

**§ 4280.303**

that the part is “rural in character”, as determined by the Under Secretary.

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

(B) An urbanized area contiguous and adjacent to a city or town of greater than 50,000 population that is within one-quarter mile of a rural area.

*State.* Any of the 50 States of the United States, the Commonwealth of Puerto Rico, the District of Columbia, 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 and training.* The provision of education, guidance, or instruction to one or more rural micro-entrepreneurs to prepare them for self-employment; to improve the state of their existing rural microenterprises; to increase their capacity in a specific technical aspect of the subject business; and, to assist the rural micro-entrepreneurs in achieving a degree of business preparedness and/or functioning that will allow them to obtain, or have the ability to obtain, one or more business loans of \$50,000 or less, whether or not from program funds.

*Technical assistance grant.* A grant, the funds of which are used to provide technical assistance and training, as defined in this section.

(b) *Abbreviations.* The following abbreviations apply to the terms used in this subpart:

- FTE—Full-time employee
- LLRF—Loan loss reserve fund.
- MDO—Microenterprise development organization.
- RMAP—Rural microentrepreneur assistance program.
- RMRF—Rural microloan revolving fund.
- TA—Technical assistance.

[75 FR 30145, May 28, 2010, as amended at 75 FR 41696, July 19, 2010]

**§ 4280.303 Exception authority.**

The Administrator may make limited exceptions to the requirements or provisions of this subpart. Such excep-

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tions must be in the best financial interest of the Federal government and may not conflict with applicable law. No exceptions may be made regarding applicant eligibility, project eligibility, or the rural area definition. In addition, exceptions may not be made:

(a) To accept an applicant into the program that would not normally be accepted under the eligibility or scoring criteria; or

(b) To fund an interested party that has not successfully competed for funding in accordance with the regulations.

**§ 4280.304 Review or appeal rights and administrative concerns.**

(a) *Review or appeal rights.* An applicant MDO, a microlender, or grantee MDO may seek a review of an adverse Agency decision under this subpart from the appropriate Agency official that oversees the program in question, and/or appeal the Agency decision to the National Appeals Division in accordance with 7 CFR part 11.

(b) *Administrative concerns.* Any questions or concerns regarding the administration of the program, including any action of the microlender, may be addressed to: USDA Rural Development, Rural Business-Cooperative Service, Specialty Programs Division or its successor agency, or the local USDA Rural Development office.

**§ 4280.305 Nondiscrimination and compliance with other Federal laws.**

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

(b) The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or

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part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). Any applicant that believes it has been discriminated against as a result of applying for funds under this program should contact: USDA, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, DC 20250-9410, or call (866) 632-9992 (toll free) or (202) 401-0216 (TDD) for information and instructions regarding the filing of a Civil Rights complaint. USDA is an equal opportunity provider, employer, and lender.

(c) A pre-award compliance review will take place at the time of application when the applicant completes Form RD 400-8, "Compliance Review". Post-award compliance reviews will take place once every three years after the beginning of participation in the program and until such time as a microlender leaves the program.

### § 4280.306 Forms, regulations, and instructions.

Copies of all forms, regulations, and instructions referenced in this subpart are available in any Agency office, the Agency's Web site at <http://www.rurdev.usda.gov/regs/>, and for grants on the Internet at <http://www.grants.gov>.

### §§ 4280.307-4280.309 [Reserved]

### § 4280.310 Program requirements for MDOs.

(a) *Eligibility requirements for applicant MDOs.* To be eligible for a direct loan or grant award under this subpart, an applicant must meet each of the criteria set forth in paragraphs (a)(1) through (4) of this section, as applicable.

(1) *Type of applicant.* The applicant must meet the definition of an MDO under this program.

(2) *Citizenship.* For non-profit entities only, to be eligible to apply for status as an MDO, the applicant must be at

least 51 percent controlled by persons who are either:

(i) Citizens of the United States, the Republic of Palau, the Federated States of Micronesia, the Republic of the Marshall Islands, American Samoa, or the Commonwealth of Puerto Rico; or

(ii) Legally admitted permanent residents residing in the U.S.

(3) *Legal authority and responsibility.* The applicant must have the legal authority necessary to carry out the purpose of the award.

(4) *Other eligibility requirements.* For potential microlenders only,

(i) The applicant must also provide evidence that it:

(A) Has demonstrated experience in the management of a revolving loan fund; or

(B) Certifies that it, or its employees, have received education and training from a qualified microenterprise development training entity so that the applicant has the capacity to manage such a revolving loan fund; or

(C) Is actively and successfully participating as an intermediary lender in good standing under the U.S. Small Business Administration (SBA) Microloan Program or other similar loan programs as determined by the Administrator.

(ii) An attorney's opinion regarding the potential microlender's legal status and its ability to enter into program transactions is required at the time of initial entry into the program. Subsequent to acceptance into the program, an attorney's opinion will not be required unless the Agency determines significant changes to the microlender have occurred.

(b) *Minimum score.* Once deemed eligible, an entity will be evaluated based on the scoring criteria in § 4280.316 for adequate qualification to participate in the program. Eligible MDOs must score a minimum of seventy points (70 points) in order to be considered to receive an award under this subpart.

(c) *Ineligible applicants.* An applicant will be considered ineligible if it:

(1) Does not meet the definition of an MDO as provided in § 4280.302;

(2) Is debarred, suspended or otherwise excluded from, or ineligible for,