



BILLING CODE 3410-XY-U

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Rural Housing Service

Rural Utilities Service

Farm Service Agency

7 CFR Parts 1901 and 1942

Rural Business-Cooperative Service

Rural Utilities Service

7 CFR Parts 4280 and 4284

RIN 0570-AA92

Rural Business Development Grant

AGENCY: Rural Business-Cooperative Service, Rural Housing Service, Rural Utilities Service and Farm Service Agency, the U.S. Department of Agriculture.

ACTION: Interim Final Rule with request for comments.

SUMMARY: This Interim Final Rule is needed to ensure that the Agency will have a regulation in place to meet the Congressional mandate established in Congress in the Agricultural Act of 2014 (2014 Farm Bill). This mandate requires the Agency to establish a new program called the Rural Business Development Grant Program which combines the former Rural Business Enterprise Grant and Rural Business Opportunity Grant programs. The Agency has made no substantive changes to either the Rural Business Enterprise Grant or Rural Business Opportunity Grant programs when combining these regulations into the Rural Business Development Grant program.

Rural Development, Rural Business-Cooperative Service (RBS) is establishing a new regulation for the Rural Business Development Grant (RBDG) program. The program was established by the 2014 Farm Bill. The RBDG Program will combine the Rural Business Enterprise Grant (RBEG) and the Rural Business Opportunity Grant (RBOG) programs. There are no substantive programmatic changes to RBEG and RBOG with this consolidation.

DATES: This Interim Final Rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Written comments

on this Interim Final Rule must be received on or before
[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE
FEDERAL REGISTER].

ADDRESSES: You may submit comments on this Interim Final
Rule by any of the following methods:

- Federal eRulemaking Portal:

<http://www.regulations.gov>. Follow the instructions for
submitting comments. You can find the rule by searching
the RIN number 0570-AA92.

- Mail: Submit written comments via the U.S. Postal
Service to the Branch Chief, Regulations and Paperwork
Management Branch, U.S. Department of Agriculture, 300 7th
Street SW., 7th Floor, Washington, DC 20024.

- Hand Delivery/Courier: Submit written comments via
Federal Express Mail or other courier service requiring a
street address to the Branch Chief, Regulations and
Paperwork Management Branch, U.S. Department of
Agriculture, 300 7th Street SW., 7th Floor, Washington, DC
20024.

All written comments will be available for public
inspection during regular work hours at the 300 7th Street,
SW., 7th Floor address listed above.

FOR FURTHER INFORMATION CONTACT: Melvin Padgett or Cindy

Mason, Rural Development, Business Programs, U.S.
Department of Agriculture, 1400 Independence Avenue SW.,
Stop 3226, Washington, DC 20250; e-mail:
Melvin.padgett@wdc.usda.gov or cindy.mason@wdc.usda.gov;
at (202) 720-1495 or (202) 690-1433, respectively.

SUPPLEMENTARY INFORMATION:

REQUEST FOR COMMENTS: The Agency is interested in receiving comments on all aspects of the Interim Final Rule. All comments should be submitted as indicated in the ADDRESSES section of this preamble. The Agency is seeking specific comments on whether or not to utilize this RBDG regulation to continue to process television demonstration grants and regional commission grants which are currently in 7 CFR part 1942, subpart G. And, whether or not to incorporate grants for expansion of employment opportunities for individuals with disabilities and health care services which were authorized in the 2008 Farm Bill. The Agency is interested in considering all factors that affect the public. Please be sure to include your rationale for your suggestions.

Additionally, in 2007, Rural Development published a proposed rule for RBEG, however, a final rule was never

published. Rural Development appreciates the comments that were submitted on the proposed rule, and requests that reviewers resubmit comments on this consolidated rule if they believe they are still valid.

Executive Order 12866, Classification

This rule has been determined to be not significant for purposes of Executive Order 12866 and has not been reviewed by the Office of Management and Budget (OMB).

Programs Affected

The Catalog of Federal Domestic Assistance Program number assigned to the RBDG is 10.351.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." Rural Development has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment and, in accordance with the National Environmental Policy Act (NEPA) of 1969, 42 U.S.C. 4321 et seq., an Environmental Impact Statement is not required.

Executive Order 12372, Intergovernmental Consultation

The program is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. Consultation will be completed at the time each grant is made.

Executive Order 12988, Civil Justice

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. The Agency has determined that this rule meets the applicable standards provided in section 3 of the Executive Order. Additionally, (1) all State and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to the rule; and (3) administrative appeal procedures, if any, must be exhausted before litigation against the Department or its agencies may be initiated, in accordance with the regulations of the National Appeals Division of the U.S. Department of Agriculture at 7 CFR part 11.

Executive Order 13132, Federalism

The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the National Government and the States, or on the

distribution of power and responsibilities among the various levels of Government. Nor does this rule impose substantial direct compliance costs on State and local Governments. Therefore, consultation with States is not required.

Regulatory Flexibility Act Certification

Under section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Agency certifies that this rule will not have a significant economic impact on a substantial number of small entities. The Agency made this determination based on the fact that this regulation only impacts those who choose to participate in the program. Small entity applicants will not be impacted to a greater extent than large entity applicants.

Unfunded Mandate Reform Act

This rule contains no Federal mandates (under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995) for State, local, and Tribal governments, or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the Unfunded Mandates Reform Act of 1995.

Executive Order 13175, Consultation and Coordination with Indian Tribal Governments

This executive order imposes requirements on Rural Development in the development of regulatory policies that have Tribal implications or preempt Tribal laws. As previously noted, the consolidation of the RBEG and RBOG programs through the publication of this Interim Final Rule will not institute any substantive programmatic changes. However, since Congress has legislatively mandated funds to benefit federally recognized Indian Tribes in both programs, in the past, implementation of the RBDG program in future years may have substantial and direct effects on one or more Indian Tribe(s).

Consequently, the consolidation of the RBEG and RBOG programs under the RBDG program was featured in two Tribal Consultation webinars hosted by Rural Development in fiscal year (FY) 2014. On April 2, 2014, Rural Development hosted a Tribal Consultation webinar and teleconference that summarized significant changes to its programs mandated by the 2014 Farm Bill. During the webinar, in addition to summarizing the Farm Bill changes, Rural Development listed five Farm Bill provisions that would likely require further consultation - including the RBDG program. No objections

were raised by participants to alter that assumption.

On August 25, 2014, Rural Development hosted a Tribal Consultation webinar and teleconference that covered the implementation of the RBDG program and the Strategic Economic and Community Development (Section 6025) provision in great depth. Again, no objections were raised by participants to alter the course of implementation for either the RBDG program or Section 6025.

For further information regarding Rural Development's past Tribal Consultation events or Rural Development's Tribal Consultation process, please contact Rural Development's Native American Coordinator at (720) 544-2911 or AIAN@wdc.usda.gov.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, this document announces the intention of RBS to request information collection in support of the RBDG program (7 CFR part 4280, subpart E). No new requirements have been added, but it is the intent of the Agency to combine the two current Paperwork Reduction Act packages into one. Until this paperwork burden is approved, the

Agency will utilize the current RBEG and RBOG paperwork burdens. These burdens are approved under 0570-0022 and 0570-0024 respectively.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 3.0 hours per response.

Respondents: Nonprofit corporations and public bodies.

Estimated Number of Respondents: 920

Estimated Number of Responses per Respondent: 22

Estimated Number of Responses: 20,517

Estimated Total Annual Burden on Respondents: 64,773

Comments on this document must be received by [insert date 60 days after date of publication in the FEDERAL REGISTER] to be assured of consideration.

E-Government Act Compliance

Rural Development is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies, to provide increased opportunities for citizens to access Government information and services electronically.

Good Cause

Rural Development is publishing this rule as an interim final rule for good cause in that:

Rural Development anticipates going forward that Congress will only be providing appropriations for RBDG and not for the RBOG and RBEG programs;

Since the RBEG and RBOG programs are being merged without substantive changes, the public will not be unfamiliar with the new RBDG provisions; and

Making the RBDG rule an interim final rule will assure the continuity of benefits historically provided under the RBOG and RBEG programs.

Additionally, notice and comment are not required because of the Administrative Procedures Act exceptions for loans and grants at 5 U.S.C. 553(a)(2).

I. Background

Rural Development is charged with assisting, among other entities, the startup, expansion, and the continuation of small and emerging businesses and/or non-profits in rural communities. Rural Development supports this portion of the overall mission through two grant programs, the RBEG and RBOG programs.

Rural Development makes RBEGs to public bodies and non-profit corporations so that they may assist small and emerging businesses and/or non-profits in their communities to create and support jobs. RBEG funds may be used to: acquire or develop land, buildings, plants, equipment; access streets and roads, parking areas, utility extensions, necessary water and supply and waste disposal facilities; provide technical assistance; establish revolving loan funds; and to create, expand, or operate rural distance learning programs that provide educational or job training instruction related to potential employment or job advancement to adult students.

RBOG funds are made to public bodies and non-profit corporations to assist businesses and/or non-profits in their communities. RBOG funds may be used to assist in the economic development of rural areas by providing technical assistance, training, and planning for business and economic development.

In February 2014 the United States Congress passed the 2014 Farm Bill. This law combined the RBEG and RBOG programs into one grant program, the RBDG program. The Congressional Record emphasizes that the two programs

should continue to operate in essentially the same manner as they operated when they were separate grant programs. Thus, Rural Development is publishing this Interim Final Rule to meet the statutory requirements of the 2014 Farm Bill.

Grants made before the implementation of the RBDG program will continue to be governed by the terms of the applicable RBOG and RBEG regulations in effect at the time the grants were made together with any other applicable agreements.

II. Discussion of Changes

The Agency is publishing this Interim Final Rule to meet the statutory requirements of the 2014 Farm Bill including revising the definition of rural and rural areas to conform to the Consolidated Farm and Rural Development Act definition. The 2014 Farm Bill consolidated the RBEG and RBOG programs into one grant program while allowing both programs to operate essentially as they have in the past. The Agency is soliciting comments to this new regulation and will consider all comments received prior to publishing a Final Rule. Publishing this Interim Final Rule will permit the Agency to provide continuous service

to rural small and emerging businesses, non-profit corporations, and local public bodies, while requesting input from the public on their views of this grant program.

The Agency combined 7 CFR part 1942, subpart G and 7 CFR part 4284, subpart G into the RBDG rule at 7 CFR part 4280, subpart E. Rural Development has also integrated applicable general provisions of 7 CFR part 4284, subpart A into the RBDG rule. Essentially, the Agency did not change any of the requirements of either program but blended the two regulations into one and eliminated duplicative portions so that there is only one set of requirements. The Agency also combined definitions so that the public has one definition for both programs as well as blended the scoring requirements of both former regulations. Finally, the Agency blended the application processes into one streamlined set of procedures under the RBDG funding, incorporating the statutory language of the 2014 Farm Bill (7 U.S.C. 1932(c)) specifying how the funding would be split.

The U.S. Department of Agriculture and the Agency is adopting the new the U.S. Department of Agriculture grant regulation at 2 CFR chapter IV for monitoring and servicing

RBDG funding. If this rule is published prior to new the U.S. Department of Agriculture grant regulations being published and effective, the Agency will comply with all applicable parts of 2 CFR chapter IV and chapter XXX including 7 CFR parts 3015, 3016, 3019, and 3052.

List of Subjects

7 CFR Part 1901

Civil rights, Compliance reviews, Fair housing, and Minority groups.

7 CFR Part 1942

Business and Industry, Grant programs - Housing and Community development, Industrial park, and Rural areas.

7 CFR Part 4280

Business and Industry, Economic Development, Grant programs, Community development, Industrial Sites, and Rural Areas.

7 CFR part 4284

Business and Industry, Economic Development, Grant programs - Housing and Community development, and Rural Areas.

For the reasons set forth in the preamble, chapters XVIII and XLII, title 7, of the Code of Federal Regulations are being amended as follows:

CHAPTER XVIII--RURAL HOUSING SERVICE, RURAL BUSINESS-COOPERATIVE SERVICE, RURAL UTILITIES SERVICE, AND FARM SERVICE AGENCY, DEPARTMENT OF AGRICULTURE

PART 1901 - PROGRAM-RELATED INSTRUCTIONS

1. The authority citation for part 1901 is revised to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; 40 U.S.C. 442; 42 U.S.C. 1480, 2942.

Subpart E - Civil Rights Compliance Requirements

2. Amend §1901.204 by revising paragraph (a)(16) to read as follows:

§ 1901.204 Compliance reviews.

(a) * * *

(16) Rural Business Development Grants.

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PART 1942 - ASSOCIATIONS

3. The authority citation for part 1942 continues to read as follows:

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

Subpart G - [Removed and Reserved]

4. Remove and reserve subpart G, consisting of §§1942.301 through 1942.350 and Guides 1 and 2 to subpart G.

CHAPTER XLII - RURAL BUSINESS-COOPERATIVE SERVICE AND RURAL UTILITIES SERVICE, DEPARTMENT OF AGRICULTURE

PART 4280 - LOANS AND GRANTS

5. The authority citation for part 4280 is revised to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 940c and 7 U.S.C. 1932(c).

6. Add subpart E to read as follows:

Subpart E - Rural Business Development Grants

GENERAL

Sec.

4280.401 Purpose.

4280.402 [Reserved]

4280.403 Definitions.

- 4280.404 Exception authority.
- 4280.405 Review or appeal rights.
- 4280.406 Conflict of interest.
- 4280.407 Statute and regulation references.
- 4280.408 U.S. Department of Agriculture (USDA) departmental regulations and laws that contain other compliance requirements.
- 4280.409 [Reserved]
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- 4280.411 - Forms, guides, and attachments.
- 4280.412 - 4280.414 [Reserved]

RURAL BUSINESS DEVELOPMENT GRANTS

- 4280.415 Rural Business Development Grants.

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- 4280.416 Applicant eligibility.
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APPLYING FOR A GRANT

4280.427 Application.

4280.428 - 4280.429 [Reserved]

4280.430 Notification of decision.

4280.431 - 4280.433 [Reserved]

PROCESSING AND SCORING APPLICATION

4280.434 General processing and scoring provisions.

4280.435 Scoring criteria.

4280.436 - 4280.438 [Reserved]

GRANT AWARDS AND AGREEMENTS

4280.439 Grant awards and agreements.

4280.440 - 4280.442 [Reserved]

POST AWARD ACTIVITIES AND REQUIREMENTS

4280.443 - Grant monitoring and servicing.

4280.444 - 4280.447 [Reserved]

4280.448 Transfers and assumptions.

4280.449 - 4280.499 [Reserved]

4280.500 OMB control number.

GENERAL

§ 4280.401 Purpose.

This subpart implements the RBDG program administered by the Agency. Grants made under this subpart will be made to eligible entities for use in funding various business

opportunity and business enterprise Projects that serve Rural Areas.

§ 4280.402 [Reserved]

§ 4280.403 Definitions.

Administrator. The Administrator of RBS or designees or successors.

Agency. Rural Business-Cooperative Service (RBS) or successor.

Agriculture Production. The cultivation, production, growing, raising, feeding, housing, breeding, hatching, or managing of crops, plants, animals or birds, either for fiber, food for human consumption, or livestock feed.

Arm's-length Transaction. The sale, release, or disposition of assets in which the title to the property passes to a ready, willing, and able disinterested third party that is not affiliated with or related to and has no security, monetary, or stockholder interest in the grantee or transferor at the time of the transaction.

Business Support Centers. Centers established to provide assistance to businesses in such areas as counseling, business planning, training, management assistance, marketing information, and locating financing

for business operations. The centers need not be located in a Rural Area, but must provide assistance to businesses located in Rural Areas.

Departmental Grant Regulations. The USDA grant regulations at 2 CFR chapter IV.

Economic Development. The industrial, business and financial augmentation of an area as evidenced by increases in total income, employment opportunities, value of production, duration of employment, or diversification of industry, reduced outmigration, higher labor force participation rates or wage levels or gains in other measurements of economic activity, such as land values.

Indian Tribe (Tribal). Indian Tribes on Federal and State reservations and other federally recognized Indian Tribal groups.

Industrial Site. The development of undeveloped real estate for uses which will assist Small and Emerging Businesses.

Long-term. The period of time covered by the three most recent decennial censuses of the United States to the present.

Nonprofit. An entity chartered as a nonprofit organization under applicable State or Tribal law.

Other Business Development. Any business related

activity that will assist Small and Emerging Businesses and may include but is not limited to business incubators, business training centers, and other training activity which leads directly to Small and Emerging Business development.

Planning. A process to coordinate Economic Development activities, develop guides for action, or otherwise assist local community leaders in the Economic Development of Rural Areas.

Priority Communities. Communities targeted for Agency assistance as determined by the U.S. Department of Agriculture Under Secretary for Rural Development that are experiencing trauma due to natural disasters or are undertaking or completing fundamental structural changes, have remained persistently poor, or have experienced Long-Term population decline or job deterioration.

Project. The result of the use of grant funds provided under this subpart through Technical Assistance or Planning relating to the Economic Development of a Rural Area; or the result of the use of program funds (i.e., a facility whether constructed by the applicant or a third party made with grant funds, Technical Assistance, startup operating costs, or working capital). A revolving fund established in whole or in part with grant funds will also

be considered a Project.

Public Bodies/Government Entity. Public Bodies include States, counties, cities, townships, and incorporated towns and villages, boroughs, authorities, districts, and education institutions organized under State and Federal laws, and Indian Tribes.

Rural and Rural Area. As described in 7 U.S.C. 1991(a)(13)(A) and (D) et seq.

Small and Emerging Business. Any private and/or Nonprofit business which will employ 50 or fewer new employees and has less than \$1 million in gross revenue; for retail operations, total sales minus cost of goods sold minus returns or for a service organizations, gross revenue minus cost of providing service or for a manufacturing operation it will be total sales minus cost of raw materials minus the cost of production.

State. Any of the 50 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.

Technical Assistance. A function performed for the benefit of a private business enterprise or a community and which is a problem solving activity, such as market

research, product and/or service improvement, feasibility study, etc., to assist in the Economic Development of a Rural Area.

§ 4280.404 Exception authority.

The Administrator may make an exception, on a case-by-case basis, to any requirement or provision of this subpart that is not inconsistent with any authorizing statute or applicable law if the Administrator determines that application of the requirement or provision would adversely affect the Government's financial interest.

§ 4280.405 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.

§ 4280.406 Conflict of interest.

(a) General. No conflict of interest or appearance of conflict of interest will be allowed. For purposes of this subpart, Conflict of Interest includes, but is not limited to, distribution or payment of grant, guaranteed loan funds, and matching funds or award of Project

construction contracts to an individual owner, partner, or stockholder, or to a beneficiary or immediate family of the applicant or grantee when the recipient will retain any portion of ownership in the applicant's or grantee's Project. 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. All transactions must be Arm's-length Transactions.

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

(c) Member/delegate clause. No member of or delegate to Congress shall receive any share or part of this grant or any benefit that may arise therefrom; but this provision shall not be construed to bar, as a contractor under the grant, a publicly held corporation whose ownership might include a member of Congress so long as the member's ownership is less than 10 percent.

§ 4280.407 Statute and regulation references.

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

§ 4280.408 U.S. Department of Agriculture departmental regulations and laws that contain other compliance requirements.

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

(b) Equal opportunity and nondiscrimination. The Agency will ensure that equal opportunity and nondiscrimination requirements are met in accordance with the Equal Credit Opportunity Act, 15 U.S.C. 1691 et seq. and 7 CFR part 15d, "Nondiscrimination in Programs and Activities Conducted by the United State Department of Agriculture." The Agency will not discriminate against applicants on the basis of race, color, religion, national origin, sex, marital status, or age (provided that the applicant has the capacity to contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act, 15 U.S.C. 1601 et seq.

(c) Civil rights compliance. Recipients of grants must comply with the Americans with Disabilities Act of

1990, 42 U.S.C. 12101 et seq., Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq., and section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794. This may include collection and maintenance of data on the race, sex, and national origin of the recipient's membership/ownership and employees. The data must be available to conduct compliance reviews.

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

(2) Grants will require one subsequent compliance review following Project completion. This will occur prior to the last disbursement of grant funds.

(d) Environmental requirements. 7 CFR part 1940, subpart G or successor regulation applies to this subpart. Prospective applicants are advised to contact the Agency to determine environmental requirements as soon as practicable after they decide to pursue any form of financial assistance directly or indirectly available through the Agency.

(1) Any required environmental review must be completed by the Agency prior to the Agency obligating any funds.

(2) The applicant will be notified of all specific compliance requirements, including, but not limited to, the

publication of public notices, and consultation with State Historic Preservation Offices (or Tribal Historic Preservation Offices where appropriate) and the U.S. Fish and Wildlife Service.

(3) A site visit by the Agency may be scheduled, if necessary, to determine the scope of the review.

(4) Applications for Technical Assistance or Planning Projects are generally excluded from the environmental review process by § 1940.333 of this title provided the assistance is not related to the development of a specific site. However, as further specified in 7 CFR 1940.330, the grantee for a Technical Assistance grant, in the process of providing Technical Assistance, must consider the potential environmental impacts of the recommendations provided to the recipient of the Technical Assistance.

(5) Applicants for grant funds must consider and document within their plans the important environmental factors within the Planning area and the potential environmental impacts of the plan on the Planning area, as well as the alternative Planning strategies that were reviewed.

(6) Whenever an applicant files an application that includes a direct construction Project and a plan, they must have a separate environmental evaluation.

(e) Discrimination complaints--(1) Who may file.

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

(2) Time for filing. A complaint must be filed no later than 180 days from the date of the alleged discrimination, unless the time for filing is extended by the designated officials of USDA or the Agency.

(f) Uniform Relocation and Real Property Acquisition Policies Act. All Projects must comply with the requirements set forth in 7 CFR part 21.

(g) Floodplains and wetlands. All Projects must comply with Executive Order 11988 "Floodplain Management" and Executive Order 11990 "Protection of Wetlands." The applicable regulations are codified at 44 CFR parts 59 through 80.

§ 4280.409 [Reserved]

§ 4280.410 Other laws and regulations that contain compliance requirements for this program.

(a) Equal employment opportunity. For all construction contracts and grants in excess of \$10,000, the contractor must comply with Executive Order 11246, as amended by Executive Order 11375, and as supplemented by applicable Department of Labor regulations (41 CFR part 60-1). The applicant is responsible for ensuring that the contractor complies with these requirements.

(b) Architectural barriers. All facilities financed with Zero-Interest Loans that are open to the public or in which persons may be employed or reside must be designed, constructed, or altered to be readily accessible to and usable by disabled persons. Standards for these facilities must comply with the Architectural Barriers Act of 1968, as amended, (42 U.S.C. 4151-4157).

(c) Uniform relocation assistance. Relocations in connection with these programs are subject to 49 CFR part 24 as referenced by 7 CFR part 21 except that the provisions in title III of the Uniform Act do not apply to these programs.

(d) Drug-free workplace. Grants made under these programs are subject to the requirements contained in 2 CFR chapter IV which implements the Drug-Free Workplace Act. RBDG recipients will be required to certify that it will

establish and make a good faith effort to maintain a drug-free workplace program.

(e) Debarment and suspension. The requirements of 2 CFR chapter IV are applicable to this program.

(f) Intergovernmental review of Federal programs. These programs are subject to the requirements of Executive Order 12372 and 2 CFR chapter IV. Proposed Projects are subject to the State and local government review process contained in 2 CFR chapter IV.

(g) Restrictions on lobbying. The restrictions and requirements imposed by 31 U.S.C. 1352, and 2 CFR chapter IV, are applicable to these programs.

(h) Earthquake hazards. These programs are subject to the seismic requirements of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701-7706).

(i) Affirmative fair housing. If applicable, the grantee will be required to comply with the Affirmative Fair Housing Act (42 U.S.C. 3601-3631 and 24 CFR part 100).

(j) Flood hazard insurance. The RBDG program is subject to the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973, as amended by 42 U.S.C. 4001-4129 and 7 CFR part 1806, subpart B.

(k) Uniform administrative requirements, cost principles, and audit requirements for Federal awards.

The requirements of 2 CFR chapter IV, or its successor regulations are applicable to this program.

(l) Planning and performing construction and other development. The requirements of 7 CFR part 1924, subpart A, or its successor regulations, are applicable to this program.

(m) Transparency Act. The requirements of 2 CFR part 170 are applicable to this program.

§ 4280.411 Forms, guides, and attachments.

All forms, guides, and attachments referenced in this subpart are available online at:
<http://forms.sc.egov.usda.gov/eForms/> or in any Rural Development State office.

§§ 4280.412 - 4280.414 [Reserved]

RURAL BUSINESS DEVELOPMENT GRANTS

§ 4280.415 Rural Business Development Grants.

Sections 4280.416 through 4280.439 identify the provisions that the Agency will use for making awards for Rural Business Development Grants.

ELIGIBILITY

§ 4280.416 Applicant eligibility.

To receive an RBDG under this subpart, an applicant must meet the requirements specified in paragraphs (a) through (e) of this section. If an award is made to an applicant, that applicant (grantee) must continue to meet the requirements specified in this section. If the grantee does not, then grant funds may be recovered from the grantee by the Agency in accordance with Departmental Regulations.

(a) Type of applicant. The Applicant must be one of the following:

- (1) A Public Body/Government Entity;
- (2) An Indian Tribe; or
- (3) A Nonprofit entity.

(b) Financial strength and expertise. The Applicant must have sufficient financial strength and expertise in activities proposed in the application to ensure accomplishment of the described activities and objectives.

(1) Financial strength will be analyzed by the Agency based on financial data provided in the application. The analysis will consider the applicant's tangible net worth, which must be positive, and whether the applicant has dependable sources of revenue or a successful history of raising revenue sufficient to meet cash requirements.

(2) Expertise will be analyzed by the Agency based on the applicant staff's training and experience in activities similar to those proposed in the application and, if consultants will be used, on the staff's experience in choosing and supervising consultants.

(c) Universal identifier and system for awards management. Unless exempt under 2 CFR 25.110, the Applicant must:

(1) Be registered in the System for Awards Management (SAM) prior to submitting an application;

(2) Maintain an active SAM registration with current information at all times during which it has an active Federal award or an application under consideration by the Agency; and

(3) Provide its Dun and Bradstreet Data Universal Numbering System (DUNS) number in each application it submits to the Agency. Generally, the DUNS number is included on Standard Form (SF) 424, "Application for Federal Assistance."

(d) Delinquent debt. The applicant must not have any delinquent debt to the Federal Government. If an applicant has any delinquent debt to the Federal Government, the applicant will be ineligible to receive any funds obligated under this subpart until the debt has been paid.

(e) Legal authority and responsibility. Each Applicant must have the legal authority necessary to apply for and carry out the purpose of the grant.

§ 4280.417 Project eligibility.

For a Project to be eligible for funding under this subpart, the proposed Project must meet each of the requirements specified in paragraphs (a) through (e) of this section.

(a) Types of projects. Grant funds may be used for Projects identified in either paragraph (a)(1) of this section, business opportunity type grants, or paragraph (a)(2) of this section, business enterprise type grants. Unless otherwise announced in a Notice of Solicitation of Applications, the Agency will set aside 10 percent of its RBDG appropriation for business opportunity type grants. The Agency reserves the right to reallocate funds set aside for business opportunity type grants to business enterprise type grants if it becomes apparent to the Agency that there is insufficient demand for the funds set aside for the business opportunity type grants.

(1) Business opportunity Projects. Grant funds may be used for business opportunity Projects that include one or more of the following activities:

(i) Identify and analyze business opportunities that will use local rural materials or human resources. This includes opportunities in export markets, as well as feasibility and business plan studies;

(ii) Identify, train, and provide Technical Assistance to existing or prospective rural entrepreneurs and managers;

(iii) Establish Business Support Centers and otherwise assist in the creation of new Rural businesses;

(iv) Conduct local community or multi-county Economic Development Planning;

(v) Conduct leadership development training of existing or prospective adult rural entrepreneurs and managers;

(vi) Establish centers for training, technology, and trade that will provide training to Rural businesses in the utilization of interactive communications technologies to develop international trade opportunities and markets; or

(vii) Pay reasonable fees and charges for professional services necessary to conduct the Technical Assistance, training, or planning functions.

(2) Business enterprise projects. Grant funds may be used to finance and/or develop Small and Emerging Businesses in Rural Areas including, but not limited to,

the following activities:

(i) Acquisition and development of land, easements and rights-of-way;

(ii) Construction, conversion, enlargement, repairs or modernization of buildings, plants, machinery, equipment, access streets and roads, parking areas, utilities, and pollution control and abatement facilities;

(iii) Provision of loans for startup operating cost and working capital;

(iv) Reasonable fees and charges for professional services necessary for the planning and development of the Project;

(v) Establishment of a revolving loan fund to provide financial assistance to third parties through a loan; and

(vi) Establishment, expansion, and operation of Rural distance learning networks or development of Rural learning programs that provide educational instruction or job training instruction related to potential employment or job advancements for adult students;

(vii) Provision of Technical Assistance for Small and Emerging Businesses, including but not limited to feasibility studies and business plans; and/or

(viii) Provision of Technical Assistance and training

to rural communities for the purpose of improving passenger transportation services or facilities.

(b) Result of projects. (1) For business opportunity type grants, the Project must have a reasonable prospect that the Project will result in the Economic Development of a Rural Area.

(2) For business enterprise type grants, the Project must have a reasonable prospect that it will result in the development or financing of Small and Emerging Businesses.

(c) Basis for success or failure. Grants may be made only when the application demonstrates a need for the Project and includes a basis for determining the success or failure of the Project and individual major elements of the Project and outlines procedures that will be taken to assess the Project's impact at its conclusion.

(d) Local and area-wide strategic plans. Business opportunity type grants may be made only when the proposed Project is consistent with any local and area-wide strategic plans for community and Economic Development, coordinated with other Economic Development activities in the Project area, and consistent with any Rural Development State Strategic Plan.

§§ 4280.418 - 4280.420 [RESERVED]

FUNDING PROVISIONS

§ 4280.421 Term requirement.

A grant may be considered for the amount needed to assist with the completion of a proposed Project, provided that the Project can reasonably be expected to be completed within 1 full year after it has begun.

§ 4280.422 Joint funding.

To the extent permitted by law, Agency grant funds may be used jointly and in proportion with funds furnished by the grantee or from other sources including Agency loan funds.

§ 4280.423 Ineligible uses of grant funds.

Grant funds may not be used towards any of the uses identified in paragraphs (a) through (n) of this section.

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

(b) Pay costs of preparing the application package for funding under this program or any other program.

(c) Pay costs for any expenses incurred prior to

receipt of a full application, except for those permitted under Departmental Regulations.

(d) Fund political activities.

(e) Pay for assistance to any private business enterprise which does not create and/or support jobs in the United States.

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

(g) Fund Agriculture Production either directly or through horizontally integrated livestock operations except for commercial nurseries, timber operations or limited Agricultural Production related to Technical Assistance Projects. The following are not considered Agriculture Production:

(1) Aquaculture, including conservation, development, and utilization of water for aquaculture;

(2) Commercial fishing;

(3) Commercial nurseries engaged in the production of ornamental plants and trees and other nursery products such as bulbs, flowers, shrubbery, flower and vegetable seeds, sod, and the growing of plants from seed to the transplant stage;

(4) Forestry, which includes businesses primarily engaged in the operation of timber tracts, tree farms, and

forest nurseries and related activities such as reforestation; or

(5) The growing of mushrooms or hydroponics.

(h) To finance comprehensive area-wide type Planning. This does not preclude the use of grant funds for Planning for a given Project.

(i) To make loans when the rates, terms, and charges for those loans are not reasonable or would be for purposes not eligible under 7 CFR part 4274, subpart D.

(j) For programs operated by cable television systems.

(k) To fund a part of a Project that is dependent on other funding unless there is a firm commitment of the other funding to ensure completion of the Project.

(l) To pay for Technical Assistance that duplicates assistance provided to implement an action plan funded by the Forest Service (FS) under the National Forest-Dependent Rural Communities Economic Diversification Act for 5 continuous years from the date of grant approval by the FS. To avoid duplicate assistance, the grantee shall coordinate with FS and the Agency to ascertain if a grant has been made in a substantially similar geographical or defined local area in a State for Technical Assistance under the FS program. The grantee will provide documentation to FS and

the Agency regarding the contact with each agency.

(m) Pass through grants. Pass through grants are for, but not limited to:

(1) The purchase, refurbishing, or remodeling of real estate for use as a business incubator without charging a fair market rental;

(2) The purchase of equipment for use by an ultimate recipient without charging a fair market rental; and

(3) The making of a Revolving Loan Fund (RLF) loan without taking appropriate security to reasonably assure repayment of the loan.

(n) For a Project that would result in the transfer of existing employment or business activity more than 25 miles from its existing location.

§§ 4280.424 - 4280.426 [Reserved]

APPLYING FOR A GRANT

§ 4280.427 Application.

Applications for an RBDG grant as specified in § 4280.417(a)(1) and (2) must contain the following:

(a) An original and one copy of SF 424, "Application For Federal Assistance (For Non-construction);"

(b) Copies of applicant's organizational documents

showing the applicant's legal existence and authority to perform the activities under the grant;

(c) A proposed scope of work, including a description of the proposed Project, e.g., RLF, Technical Assistance, Industrial Site, Business Opportunity and Other Business Development, details of the proposed activities to be accomplished and timeframes for completion of each task, the number of months duration of the Project, and the estimated time it will take from grant approval to beginning of Project implementation;

(d) A written narrative that includes, at a minimum, the following items:

(1) An explanation of why the Project is needed, the benefits of the proposed Project, and how the Project meets the grant eligible purposes;

(2) Area to be served, identifying each governmental unit, i.e. town, county, etc., to be affected by the Project;

(3) Description of how the Project will coordinate Economic Development activities with other Economic Development activities within the Project area;

(4) Business to be assisted, if appropriate, and Economic Development to be accomplished;

(5) An explanation of how the proposed Project will

result in newly created, increased, or supported jobs in the area and the number of projected new and supported jobs within the next 3 years;

(6) A description of the applicant's demonstrated capability and experience in providing the proposed Project assistance or similar Economic Development activities, including experience of key staff members and persons who will be providing the proposed Project activities and managing the Project;

(7) The method and rationale used to select the areas and businesses that will receive the service;

(8) A brief description of how the work will be performed including whether organizational staff or consultants or contractors will be used; and

(9) Other information the Agency may request to assist it in making a grant award determination;

(e) The latest 3 years of financial information to show the applicant's financial capacity to carry out the proposed work. If the applicant is less than 3 years old, at a minimum, the information should include all balance sheet(s), income statement(s) and cash flow statement(s). A current audited report is required if available;

(f) Intergovernmental review comments from the State Single Point of Contact, or evidence that the State has

elected not to review the program under Executive Order 12372;

(g) Documentation regarding the availability and amount of other funds to be used in conjunction with the funds from the RBDG;

(h) A budget which includes salaries, fringe benefits, consultant costs, indirect costs, and other appropriate direct costs for the Project; and

(i) RBDG construction Project grants must conform with 7 CFR part 1924, subpart A requirements.

§§ 4280.428 - 4280.429 [Reserved]

§ 4280.430 Notification of decision.

When the Agency has determined that an application is not eligible or that no further action will be taken, the Agency will notify the applicant in writing of the reasons why the application was not favorably considered and provide any appeal rights.

§§ 4280.431 - 4280.433 [Reserved]

PROCESSING AND SCORING APPLICATIONS

§ 4280.434 General processing and scoring provisions.

The Agency will review each application for assistance in accordance with the priorities established in § 4280.435. The Agency will assign each application a priority rating and will select applications for funding based on the priority ratings and the total funds available to the program.

(a) Applications. The Agency will score each application based on the information contained in the application and its supporting information. All applications submitted for funding must contain sufficient information to permit the Agency to complete a thorough priority rating.

(b) Unfunded applications. The Agency will notify eligible applicants if funds are not available. If an applicant wishes to have their application maintained in an active file for future consideration, the applicant must revise and update their application in writing for the Agency to reconsider in a future funding cycle.

§ 4280.435 Scoring criteria.

The Agency will use the criteria in this section to score applications for purposes identified under §4280.417(a)(1) and (2).

(a) Leveraging. If the grant will fund a critical

element of a larger program of Economic Development, without which the overall program either could not proceed or would be far less effective, or if the program to be assisted by the grant will also be partially funded from other sources, points will be awarded as follows. If points are awarded for leveraging, funds must be spent proportionally, and if leveraged funds are not utilized proportionately with the grant, the Agency reserves the right to take any legal action, including terminating the grant.

(1) If Rural Development's portion of Project funding is:

- (i) Less than 20 percent—30 points;
- (ii) 20 but less than 50 percent—20 points;
- (iii) 50 but less than 75 percent—10 points; or
- (iv) 75 percent or more—0 points.

(2) [Reserved]

(b) Points will be awarded for each of the following criteria met by the community or communities that will receive the benefit of the grant. However, regardless of the mathematical total of points indicated by paragraphs (b) (1) through (4) of this section, total points awarded under this paragraph (b) must not exceed 40.

- (1) Trauma. Experiencing trauma due to a major

natural disaster that occurred not more than 3 years prior to the filing of the application for assistance—15 points;

(2) Economic distress. The community has suffered a loss of 20 percent or more in their total jobs caused by the closure of a military facility or other employers within the last 3 years—15 points;

(3) Long-term poverty. Has experienced Long-Term poverty as demonstrated by being a former Rural empowerment zone, Rural economic area partnership zone, Rural enterprise community, champion community, or a persistent poverty county as determined by USDA's Economic Research Serviced—10 points;

(4) Population decline. Has experienced Long-Term population decline—10 points as demonstrated by the latest three decennial censuses.

(c) Population. Proposed Project(s) will be located in a community of:

(1) Under 5,000 population—15 points;

(2) Between 5,000 and less than 15,000 population—10 points; or

(3) Between 15,000 and 25,000 population—5 points.

(d) Unemployment. Proposed Project(s) will be located in areas where the unemployment rate:

(1) exceeds the State rate by 25 percent or more—20

points;

(2) exceeds the State rate by less than 25 percent—10 points; or

(3) is equal to or less than the State rate—0 points.

(e) Median household income. Proposed Project(s) will be located in areas where Median Household Income (MHI) as prescribed by section 673(2) of the Community Services Block Grant Act for a family of 4 for the State is:

(1) Less than poverty line—25 points;

(2) More than poverty line but less than 65 percent of State MHI—15 points;

(3) Between 65 and 85 percent of State MHI—10 points;

or

(4) Greater than 85 percent State MHI—0 points.

(f) Experience. Applicant has evidence of successful experience in the type of activity. Evidence of successful experience may be a description of experience supplied and certified by the applicant based upon its current employees' resumes:

(1) 10 or more years—30 points;

(2) At least 5 but less than 10 years—20 points;

(3) At least 3 but less than 5 years—10 points; or

(4) At least 1 but less than 3 years—5 points.

(g) Small business start-up or expansion. Applicant has evidence that small business development will be supported by startup or expansion as a result of the activities to be carried out under the grant. Written evidence of commitment by a small, or a Small and Emerging Business must be provided to the Agency, and should include the number of jobs that will be supported and created. 5 points for each letter up to 25 points.

(h) Jobs created or supported. The anticipated development, expansion, or furtherance of business enterprises as a result of the proposed Project will create and/or support existing jobs associated with the affected businesses. The number of jobs must be evidenced by a written commitment from the business to be assisted.

(1) One job for less than \$5,000-25 points;

(2) one job for \$5,000 but less than \$10,000-20 points;

(3) one job for \$10,000 but less than \$15,000-15 points;

(4) one job for \$15,000 but less than \$20,000-10 points; or

(5) one job for \$20,000 but less than \$25,000-5 points.

(i) Size of grant request. Grant Projects utilizing

funds available under this subpart of:

- (1) less than \$100,000—25 points;
- (2) \$100,000 to \$200,000—15 points; or
- (3) more than \$200,000 but not more than \$500,000—10

points.

(j) Indirect cost. Applicant is not requesting grant funds to cover their administrative or indirect costs—5 points.

(k) Discretionary points. Either the State Director or Administrator may assign up to 50 discretionary points to an application. Assignment of discretionary points must include a written justification. Permissible justifications are geographic distribution of funds, special Secretary of Agriculture initiatives such as Priority Communities, or a state's strategic goals. Discretionary points may only be assigned to initial grants. However, in the case where two Projects have the same score, the State Director may add one point to the Project that best fits the State's strategic plan regardless of whether the Project is an initial or subsequent grant.

§§ 4280.436 - 4280.438 [Reserved]

GRANT AWARDS AND AGREEMENT

§ 4280.439 Grant awards and agreements.

The Agency will award and administer RBDG grants in accordance with applicable Departmental regulations, this subpart, and the unauthorized grant provisions of 7 CFR part 1951, subpart O.

(a) Letter of conditions. The Agency will provide each approved applicant a letter of conditions, which sets out the conditions under which the grant will be made, including, but not limited to, an Agency grant agreement.

(b) Applicant's intent to meet conditions. The applicant must complete, sign and return a "Letter of Intent to Meet Conditions," to the Agency. If applicant identifies certain conditions that the applicant cannot meet, the applicant may propose alternate conditions to the Agency. The Agency must concur with any changes proposed by the letter of conditions by the applicant before the any grant will be made.

§§ 4280.440 - 4280.442 [Reserved]

POST AWARD ACTIVITIES AND REQUIREMENTS

§ 4280.443 Grant monitoring and servicing

RBDG grants will be monitored and serviced in

accordance with the grant agreement, this subpart, and 2 CFR chapter IV.

§§ 4280.444 - 4280.447 [Reserved]

§ 4280.448 Transfers and assumptions.

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

§§ 4280.449 - 4280.499 [Reserved]

§ 4280.500 OMB control number.

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

PART 4284 - GRANTS

7. The authority citation for part 4284 continues to read as follows:

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

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

Subpart G also issued under 7 U.S.C 1926(a)(11).

Subpart J also issued under 7 U.S.C 1621 note.

Subpart K also issued under 7 U.S.C. 1621 note.

Subpart G - [Removed and Reserved]

8. Subpart G, consisting of §§4284.601 through 4284.700, is removed and reserved.

Dated: March 6, 2015.

Lisa Mensah,
Under Secretary,
Rural Development.

Dated: March 3, 2015.

Michael Scuse,
Under Secretary,
Farm and Foreign Agricultural Services.

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