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## Title 7 – Agriculture

### Subtitle B – Regulations of the Department of Agriculture

#### Chapter XLII – Rural Business-Cooperative Service, Department of Agriculture

#### Part 4284 – Grants

**Authority:** 5 U.S.C. 301 and 7 U.S.C. 1989. Subpart F also issued under 7 U.S.C 1932(e). Subpart J also issued under 7 U.S.C. 1627c. See Part 4284 for more

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

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## Subpart J—Value-Added Producer Grant Program

**Source:** 89 FR 75778, Sept. 16, 2024, unless otherwise noted.

### § 4284.901 Purpose.

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

### § 4284.902 Organization of subpart.

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

- (a) **General information.** Sections 4284.901 through 4284.919 discuss the purpose of the program, definitions, exception authority, conflict of interest, compliance with other laws and regulations, and reserved funds.
- (b) **Eligibility information.** Sections 4284.920 through 4284.929 discuss the eligibility requirements for the program. The sections include information on Applicant eligibility, Project eligibility, reserved funds eligibility, priority points eligibility, and the use of funds.
- (c) **Application requirements information.** Sections 4284.930 through 4284.939 discuss the requirements for submitting an application. The sections include information on what forms and other information are required for a complete application as well as the format of the application, the application deadline, and how to submit the application.
- (d) **Application processing information.** Sections 4284.940 through 4284.949 discuss how the Agency will process applications. The sections include information on how applications will be reviewed for eligibility, how applications will be evaluated for merit, and how an Applicant can withdraw an application from consideration.
- (e) **Award information.** Sections 4284.950 through 4284.959 discuss how the Agency will make awards. The sections include information about how applications will be selected for funding, how Applicants will be notified whether their applications have been selected for funding, how Applicants can resolve disputes regarding funding selections, and the requirements for an Applicant to accept an award and be approved as a recipient of an award.

- (f) **Post-award information.** Sections 4284.960 through 4284.962 discuss the reporting requirements for recipients after an award is approved as well as monitoring procedures that the Agency will use.
- (g) **Other.**
  - (1) Sections 4284.963 through 4284.999 are reserved.
  - (2) Section 4284.1000 includes the Office of Management and Budget (OMB) control number for reporting and recordkeeping requirements under this subpart.

## § 4284.903 Definitions.

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

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

**Agricultural Commodity** means an unprocessed product of Farms, Ranches, nurseries, and forests and natural and man-made bodies of water, that the Agricultural Producer has cultivated, raised, or harvested with legal access rights. Agricultural Commodities include plant and animal products and their by-products, such as crops, forestry products, hydroponics, nursery stock, aquaculture, meat, on-Farm generated manure, and fish and seafood products. Agricultural Commodities do not include animals raised or sold as pets, such as cats, dogs, and ferrets.

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

**Agricultural Producer, Independent Producer or Producer** means a for-profit agricultural business, or entity that is 100 percent owned and controlled by an individual, entity or Family Farm that produces an Agricultural Commodity through participation in the day-to-day labor, management, and field operations; or that has the legal right to harvest an Agricultural Commodity that is the subject of the VAPG Project.

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

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

**Beginning Farmer or Rancher** means an Agricultural Producer (other than a Harvester) that has operated a Farm or Ranch for no more than 10 years or an eligible Applicant entity that has an ownership or membership of more than 50 percent farmers or ranchers each of whom have operated a Farm or Ranch for no more than 10 years.

**Business Plan** means a formal statement of a set of business goals, the reasons why they are believed attainable, and the plan for reaching those goals, including Pro Forma Financial Statements appropriate to the term and scope of the Project and sufficient to evidence the viability of the Project. It may also contain background information about the organization or team attempting to reach those goals.

**Change in Physical State** means an irreversible processing activity that alters the Agricultural Commodity into a substantially different, marketable Value-Added Agricultural Product. This processing activity must be something other than a post-harvest process that primarily acts to preserve the commodity for later sale.

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

**Equipment** has the meaning located at 2 CFR 200.1.

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

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

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

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

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

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

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

**Harvester** means an Agricultural Producer that can document legal rights to access and harvest the Agricultural Commodity that will be used for the Value-Added Agricultural Product. This does not include harvesting rights for cultivated commodities. Individuals and entities that merely glean, gather, or collect residual commodities that result from an initial harvesting or production of a primary Agricultural Commodity are not considered Harvesters and are not eligible for this program.

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

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

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

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

**Local or Regional Supply Network** means an interconnected group of individuals and/or entities through which agricultural based products move from production through consumption in a local or regional area of a State.

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

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

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

- (1) One or more Producers (Agricultural Producers); or
- (2) One or more entities, 100 percent of the ownership and control of which is held by one or more Producers (Agricultural Producers). The term ‘entity’ means—
  - (i) A partnership;
  - (ii) A limited liability corporation;
  - (iii) A limited liability partnership; or
  - (iv) A corporation.

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

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

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

**Medium-Sized Farm or Ranch** means a Farm or Ranch that is structured as a Family Farm that has averaged \$500,001 to \$1,000,000 in annual gross sales of Agricultural Commodities in the previous three (3) years.

**Mid-Tier Value Chain** refers to local and regional supply networks that link Agricultural Producers with businesses, cooperatives, or consumers that market Value-Added Agricultural Products in a manner that:

- (1) Targets and strengthens the profitability and competitiveness of Small- and Medium-Sized Farms or Ranches that are structured as a Family Farm; and
- (2) Obtains agreement from an eligible Agricultural Producer Group, Farmer or Rancher Cooperative, or Majority-Controlled Producer-Based Business Venture that is engaged in the value chain on a marketing strategy.

**Period of Performance** has the meaning located at [2 CFR 200.1](#).

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

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

**Produced in a Manner that Enhances the Value of the Agricultural Commodity** refers to the use of a recognizably coherent set of agricultural production practices in the growing or raising of the Agricultural Commodity, such that a differentiated market identity is created for the resulting product.

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

**Pro forma Financial Statement** means a financial statement that projects the future financial position of a company. The statement is part of the Business Plan and includes an explanation of all assumptions, such as input prices, finished product prices, and other economic factors used to generate the financial statements. The statement must include projections for a minimum of three (3) years in the form of cash flow statements, income statements, and balance sheets.

**Program Income** has the meaning located at 2 CFR 200.1.

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

**Project Cost** has the meaning located at 2 CFR 200.1.

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

**Recipient** has the meaning located at 2 CFR 200.1.

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

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

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

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

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

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

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

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

- (1) Meets one of the following methodologies:
  - (i) Has undergone a Change in Physical State;

- (ii) Is Produced in a Manner that Enhances the Value of the Agricultural Commodity;
  - (iii) Is Physically Segregated in a manner that results in the enhancement of the value of the Agricultural Commodity;
  - (iv) Is a source of Farm- or Ranch-Based Renewable Energy, including E-85 fuel; or
  - (v) Is aggregated and marketed as a Locally Produced Agricultural Food Product; and
- (2) As a result of the Change in Physical State or the manner in which the Agricultural Commodity was produced, marketed, or segregated:
- (i) The customer base for the Agricultural Commodity is expanded; and
  - (ii) A greater portion of the revenue derived from the marketing, processing, or Physical Segregation of the Agricultural Commodity is available to the Producer of the commodity.

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

**Working Capital Grant** means a grant to provide funds to operate a value-added Project, specifically to pay the eligible Project expenses related to the processing and/or marketing of the Value-Added Agricultural Product.

#### § 4284.904 Exception authority.

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

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

#### § 4284.905 [Reserved]

#### § 4284.906 Conflict of interest.

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

- (a) **Description.** A conflict of interest occurs in a situation in which a person or entity has competing personal, professional, or financial interests that make it difficult for the person or entity to act impartially. For the purposes of this subpart, relationships that can involve a conflict of interest include, but are not limited to:
  - (1) Recipient owners, employees, officers, agents, consultants, and contractors.
  - (2) Immediate family members of those listed in paragraph (a)(1) of this section.
- (b) **Written disclosure.** Recipients must comply with 2 CFR 400.2(b), which includes providing written disclosure of any potential conflicts of interest and maintaining written standards of conduct covering conflicts of interest and governing the performance of its employees in the selection, award, and administration of Federal Awards.

- (c) **Assistance to employees, relatives, and associates.** The Agency will process any requests for assistance under this subpart in accordance with 7 CFR part 1900, subpart D.
- (d) **Member/delegate clause.** No member of or delegate to Congress shall receive any share or part of this grant or any benefit that may arise therefrom. But, this provision shall not be construed to bar, as a contractor under the Federal award, a publicly held corporation whose ownership might include a member of Congress.

## § 4284.907 [Reserved]

## § 4284.908 Compliance with other laws and regulations.

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

- (a) **Federal laws.** Federal laws are codified in the United States Code (U.S.C.). A selection of applicable laws is identified as follows:
  - (1) Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);
  - (2) The Civil Rights Act of 1964, Title VI (42 U.S.C. 2000d et seq.); and
  - (3) The Rehabilitation Act of 1973, Section 504 (29 U.S.C. 794).
- (b) **Federal regulations.** Federal regulations are codified in the Code of Federal Regulations (CFR). A selection of applicable regulations is identified as follows:
  - (1) **2 CFR parts 1 through 200.** These parts address items such as universal identifiers, reporting subaward and executive compensation, debarment and suspension, drug-free workplaces, administrative requirements, cost principles, and audit requirements. We particularly encourage Applicants and Recipients to become familiar with 2 CFR part 200 in its entirety.
  - (2) **27 CFR part 1.** This part is applicable to Applicants that will produce and market value-added products in the industries of wine, beer, distilled spirits or other alcoholic merchandise.
- (c) **Departmental regulations.** Departmental regulations are those regulations that are specific to awards made through USDA. They are codified in the CFR. A selection of applicable regulations is identified as follows:
  - (1) **2 CFR parts 400 through 499.** These parts include USDA's adoption of Federal administrative requirements and cost principles. They also include regulations on debarment and suspension, lobbying, drug-free workplaces, and research awards.
  - (2) **7 CFR part 11.** This part includes USDA's procedures for administrative appeals, as handled by its National Appeals Division.
  - (3) **7 CFR part 15d.** This part includes USDA's procedures for compliance with nondiscrimination laws and regulations. The Agency will not discriminate against Applicants on the basis of race, color, religion, national origin, sex, marital status, disability, or age (provided that the Applicant has the capacity to contract); because all or part of the Applicant's income derives from any public assistance program; or because the Applicant has in good faith exercised any right under the Consumer Credit Protection Act, 15 U.S.C. 1601 et seq.

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

- (1) **7 CFR part 1900.** This part covers delegations of authority, adverse decisions and administrative appeals, applicability of Federal law, and processing and servicing grant awards.
- (2) **7 CFR part 1901, subpart E.** This subpart covers civil rights compliance requirements.
- (3) **7 CFR part 1951.** This part covers servicing grant awards, including unauthorized assistance.
- (4) **7 CFR part 1970.** This part covers environmental policies and procedures.
- (5) **7 CFR part 990.** This part applies to Applicants who are proposing to produce, procure, supply or market any component of the hemp plant or hemp related by-products. Applicable Food and Drug Administration and Drug Enforcement Administration regulatory requirements must also be met.

(e) **Access to laws and regulations.**

- (1) Laws may be accessed through the U.S.C. At the time this subpart was published, the U.S.C. may be accessed electronically at this website: <https://uscode.house.gov/>.
- (2) Regulations may be accessed through the CFR. At the time this subpart was published, the CFR may be accessed electronically at this website: <https://www.ecfr.gov/>.

## §§ 4284.909-4284.915 [Reserved]

### § 4284.916 Reserved funds.

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

- (1) 10 percent of total program funding to fund Projects that benefit Beginning Farmers or Ranchers or Socially-Disadvantaged Farmers or Ranchers; and
- (2) 10 percent of total program funding to fund Projects where a majority of the requested grant amount goes to improving Food Safety for the purpose of enhancing market access; and
- (3) 10 percent of total program funding to fund Projects that propose development of Mid-Tier Value Chains.

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

## §§ 4284.917-4284.919 [Reserved]

### § 4284.920 Eligible Applicants.

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

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

- (b) **Legal authority.** Applicants must certify that they have the legal authority to carry out the purpose of the grant, and/or their business is in good standing in the State where it is incorporated and/or in the State that is the primary location of an applicant's business operations for the VAPG Project.
- (c) **Applicant type.** The Applicant meets the definition for one of the following Applicant types—Agricultural Producer, Agricultural Producer Group, Farmer or Rancher Cooperative, or Majority-Controlled Producer-Based Business Venture.
  - (1) **Agricultural Producer.** An Applicant applying as an Agricultural Producer must identify each owner member by name or class, provide the percentage of ownership of each owner member, and discuss how each owner member meets the definition of Agricultural Producer.
    - (i) A Steering Committee must apply as an Agricultural Producer and discuss how it intends to form a program-eligible legal entity prior to execution of the Financial Assistance Agreement by the Agency.
    - (ii) A Harvester must apply as an Agricultural Producer and document its legal right to access and harvest the Agricultural Commodity that will be used for the Value-Added Agricultural Product.
  - (2) **Agricultural Producer Group.** An Applicant applying as an Agricultural Producer Group must identify each Agricultural Producer member by name or class, provide the percentage of ownership of each member, discuss how each member meets the definition of Agricultural Producer, and discuss how the Applicant meets the definition of Agricultural Producer Group.
  - (3) **Farmer or Rancher Cooperative.** An Applicant applying as a Farmer or Rancher Cooperative must discuss how they meet the definition of Farmer or Rancher Cooperative.
  - (4) **Majority-Controlled Producer-Based Business Venture.** An Applicant applying as a Majority-Controlled Producer-Based Business Venture must discuss how it meets the definition of Majority-Controlled Producer-Based Business Venture.
- (d) **Ownership and control.**
  - (1) For the Project, the Applicant must produce and own more than 50 percent of the Agricultural Commodity to which value will be added. Agricultural Producers must maintain ownership of the Agricultural Commodity or product from its raw state through the production and marketing of the Value-Added Agricultural Product. All Applicants applying for Working Capital Grant funds must document the quantity of each Agricultural Commodity that will be used for the Value-Added Agricultural Product, expressed in an appropriate unit of measure (pounds, tons, bushels, etc.) to demonstrate the scale of the Applicant's Project. This quantification must include an estimated total quantity of each Agricultural Commodity needed for the Project, the quantity that will be provided (produced and owned) by the Agricultural Producers of the Applicant organization, and the quantity that will be purchased or donated from third-party sources.
  - (2) Applicants who produce the Agricultural Commodity under contract for another entity, but do not own the Agricultural Commodity or Value-Added Agricultural Product produced, are not considered Agricultural Producers. Entities that contract out the production of an Agricultural Commodity are not considered Agricultural Producers. Agricultural Producer entities must confirm their owner members as eligible and must identify them by name or class.

- (3) The Agency will determine the Agricultural Producer status of Tribes or Tribal entities without regard to ownership of the commodity to which value will be added so long as the Tribal member participant, Tribal entity and/or Tribe own and control more than 50 percent of the Agricultural Commodity necessary for the Project.
- (e) **Emerging Market.** An Applicant that is an Agricultural Producer Group, a Farmer or Rancher Cooperative, or a Majority-Controlled Producer-Based Business Venture must demonstrate that it is entering into an Emerging Market as a result of the Project. An Agricultural Producer Applicant type that has produced and marketed the Value-Added Agricultural Product for less than two (2) years must also demonstrate that it is entering an Emerging Market.
- (f) **Citizenship.** An Applicant must certify that it is more than 50 percent owned by individuals who are either a citizen or national of a State or reside in the United States after legal admittance for permanent residence.
- (g) **Multiple grants.** An Applicant must submit only one application in response to a solicitation and may have only one active VAPG award at any given time unless the Applicant is also applying as a member of a Farmer or Rancher Cooperative or an Agricultural Producer Group. In addition, the following restrictions apply:
  - (1) Applicants who have already received a Planning Grant for the Project cannot receive another Planning Grant for the same Project; and
  - (2) Applicants who have already received a Working Capital Grant for the Project cannot receive any additional grants for that Project.
- (h) **Current VAPG award.** If an Applicant has a current VAPG award at the time of subsequent competition, the Applicant must exhaust all VAPG award funds and submit final financial and performance reports to the Agency by the application submission deadline for the subsequent VAPG competition. If VAPG award funds will not be spent by the subsequent VAPG application submission deadline, the Applicant must request a cancellation of the current VAPG award prior to the subsequent application submission deadline.

### § 4284.921 Ineligible Applicants.

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

- (a) The Applicant is debarred or suspended or is otherwise excluded from, or ineligible for participation in, Federal assistance programs under Executive Order 12549, "Debarment and Suspension."
- (b) An outstanding judgement has been obtained against the Applicant by the United States in a Federal court (other than U.S. Tax Court).
- (c) The Applicant is delinquent on the payment of Federal income taxes or is delinquent on Federal debt.
- (d) The Applicant has been convicted of a felony criminal violation under any Federal law within the past 24 months.
- (e) The Applicant has unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

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

### § 4284.922 Project eligibility.

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

- (a) **Project focus.** The Project must focus on allowable Planning or Working Capital Grant activities as described at § 4284.925, as applicable, with eligible tasks directly related to the processing and/or marketing of the subject Value-Added Agricultural Product.
- (b) **Project type.** The Project must fit one of the following purposes:
  - (1) Emerging Market Project as defined in § 4284.903.
  - (2) Market Expansion Project as defined in § 4284.903.
  - (3) Food Safety Project as defined in § 4284.903.
- (c) **Product(s).** Each product that is the subject of the Project must meet the definition of a Value-Added Agricultural Product. The Applicant must be currently producing the Agricultural Commodity for each Value-Added Agricultural Product that is the subject of the Project. All Applicants seeking Working Capital Grant funds must also be marketing the subject Value-Added Agricultural Product(s) or ready to implement the Working Capital Grant activities in accord with the budget and work plan timeline.
- (d) **Amount requested.** The amount requested must not exceed any maximum amounts specified in the annual notification issued on the program website, per § 4284.930.
- (e) **Period of Performance.** The Period of Performance cannot exceed three (3) years.
- (f) **Matching Funds.** Matching Funds must come from eligible sources without a real or apparent conflict of interest and be used for eligible Project expenses during the Period of Performance. Matching Funds must be confirmed and provided in the form of:
  - (1) Applicant or third-party cash;
  - (2) Applicant loan, or line of credit;
  - (3) Non-Federal grant sources (unless otherwise provided by law); or
  - (4) Applicant, family member, or third-party in-kind contribution.
    - (i) In-kind contributions must be appropriately valued with an adequate explanation of the basis for the valuation (e.g., reference comparable market values, salary and wage data, expertise or experience of the contributor, per unit costs, industry norms).
    - (ii) Applicant in-kind contributions may include the value of the Agricultural Commodity inventory to be used in the Project and can be used to satisfy up to 100 percent of the Matching Funds requirement. Third-party in-kind contributions of the Agricultural Commodity inventory to be used in the Project can be used to satisfy up to 49 percent of the Matching Funds requirement.

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

### § 4284.923 Reserved funds eligibility.

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

- (a) **Beginning Farmer or Rancher.** Applicants must demonstrate that they meet the definition of a Beginning Farmer or Rancher. The Applicant must self-certify that more than 50 percent of its owners are a Beginning Farmer or Rancher.
- (b) **Socially-Disadvantaged Farmer or Rancher.** Applicants must demonstrate that an individual or individuals that qualify as a Socially-Disadvantaged Farmer or Rancher own more than 50 percent of the Applicant Farm or Ranch organization. Applicants must provide a self-certification from the individual owner(s) indicating they are a member of a Socially-Disadvantaged Group.
- (c) **Food Safety.** If the Applicant is applying for Food Safety reserved funds, the Applicant must describe the need or requirement for training, certifications, and/or supplies and equipment. This reserve is for Applicants where more than 50 percent of the Project Cost is for post-harvest Food Safety purposes related to the processing and/or marketing of a Value-Added Agricultural Product.
- (d) **Mid-Tier Value Chain.** The Applicant must:
  - (1) Provide documentation demonstrating that the Project meets the definition of Mid-Tier Value Chain;
  - (2) Demonstrate that the Project proposes development of a Local or Regional Supply Network of an interconnected group of entities (including nonprofit organizations, as appropriate) through which Agricultural Commodities and Value-Added Agricultural Products move from production through consumption in a local or regional area of a State, including a description of the network, its component members, either by name or by class, and its purpose. Applicant ownership of the Agricultural Commodity and Value-Added Agricultural Product from raw through value-added stages is not necessarily required;
  - (3) Describe at least two alliances, linkages, or partnerships within the value chain that link Agricultural Producers with businesses, cooperatives, or consumers that market value-added Agricultural Commodities or Value-Added Agricultural Products in a manner that benefits Small- or Medium-Sized Farms and Ranches that are structured as a Family Farm, including the names of the parties and the nature of their collaboration;
  - (4) Demonstrate how the Project, due to the manner in which the Value-Added Agricultural Product is marketed, will increase the profitability and competitiveness of at least two eligible, Small- or Medium-Sized Farms or Ranches that are structured as a Family Farm, including a description of the two Farms or Ranches confirming they meet the Family Farm definition;
  - (5) Document that the eligible Agricultural Producer Group/Farmer or Rancher Cooperative/Majority-Controlled Producer-Based Business Venture Applicant organization has obtained at least one agreement with another member of the supply network that is engaged in the value chain on a marketing strategy; or that the eligible Agricultural Producer Applicant has obtained at least one agreement from an eligible Agricultural Producer Group/Farmer or Rancher Cooperative/Majority-Controlled Producer-Based Business Venture engaged in the value-chain on a marketing strategy;

- (i) For Planning Grants, agreements may include letters of commitment or intent to partner on marketing, distribution or processing; and should include the names of the parties with a description of the nature of their collaboration. For Working Capital Grants, demonstration of the actual existence of the executed agreements is required; and
  - (ii) Agricultural Producer Applicants must provide documentation to confirm that the non-Applicant Agricultural Producer Group/Farmer or Rancher Cooperative/majority-controlled partnering entity meets program eligibility definitions, except that, in this context, the partnering entity does not need to supply any of the Agricultural Commodity for the Project;
- (6) Demonstrate that the members of the Applicant organization that are benefiting from the Project currently own and produce more than 50 percent of the Agricultural Commodity that will be used for the Value-Added Agricultural Product that is the subject of the Project; and
- (7) Demonstrate that the Project will result in an increase in customer base and an increase in revenue returns to the Applicant Producers supplying more than 50 percent of the Agricultural Commodity for the Project.

### **§ 4284.924 Priority points eligibility.**

Applicants that demonstrate eligibility may apply for priority points if their applications: propose Projects that contribute to increasing opportunities for Beginning Farmers or Ranchers, Socially-Disadvantaged Farmers or Ranchers, Veteran Farmers or Ranchers, or operators of Small- or Medium-Sized Farms or Ranches that are structured as a Family Farm or propose Mid-Tier Value Chain Projects; or are a Farmer or Rancher Cooperative. A Harvester is eligible for priority points only if the Harvester is proposing a Mid-Tier Value Chain Project.

- (a) Applicants seeking priority points as Beginning Farmers or Ranchers or as Socially Disadvantaged Farmers or Ranchers must provide certifications specified in § 4284.923(a) or (b), as applicable.
- (b) Applicants seeking priority points as Veteran Farmers or Ranchers must provide a self-certification that they meet the definition of a Veteran Farmer or Rancher.
- (c) Applicants seeking priority points as operators of Small- or Medium-Sized Farms or Ranches that are structured as a Family Farm must provide a self-certification that they meet the definition of a Small- or Medium-Sized Farm or Ranch that is structured as a Family Farm; that the owners meet the definition of Immediate Family and are primarily responsible for the daily physical labor and management of the Farm or Ranch with hired help merely supplementing the family labor.
- (d) Applicants seeking priority points for Mid-Tier Value Chain Projects must be one of the four eligible Applicant types and provide the documentation specified in § 4284.923(d)(1) through (7), demonstrating that the Project meets the Mid-Tier Value Chain definition.
- (e) Applicants seeking priority points for a Farmer or Rancher Cooperative must:
  - (1) Demonstrate that it is a business owned and controlled by Agricultural Producers that is legally incorporated as a cooperative; or that it is a business owned and controlled by Agricultural Producers that is not legally incorporated as a cooperative, but is identified by the State in which it operates as a cooperatively operated business;

- (2) Identify by name or class, and confirm that the Agricultural Producers on whose behalf the value-added work will be done meet the definition requirements for an Agricultural Producer, including that each member is an individual Agricultural Producer, or an entity that is solely owned and controlled by Agricultural Producers, that substantially participates in the production of more than 50 percent of the Agricultural Commodity to which value will be added; and
  - (3) Provide a self-certification statement that the entity is owned and controlled by Agricultural Producers that are incorporated, or otherwise identified by the State in which they operate, as a cooperatively owned business(es); that the owner(s)/member(s) substantially participate in the production of more than 50 percent of the Agricultural Commodity to which value will be added; is in “good standing” as a cooperatively operated business in the State of incorporation or operations, as applicable.
- (f) Applicants applying as Agricultural Producer Groups, Farmer or Rancher Cooperatives, or Majority-Controlled Producer-Based Business Ventures (group Applicants) may request additional priority points for Projects that “best contribute to creating or increasing marketing opportunities” for operators of Small- and Medium-Sized Farms and Ranches that are structured as Family Farms, Beginning Farmers and Ranchers, Socially-Disadvantaged Farmers and Ranchers, and Veteran Farmers and Ranchers. See § 4284.940(c)(6) for instructions and documentation requirements for group Applicants to apply for these additional priority points.

#### § 4284.925 Allowable uses of grant and Matching Funds.

- (a) **Planning grants.** Funds may only be used to pay a Qualified Consultant to conduct and develop a Feasibility Study, Business Plan, and/or Marketing Plan associated with the post-harvest processing and/or marketing of a Value-Added Agricultural Product.
- (b) **Working capital grants.** Funds may be used to pay the Project's eligible post-harvest operational costs directly related to the processing and/or marketing of the Value-Added Agricultural Product. Examples of eligible working capital expenses include purchasing a financial accounting system for the Project; paying salaries of employees (excluding owners and Immediate Family) to process and/or market and deliver the Value-Added Agricultural Product to consumers; paying for additional Agricultural Commodity inventory (less than 50 percent of the amount required for the Project) from an unaffiliated third party, necessary to produce the Value-Added Agricultural Product; paying for a marketing campaign for the Value-Added Agricultural Product; paying costs incurred in obtaining post-harvest Food Safety certification; and using up to \$6,500 of the amount of a grant to purchase or upgrade post-harvest Equipment to improve Food Safety.

#### § 4284.926 Unallowable uses of grant and Matching Funds

- (a) Unallowable uses of grant and Matching Funds awarded under this subpart include, but are not limited to:
  - (1) Support costs for services or goods going to or coming from a person or entity with a real or apparent conflict of interest, such as paying the salary of an Immediate Family member of a Recipient owner, employee, officer, or Agency, except as specifically noted for in-kind Matching Funds in § 4284.922;
  - (2) Pay costs for scenarios with noncompetitive trade practices;
  - (3) Plan, repair, rehabilitate, acquire, or construct a building or facility (including a processing facility);
  - (4) Purchase, lease purchase, or install fixed Equipment, including processing Equipment, except as specifically noted in § 4284.925(b);

- (5) Purchase or repair vehicles, including boats;
  - (6) Pay for the preparation of the grant application;
  - (7) Pay expenses not directly related to the funded Project for the processing and marketing of the Value-Added Agricultural Product;
  - (8) Fund research and development;
  - (9) Fund any activities prohibited by 2 CFR parts 200 through 400, and 48 CFR part 31, subpart 31.2;
  - (10) Fund architectural or engineering design work;
  - (11) Fund expenses related to the production of any Agricultural Commodity or product, including, but not limited to production planning, purchase of seed or rootstock or other production inputs, labor for cultivation or harvesting crops, labor for repotting and/or maintenance of live plants, and delivery of Agricultural Commodity to a processing facility;
  - (12) Conduct activities on behalf of anyone other than a specifically identified Agricultural Producer or group of Agricultural Producers, as identified by name or class. The Agency considers conducting industry-level Feasibility Studies or Business Plans, that are also known as Feasibility Study templates or guides or Business Plan templates or guides, to be ineligible because the assistance is not provided to a specific group of Agricultural Producers;
  - (13) Duplicate activities charged to another Federal award or previous VAPG Planning or Working Capital Grant Project by an Applicant;
  - (14) Pay any costs of the Project incurred prior to the date of grant approval, including legal or other expenses needed to incorporate or organize a business;
  - (15) Pay any judgment or debt owed to the United States;
  - (16) Purchase or improve real property;
  - (17) Pay for costs associated with illegal activities;
  - (18) Purchase the Agricultural Commodity to which value will be added from the Applicant entity; Applicant-owned or related entity, or members of the Applicant entity;
  - (19) Use Planning Grant funds to evaluate the agricultural production of the commodity itself, or compensate Applicants or family members for participation in Feasibility Studies; or
  - (20) Indirect Costs.
- (b) Applications that propose unallowable costs in excess of 10 percent of Project Costs will be deemed ineligible to compete for funds. Applicants who submit applications containing ineligible expenses totaling less than 10 percent of Project Costs must remove those expenses from the Project budget or replace with eligible expenses, if selected for an award.

#### **§ 4284.927 [Reserved]**

#### **§ 4284.928 Funding limitations.**

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

- (b) The maximum grant amount provided to a Recipient in any one (1) year shall not exceed the amount announced in an annual notification issued on the program website pursuant to § 4284.930, but in no event may the total amount of grant funds provided to a grant Recipient exceed \$500,000.
- (c) The aggregate amount of awards to Majority-Controlled Producer-Based Business Ventures may not exceed 10 percent of the total funds obligated under this subpart during any Fiscal Year.
- (d) Not more than 2.5 percent of funds appropriated each year may be used to fund the Agricultural Marketing Resource Center, to support electronic capabilities to provide information regarding research, business, legal, financial, or logistical assistance to Agricultural Producers and processors.

## § 4284.929 [Reserved]

## § 4284.930 Notifications.

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

- (a) **Amount of funding available.** The Agency will publish the amount of funding available for awards during each Fiscal Year within 30 calendar days of notification from OMB of the amount available.
- (b) **Administrator/State Director points.** The Agency will publish the priority categories to be used for awarding Administrator or State Director points no later than the date the application period opens. Priority categories may include any of the following:
  - (1) Unserved or underserved areas;
  - (2) Geographic diversity;
  - (3) Emergency conditions; or
  - (4) Priority Department and mission area priorities, goals, and objectives.
- (c) **Other.** The Agency will publish any other additional requirements or programmatic changes no later than the date the application period opens.

## § 4284.931 Application requirements.

All applications must include the following items:

- (a) **Application forms.** The application must include the following forms (or their successor) and any additional forms listed in the annual notification for the program.
  - (1) **SF-424, "Application for Federal Assistance."** This form must be filled out completely and signed by an authorized representative of the Applicant organization.
  - (2) **SF-424A, "Budget Information-Non-Construction Programs."** This form must be filled out completely.
- (b) **Executive summary.** Applications must include a one-page executive summary containing the legal name of the Applicant entity, application type (Planning or Working Capital Grant), Applicant type, amount of grant request, a Project summary, whether a simplified application is being submitted, and must explicitly state whether reserved funds are being requested.
- (c) **Eligibility discussion.** The Applicant must discuss how:
  - (1) Applicant eligibility requirements in § 4284.920 are met;

- (2) Project eligibility requirements in § 4284.922 are met; and
- (3) Allowable use of grant and Matching Funds requirements in § 4284.925 are met.
- (d) **Proposal evaluation criteria.** Applicants for both Planning and Working Capital Grants must address each proposal evaluation criterion identified in § 4284.940 in narrative form.
- (e) **Certification of Matching Funds.** Applicants must certify that:
  - (1) Matching Funds will be spent in advance of grant funding, such that for every dollar of grant funds disbursed, not less than an equal amount of Matching Funds will have been expended prior to submitting the request for reimbursement; and
  - (2) If Matching Funds are proposed in an amount exceeding the grant amount, those Matching Funds must be spent at a proportional rate equal to the match-to-grant ratio identified in the budget.
- (f) **Reserved funds/priority points documentation.** Applicants must identify their priority category, as applicable, and provide the required supporting documentation indicated in §§ 4284.923 and 4284.924 for that category to demonstrate eligibility.
- (g) **Business Plan.** For Working Capital Grant applications, Applicants must provide a copy of the Business Plan that was completed for the value-added Project, except as provided for in § 4284.932. The Agency must concur in the acceptability or adequacy of the Business Plan.
- (h) **Feasibility Study.** Applicants for Working Capital Grants must provide a copy of a Feasibility Study prepared by a Qualified Consultant that was completed for the value-added Project, except as provided for at § 4284.932. The name and credentials of the Qualified Consultant must be provided along with the date the Feasibility Study was completed. The Feasibility Study must demonstrate a viable Project with a likelihood of success and be a thorough assessment of the practicality of the Project. The thorough assessment must include an analysis of the proposed Project that discusses its strengths and weaknesses, potential opportunities and threats, and resources required to carry it out. The Agency must concur in the acceptability or adequacy of the Feasibility Study and whether the Qualified Consultant who prepared the Feasibility Study possesses the necessary knowledge, expertise, and experience.
- (i) **Customer Base and Revenue Increase Metrics.** Applicants must include a discussion on how their Project will result in an expanded market to new customers and increased revenue to the Agricultural Producer Applicant. Working Capital Grant Applicants must also provide estimates for increases in customer base and revenue returns and must include a description of the direct or indirect producer or food business benefits intended by the eligible entity to result from the proposed Project within a reasonable period of time after the receipt of a grant.

### § 4284.932 Simplified application.

Applicants that will submit an application where paragraphs (a), (b), and/or (c) of this section apply may submit a simplified application, which means submission of a Feasibility Study or Business Plan for the Project is not required. The waiver of the requirement to submit a Feasibility Study and Business Plan does not change the proposal evaluation or scoring criteria that pertain to issues that might be supported by a Feasibility Study or Business Plan, so Applicants are encouraged to thoroughly document applications with their Project plans and expectations for success. All other eligibility requirements remain the same.

- (a) **Working Capital Grant request of less than \$50,000.** Applicants requesting less than \$50,000 may submit a Market Expansion or Emerging Market simplified application. These types of applications must provide adequate documentation to demonstrate the expected increases in customer base and revenues resulting from the Project that will benefit the Applicant(s) supplying more than 50 percent of the Agricultural Commodity for the Project.
- (b) **Market Expansion request of \$50,000 or more.** Agricultural Producers who can demonstrate that their Project meets the definition of Market Expansion, may submit a simplified application. Applicants must submit a Marketing Plan with their simplified application. However, a Business Plan may be submitted in lieu of a Marketing Plan. Agricultural Producer Group, Farmer or Rancher Cooperative, and Majority-Controlled Producer-Based Business Venture applicant types are not eligible for Market Expansion Projects.
- (c) **Food Safety.** Applicants that will submit an application where more than 50 percent of the Project Costs will be used for post-harvest Food Safety purposes related to the processing and/or marketing of a Value-Added Agricultural Product may submit a simplified application.

### § 4284.933 Submission requirements.

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

- (a) **Submission period.**
  - (1) The application period opens November 1. Applications received prior to the opening date in a given Fiscal Year will automatically be considered ineligible and will not be evaluated further.
  - (2) The application period closes on February 15. Applications received after the closing date will not be considered for funding. Thus, applicants are encouraged to submit their applications well in advance of the closing date to ensure timely receipt by the Agency. Revisions or additional information will not be accepted after the application period closes on February 15.
- (b) **Submission process.** All items required for the application must be submitted in a single application. No attachments other than the required items will be considered. Incomplete applications will automatically be considered ineligible and will not be evaluated further. The annual notification for the program will be published on the OMB-designated governmentwide website and will provide instructions on how and where to submit completed applications for VAPG funding.

### §§ 4284.934-4284.939 [Reserved]

### § 4284.940 Application processing.

- (a) **Eligibility evaluation.** The Agency will review all applications to determine if they are eligible for assistance based on the requirements in this subpart and other applicable Federal laws and regulations. An application must include all application requirements identified in § 4284.931, or the Agency will determine that it is not eligible for assistance.
- (b) **Risk evaluation.**
  - (1) The Agency will review those applications that are determined to be eligible for the program for risk based on the following information. Typically, the Agency will not determine that an application is ineligible for funding based on the results of the risk evaluation, unless the Agency cannot find a way

to reasonably mitigate the risk posed by making an award. However, if risk evaluation findings identify significant shortcomings in the Applicant's ability to manage Federal funds, the Agency may determine that the application is not eligible for funding.

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

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

(1) **Nature of the proposed venture (0 to 30 points).** Applicants must describe the technological feasibility, operational efficiency, and profitability and economic sustainability of the Project. Applications that demonstrate a high likelihood of success in these areas will receive higher points. In response to this criterion, Working Capital Grant Applicants must provide accurate and factual information for the Project that demonstrates a viable Project ready to be implemented upon award. Planning Grant Applicants only need to discuss anticipated needs and expected outcomes for the Project.

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

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

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

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

- (3) **Work plan and budget (0 to 20 points).** Applicants must submit a comprehensive work plan and budget. Applications that provide a clear, comprehensive work plan detailing all Project goals, tasks, timelines, costs, and Key Personnel in a logical and realistic manner demonstrating a high likelihood of success will receive higher points. The Project work plan and budget must demonstrate eligible sources and allowable uses of funds and must:
  - (i) Present a detailed narrative description of the eligible activities and tasks related to the processing and/or marketing of the Value-Added Agricultural Product along with a detailed breakdown of all estimated costs allocated to those activities and tasks;
  - (ii) Identify the Key Personnel that will be responsible for overseeing and/or completing the activities or tasks and provide reasonable and specific timeframes for completion of the activities and tasks;
  - (iii) Identify the sources and uses of grant and Matching Funds for all activities and tasks specified in the budget; and indicate that Matching Funds will be spent at a rate equal to or in advance of grant funds; and
  - (iv) Identify the basis of the valuation of the grant and Matching Funds for all activities and tasks specified in the budget.
- (4) **Matching Funds commitment (up to 5 points).** Applications that demonstrate financial commitment in the form of cash matching contributions will receive more points. Applications with a higher percentage of cash match will receive more points.
- (5) **Prior VAPG assistance (up to 5 points).** The Applicant must disclose the number of prior VAPG awards they have received. Applicants that have not received a VAPG award will receive more points.
- (6) **Priority points (0 to 10 points).** Priority points may be awarded in both the general funds and the reserved funds competitions. Points will be awarded as follows:
  - (i) 5 priority points will be awarded if the Applicant meets the requirements for one of the following categories and provides the documentation described in §§ 4284.923 and 4284.924, as applicable: Beginning Farmer or Rancher, Socially-Disadvantaged Farmer or Rancher, Veteran Farmer or Rancher, or operator of a Small- or Medium-Sized Farm or Ranch that is structured as a Family Farm, Farmer or Rancher Cooperative, or are proposing a Mid-Tier Value Chain Project. Applicants will not be awarded more than five (5) points even if they qualify for more than one of the priority categories.
  - (ii) 5 additional priority points will be awarded if the Applicant is an Agricultural Producer Group, Farmer or Rancher Cooperative, or Majority-Controlled Producer-Based Business Venture whose Project “best contributes to creating or increasing marketing opportunities” for operators of Small- and Medium-Sized Farms or Ranches that are structured as Family Farms, Beginning Farmers or Ranchers, Socially-Disadvantaged Farmers or Ranchers, or Veteran Farmers or Ranchers.
- (7) **Administrator/State Director priority categories (0 to 10 points).** Unless otherwise specified in a notification issued under § 4284.930, the Administrator of the Agency or State Director has discretion to award up to 10 points to an application to improve the geographic diversity of recipients in a Fiscal Year, fund unserved or underserved areas, assist areas experiencing emergency

conditions, or prioritize Projects that advance the Department or Agency's key priorities, goals, and objectives. In the event of a national competition, the Administrator will award points and for a State-allocated competition, the State Director will award points.

### **§ 4284.941 Application withdrawal.**

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

### **§§ 4284.942-4284.949 [Reserved]**

### **§ 4284.950 Award selection.**

- (a) Applications will be selected for further processing and consideration of an award after the merit evaluation process is completed for all eligible applications. Each eligible application will be scored on criteria 1 through 6 as detailed in the annual notification. The scores will be ranked highest to lowest and this will comprise the initial application ranking. Applications will be ranked solely on the points awarded by the reviewers, unless there is a tie. In that case, the Administrator of the Agency (or State Director) will break the tie at his or her discretion based on evaluation criterion 7.
- (b) Applications for reserved funds will be funded in rank order until funds are depleted. Unfunded reserve applications will then compete for general funds where applications will be funded in rank order until available funds are expended or the minimum score for funding of 50 points is reached. Funding for Majority Controlled Producer-Based Business Ventures is limited to 10 percent of total grant funds expected to be obligated each funding cycle. These applications will be funded in rank order until the funding limitation has been reached.
- (c) If an application cannot be fully funded, the Agency will offer partial funding to the extent funds are available. If the Applicant offered partial funding does not accept, the Agency will offer the funding to the next highest-ranked Applicant until an Applicant is found that accepts the funding or no additional eligible Applicants exist. If an application is ranked and not funded, it will not be carried forward into the next Fiscal Year competition.

### **§ 4284.951 Notification of successful Applicants.**

- (a) The Agency will notify the Applicants whose applications can be funded with a Letter of Conditions. The Letter of Conditions will provide the conditions under which an award can be approved as well as a copy of the term of the award. Applicants receiving a Letter of Conditions will have up to 90 calendar days to meet the conditions of the award. If the Applicant agrees with the conditions, the Applicant must complete an applicable Form RD 1942-46, Letter of Intent to Meet Conditions. If the Applicant believes that certain conditions cannot be met, the Applicant may propose alternate conditions to the Agency. The Agency must concur with any proposed changes to the Letter of Conditions by the Applicant before the application will be processed further. If the Agency agrees to any proposed changes, the Agency will issue a revised or amended Letter of Conditions that defines the final conditions under which the grant will be made. However, if an Applicant does not meet the conditions, the Agency will discontinue processing the application.
- (b) All successful Applicants must complete the following additional forms and provide the following additional documentation:

- (1) **Form RD 1942-46, "Letter of Intent to Meet Conditions."** Completion of this form confirms the Applicant's commitment to meeting the conditions of the award.  
  
(2 *Form RD 400-4, "Assurance Agreement."* Completion of this form confirms the Applicant's commitment to complying with Federal laws and policies regarding prohibition of discrimination.
- (3) **Form SF-LLL, "Disclosure of Lobbying Activities."** Completion of this form is only required for those entities that engage in lobbying activities.
- (4) **Form RD 4280-2, "Rural Business-Cooperative Service Financial Assistance Agreement."** This form must be filled out completely and signed by an authorized representative of the Applicant organization and an authorized representative from the Agency for the grant award to be considered a valid agreement between the parties.
- (5) **Performance evaluation criteria.** The overall goal of this program and the Projects it supports is to create and serve new markets, with a resulting increase in jobs, customer base and revenues returning to the Producer. Specific information must be provided about plans to track and evaluate progress toward these outcomes as a way for the Agency to determine whether or not the primary program goals and Project goals included in the work plan are likely to be accomplished during the Period of Performance as specified in § 4284.960.
- (6) **Verification of Matching Funds.** Provide authentic documentation from the source to confirm the eligibility and availability of both cash and in-kind contributions that meet the requirements for Matching Funds in § 4284.922.
- (7) **Valid permit/license.** If the Project will produce and market a Value-Added Agricultural Product in the industries of wine, beer, distilled spirits or other alcoholic merchandise, a valid TTB Permit must be provided. If the Project will market a Value-Added Agricultural Product made from hemp, a copy of a valid producer license issued by a State, Tribe, or USDA must be provided, as applicable in accordance with 7 CFR part 990. If the Applicant applied as a Harvester, the Applicant must provide executed copies of contracts, licensing or equivalent documentation establishing "legal rights" to access and harvest the subject Agricultural Commodity.
- (8) **Organizational documents.** Provide a copy of Applicant's organizational documents that demonstrate legal authority and good standing such as by-laws, articles of incorporation or organization, and Letter or Certificate of Good Standing from your Secretary of State or equivalent agency. Sole Proprietors must submit a copy of their IRS tax forms showing farm income.

### § 4284.952 Notification of unsuccessful Applicants.

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

### §§ 4284.953-4284.959 [Reserved]

## § 4284.960 Reporting requirements.

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

- (a) **Financial reports.** Form SF-425, "Federal Financial Report," must be used for financial reporting. Financial reports must also include evidence of receipt of Matching Funds. Recipients must complete the Project per the terms and conditions specified in the approved work plan and budget, the Financial Assistance Agreement, and Letter of Conditions. Recipients will expend funds only for eligible purposes and will be monitored by the Agency for compliance. Recipients must maintain a financial management system and property and procurement standards in accordance with 2 CFR parts 400 through 499.
- (b) **Performance reports.** All performance reports must include a discussion on the performance benchmarks suggested in the application to determine whether the primary goals and objectives proposed in the approved work plan and budget were accomplished during the reporting period. In the section of the report that compares actual accomplishments to the objectives for that reporting period, objectives should be reported by specific task breakdown as described in the approved work plan and budget.
  - (1) For Working Capital Grant Projects, final performance reports must include the following metrics:
    - (i) Expansion of customer base as a result of the Project;
    - (ii) Increased revenue returned to the Producer as a result of the Project; and
    - (iii) Jobs created or saved as a result of the Project.
  - (2) For all Projects, we may request additional information, including but not limited to, the following:
    - (i) Information that will enable evaluation of the economic impact of program awards, such as:
      - (A) Business starts and clients served; and
      - (B) Data associated with Producer market expansion, new market penetration, and changes in customer base or revenues.
    - (ii) Information that would promote greater understanding of the key determinants of the success of individual Projects or inform program administration and evaluation, such as:
      - (A) The Producer's experience related to financial management, budgeting, and running a business enterprise;
      - (B) The nature of, and advantages or disadvantages of, supply chain arrangements or equitable distribution of rewards and responsibilities for Mid-Tier Value Chain Projects; and
      - (C) Recommendations from Beginning Farmers or Ranchers, Socially-Disadvantaged Farmers or Ranchers, and/or Veteran Farmers or Ranchers.
    - (iii) Information that would inform or enable the aggregation of data for program administration or evaluation purposes.

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

### **§ 4284.961 Grant monitoring.**

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

### **§ 4284.962 Transfer of obligations.**

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

- (a) The substituted Applicant:
  - (1) Is eligible;
  - (2) Has a close and genuine relationship with the original Applicant; and
  - (3) Has the authority to receive the assistance approved for the original Applicant.
- (b) The Project continues to meet all product, purpose, and reserved funds eligibility requirements so that the need, purpose(s), and scope of the Project for which the Agency funds will be used remain substantially unchanged.

### **§§ 4284.963-4284.999 [Reserved]**

### **§ 4284.1000 OMB control number.**

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