricultural production practices in the growing or raising of the raw commodity, such that a differentiated market identity is created for the resulting product. Examples of eligible products in this category include, but are not limited to, sustainably grown apples, eggs produced from free-range chickens, or organically grown carrots. *The Agency intends that these applications demonstrate a non-standard agricultural production method that adds value to the agricultural commodity per unit of production over a standard production method, and include a quantifiable comparison with products produced in the standard manner. The emphasis in this category is on a non-standard agricultural production method yielding the enhanced value of the agricultural commodity. This product eligibility category may now include both planning and working capital applications; but to be consistent with all five product eligibility requirements, may NOT include projects that propose ONLY branding or differentiated marketing that do not otherwise meet one of the five product eligibility categories.*

Product segregation. Separating an agricultural commodity or product on the same farm from other varieties of the same commodity or product on the same farm during production and harvesting, with assurance of continued separation from similar commodities during processing and marketing in a manner that results in the enhancement of the value of the separated commodity or product. *Product segregation is achieved by ensuring that a physical barrier (distance or structure) separates the commodity from other varieties of the same commodity on the same farm during production and harvesting, that the commodity will continue to be separated during processing, and that the value-added product produced will be separated from similar products during marketing and distribution. One eligible example is genetically modified corn separated from non-genetically modified corn on the same farm.*

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

Project. All of the eligible activities to be funded by grant and matching funds.

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

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

Small farm. A farm or ranch that is structured as a Family Farm that has averaged $250,000 or less in annual gross sales of agricultural products in the previous three years.

Socially disadvantaged farmer or rancher. This term has the meaning given it in section 355(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003(e)): A farmer or rancher who is a member of a “socially disadvantaged group.” In this definition, the term farmer or rancher means a person that is engaged in farming or ranching or an entity solely owned by individuals who are engaged in farming or ranching. A 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. In the event that there are multiple farmer or rancher owners of the applicant organization, the Agency requires that at least 51 percent of the ownership be held by members of a socially disadvantaged group. Except as provided, for the purposes of § 4284.922(c)(1)(ii), to compete for reserved funds, all farmer and rancher owners must be members of a socially disadvantaged group.

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

State director. The term “State Director” means, with respect to a State, the Director of the Rural Development State Office.

State office. USDA Rural Development offices located in each state. Total project cost. The sum of all grant and matching funds in the project budget that reflects the eligible project tasks associated with the work plan.

Value-added agricultural product. Any agricultural commodity that meets the requirements specified in paragraphs (1) and (2) of this definition.

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

(i) Has undergone a change in physical state; *See the definition for “Change in Physical State”.*

(ii) Was produced in a manner that enhances the value of the agricultural commodity; T*he Agency has determined that this product eligibility category may include both planning and working capital grant applications. See the definition “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; *See the definition for “Product Segregation”.*

(iv) Is a source of farm- or ranch-based renewable energy, including E-85 fuel; or *See the definition “Farm- or Ranch-based renewable energy”.*

(v) Is aggregated and marketed as a locally-produced agricultural food product. *See the definition “Locally produced agricultural food product”.*

(2) As a result of the change in physical state or the manner in which the agricultural commodity was produced, marketed, or segregated:

(i) The customer base for the agricultural commodity is expanded and ***applicants should demonstrate the estimated expansion of customer base for the agricultural commodity or value-added product, including a baseline of current customers for the commodity or value-added product, and an estimated target number of customers that will result from the project.***

(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. ***Applicants should demonstrate the estimated amount of the increased portion of the revenue derived from the marketing, processing, or physical segregation of the agricultural commodity that will be available to the applicant's producers of the agricultural commodity to which value is added, including a baseline of current revenues from the sale of the agricultural commodity or value-added product, and an estimated target number of increased revenues that will result from the project.***

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

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

§ 4284.903 Review or appeal rights.

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

§ 4284.904 Exception authority.

Except as specified in paragraphs (a) and (b) of this section, the Administrator may make exceptions to any requirement or provision of this subpart, if such exception is necessary to implement the intent of the authorizing statute in a time of national emergency or in accordance with a

Presidentially-declared disaster, or, on a case-by-case basis, when such an exception is in the best financial interests of the Federal Government and is otherwise not in conflict with applicable laws.

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

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

§ 4284.905 Nondiscrimination and compliance with other Federal laws.

(a) Other Federal laws. Applicants must comply with other applicable Federal laws, including the Equal Employment Opportunities Act of 1972, the Americans with Disabilities Act, the Equal Credit Opportunity Act, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and 7 CFR part 1901, subpart E.

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

(c) Civil rights compliance. Recipients of grants must comply with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973. This includes collection and maintenance of data on the basis of race, sex and national origin of the recipient's membership/ownership and employees. These data must be available to conduct compliance reviews in accordance with 7 CFR Part 1901, subpart E. For grants, initial compliance review will be conducted after Form RD 400-4, “Assurance Agreement,” is signed and one subsequent compliance review after the last disbursement of grant funds have been made, and the facility or programs has been in full operations for 90 days.

(d) Executive Order 12898. When a project is proposed and financial assistance is requested, the Agency will conduct a Civil Rights Impact Analysis (CRIA) with regards to environmental justice. The CRIA must be conducted and the analysis documented utilizing Form RD 2006-38, “Environmental Justice (EJ) and Civil Rights Impact Analysis (CRIA) Certification.” This certification must be done prior to grant approval, obligation of funds, or other commitments of Agency resources, including issuance of a Letter of Conditions, whichever occurs first.

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

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

§ 4284.907 Environmental requirements.

All grants awarded under this subpart are subject to the environmental requirements in subpart G of 7 CFR part 1940 or successor regulations. Applications for planning grants are generally excluded from the environmental review process by § 1940.333 of this title. Applicants for working capital grants must submit Form RD 1940-20, “Request for Environmental Information.”

§ 4284.908 Compliance with other regulations.

(a) Departmental regulations. Applicants must comply with the regulations of the Department of Agriculture's Office of Chief Financial Officer (or successor office) as codified in 7 CFR parts 3000 through 3099, including, but not necessarily limited to, 7 CFR parts 3015 through 3019, 7 CFR part 3021, and 7 CFR part 3052, and successor regulations to these parts. *At its discretion, the Agency may choose to adopt and apply the Uniform Administrative Requirements found in 7 CFR 3019 to both not-for-profit and for-profit or commercial organizations that are awarded funds, including the associated cost principles, as appropriate.*

(b) Cost principles. Applicants must comply with the cost principles found in 2 CFR part 230 and in 48 CFR part 31.2.

(c) Definitions. If a term is defined differently in the Departmental Regulations, 2 CFR part 230, or 48 CFR 31.2 and in this subpart, such term shall have the meaning as found in this subpart.

§ 4284.909 Forms, regulations, and instructions.

Copies of all forms, regulations, instructions, and other materials related to the program referenced in this subpart may be obtained through the Agency.

§§ 4284.910 - 4284.914 [Reserved]

§ 4284.915 Notifications.

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

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

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

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

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

(1) The following is the set of Administrator priority categories that may be considered if the provisions specified in § 4284.942(b)(6) are not to be used for awarding Administrator points:

(i) Unserved or underserved areas.

(ii) Geographic diversity.

(iii) Emergency conditions.

(iv) Priority mission area plans, goals, and objectives.

(2) Additional reports that are generally applicable across projects within a program associated with the monitoring of and reporting on project performance.

(3) Any requirement specified in § 4284.933.

(4) Preliminary review information.

(c) Notification methods. The Agency will issue the information specified in paragraphs (a) and (b) of this section in one or more Federal Register notices. In addition, all information will be available at any Rural Development office.

(d) Timing. The Agency will make the information specified in paragraphs (a) and (b) of this section available as specified in paragraphs (d)(1) through (3) of this section.

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

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

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

§ 4284.916 - 4284.919 [Reserved]

§ 4284.920 Applicant eligibility.

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

(a) Type of applicant. The applicant must demonstrate that they meet all definition requirements for one of the following applicant types: *All applicant types must currently produce and own a majority of the* *agricultural commodity to which value will be added and that is the subject of the proposal; and they must maintain ownership of the agricultural commodity from its raw state through the production and marketing of the value-added product during the grant funding period, unless specified otherwise for Mid-Tier Value Chain projects.*

(1) An independent producer;

(2) An agricultural producer group;

(3) A farmer or rancher cooperative; or

(4) A majority-controlled producer-based business venture.

(b) Emerging market. An applicant that is an agricultural producer group, a farmer or rancher cooperative, or a majority-controlled producer-based business venture must demonstrate that they are entering into an emerging market as a result of the proposed project. *See the definition for "Emerging market." This requirement applies to both planning and working capital grants of any size for the agricultural producer group, farmer or rancher cooperative or majority-controlled producer based business applicant types. It is a separate requirement from demonstrating an increase in customer base and an increase in revenue returns to the applicant producers, which applies to all four applicant types.*

(c) Citizenship.

(1) Individual applicants must certify that they:

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

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

(2) Entities other than individuals must certify that they are at least 51 percent owned by individuals who are either citizens as identified under paragraph (c)(1)(i) of this section or legally admitted permanent residents residing in the U.S. This paragraph is not applicable if the entity is owned solely by members of one immediate family. In such instance, if at least one of the entity

owners is a citizen or national, as defined in paragraph (c)(1) of this section, then the entity is eligible. *Certification of US citizen-or-national ownership of the applicant organization, majority or non-majority US-owned, is accomplished with a signed statement by the applicant's owners, as indicated in the Agency's application package. Supporting documentation for the certification is typically not necessary, but may be requested by the Agency, at its own discretion.*

(d) Legal authority and responsibility. Each applicant must demonstrate that they have, or can obtain, the legal authority necessary to carry out the purpose of the grant, and they must evidence good standing from the appropriate state agency or equivalent. *Demonstration of the legal authority necessary to carry out the purpose of the grant may include a copy of, or excerpt from, the applicant's organizational documents. Demonstration of the "good standing" status of the applicant may be verified via documentation from the Secretary of State, the State Agency or Department of Agriculture, or some equivalent office or authority.*

(e) Multiple grant eligibility. An applicant may submit only one application in response to a solicitation, and must explicitly direct that it compete in either the general funds competition or in one of the named reserved funds competitions. Separate entities with identical or greater than 75 percent common ownership may only submit one application for one entity per year. Applicants who have already received a planning grant for the proposed project cannot receive another planning grant for the same project. Applicants who have already received a working capital grant for the proposed project cannot receive any additional grants for that project. *In cases where multiple grant requests are received by the Agency from one applicant, including separate entities with identical or greater than 75 percent common ownership; or in cases where an applicant is requesting an additional planning (P) or working capital (WC) grant for a project that has already received a P or WC grant; ALL such applications will be deemed ineligible to compete for federal funds.*

(f) Active VAPG grant. If an applicant has an active value-added grant at the time of a subsequent application, the currently active grant must be closed out within 90 days of the application submission deadline for the subsequent competition, as published in the annual NOFA. *State Offices must confirm the scheduled close-out status of applicants that have been previously awarded funds. If a currently* *active grant is not scheduled for completion/close-out within 90 days of the current application submission deadline, the Agency will deem the new or recent application ineligible to compete for federal funds.*

§ 4284.921 Ineligible applicants.

(a) Consistent with the Departmental regulations, an applicant is ineligible if the applicant is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension." *State Offices must confirm the "Debarment and Suspension" status of applicants as part of the applicant eligibility determination.*

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

§ 4284.922 Project eligibility.

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

(a) Product eligibility. Each product that is the subject of the proposed project must meet the definition of a value-added agricultural product, including a demonstration that:

(1) The value-added product results from one of the value-added methodologies identified in paragraphs (1)(i) through (v) of the definition of value-added agricultural product;

(2) As a result of the project, the customer base for the agricultural commodity or value-added product is expanded; and

(3) As a result of the project, a greater portion of the revenue derived from the marketing or processing of the value-added product is available to the applicant producer of the agricultural commodity.

(b) Purpose eligibility.

(1) The grant funds requested must not exceed the amount specified in the annual solicitation for planning and working capital grant requests, per § 4284.915.

(2) The matching funds required for the project budget must be eligible and without a real or apparent conflict of interest, available during the project period, and source verified in the application. *For clarification of matching funds eligibility requirements, see the definitions for "matching funds"* ***and "conflict of interest." Also see § 4284.931(b)(3) and (b)(4) for certification and verification requirements.***

(3) The proposed project must be limited to eligible planning or working capital activities as defined at § 4284.923, as applicable, with eligible tasks directly related to the processing and/or marketing of the subject value-added product, to be demonstrated in the required work plan and budget as described at § 4284.922(b)(5).

(4) Applications that propose ineligible expenses in excess of 10 percent of total project costs will be deemed ineligible to compete for funds. Eligible applications selected for award must eliminate any ineligible expenses from the project budget. *See § 4284.924 for ineligible uses of grant and matching funds. Federal procurement standards prohibit transactions that involve a real or apparent conflict of interest for owners, employees, officers, agents or their immediate family members with a personal, professional or financial interest in the outcome of the project, including organizational conflicts and conflicts that restrict open and free trade. Specifically, grant funds may not be used to pay owner or immediate family member salaries or wages; inventory or supply costs provided by an owner or an immediate family member; or pay for goods or services from a person or entity with a real or apparent conflict of interest in the outcome of the project; among others.*

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

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

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

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

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

(6) Except as noted in paragraphs (b)(6)(i) and (ii) of this section, working capital applications must include a feasibility study and business plan completed specifically for the proposed value-added project by a qualified consultant. The Agency must concur in the acceptability or adequacy of the feasibility study and business plan for eligibility purposes. *At time of application submission, and as part of its eligibility determination, the State Office must review the independent feasibility study and business plan submitted with the application for a working capital project, and concur in the financial feasibility of the of the project or business to achieve the income, credit, and cash flows to financially sustain the venture over the long term. The review and concurrence must be completed prior to the eligibility determination by the State Office. Applications with projects deemed not financially feasible will be deemed not eligible to compete for grant funding. Where required, the feasibility study must be prepared by an independent, Qualified Consultant. The business plan does not necessarily require an independent, qualified consultant to prepare the document, although it must be a formal statement of business goals, with adequate explanation and pro forma financial statements to deduce the viability of the business/project. See §4284.902 for definitions and expectations related to these*

terms. Applicants for both planning and working capital grants must identify the number of jobs expected to be **created or saved** as a direct result of the project. **Planning** grant applicants should **estimate** the number of jobs expected to be created or saved **as a result of continuing the project into its operational phase**. **Working capital** grant applicants should identify the number of jobs expected to be created or saved as a **direct result** of the project.

(i) An Independent Producer applicant seeking a working capital grant of $50,000 or more, who can demonstrate that they are proposing market expansion for an existing value-added product(s) that they currently own and produce from at least 50 percent of their own agricultural commodity and that they have produced and marketed for at least 2 years at time of application submission, may submit a business or marketing plan for the value-added project in lieu of a feasibility study. These applications must still document for increased customer base and increased revenues returning to the applicant producers as a result of the project, and meet all other eligibility requirements. Further, the waiver of the independent feasibility study does not change the proposal evaluation or scoring elements that pertain to issues that might be supported by an independent feasibility study, so applicants are encouraged to well-document their project plans and expectations for success in their proposals.

(ii) All four applicant types that submit a Simplified Application for working capital grant funds of less than $50,000 are not required to provide an independent feasibility study or business plan for the project/venture but must provide adequate documentation to demonstrate the expected increases in customer base and revenues resulting from the project that will benefit the producer applicants supplying the majority of the agricultural commodity for the project. All other eligibility requirements remain the same. The waiver of the requirement to submit a feasibility study and business plan does not change the proposal evaluation or scoring elements that pertain to issues that might be supported by a feasibility study or business plan, so applicants are encouraged to well-document their project plans and expectations for success in their proposals.

(7) If the applicant is an agricultural producer group, a farmer

or rancher cooperative, or a majority-controlled producer-based business venture, the applicant must demonstrate that it is entering an emerging market unserved by the applicant in the previous two years.

(8) All applicants requesting working capital funds must either be currently marketing each value-added agricultural product that is the subject of the grant application, or be ready to implement the working capital activities in accord with the budget and work plan timeline proposed.

(c) Reserved funds eligibility. In addition to the requirements specified in paragraphs (a) and (b) of this section, the requirements specified in paragraphs (c)(1) and (2) of this section must be met, as applicable, if applicants choose to compete for reserved funds. All eligible, but unfunded reserved funds applications will be eligible to compete for general funds in that same fiscal year, as funding levels permit.

(1) If the applicant is applying for beginning farmer or rancher, or socially-disadvantaged farmer or rancher reserved funds, the applicant must provide the following documentation to demonstrate that the applicant meets all the requirements for one of these definitions.

(i) For beginning farmers and ranchers, documentation must include a description from each of the individual owner(s) of the applicant farm or ranch organization, addressing the qualifying elements in the beginning farmer or rancher definition, including the length and nature of their individual owner/operator experience at any farm in the previous 10 years, along with one IRS income tax form from the previous 10 years showing that each of the individual owner(s) did not file farm income; or a detailed letter from a certified public accountant or attorney certifying that each owner meets the reserved funds beginning farmer or rancher eligibility requirements. For applicant entities with multiple owners, all owners must be eligible beginning farmers or ranchers. *Reserved funds may be awarded to applications that demonstrate a benefit to beginning farmers or ranchers, with applicant ownership or membership by beginning farmers or ranchers of 100 percent.*

Applicants should include the total number of owner/members of the applicant organization, and the total number that qualify as a beginning farmer or rancher. It is the Agency's position that harvester operations do not meet the definition requirements for a Farm or ranch and will not be eligible to receive Reserved Funds for a beginning farmer or rancher. See paragraph (3) for the definition of Independent Producer.

(ii) For socially disadvantaged farmers and ranchers, documentation must include a description of the applicant's farm or ranch ownership structure and demographic profile that indicates the owner(s)' membership in a socially disadvantaged group that has been subjected to racial, ethnic or gender prejudice; including identifying the total number of owners of the applicant organization; along with a self-certification statement from the individual owner(s) evidencing their membership in a socially disadvantaged group. All farmer and rancher owners must be members of a socially disadvantaged group. *Reserved funds may be awarded to applications that demonstrate a benefit to socially disadvantaged farmers or ranchers, with applicant ownership or membership by socially disadvantaged farmers or ranchers of 100 percent. The membership composition of the socially disadvantaged farmer or rancher applicants does not have to be from the same Socially-Disadvantaged group. Applicants should include the total number of owner/members of the applicant organization, and the total number that qualify as a socially disadvantaged farmer or rancher. A socially disadvantaged farmer or rancher self-certification statement is in the Agency application package. It is the Agency's position that harvester operations do not meet the definition requirements for a farm or ranch and will not be eligible to receive Reserved Funds for a socially-disadvantaged farmer or rancher. See paragraph (3) for the definition of Independent Producer.*

(2) If the applicant is applying for Mid-Tier Value Chain reserved funds, the applicant must be one of the four VAPG applicant types and the application must provide documentation demonstrating that the project meets the Mid-Tier Value Chain definition, and must:

(i) 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 products move from production through consumption in a local or regional area of the United States, including a description of the network, its component members, either by name or by class, and its purpose; *Examples of supply network entities may include, but are not limited to, agricultural producers, processors, aggregators, distributors, wholesalers, retailers, consumers, marketers, and entities that organize or provide technical assistance for development of such networks.*

(ii) Describe at least two alliances, linkages, or partnerships within the value chain that link independent producers with businesses and cooperatives that market value-added agricultural commodities or value-added 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; *These alliances will be with strategic entities in the supply network, such as other agricultural producers for aggregation to meet demand, processors, storage facilities, distributors, wholesalers, retailers, consumers, and entities that organize or provide technical assistance or marketing assistance in the chain.*

(iii) Demonstrate how the project, due to the manner in which the value-added product is marketed, will increase the profitability and competitiveness of at least two, eligible, small or medium-sized farms or ranches that are structured as a family farm, including documentation to confirm that the participating small or medium-sized farms are structured as a family farm and meet these program definitions. A description of the two farms or ranches confirming they meet the Family Farm requirements, and IRS income tax forms evidencing eligible farm income is sufficient;

(iv) Document that the eligible agricultural producer group/cooperative/majority-controlled producer-based business venture applicant organization has obtained at least one agreement with another member of the supply network that is engaged in the value chain on a marketing strategy; or that the eligible independent producer applicant has obtained at least one agreement from an eligible agricultural producer group/cooperative/majority-controlled producer-based business venture engaged in the value-chain on a marketing strategy;

(A) 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.

(B) Independent Producer applicants must provide documentation to confirm that the non-applicant agricultural producer group/cooperative/majority-controlled partnering entity meets program eligibility definitions, except that, in this context, the partnering entity does not need to supply any of the raw agricultural commodity for the project.

(v) Demonstrate that the applicant organization currently owns and produces more than 50 percent of the raw agricultural commodity that will be used for the value-added product that is the subject of the proposal; and *The applicant organization for a MTVC project must provide more than 50 percent of the raw agricultural commodity that will be used for the value-added product. However, it is the Agency's position that the eligibility requirement of ownership of the raw commodity through to the value-added product is waived (ONLY) for mid-tier value chain projects. A mid-tier value chain application must demonstrate the strategic business relationships in the chain that rely upon organizational interdependence, trust, and transparency in order to operate effectively at regional levels, and to provide significant volumes of high quality, differentiated products through the strategic cooperation and aggregation of mid-scale producers. Further, the application must evidence that responsibilities and rewards will be distributed equitably across the supply chain, and that increased customer base and revenue returns to the applicant producers will result from the project.*

(vi) Demonstrate that the project will result in an increase in customer base and an increase in revenue returns to the applicant producers supplying the majority of the raw agricultural commodity for the project.

(d) Priority. In addition, applicants that demonstrate eligibility may apply for priority points if they propose projects that contribute to increasing opportunities for beginning farmers or ranchers, socially disadvantaged farmers or ranchers, or if they are operators of small- or medium-sized farms or ranches that are structured as a family farm, propose Mid-Tier Value Chain projects, or are a farmer or rancher Cooperative. *See the Agency application package for assistance with supporting documentation in each category.*

(1) Applicants seeking priority points as beginning farmers or ranchers or as socially disadvantaged farmers or ranchers must provide the documentation specified in paragraphs (c)(1)(i) or (ii), as applicable, of this section. For entities with multiple owners or members, 51 percent of owners or members must be eligible beginning farmers or ranchers or socially disadvantaged farmers or ranchers, as applicable. *The membership composition of the socially disadvantaged farmer or rancher applicant does not have to be from the same socially disadvantaged group. This 51 percent criterion for priority points is different from the 100 percent eligibility criterion to apply for reserved funds. Further, it is the Agency's position that harvester operations do not meet the definition requirements for a farm or ranch and will not be eligible to receive Priority Points for a beginning farmer or rancher or a socially disadvantaged farmer or rancher. See paragraph (3) for the definition of Independent Producer.*

(2) Applicants seeking priority points as operators of small- or medium-sized farms and ranches that are structured as a family farm must:

(i) Be structured as family farm; *Examples of applicants structured as a family farm or ranch may include, but are not limited to, a farming or ranching operation owned by a sole proprietor, a husband and wife, a parent and child, a brother and sister, or a partnership or limited liability company where all owners/members are related by blood, marriage, or are immediate family members. Applicant entities that are not 100 percent owned by blood-related or* *married parties or immediate family members do not qualify. Traditional Agricultural Producer Groups, Farmer or Rancher Cooperatives, and Majority-Controlled Producer Based Businesses, even though they might represent small to medium-sized family farms, do not qualify for family farm priority points because the applicant is typically not legally structured as a family farm or ranch. Further, it is the Agency’s position that harvester operations do not meet the definition requirements for a farm or ranch and will not be eligible to receive Priority Points for a small or medium-sized farm that is structured as a family farm. See paragraph (3) for the definition of Independent Producer.*

(ii) Meet all requirements in the associated definitions; and *See definitions for Family Farm, Immediate Family, and Small Farm or Medium-sized Farm in § 4284.902.*

(iii) Provide the following documentation:

(A) A description from the individual owner(s) of the applicant organization addressing each qualifying element in the definitions, including identification of the average annual gross sales of agricultural commodities from the farm in the previous three years, not to exceed $250,000 for small operators or $1,000,000 for medium operators;

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

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

(3) Applicants seeking priority points for Mid-Tier Value Chain proposals must be one of the four eligible applicant types and provide the documentation specified in paragraphs (c)(2)(i) through (c)(2)(vi) of this section, demonstrating that the project meets the Mid-Tier Value Chain definition.

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

(i) Demonstrate that it is a business owned and controlled by Independent Producers that is legally incorporated as a cooperative; or that it is a business owned and controlled by Independent Producers that is not legally incorporated as a cooperative, but is identified by the state in which it operates as a cooperatively operated business;

(ii) Identify, by name or class, and confirm that the Independent Producers on whose behalf the value-added work will be done meet the definition requirements for an Independent Producer, including that each member is an individual agricultural producer, or an entity that is solely owned and controlled by agricultural producers, that is directly engaged in the production of the majority of the agricultural commodity to which value will be added; and

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

(5) It is the Agency’s position that harvester operations do not meet the definition requirements for a farm or ranch and will not be eligible to receive Priority Points for a Farmer or Rancher Cooperative. See paragraph (3) for the definition of Independent Producer.

§ 4284.923 Eligible uses of grant and matching funds.

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

(a) Planning funds may be used to pay for a qualified consultant to conduct and develop a feasibility study, business plan, and/or marketing plan associated with the processing and/or marketing of a value-added agricultural product. Planning funds may not be used to compensate applicants or family members for participation in feasibility studies. However, in-kind contribution of matching funds to cover applicant or family member participation in planning activities is allowed so long as the value of such contribution does not exceed a maximum of 25 percent of the total project costs and an adequate explanation of the basis for the valuation, referencing comparable market values, salary and wage data, expertise or experience of the contributor, per unit costs, industry norms, etc., is provided. Final valuation for applicant or family member in-kind contributions is at the discretion of the Agency. Planning funds may not be used to evaluate the agricultural production of the commodity itself, other than to determine the project's input costs related to the feasibility of processing and marketing the value-added product.

(b) Working capital funds may be used to pay the project's operational costs directly related to the processing and/or marketing of the value-added product. Examples of eligible working capital expenses include designing or purchasing a financial accounting system for the project, paying salaries of employees without ownership or immediate family interest to process and/or market and deliver the value-added product to consumers, paying for inventory supply costs from a third party necessary to produce the value-added product from the agricultural commodity, and paying for a marketing campaign for the value-added product. In-kind contributions may include appropriately valued inventory of raw commodity to be used in the project. In-kind contributions of matching funds may also include contributions of time spent on eligible tasks by applicants or applicant family members so long as the value of such contribution does not exceed a maximum of 25 percent of the total project costs and an adequate explanation of the basis for the valuation, referencing comparable market values, salary and wage data, expertise or experience of the contributor, per unit costs, industry norms, etc. is provided. Final valuation for applicant or family member in-kind contributions is at the discretion of the Agency. *It is the position of the Agency that grant funds may not be used to purchase the raw commodity to which value will be added from any applicant owner or member, or from any of their immediate family members, or from an individual or entity with a real or apparent conflict of interest in the outcome of the project. See definitions in § 4284.902. Applicants may use grant funds to purchase commodity inventory in excess of their required 50 percent or more contribution of the amount of commodity necessary for the project, provided that the purchase is from a third-party without a conflict of interest, and the additional commodity is integral to the project and fairly valued. In addition, applicants may use the fair market value of the raw commodity* *contributed by the applicant or owners of the applicant entity as an in-kind matching funds contribution.*

§ 4284.924 Ineligible uses of grant and matching funds.

Federal procurement standards prohibit transactions that involve a real or apparent conflict of interest for owners, employees, officers, agents, or their immediate family members having a personal, professional, financial or other interest in the outcome of the project; including organizational conflicts, and conflicts that restrict open and free competition for unrestrained trade. In addition, the use of funds is limited to only the eligible activities identified in § 4284.923 and prohibits other uses of funds. Ineligible uses of grant and matching funds awarded under this subpart include, but are not limited to:

(a) Support costs for services or goods going to or coming from a person or entity with a real or apparent conflict of interest, except as specifically noted for limited in-kind matching funds in § 4284.923(a) and (b);

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

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

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

(e) Purchase or repair vehicles, including boats;

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

(g) Pay expenses not directly related to the funded project for the processing and marketing of the value-added product;

(h) Fund research and development;

(i) Fund political or lobbying activities;

(j) Fund any activities prohibited by 7 CFR parts 3015 and 3019, 2 CFR part 230, and 48 CFR subpart 31.2.

(k) Fund architectural or engineering design work;

(l) Fund expenses related to the production of any agricultural commodity or product, including seed, rootstock, labor for harvesting the crop, and delivery of the commodity to a processing facility;

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

(n) Pay owner or immediate family member salaries or wages;

(o) Pay for goods or services from a person or entity that employs the owner or an immediate family member;

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

(q) 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;

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

(s) Purchase land; or

(t) Pay for costs associated with illegal activities.

§ 4284.925 Funding limitations.

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

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

(c) A grant under this subsection shall have a term that does not exceed 3 years, and a project start date within 90 days of the date of award, unless otherwise specified in a notice pursuant to § 4284.915. Grant project periods should be scaled to the complexity of the objectives for the project. The Agency may extend the term of the grant period, not to exceed the 3-year maximum. *Applicants may propose a timeframe for the grant project period up to a maximum 36 months in length from the grant period date of award. The grant period will begin on the date of award and projects must begin within 90 days of award date.*

(d) The aggregate amount of awards to majority controlled producer-based businesses may not exceed 10 percent of the total funds obligated under this subpart during any fiscal year.

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

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

(1) 10 percent to fund projects that benefit beginning farmers or ranchers, or socially-disadvantaged farmers or ranchers; and

(2) 10 percent to fund projects that propose development of mid-tier value chains.

(3) Funds not obligated by June 30 of each fiscal year shall be available to the Secretary to make grants under this subsection to eligible entities as determined by the Secretary.

§§ 4284.926 - 4284.929 [Reserved]

§ 4284.930 Preliminary review.

The Agency encourages applicants to contact their State Office well in advance of the application submission deadline, to ask questions and to discuss applicant and project eligibility potential. At its option, the Agency may establish a preliminary review deadline so that it may informally assess the eligibility of the application and its completeness. The result of the preliminary review is not binding on the Agency. To implement this section, the Agency will issue a notification addressing this issue in accordance with § 4284.915.

§ 4284.931 Application package.

All applicants are required to submit an application package that is comprised of the elements in this section. *The Agency recommends that applicants use the comprehensive Agency application package that is available on the program web site http://www.rurdev.usda.gov/BCP_VAPG_Grants.html. It implements the rule and Agency policy on issues, establishes uniform documentation standards, reduces applicant narrative explanations, utilizes CHECK BOXES, certification statements, table and budget formats, Q&A prompts, and provides examples and suggestions for comprehensive, yet succinct, responses.*

(a) Application forms. The following application forms (or their successor forms) must be completed when applying for a grant under this subpart.

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

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

(3) Form SF-424B, "Assurances--Non-Construction Programs."

(4) Form RD 400-4, "Assurance Agreement."

(5) Form RD 1940-20, "Request for Environmental Information." Applications for planning grants are generally excluded from the environmental review process by § 1940.333 of this title.

(6) All applicants are required to have a DUNS number (including individuals and sole proprietorships). *OMB guidance indicates that VAPG grants are awarded to agricultural businesses, not individuals, and that even sole proprietor business owners must obtain a DUNS number. To apply for grant funds, all applicants must first obtain a DUNS number and then a Cage Code evidencing an active CCR status. The CCR registration must remain active at all times during which the entity has an application under consideration by the Agency or has an active Federal award. A DUNS number can be obtained at http://dnb.com or call toll free at 1-866-705-5711 and for CCR, at http://www.ccr.gov or call toll-free at 1-866-606-8220 and press "1" for CCR.*

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

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

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

(ii) Project eligibility requirements in Sec. 4284.922 are met;

(iii) Eligible use of grant and matching funds requirements in §§ 4284.923 and 4284.924 are met; and

(iv) Funding limitation requirements in § 4284.925 are met.

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

(i) Performance Evaluation Criteria. As part of the application, applicants for both planning and working capital grants must suggest one or more relevant criterion that will be used to evaluate the performance of the grant project during its operational phase post-award, as benchmarks to ascertain whether or not the primary goals and objectives proposed in the work plan are accomplished during the project period. These benchmarks should relate to the overall project goal of creating and serving new markets, with a resulting increase in customer base and increase in revenues returning to the producer applicants; as well as to the practical and/or logistical activities and tasks to be accomplished during the project period. The Agency application package will provide additional instruction to assist applicants when responding to this criterion. Applicant suggested performance criteria will be incorporated into the applicant's semi-annual and final reporting requirements if selected for award, and will be specified in the grant agreement associated with the award. In addition, applicants for both planning and working capital grants must identify the number of jobs anticipated to be created or saved as a direct result of the project. Planning grant applicants should identify the number of jobs expected to be created or saved as a result of continuing the project into its operational phase. Working capital grant applicants should identify the actual number of jobs created or saved as a result of the project. *See the Agency application package for guidance on rendering performance evaluation benchmarks.*

(ii) Proposal evaluation criteria. Applicants for both planning and working capital grants must address each proposal evaluation criterion identified in § 4284.942 in narrative form, in the application package. *See the Agency application package for guidance on rendering Proposal evaluation responses. The value of these criterions is subject to change annually, based on the information provided in the NOFA and in § 4284.915. In addition, the NOFA may establish a minimum score requirement for eligibility purposes.*

(3) Certification of matching funds. Using the format prescribed by the application package, applicants must certify that:

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

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

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

(i) Matching funds are subject to the same use restrictions as grant funds, and must be spent on eligible project expenses during the grant funding period.

(ii) Matching funds must be from eligible sources without a real or apparent conflict of interest.

(iii) Matching funds must be at least equal to the amount of grant funds requested, and combined grant and matching funds must equal 100 percent of the total eligible project costs.

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

(v) Matching funds must be provided in the form of confirmed applicant cash, loan, or line of credit; or provided in the form of a confirmed applicant or family member in-kind contribution that meets the requirements and limitations specified in § 4284.923(a) and (b); or provided in the form of confirmed third-party cash or eligible third-party in-kind contribution; or non-federal grant sources (unless otherwise provided by law).

(vi) Examples of ineligible matching funds include funds used for an ineligible purpose, contributions donated outside the proposed grant funding period, third-party in-kind contributions that are over-valued, or are without substantive documentation for an independent reviewer to confirm a valuation, conducting activities on behalf of anyone other than a specific Independent Producer or group of Independent Producers, expected program income at time of application, or instances where a real or apparent conflict of interest exists, except as detailed in § 4284.923(a) and (b).

(5) Business plan. For working capital grant applications, applicants must provide a copy of the business plan that was completed for the proposed value-added venture, except as provided for in §§ 4284.922(b)(6) and 4284.932. The Agency must concur in the acceptability or adequacy of the business plan. For all planning grant applications including those proposing product eligibility under “produced in a manner that enhances the value of the agricultural commodity,” a business plan is not required as part of the grant application. *Optional review templates are available, upon request to the National Office, to assist the State Office evaluation of the business plan.*

(6) Feasibility study. As part of the application package, applicants for working capital grants must provide a copy of the third-party feasibility study that was completed for the proposed

value-added project, except as provided for at §§ 4284.922(b)(6) and 4284.932. The Agency must concur in the acceptability or adequacy of the feasibility study. *Optional review templates are available, upon request to the National Office, to assist the State Office evaluation of the feasibility study.*

§ 4284.932 Simplified application.

Applicants requesting less than $50,000 will be allowed to submit a simplified application, the contents of which will be announced in an annual notice issued pursuant to § 4284.915. Applicants requesting working capital grants of less than $50,000 are not required to provide feasibility studies or business plans, but must provide information demonstrating increases in customer base and revenue returns to the producers supplying the majority of the agricultural commodity as a result of the project. See § 4284.922(b)(6)(ii*). Also see § 4284.922 (b)(6)(i) for a second option for a working capital simplified application.*

§ 4284.933 Filing instructions.

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

(a) When to submit. Complete applications must be received by the Agency on or before the application deadline established for a fiscal year to be considered for funding for that fiscal year. Applications received by the Agency after the application deadline established for a fiscal year will not be considered.

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

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

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

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

§§ 4284.934 - 4284.939 [Reserved]

§ 4284.940 Processing applications.

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

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

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

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

§ 4284.941 Application withdrawal.

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

§ 4284.942 <u>Proposal evaluation criteria and scoring applications</u>.

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

(b) <u>Scoring Applications</u>. The criteria specified in paragraphs (b)(1) through (b)(6) of this section will be used to score all applications. For each criterion, applicants must demonstrate how the project has merit, and provide rationale for the likelihood of project success. Responses that do not address all aspects of the criterion, or that do not comprehensively convey pertinent project information will receive lower scores. The maximum number of points that will be awarded to an application is 100. Points may be awarded lump sum or on a graduated basis. The Agency application package will provide additional instruction to assist applicants when responding to the criteria below. *See the annual NOFA for details on scoring of applications. Minimum scores for eligibility purposes, and details on graduated scoring thresholds for each criterion, may be established therein. Also see the Agency application package for additional guidance on subjects to address for each scoring criterion.*

(1) <u>Nature of the Proposed Venture (graduated score 0-30 points)</u>. Describe the technological feasibility of the project, of the project, as well as the operational efficiency, profitability, and overall economic sustainability resulting from the project. In addition, demonstrate the potential for expanding the customer base for the value-added product, and the expected increase in revenue returns to the producer-owners providing the majority of the raw agricultural commodity to the project. Applications that demonstrate high likelihood of success in these areas will receive more points than those that demonstrate less potential in these areas.

(2) Qualifications of Project Personnel (graduated score 0-20 points). Identify the individuals who will be responsible for completing the proposed tasks in the work plan, including the roles and activities that owners, staff, contractors, consultants or new hires may perform; and demonstrate that these individuals have the necessary qualifications and expertise, including those hired to do market or feasibility analyses, or to develop a business operations plan for the value-added venture. Include the qualifications of those individuals responsible to lead or manage the total project (applicant owners or project managers), as well as those individuals responsible for actually conducting the various individual tasks in the work plan (such as consultants, contractors, staff or new hires). Demonstrate the commitment and the availability of any consultants or other professionals to be hired for the project. If staff or consultants have not been selected at the time of application, provide specific descriptions of the qualifications required for the positions to be filled. Applications that demonstrate the strong credentials, education, capabilities, experience and availability of project personnel that will contribute to a high likelihood of project success will receive more points than those that demonstrate less potential for success in these areas.

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

(4) Work Plan and Budget (graduated score 0-20 points). In accord with § 4284.922(b)(5), applicants must submit a comprehensive

work plan and budget. The work plan must provide specific and detailed narrative descriptions of the tasks and the key project personnel that will accomplish the project's goals. The budget must present a detailed breakdown of all estimated costs associated with the activities and allocate those costs among the listed tasks. The source and use of both grant and matching funds must be specified for all tasks. An eligible start and end date for the project itself and for individual project tasks must be clearly indicated and may not exceed Agency specified timeframes for the grant period. Points may not be awarded unless sufficient detail is provided to determine that both grant and matching funds are being used for qualified purposes and are from eligible sources without a conflict of interest. It is recommended that applicants utilize the budget format templates provided in the Agency's application package.

(5) Priority Points (lump sum score 0 or 10 points). Priority points may be awarded in both the General Funds competition, as well as the Reserved Funds competitions. Qualifying applicants may request priority points if they meet the requirements for one of the following categories and provide the documentation specified in § 4284.922(d), as applicable. Priority categories include: Beginning Farmer or Rancher, Socially Disadvantaged Farmer or Rancher, Operator of a Small or Medium-sized farm or ranch that is structured as a Family Farm, Mid Tier Value Chain proposals, and Farmer or Rancher Cooperative. It is recommended that applicants utilize the Agency application package when documenting for priority points and refer to the documentation requirements specified in § 4284.922(d). All qualifying applicants in this category will receive 10 points. *It is the Agency’s position that harvesters must apply as Independent Producers because harvester operations do not meet the definition requirements for a Farm or ranch. Harvester applicants will not be eligible to receive Reserved Funds and/or Priority Points for a Beginning Farmer or Rancher, Socially Disadvantaged Farmer or Rancher, Operator of a Small or Medium-sized farm that is structured as a Family Farm, or a Farmer or Rancher Cooperative. However, Reserved Funds and/or Priority Points for a Mid-Tier Value Chain project may be requested and documented in the application, as applicable.*

(6) Administrator Priority Categories (graduated score 0-10 points). Unless otherwise specified in a notification issued under § 4284.915(b)(1), the Administrator of USDA Rural Development Business and Cooperative Programs has discretion to

award up to 10 points to an application to improve the geographic diversity of awardees in a fiscal year. *As points in this category are at the discretion of the RBS Administrator, and unless otherwise directed via the annual NOFA and in § 4284.915 the applicant does not need to provide any additional documentation for points in this category.*

§§ 4284.943 - 4284.949 [Reserved]

§ 4284.950 Award process.

(a) Selection of applications for funding and for potential funding. The Agency will select and rank applications for funding based on the score an application has received in response to the proposal evaluation criteria, compared to the scores of other value-added applications received in the same fiscal year. Higher scoring applications will receive first consideration for funding. The Agency will notify applicants, in writing, whether or not they have been selected for funding. For those applicants not selected for funding, the Agency will provide a brief explanation for why they were not selected.

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

(c) Intergovernmental review. If State or local governments raise objections to a proposed project under the intergovernmental review process that are not resolved within 90 days of the Agency's award announcement date, the Agency will rescind the award and will provide the applicant with a written notice to that effect. The Agency, in its sole discretion, may extend the 90-day period if it appears resolution is imminent.

§ 4284.951 Obligate and award funds.

(a) Letter of conditions. When an application is selected subject to conditions established by the Agency, the Agency will notify the applicant using a Letter of Conditions, which defines the conditions under which the grant will be made. Each grantee will be required to meet all terms and conditions of the award within 90 days of receiving a Letter of Conditions unless otherwise specified by the Agency at the time of the award. If the applicant agrees with the conditions, the applicant must complete, sign, and return the Agency's 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 further processed. If the Agency agrees to any proposed changes, the Agency will issue a revised or amended Letter of Conditions that defines the final conditions under which the grant will be made.

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

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

(1) Form RD 1940-1, “Request for Obligation of Funds;”

(2) Form AD-1047, “Certification Regarding Debarment, Suspension, and Other Responsibility Matters-Primary Covered Transaction;”

(3) Form AD-1048, “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions;”

(4) Form AD-1049, “Certification Regarding Drug-Free Workplace Requirements;”

(5) Form RD 400-4, “Assurance Agreement (under Title VI, Civil Rights Act of 1964);”

(6) Form SF-3881, “ACH Vendor/Miscellaneous Payment Enrollment Form;”

(7) RD Instruction 1940-Q, Exhibit A-1, “Certification for Contracts, Grants and Loans;” and

(8) Form SF-LLL, “Disclosure of Lobbying Activities.”

(d) Grant disbursements. Grant disbursements will be made in accordance with the Letter of Conditions, and/or the grant agreement, as applicable. A disbursement request may be submitted by the grantee not more frequently than once every 30 days by using Form SF 270, “Request for Advance or Reimbursement.” The disbursement request is typically in the form of a reimbursement request for eligible expenses incurred by the grantee during the grant funding period. Adequate supporting documentation must accompany each request, and may include, but is not limited to, receipts, hourly wage rates, personnel payroll records, contract progression certification, or other similar documentation. *Grant funds should not be released without adequate supporting documentation for the request. Among other ineligible use of funds, payments to applicant owners, members, or immediate family, for goods or services rendered, are not allowed due to a conflict of interest.*

§§ 4284.952 - 4284.959 [Reserved]

§ 4284.960 Monitoring and reporting program performance.

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

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

(b) Grantees must submit prescribed narrative and financial performance reports that include a comparison of accomplishments with the objectives stated in the application. The Agency will prescribe both the narrative and financial report formats in the grant agreement.

(1) Semi-annual performance reports shall be submitted within 45 days following March 31 and September 30 each fiscal year. A final performance report shall be submitted to the Agency within 90 days of project completion. Failure to submit a performance report within the specified timeframes may result in the Agency withholding grant funds. *Performance reports must be in compliance with 7 CFR 3019.51 and 3019.52. Reporting requirements are detailed in the Grant Agreement.*

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

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

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

(i) Information about jobs created and/or saved as a result of the project;

(ii) Increases in producer customer base and revenues as a result of the project;

(iii) Data regarding renewable energy capacity or emissions reductions resulting from the project;

(iv) 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

(v) Recommendations from Beginning Farmers or Socially Disadvantaged Farmers.

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

§ 4284.961 Grant servicing.

All grants awarded under this subpart shall be serviced in accordance with 7 CFR part 1951, subparts E and O, and the Departmental Regulations with the exception that delegation of the post-award servicing of the program does not require the prior approval of the Administrator. *Authority to approve requests for a one-time, no-cost grant extension of up to one-year now rests with the State Director. However, extension of the grant period beyond three years from the grant period date of award, or other grant period eligibility defined in the annual NOFA, will not be allowed. State Office personnel will conduct the extension review and approval process in accordance with requirements indicated in the Grant Agreement.*

§ 4284.962 Transfer of obligations.

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

(a) The substituted applicant:

(1) Is eligible;

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

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

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

§ 4284.963 Grant close out and related activities.

Grant closeout is the administrative wrap-up of a grant that has concluded or has been terminated. Typical closeout activities include a letter to the grantee with final instructions and reminders for amounts to be de-obligated for any unexpended grant funds, final project performance reports due, submission of outstanding deliverables, audit requirements, or other outstanding items of closure. *The State Office should adhere to 7 CFR 3019.71 through 3019.73, Subpart D, for closeout and other procedures for subsequent disallowances and adjustments that may be necessary.*

§ 4284.964 - 4284.999 [Reserved]