

§ 25.405

7 CFR Subtitle A (1-1-14 Edition)

(1) *Lead entity.* The lead entity must have legal status and authority to receive and administer funds pursuant to Federal, state and other government or nonprofit programs.

(2) *Capacity.* The lead entity must have the capacity to implement the strategic plan, as demonstrated by audited financial statements as of the most recent fiscal year or other documentation that may be requested by USDA.

(3) *Board membership.* The membership of the board must be representative of the entire socio-economic spectrum in the designated community including business, social service agencies, health and education entities, low income and minority residents. Board membership may be determined by either broad-based election or by appointment to meet this diversity requirement; however, not more than 45 percent of board members may be selected by appointment. Elections of community residents to the board may be done by any locally acceptable process; however, at least one board member from each of the designated community's census tracts must be elected and representative of the low income residents in their census tract. The Deputy Administrator, Office of Community Development, may waive the 45 percent maximum appointment limit only for Tribal Governmental Organizations where the Deputy Administrator determines, in writing, that a more representative board would be obtained through the appointment process.

(4) *Partnerships.* The relationship between the designated community's lead entity board and local governments and other major regional and community organizations operating in the same geographic area is critical to the community's success in implementing its strategic plan. Every effort should be made to identify and maintain relationships with local partners. Documentation including, but not limited to, minutes of meetings, benchmark activity reports and annual reports of the lead entity must reflect the contributions of local partnership entities.

(5) *Public information.* The designated community must have written procedures in place describing the means by

which citizens of the community and partnership organizations will be kept informed of the community's activities and progress in implementing the strategic plan, consistent with the principal objective of community based partnerships pursuant to §25.202(a)(2). These procedures must be kept current and compliance with them documented on an ongoing basis.

(c) *Reevaluation of designations.* On the basis of the performance reviews described in §25.402, and subject to the provisions relating to the revocation of designation appearing at §25.405, USDA will make findings as to the continuing eligibility for and the validity of the designation of any Empowerment Zone, Enterprise Community, or Champion Community.

(d) *Modification of designation.* Based on a rural zone or community's success in carrying out its strategic plan, and subject to the provisions relating to revocation of designation in accordance with §25.405 and the requirements as to the number, maximum population and other characteristics of rural Empowerment Zones referenced in §25.100, the Secretary may modify designations by reclassifying rural Empowerment Zones as Enterprise Communities or Enterprise Communities as Empowerment Zones.

[63 FR 19114, Apr. 16, 1998, as amended at 67 FR 13557, Apr. 24, 2002]

§ 25.405 Revocation of designation.

(a) *Basis for revocation.* The Secretary may revoke the designation of a rural area as an Empowerment Zone or Enterprise Community, or withdraw status as a Champion Community, if the Secretary determines, on the basis of the periodic monitoring and assessments described in §25.402, that the applicant, lead managing entity, or the States or local governments in which the rural area is located have:

(1) Modified the boundaries of the area without written approval from USDA;

(2) Failed to make progress in implementing the strategic plan; or

(3) Not complied substantially with the strategic plan (which may include failing to apply funds as contained in the strategic plan without advance written approval from USDA).

(b) *Letter of Warning.* Before revoking the designation of a rural area as an Empowerment Zone or Enterprise Community, the Secretary will issue a letter of warning to the applicant, the lead managing entity (if different from the applicant) and the nominating States and local governments, with a copy to all affected Federal agencies of which USDA is aware:

(1) Advising that the Secretary has determined that the applicant and/or lead managing entity and/or the nominating local governments and State:

(i) Have modified the boundaries of the area without written approval from USDA; or

(ii) Are not complying substantially with, or have failed to make satisfactory progress in implementing the strategic plan; and

(2) Requesting a reply from all involved parties within 90 days of the receipt of this letter of warning.

(c) *Notice of revocation.* To revoke the designation, the Secretary must issue a final notice of revocation of the designation of the rural area as an Empowerment Zone or Enterprise Community, after:

(1) Allowing 90 days from the date of receipt of the letter of warning for response; and

(2) Making a determination pursuant to paragraph (a) of this section.

(d) *Notice to affected Federal agencies.* USDA will notify all affected Federal agencies of which it is aware of its determination to revoke any designation pursuant to this section or to modify a designation pursuant to §25.404(b).

(e) *Effective date.* The final notice of revocation of designation will be published in the FEDERAL REGISTER, and the revocation will be effective on the date of publication.

§§ 25.406–25.499 [Reserved]

Subpart F—Special Rules

§ 25.500 Indian reservations.

(a) An area in an Indian reservation shall be treated as nominated by a State and a local government if it is nominated by the reservation governing body.

(b) For purposes of paragraph (a) of this section, a reservation governing

body must be the governing body of an Indian entity recognized and eligible to receive services from the United States Bureau of Indian Affairs, U.S. Department of Interior.

(c) Where two or more governing bodies have joint jurisdiction over an Indian reservation, the nomination of a reservation area must be a joint nomination.

§ 25.501 Governments.

If more than one State or local government seeks to nominate an area under this part, any reference to or requirement of this part shall apply to all such governments.

§ 25.502 Nominations by State-chartered economic development corporations.

Any rural area nominated by an economic development corporation chartered by a State and qualified to do business in the State in which it is located shall be treated as nominated by a State and local government.

§ 25.503 Rural areas.

(a) *What constitutes “rural”.* A rural area may consist of any area that lies outside the boundaries of a Metropolitan Area, as designated by the Office of Management and Budget, or, is an area that has a population density less than or equal to 1,000 persons per square mile, the land use of which is primarily agricultural.

(b) *Exceptions to the definition.* On a case by case basis, the Secretary may grant requests for waiver from the definition of “rural” stated in paragraph (a) of this section upon a showing of good cause. Applicants seeking to apply for a rural designation who do not satisfy the definition in paragraph (a) of this section must submit a request for waiver in writing to the Deputy Administrator, USDA Office of Community Development, Reporters Building, Room 701, STOP 3203, 300 7th Street, SW., Washington, DC 20024–3202. Requests must include:

(1) The name, address and daytime phone number of the contact person for the applicant seeking the waiver; and

(2) Sufficient information regarding the area that would support the infrequent exception from the definition.