National Sustainable Agriculture Coalition

May 19, 2014

Branch Chief
Regulations and Paperwork Management Branch
U.S. Department of Agriculture, STOP 0742
1400 Independence Avenue SW.
Washington, DC 20250–0742

FR Doc. 2014–05491
Re: 7 CFR part 1940, subpart L

Submitted electronically via http://www.regulations.gov

> Re: Comments on Proposed State Allocation Rule for the Value-Added Producer Grant Program (add Fed. Reg. citation here)

On behalf of our 40 represented member organizations[1], the National Sustainable Agriculture Coalition (NSAC) offers the following recommendations on USDA's proposed rule to include the Value-Added Producer Grant Program (VAPG) among the Rural Business Cooperative Service (RBS) programs that are administered via allocations of funding to the States.

NSAC has been closely involved in the creation and development of VAPG, helping to shape VAPG's first authorization in the Agricultural Risk Protection Act of 2000 right on through to the 2014 Farm Bill clarifications and at every iteration in between. Throughout farm bill reauthorizations and the annual appropriations process, NSAC has also worked consistently to secure funding for VAPG.

VAPG is a critical program that addresses unique needs that farmers and entrepreneurs face in launching, establishing, and growing successful farm and food-based businesses. We submit the following recommendation with the goal of further strengthening this important program.

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[1] 1 Agriculture and Land-Based Training Association - Salinas, CA; Alternative Energy Resources Organization - Helena, MT; California Certified Organic Farmers - Santa Cruz, CA; California FarmLink - Santa Cruz, CA; C.A.S.A. del Llano (Communities Assuring a Sustainable Agriculture) - Hereford, TX; Center for Rural Affairs - Lyons, NE; Clagett Farm/Chesapeake Bay Foundation - Upper Marlboro, MD; Community Alliance with Family Farmers - Davis, CA; Dakota Rural Action - Brookings, SD; Delta Land and Community, Inc. - Almyra, AR; Ecological Farming Association - Soquel, CA; Farmer-Veteran Coalition - Davis, CA; Fay-Penn Economic Development Council - Lemont Furnace, PA; Flats Mentor Farm - Lancaster, MA; Florida Organic Growers - Gainesville, FL; GrassWorks - New Holstein, WI; Hmong National Development, Inc. - St. Paul, MN and Washington, DC; Illinois Stewardship Alliance - Springfield, IL; Institute for Agriculture and Trade Policy - Minneapolis, MN; Iowa Natural Heritage Foundation - Des Moines, IA; Izaak Walton League of America - St. Paul, MN/Gaithersburg, MD; Kansas Rural Center - Whiting, KS; The Kerr Center for Sustainable Agriculture - Poteau, OK; Land Stewardship Project - Minneapolis, MN; Michael Fields Agricultural Institute - East Troy, WI; Michigan Food & Farming Systems (MIFFS) - East Lansing, MI; Michigan Organic Food and Farm Alliance - Lansing, MI; Midwest Organic and Sustainable Education Service - Spring Valley, WI; National Catholic Rural Life Conference - Des Moines, IA; The National Center for Appropriate Technology - Butte, MT; Nebraska Sustainable Agriculture Society - Ceresco, NE; Northeast Organic Dairy Producers Alliance -Deerfield, MA; Northern Plains Sustainable Agriculture Society - LaMoure, ND; Northwest Center for Alternatives to Pesticides - Eugene, OR; Ohio Ecological Food & Farm Association - Columbus, OH; Organic Farming Research Foundation - Santa Cruz, CA; Rural Advancement Foundation International – USA - Pittsboro, NC; Union of Concerned Scientists Food and Environment Program - Cambridge, MA; Virginia Association for Biological Farming - Lexington, VA; Wild Farm Alliance -Watsonville, CA.

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Note: While the March 18 proposed rule makes several changes to various RBS programs, NSAC's comment letter addresses only VAPG. We do note at the outset our support for the proposed changes to the Business and Industry Loan Program.

Main Recommendation: RBS Should Remove VAPG from the State Allocation Process in the Final Rule.

In the proposed rule, RBS proposes a number of changes to the administration of certain programs. RBS proposes to:

- Add VAPG and two other Rural Development programs to 7 CRF Part 1940, Subpart L, in which state Rural Development offices serve as the administrators and reviewers for programs such as the Business and Industry Guaranteed Loan Program, the Rural Business Opportunity Grant Program, and the Rural Business Enterprise Grant Program;

- Allocate VAPG general funds to State Rural Development (RD) offices but exclude set-aside funds (beginning, socially disadvantaged, and veteran producers; mid-tier value chains) from those allocations to State offices;

- Permit RBS "to not make state allocations for a particular program in any fiscal year when funds allocated to a program are insufficient" or "if RBS determines that it is in the Federal Government's best financial interests not to make state allocations"; and

- Use certain criteria, including those from other RBS programs, in making the determination for state allocations.

NSAC opposes these proposed changes and urges RBS to remove VAPG from the final rule. Our view is informed by the following considerations.

(1) VAPG is a national competitive grant program and should be administered like one, including establishing as quickly as possible a robust peer review evaluation process.

The proposed rule is incompatible with a national competitive grant program process. Dividing national funding into small amounts distributed to each State helps spread the money nationwide, but greatly detracts from the program's competitive status. NSAC firmly believes that the agency and its partners should take steps to increase program outreach and technical assistance to States with few applicants or low quality proposals. Equally firmly, however, we do not believe the solution to funding projects in underserved States is to reduce competition and fund less qualified proposals. Doing so would be contrary to the statutory obligation to make awards on a competitive basis, would reduce program performance and results, and would open the program to criticism.

Another aspect of a properly functioning grant program includes establishing a robust peer review process to evaluate proposals. NSAC recently submitted comments to the agency on VAPG implementation, including a recommendation to improve the independent reviewer process in the short-term and to create a robust peer review process in the mid- and long-term. We repeat those recommendations here:

Recommendation: In the short term, provide greater transparency and information sharing among reviewers and between USDA and applicants.

Currently, VAPG reviewers work in isolation from other reviewers and lack the ability to share information and more thoughtfully discuss applications with others. While the VAPG review process is not a true peer review panel process (see below), USDA should provide for conference calls and other information sharing mechanisms to help reviewers share insights and information about the review process and help one another with challenges in their conducting their reviews.

Likewise, information between USDA and applicants is lacking – with applicants not receiving feedback on ways their applications did not meet eligibility criteria or on ways their applications did not score well enough to receive funding. USDA should provide feedback on both eligibility screenings and the review of each application to help those applicants improve future applications and to encourage a greater number of applicants. The lack of information VAPG applicants receive on their applications (which often come at a considerable expense of time and money) creates frustration and discourages applicants who have failed to receive funding from reapplying.

Recommendation: Move as quickly as possible to full peer review panels on par with all other USDA national competitive grant programs.

There are many excellent USDA examples of robust peer review processes for national competitive grants programs, including programs operated by NIFA (e.g., Sustainable Agriculture Research and Education Program and Beginning Farmer and Rancher Development Program), AMS (e.g., Farmers Market and Local Food Promotion Program), and FNS (e.g. Farm to School Grants). We believe RD should take the best ideas from other USDA competitive grants programs and formulate its own peer review process for VAPG grants. We realize this cannot happen overnight, and hence include shorter-term recommendations above for how to improve the current system of review. But in the long run, we believe a more robust review system is critical to the effectiveness and integrity of the program.

(2) Administering the program at the State level is inefficient.

From a manpower standpoint, administering what will effectively be 50 separate VAPG programs will result in more staff working more hours than if the program were retained as a national competitive grants program. While this model may successfully offload some staff needs and hours from RBS headquarters, agency-wide it will increase the total human resources needed to administer the program, as each and every program task is multiplied 50 times.

Moreover, the fundamental problem for VAPG from an administration perspective is the lack of an authorization or rule providing for a percentage of program funding to be used for administering the program. Offloading program administration to State offices exacerbates the problem rather than solving it. To solve the problem, we urge you to promulgate a proposed rule creating an administrative cost percentage for the program. Doing so would solve the problem of administering a national competitive grants program with insufficient national staffing. In our view, VAPG should be allowed to use similar sums for administration as other USDA national competitive grants programs, such as, for instance, the Farmers Market and Local Food Promotion Program at AMS or the Farm to School grant program at FNS.

Spreading the money nationwide in small increments will also increase the number of reviewers that must be recruited each year, or, in the alternative, move the program entirely from normal competitive grant processes. The proposed rule is silent on how each State office would use its allocated funding and what type of review process would be utilized. If each State relied on a peer review process to make awards, the total number of VAPG reviewers required on a nationwide basis would be greatly increased, likely resulting in a major recruitment problem. If such a peer review process is not established in each State, the quality of the program will inevitably suffer from lack of independent review. Under this second scenario the probability of politicization of the program would also greatly increase. This would be a grave mistake.

(3) The current multi-tiered review system involving federal, State, and independent review is critical to the program's success and should not only be maintained but enhanced.

Under the current review process for VAPG, State RD Offices, independent reviewers, and the USDA National Office jointly share the responsibility for eligibility screenings, along with recommendations and approvals of final awards. The State RD Offices are responsible for eligibility determinations and ensuring the completeness of all submissions, including providing assistance to applicants prior to the application submission deadline. Independent reviewers, along with State Offices are responsible for scoring eligible proposals, while the National Office provides random quality checks of State eligibility determinations and independent reviewer scores and is responsible for recommending and approving final awards.[2]

This multi-tiered system[3] is important for a number of reasons:

(a) By having the National Office involved through random quality checks of both State office eligibility reviews and independent reviewer assessments, an important checks and balances system is created. In that system, no one level of review has overwhelming significance or power in the review process. The system creates accountability and helps to remedy mistakes or problems (including malfeasance) during reviews.

(b) Complaints by several NSAC members of ineffectual and troubling interactions with certain State RD Offices over VAPG eligibility reviews, calls into question the utility and soundness of leaving VAPG review entirely in the hands of the State RD Offices. Among the complaints cited were arbitrary denials and even incorrect eligibility reviews of applications. By having State RD Offices responsible for all aspects of VAPG review, applications from problem States will put those applicants at a severe disadvantage because they will not benefit from independent reviewers or the National Office providing input and oversight.

(c) For the VAPG review process, the National Office solicits applications of a diverse group of independent reviewers with expertise in VAPG. The involvement of independent reviewers is crucial to ensuring that the best projects are selected (based on the knowledge and experience of selected reviewers) and that a fair and impartial review system is maintained

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[2] http://www.rurdev.usda.gov/SupportDocuments/VAPGReviewerGuidelinesNovember2013.pdf
[3] http://www.rurdev.usda.gov/SupportDocuments/OR-VAPGappflow.pdf

(through the annual selection of qualified independent reviewers). As State RD Offices work on numerous programs and issues, the on-the-ground experience of independent reviewers and deep background of these reviewers on what works and does not work for VAPG projects are especially valuable.

Again, we believe that further improvements to the independent reviewer system are sorely needed. We urge the agency to move forward with those improvements on an urgent basis. Even without the improvements in place, the role and function of the current independent reviewers are central to the programs success.

(4) Current funding levels are not enough to sustain an effective competitive grants program if implemented at the State level.

In order to administer an effective competitive grants program that awards the top VAPG applicants, sufficient award funds must be available. Unlike the State-administered B&I Guaranteed Loan Program, which currently has approximately $960 million available in loan guarantees, the VAPG program's currently available funding pool is a fraction of what would be needed for a successful State-administered program. Division of the current funding level into small individual state funding pools would hurt VAPG.

Assuming a steady appropriation at the FY 14 level -- hardly a given especially because the USDA budget request for FY 15 is $4 million lower -- the expected total amount of yearly funding available from the 2014 Farm Bill mandatory amount combined with the annual appropriations amount totals less than $28 million. Additionally, the proposed rule only applies to the general fund, thus leaving the two 10 percent set-asides for projects creating opportunities for beginning and socially disadvantaged farmers and ranchers and mid-tier value chains up to the National Office for administration. Therefore, the total amount allocated to the States would be 20 percent less than the approximately $28 million yearly amount – making the pool even smaller.

Under the national competitive process that is currently in place, the best projects receive funding because they rise to the top out of the entire applicant pool. Some of those same projects will be chosen by a State allocation system, but others will be unfunded. Instead, some awards will go to lower ranked projects.

(5) The proposed split application review process would be complicated and would inevitably lead to confusion for agency staff and for applicants and reviewers.

The proposed rule would have proposals that address beginning, socially disadvantaged, and veteran farmers, as well as proposals that involve mid-tier value chains and food hubs, processed and reviewed at the national level, while all other proposals would be dealt with at the State level. This will inevitably complicate the review process with respect to those projects targeted by the two set-asides.

Under the proposed structure, the State Office would first need to review and evaluate all proposals with respect to whether or not they meet the set-aside criteria. Those that are qualified would then be referred directly to the National Office, with the remainder remaining at the State Office. If the total number of highly meritorious projects qualified for the set-aside exceeds the amount of funds reserved at the national level for the set-aside, those not funded at the national level would then either need to be returned to the State pools for a chance to compete with other proposals, or would simply fall by the wayside – even if they were ranked substantially higher than projects left in the State pools.

Given that projects that substantially involve beginning, socially disadvantaged, and veteran farmers are a statutory priority for the program, rejecting qualified and highly ranked projects that meet that program priority in favor of qualified but lower-ranked projects that do not meet the program priority would be contrary to statutory intent and particularly ill-advised.

If such projects are returned to the State pools, there will be a significant time delay. The national review process for set-aside funding will need to take place and be completed before the State level process can begin. This will add significant time to the annual implementation process.

It is also clear that the National Office would still need to recruit independent reviewers at the national level to review set-aside proposals, which could be problematic should there be a shortage of qualified reviewers.

(6) The idea of finalizing a rule for a brand new State allocation system and then perhaps not using the new system is unconvincing.

As noted above, the proposed rule suggests that the newly proposed State allocation system will not be issued "in any fiscal year when funds allocated to a program are insufficient" or "if RBS determines that it is in the Federal Government's best financial interests not to make state allocations." We find this argument completely unconvincing. First, as noted above, funds allocated to the program for at least the foreseeable future are insufficient for State-by-State administration. Second, the "best financial interest" criterion is vague and not defined. Third, if there were a huge increase in program funding in the future, that would be the point in time for a new proposed rule to possibly restructure the program. For the time being, however, such a move, no matter how qualified, is premature. Finally, whatever the intention of the current Administration may be about not actually using the new proposed rule to allocate funds to the States, it could be easily reversed with a change in staff or change in future political appointees. We believe the strong tendency will be to use the rule once it is codified.

(7) Given our adamant rejection of the proposed rule for VAPG State allocations, we decline to comment on the proposed criteria and weight factors for state allocation for VAPG.

The current national competitive grant process, which provides for State input and independent review of applications, is the most appropriate review process for VAPG. As stated above, NSAC believes the program can be further improved by enhancing the current independent review process, moving soon to a robust peer review process, stepping up outreach and technical assistance, especially to underserved areas, and undertaking a proposed rule to establish a modest administrative fee percentage from within program funding. We oppose the proposed rule to establish State allocations as contrary to the statute and ill-timed given likely funding levels for the next five years, but look forward to helping to improve the program and program delivery in the ways stated above.

Thank you for your consideration of these comments and for your work towards improving VAPG.

Sincerely,

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