

Part 4280 - LOANS AND GRANTS

Subpart B - Rural Energy for America Program

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Guide 1 to Subpart B of Part 4280 - Rural Energy for America Program Energy Audits and Renewable Energy Development Assistance Grant Application Guide

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PART 4280 LOANS AND GRANTS

Subpart B - Rural Energy for America Program

§ 4280.101 Purpose.

This subpart contains the procedures and requirements for providing the following financial assistance under the Rural Energy for America Program (REAP):

- (a) Grants or guaranteed loans, or a combination grant and guaranteed loan, for the purpose of purchasing and installing Renewable Energy Systems (RES) and Energy Efficiency Improvements (EEI); and
- (b) Grants to assist Agricultural Producers and Rural Small Businesses by conducting Energy Audits (EA) and providing recommendations and information on Renewable Energy Development Assistance (REDA) and improving energy efficiency.

§ 4280.102 Organization of Subpart.

- (a) Sections 4280.103 through 4280.111 discuss definitions; exception authority; review or appeal rights; conflict of interest; USDA Departmental Regulations; other applicable laws; ineligible Applicants, borrowers, and owners; general Applicant, application, and funding provisions; and notifications, which are applicable to all of the funding programs under this subpart.
- (b) Sections 4280.112 through 4280.124 discuss the requirements specific to RES and EEI grants. Sections 4280.112 and 4280.113 discuss, respectively, Applicant and project eligibility. Section 4280.114 addresses funding provisions for these grants. Sections 4280.115 through 4280.119 address grant application content, technical merit determination, and required documentation. Sections 4280.120 through 4280.123 address the scoring, selection, awarding and administering, and servicing of these grant applications. Section 4280.124 addresses construction planning and development.
- (c) Sections 4280.125 through 4280.152 discuss the requirements specific to RES and EEI guaranteed loans. Sections 4280.125 through 4280.128 discuss eligibility and requirements for making and processing loans guaranteed by the Agency. Section 4280.129 addresses funding for guaranteed loans. In general, Sections 4280.130 through 4280.152 provide guaranteed loan origination and servicing requirements. These requirements apply to lenders, holders, and other parties involved

in making, guaranteeing, holding, servicing, or liquidating such loans. Section 4280.137 addresses the application requirements for guaranteed loans.

(d) Section 4280.165 presents the process by which the Agency will make combined loan guarantee and grant funding available for RES and EEI projects.

(e) Sections 4280.186 through 4280.196 present the process by which the Agency will make EA and REDA grant funding available. These sections cover Applicant and project eligibility, grant funding, application content, evaluation, scoring, selection, awarding and administering, and servicing.

(f) Appendices A through C cover technical report requirements. Appendix A applies to EEI projects; Appendix B applies to RES projects with Total Project Costs of Less Than \$200,000, but more than \$80,000; and Appendix C applies RES projects with Total Project Costs \$200,000 and Greater. Appendices A and B do not apply to RES and EEI projects with Total Project Costs of \$80,000 or less, respectively. Instead, technical report requirements for these projects are found in § 4280.119.

(g) Any portion of this Instruction appearing in italicized type is considered by the Agency to be administrative procedure and has not been published in the Federal Register as part of the regulation.

§ 4280.103 Definitions.

Terms used in this subpart are defined in either § 4279.2 of this chapter or in this section. If a term is defined in both § 4279.2 and this section, it will have, for purposes of this subpart only, the meaning given in this section. Terms used in this subpart that have the same meaning as the terms defined in this section have been capitalized in this subpart.

Administrator. The Administrator of Rural Business-Cooperative Service within the Rural Development Mission Area of the U.S. Department of Agriculture (USDA).

Agency. The Rural Business-Cooperative Service (RBS) or successor agency assigned by the Secretary of Agriculture to administer the Rural Energy for America Program. References to the National Office, Finance Office, State Office, or other Agency offices or officials should be read as prefaced by "Agency" or "Rural Development" as applicable.

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Agricultural Producer. An individual or entity (including non-profits) directly engaged in the production of agricultural products (through labor, management, and field operations), including crops (including farming); livestock (including ranching); forestry products; hydroponics; nursery stock; or aquaculture, whereby 50 percent or greater of their gross income is derived from those products. To calculate the percentage of Agricultural Producer's gross income that is derived from agricultural production use the following equation: Gross income from agricultural production / total gross income of the Agricultural Producer. In general agricultural products include but are not limited to: crops, livestock, fish, seafood, and timber. Payments related to the production of agricultural products i.e. production contracts, crop insurance, commodity payments, etc. will be considered as part of the agricultural production income. Purchases and resale of agricultural products, rent payments received, custom services and trucking for others, and off-farm income, etc. are not considered as income derived from production of agricultural products. An Agricultural Producer could be located in either a Rural or a non-rural area.

Anaerobic Digester Project. A Renewable Energy System that uses animal waste or other Renewable Biomass and may include other organic substrates, via anaerobic digestion, to produce biomethane that is used to produce thermal or electrical energy or that is converted to a compressed gaseous or liquid state.

Annual Receipts. Means receipts as calculated under 13 CFR 121.104.

Applicant.

- (1) Except for EA and REDA grants, the Agricultural Producer or Rural Small Business that is seeking a grant, guaranteed loan, or a combination of a grant and loan, under this subpart.
- (2) For EA and REDA grants, a unit of State, Tribal, or local government; a land-grant college or university or other Institution of Higher Education; a rural electric cooperative; a Public Power Entity; Council as defined in 16 U.S.C. 3451; or an Instrumentality of a State, Tribal, or local government that is seeking an EA or REDA grant under this subpart.

Assignment Guarantee Agreement (Form RD 4279-6, or successor form). The signed agreement among the Agency, the lender, and the holder containing the terms and conditions of an assignment of a guaranteed portion of a loan, using the single note system.

Bioenergy Project. A Renewable Energy System that produces fuel, thermal energy, or electric power from a Renewable Biomass source only.

Capacity. The maximum output rate that an apparatus or heating unit is able to attain on a sustained basis as rated by the manufacturer.

Commercially Available. A system that meets the requirements of either paragraph (1) or (2) of this definition.

(1) A domestic or foreign system that:

(i) Has, for at least one year specific to the proposed application, both a proven and reliable operating history and proven performance data;

(ii) Is based on established design and installation procedures and practices and is replicable;

(iii) Has professional service providers, trades, large construction equipment providers, and labor who are familiar with installation procedures and practices;

(iv) Has proprietary and balance of system equipment and spare parts that are readily available;

(v) Has service that is readily available to properly maintain and operate the system; and

(vi) Has an existing established warranty that is valid in the United States for major parts and labor.

(2) A domestic or foreign Renewable Energy System that has been certified by a recognized industry organization whose certification standards are acceptable to the Agency. *By rule, a Renewable Energy System is considered to have demonstrated commercial availability if it has been certified by a recognized industry organization whose certification standards are acceptable to the Agency. Examples of recognized industry organization whose certification standards are acceptable to the Agency include, but are not limited to:*

Small Wind Certification Council <http://smallwindcertification.org/>

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Solar Rating and Certification Corporation	http://www.solar-rating.org/
Florida Solar Energy Center	http://www.fsec.ucf.edu/en/
American Wind Energy Association	http://www.awea.org/
Intertek Small Wind Certification Program	http://www.intertek.com/wind/small/ directory/

Complete Application. An application that contains all parts necessary for the Agency to determine Applicant and project eligibility, score the application, and, where applicable, enable the Agency to determine the technical merit of the project.

Conditional Commitment (Form RD 4279-3, or successor form). The Agency's notice to the lender that the loan guarantee it has requested is approved subject to the completion of all conditions and requirements set forth by the Agency and outlined in the Conditional Commitment.

Council. As defined in 16 U.S.C. 3451, which states that a Resource Conservation and Development Council (RC&D) is a nonprofit entity (including an affiliate of the entity) operating in a State that is: (A) established by volunteers or representatives of States, local units of government, Indian tribes, or local nonprofit organizations to carry out an area plan in a designated area; and (B) designated by the chief executive officer or legislature of the State to receive technical assistance and financial assistance under this subchapter.

Departmental Regulations. The regulations of the USDA's Office of Chief Financial Officer (or successor office) as codified in 2 CFR chapter IV. The Grants and Agreements regulations of the Department of Agriculture as currently codified in 2 CFR parts 400, 415, 417, 418, 421, and successor regulations to these parts.

Design/Build Method. A method of project development whereby all design, engineering, procurement, construction, and other related project activities are performed under a single contract. The contractor is solely responsible and accountable for successful delivery of the project to the grantee and/or borrower as applicable.

Eligible Project Costs. The Total Project Costs that are eligible to be paid or guaranteed with REAP funds.

Energy Assessment. An Agency-approved report assessing energy use, cost, and efficiency by analyzing energy bills and surveying the target building and/or equipment sufficiently to provide an Agency-approved Energy Assessment.

(1) If the project's Total Project Cost is greater than \$80,000, the Energy Assessment must be conducted by either an Energy Auditor or an Energy Assessor or an individual supervised by either an Energy Assessor or Energy Auditor. The final Energy Assessment must be validated and signed by the Energy Assessor or Energy Auditor who conducted the Energy Assessment or by the supervising Energy Assessor or Energy Auditor of the individual who conducted the assessment, as applicable.

(2) If the project's Total Project Cost is \$80,000 or less, the Energy Assessment may be conducted in accordance with paragraph (1) of this definition or by an individual or entity that has at least 3 years of experience and completed at least five energy assessments or energy audits on similar type projects.

Energy Assessor. A Qualified Consultant who has at least 3 years of experience and completed at least five energy assessments or energy audits on similar type projects and who adheres to generally recognized engineering principles and practices.

Energy Audit. A comprehensive report that meets an Agency-approved standard prepared by an Energy Auditor or an individual supervised by an Energy Auditor that documents current energy usage; recommended potential improvements, typically called energy conservation measures, and their costs; energy savings from these improvements; dollars saved per year; and Simple Payback. The methodology of the Energy Audit must meet professional and industry standards. The final Energy Audit must be validated and signed off by the Energy Auditor who conducted the audit or by the supervising Energy Auditor of the individual who conducted the audit, as applicable. *Acceptable Energy Audits include but are not limited to those Energy Audits that meet: the American Society of Heating, Refrigeration and Air-Conditioning Engineers (ASHREA) Level II Energy Survey; Analysis and American National Standards Institute (ANSI); or American Society of Agricultural and Biological Engineers (ASABE) S162 Standard for performing on farm Energy Audits.*

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Energy Auditor. A Qualified Consultant that meets one of the following criteria:

- (1) A Certified Energy Auditor certified by the Association of Energy Engineers;
- (2) A Certified Energy Manager certified by the Association of Energy Engineers;
- (3) A Licensed Professional Engineer in the State in which the audit is conducted with at least 1 year experience and who has completed at least two similar type energy audits; or
- (4) An individual with a 4 year engineering or architectural degree with at least 3 years of experience and who has completed at least five similar type energy audits.

Energy Efficiency Improvement (EEI). Improvements to or replacement of an existing building and/or equipment that reduces energy consumption on an annual basis.

Feasibility Study. An analysis, including an opinion or finding, conducted by a Qualified Consultant of the economic, market, technical, financial, and management feasibility of a proposed project or business operation. See Appendix D to Subpart B of Part 4280 - Feasibility Study Content.

Federal Fiscal Year. The 12-month period beginning October 1 of any given year and ending on September 30 of the following year.

Financial Feasibility. The ability of a project or business operation to achieve sufficient income, credit, and cash flow to financially sustain a project over the long term. The concept of financial feasibility includes assessments of the cost-accounting system, the availability of short-term credit for seasonal businesses operations, and the adequacy of raw materials and supplies.

Geothermal Direct Generation. A system that uses thermal energy directly from a geothermal source.

Geothermal Electric Generation. A system that uses thermal energy from a geothermal source to produce electricity.

Financial Assistance Agreement (Form RD 4280-2, Rural Business-Cooperative Service Financial Assistance Agreement, or Successor Form). Now known as the Rural Business-Cooperative Service Financial Assistance Agreement. An agreement between the Agency and the grantee setting forth the provisions under which the grant will be administered. (Revised 07-02-18, PN 514.)

Hybrid. A combination of two or more Renewable Energy technologies that are incorporated into a unified system to support a single project. *Projects which propose two or more different Renewable Energy technologies that are not incorporated into a unified system and projects which propose different Renewable Energy technologies at two or more locations (a different technology at each site) are not eligible. For example installing wind at one location and solar at another location is not eligible but installing wind/solar hybrid at both locations is eligible.*

Hydroelectric Source. A Renewable Energy System producing electricity using various types of moving water including, but not limited to, diverted run-of-river water, in-stream run-of-river water, and in-conduit water. For the purposes of this subpart, only those Hydroelectric Sources with a Rated Power of 30 megawatts or less are eligible.

Hydrogen Project. A system that produces hydrogen from a Renewable Energy source or that uses hydrogen produced from a Renewable Energy source as an energy transport medium in the production of mechanical or electric power or thermal energy.

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

Inspector. A Qualified Consultant who has at least 3 years of experience and completed at least five inspections on similar type projects. A project might require one or more Inspectors to perform the required inspections.

Institution of Higher Education. As defined in 20 U.S.C. 1002(a).

Instrumentality. An organization recognized, established, and controlled by a State, Tribal, or local government, for a public purpose or to carry out special purposes.

Interconnection Agreement. A contract containing the terms and conditions governing the interconnection and parallel operation of the grantee's or borrower's electric generation equipment and the utility's electric power system.

Lender's Agreement (Form RD 4279-4, or Successor Form). Agreement between the Agency and the lender setting forth the lender's loan responsibilities.

Loan Note Guarantee (Form RD 4279-5, or Successor Form). A guarantee issued and executed by the Agency containing the terms and conditions of the guarantee.

Matching Funds. Those project funds required by the 7 U.S.C. 8107 to receive the grant, which is 75 percent of Eligible Project Costs, or guaranteed loan, which is 25 percent of Eligible Project Costs, under this program. Funds provided by the applicant in excess of matching funds are not matching funds, but would be considered other funds. An example of this would be: For a project with \$100,000 Eligible Project Costs, an Applicant provides \$80,000 of funds from other sources, and requests a \$20,000 REAP grant. Since, REAP grants require 75 percent Matching Funds, only \$75,000 of the funds provided by the Applicant would be considered Matching Funds, \$5,000 would be considered other funds. In addition, funds used to pay for costs not eligible under REAP, are considered other funds. **Unless authorized by statute, other Federal grant funds cannot be used to meet a Matching Funds requirement.** Other Federal grants can be used to pay for Eligible Project Costs as long as all Federal grants do not exceed 25 percent of Eligible Project Costs. The following examples illustrate how this definition is applied.

- (1) Example 1 Grant: Eligible Project Costs \$100,000
 REAP grant request: \$20,000
 Matching Funds: \$75,000 (Eligible Project Costs * 75 percent)
 Matching Funds from other Federal grants: \$0
 In this example, the remaining \$5,000 of the \$100,000 of Total Project Costs could come from other Federal grants because the total from all Federal grants (\$20,000 REAP grant and \$5,000 other Federal grant) does not exceed 25 percent of Eligible Project Costs and the project could be eligible.
- (2) Example 2 Guaranteed Loan: Eligible Project Costs \$5,000,000 REAP
 Guaranteed Loan Request: \$3,000,000
 Matching Funds: \$1,250,000 (Eligible Project Costs * 25 percent)
 Matching Funds from other Federal Grants: \$0
 In this example, the remaining \$750,000 of the \$5 million of Eligible Project Costs could come from other Federal grants because the total from all Federal grants does not exceed 25 percent of Eligible Project Costs and the project could be eligible.
- (3) Example 3 Guaranteed Loan Grant Combination Request
 Eligible Project Costs: \$500,000
 REAP Grant request: \$100,000
 REAP Guaranteed Loan Request: \$200,000
 Matching Funds: \$125,000 (Eligible Project Costs * 25 percent)
 Other funds required: \$75,000
 Matching Funds from other Federal grants: \$0
 In this example, only \$25,000 of the \$75,000 of other funds could come from other Federal grants because the total from all Federal grants cannot exceed 25 percent of Eligible Project Costs to keep the project eligible.

Ocean Energy. Energy created by use of various types of moving water in the ocean and other large bodies of water (e.g., Great Lakes) including, but not limited to, tidal, wave, current, and thermal changes.

Passive Investor. An equity investor that does not actively participate in management and operation decisions of the business entity as evidenced by a contractual agreement.

Power Purchase Agreement. The terms and conditions governing the sale and transportation of electricity produced by the grantee or borrower to another party. Typically includes at a minimum information on energy quantity, connection point, and revenue to be paid by buyer to seller. Agency can request borrower's attorney to provide a legal opinion on PPA if desired. When in compliance with State and local regulations, a non-REAP eligible borrower may be the purchaser on the PPA, as long as our Applicant and project are otherwise eligible under this subpart. Example: Eligible Applicant will own and install a RES and will enter into a PPA to sell power to a multi-family housing complex.

Public Power Entity. Is defined using the definition of "State utility" as defined in section 217(A)(4) of the Federal Power Act (16 U.S.C. 824q(a)(4)). As of this writing, the definition "means a State or any political subdivision of a State, or any agency, authority, or instrumentality of any one or more of the foregoing, or a corporation that is wholly owned, directly or indirectly, by any one or more of the foregoing, competent to carry on the business of developing, transmitting, utilizing, or distributing power."

Qualified Consultant. An independent third-party individual or entity possessing the knowledge, expertise, and experience to perform the specific task required.

Rated Power. The maximum amount of energy that can be created at any given time.

Refurbished. Refers to a piece of equipment or Renewable Energy System that has been brought into a commercial facility, thoroughly inspected, and worn parts replaced and has a warranty that is approved by the Agency or its designee. An example of Refurbished equipment is a diesel engine that has been rebuilt to factory specifications. The purchase of Used Equipment which has not been Refurbished is not eligible. There are too many technologies and different equipment to track applicable warranties for components and a one size fits all warranty does not work well. Therefore the Agency will need to ensure that the warranty being provided is similar to that industry standard for Refurbished equipment.

§ 4280.103 (Con.)

Renewable Biomass.

(1) Materials, pre-commercial thinnings, or invasive species from National Forest System land or public lands (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702)) that:

(i) Are byproducts of preventive treatments that are removed to reduce hazardous fuels; to reduce or contain disease or insect infestation; or to restore ecosystem health;

(ii) Would not otherwise be used for higher-value products; and

(iii) Are harvested in accordance with applicable law and land management plans and the requirements for old-growth maintenance, restoration, and management direction of paragraphs (e)(2), (e)(3), and (e)(4) and large-tree retention of subsection (f) of section 102 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6512); or

(2) Any organic matter that is available on a renewable or recurring basis from non-Federal land or land belonging to an Indian or Indian Tribe that is held in trust by the United States or subject to a restriction against alienation imposed by the United States, including:

(i) Renewable plant material, including feed grains; other agricultural commodities; other plants and trees; and algae; and

(ii) Waste material, including crop residue; other vegetative waste material (including wood waste and wood residues); animal waste and byproducts (including fats, oils, greases, and manure); and food waste, yard waste, and other biodegradable waste. (Waste material does not include unsegregated solid waste or other petroleum based products such as tires or plastic.)

Renewable Energy. Energy derived from:

(1) A wind, solar, Renewable Biomass, ocean (including tidal, wave, current, and thermal), geothermal or Hydroelectric Source; or

- (2) Hydrogen derived from Renewable Biomass or water using wind, solar, ocean (including tidal, wave, current, and thermal), geothermal or Hydroelectric Sources.

Renewable Energy Development Assistance (REDA). Assistance provided by eligible grantees to Agricultural Producers and Rural Small Businesses to become more energy efficient and to use Renewable Energy technologies and resources. The Renewable Energy Development Assistance may consist of Renewable Energy Site Assessment and/or Renewable Energy Technical Assistance.

Renewable Energy Site Assessment. A report provided to an Agricultural Producer or Rural Small Business providing information regarding and recommendations for the use of Commercially Available Renewable Energy technologies in its operation. The report must be prepared by a Qualified Consultant and must contain the information specified in Sections A through C of Appendix B.

Renewable Energy System (RES). Meets the requirements of paragraph (1) and (2) of this definition:

- (1) A system that:

- (i) Produces usable energy from a Renewable Energy source; *Co-firing with fossil fuels, natural gas or petroleum-based products or materials such as coal and other fuels, oils, chemicals tires or plastic are not eligible; and*
- (ii) May include distribution components necessary to move energy produced by such system to initial point of sale.

- (2) A system described in paragraph (1) of this definition may not include a mechanism for dispensing energy at retail. *An example of a retail dispensing unit would be a flexible fuel pump.*

Renewable Energy Technical Assistance. Assistance provided to Agricultural Producers and Rural Small Businesses on how to use Renewable Energy technologies and resources in their operations.

Retrofitting. A modification that incorporates a feature or features not included in the original design or for the replacement of existing components with ones that improve the original design and does not impact original warranty if the warranty is still in existence. *Examples of Retrofitting include: 1) Taking an existing wind turbine and installing newly designed blades to enhance energy production. 2) Adding equipment or processes to or altering or enhancing an existing Renewable Energy System to improve production, efficiency, or financial viability.*

Rural or Rural Area. Any area of a State not in a city or town that has a population of more than 50,000 inhabitants, according to the latest decennial census of the United States, or in the urbanized area contiguous and adjacent to a city or town that has a population of more than 50,000 inhabitants, and any area that has been determined to be "rural in character" by the Under Secretary for Rural Development, or as otherwise identified in this definition.

(1) An area that is attached to the urbanized area of a city or town with more than 50,000 inhabitants by a contiguous area of urbanized census blocks that is not more than two census blocks wide. Applicants from such an area should work with their Rural Development State Office to request a determination of whether their project is located in a Rural Area under this provision.

(2) For the purposes of this definition, cities and towns are incorporated population centers with definite boundaries, local self-government, and legal powers set forth in a charter granted by the State.

(3) For the Commonwealth of Puerto Rico, the island is considered Rural and eligible except for the San Juan Census Designated Place (CDP) and any other CDP with greater than 50,000 inhabitants. CDPs with greater than 50,000 inhabitants, other than the San Juan CDP, may be determined to be eligible if they are "not urban in character."

(4) For the State of Hawaii, all areas within the State are considered Rural and eligible except for the Honolulu CDP within the County of Honolulu.

(5) For the purpose of defining a Rural Area in the Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands, the Agency shall determine what constitutes Rural and Rural Area based on available population data.

(6) The determination that an area is "rural in character" will be made by the Under Secretary of Rural Development. The process to request a determination under this provision is outlined in paragraph (6)(ii) of this definition.

(i) The determination that an area is "rural in character" under this definition will apply to areas that are within:

(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 inhabitants that is within 1/4 mile of a Rural Area.

(ii) Units of local government may petition the Under Secretary of Rural Development for a "rural in character" designation by submitting a petition to both the appropriate Rural Development State Director and the Administrator on behalf of the Under Secretary. The petition shall document how the area meets the requirements of paragraph (6)(i)(A) or (B) of this definition and discuss why the petitioner believes the area is "rural in character," including, but not limited to, the area's population density, demographics, and topography and how the local economy is tied to a rural economic base. Upon receiving a petition, the Under Secretary will consult with the applicable Governor or leader in a similar position and request comments to be submitted within 5 business days, unless such comments were submitted with the petition. The Under Secretary will release to the public a notice of a petition filed by a unit of local government not later than 30 days after receipt of the petition by way of publication in a local newspaper and posting on the Agency's Web site, and the Under Secretary will make a determination not less than 15 days, but no more than 60 days, after the release of the notice. Upon a negative determination, the Under Secretary will provide to the petitioner an opportunity to appeal a determination to the Under Secretary, and the petitioner will have 10 business days to appeal the determination and provide further information for consideration.

§ 4280.103 (Con.)

Rural Small Business. A Small Business that is located in a Rural Area or that can demonstrate the proposed project for which assistance is being applied for under this subpart is located in a Rural Area.

Simple Payback. The estimated Simple Payback of a project funded under this subpart as calculated using paragraph (1) or (2) as applicable, of this definition.

(1) For projects that generate energy for use offsite, Simple Payback is calculated as follows:

(i) Simple Payback = (Eligible Project Costs) / ((typical year) earnings before interest, taxes, depreciation, and amortization (EBITDA) for the project only.

(ii) EBITDA will be based on:

(A) All energy-related revenue streams and all revenue from byproducts produced by the energy system for a typical year including the fair market value of byproducts produced by and used in the project or related enterprises.

(B) Income remaining after all project obligations are paid (operating and maintenance).

(C) The Agency's review and acceptance of the project's typical year income (which is after the project is operating and stabilized) projections at the time of application submittal.

(D) Does not include any tax credits, carbon credits, renewable energy credits, and construction and investment-related benefits.

(E) *The following examples illustrate how Simple Payback would be calculated for energy generation projects.*

(1) Wind turbine

Total Project Costs	\$250,000	
Annual Earnings:		
Electrical Sales	\$24,640	
Total Annual Earnings		\$24,640
Annual Expenses:		
Maintenance Contract	\$800	
Total Annual Expenses		\$800
EBITDA		\$23,840
Simple Payback (years) = Total Project costs / EBITDA $\$250,000 / \$23,840 = 10.5 \text{ years}$		10.5 years

(2) Anaerobic Digester

Total Project Costs	\$2,500,000	
Annual Earnings:		
Electrical Sales	\$470,900	
Compost Sales	\$138,300	
Total Earnings		\$609,300
Annual Expenses:		
Operating Expenses	\$155,600	
Total Annual Expenses		\$155,600
EBITDA		\$453,600
Simple Payback (years) = Total Project costs / EBITDA $\$2,500,000 / \$453,600 = 5.5 \text{ years}$		5.5 years

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(2) For projects that reduce or replace onsite energy use (e.g., EEI projects that reduce and RES projects that replace onsite energy use), Simple Payback is calculated as follows:

(i) Simple Payback = (Eligible Project Costs) / Dollar Value of Energy reduced or replaced)

(ii) Dollar Value of Energy reduced or replaced incorporates the following:

(A) Energy reduced or replaced will be calculated on the quantity of energy saved or replaced as determined by subtracting the result obtained under paragraph (2)(ii)(A)(2) from the result obtained under paragraph (2)(ii)(A)(1) of this definition, and converting to a monetary value using a constant value or price of energy (as determined under paragraph (2)(ii)(A)(3) of this definition).

(1) Actual energy used in the original building and/or equipment, as applicable, prior to the RES or EEI project, must be based on the actual average annual total energy used in British thermal units (BTU) over the most recent 12, 24, 36, 48, or 60 consecutive months of operation.

(2) Projected energy use if the proposed RES or EEI project had been in place for the original building and/or equipment, as applicable, for the same time period used to determine that actual energy use under paragraph (2)(ii)(A)(1) of this definition.

(3) Value or price of energy must be the actual average price paid over the same time period used to calculate the actual energy used under paragraph (2)(ii)(A)(1) of this definition. RES projects that will replace 100 percent of an Applicant's energy use will be required to use the actual average price paid for the energy replaced and the projected revenue received from energy sold in a typical year.

(B) Does not allow Energy Efficiency Improvements to monetize benefits other than the dollar amount of the energy savings the Agricultural Producer or Rural Small Business realizes as a result of the improvement.

(C) Does not include any tax credits, carbon credits, renewable energy credits, and construction and investment-related benefits.

(D) The following example illustrates how the Simple Payback for an energy replacement project would be calculated.

Total Project Costs	\$104,000	
Annual Value of Electricity Replaced + Annual Value of Electricity Sold	\$6,720	
Simple Payback (years) = Total Project costs / Annual Value of Electricity Replaced and/or sold $\$104,000 / \$6,720 = 15.5$ years		15.5 years

(E) The following example illustrates how the Simple Payback for an energy efficiency project would be calculated.

Total Project Costs	\$18,000	
Annual Value of Electricity Saved	\$2500	
Simple Payback (years) = Total Project costs / Annual Value of Electricity Saved $\$18,000 / \$2,500 = 7.2$ years		7.2

Small Business. An entity or utility, as applicable, described below that meets Small Business Administration's (SBA) definition of Small Business as found in 13 CFR part 121.301(a) or (b). An Applicant can qualify as a small business by meeting either 13 CFR part 121.301(a) or 121.301(b), as described below in paragraphs (5) and (6) of this definition. With the exception of the entities identified in this paragraph, all other non-profit entities are ineligible.

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- (1) A private for-profit entity, including a sole proprietorship, partnership, and corporation;
- (2) A cooperative (including a cooperative qualified under section 501(c)(12) of the Internal Revenue Code);
- (3) An electric utility (including a Tribal or governmental electric utility) that provides service to rural consumers and must operate independent of direct government control; and
- (4) Tribal corporations or other Tribal business entities (as described in paragraph (4)(i) and (ii) of this definition). The Agency shall determine the Small Business status of such Tribal entity without regard to the resources of the Tribal government.
 - (i) Chartered under Section 17 of the Indian Reorganization Act (25 U.S.C. 477), or
 - (ii) Other Tribal business entities that have similar structures and relationships with their Tribal governments as determined by the Agency.
- (5) *In accordance with 13 CFR part 121.301(a), an Applicant must satisfy two criteria in order to be considered a small business:*

 - (i) *The size of the Applicant alone (without affiliates) must not exceed the size standard designated for the industry in which the Applicant is primarily engaged; and*
 - (ii) *The size of the Applicant combined with its affiliates (as defined in 7 CFR 121.103) must not exceed the size standard designated for either the primary industry of the Applicant alone or the primary industry of the Applicant and its affiliates, whichever is higher. These size standards are set forth in §121.201.*

- (6) *In accordance with 13 CFR part 121.301(b) as updated by 15 U.S.C. 632(a)(5), an Applicant must meet one of the following standards in order to be considered a small business:*

(i) *The same standards applicable under paragraph 13 CFR part 121.301(a) of this section; or*

(ii) *Including its affiliates, have a tangible net worth not in excess of \$15 million, and average net income after Federal income taxes (excluding any carry-over losses) for the preceding two completed fiscal years not in excess of \$5 million.*

State. Any of the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands. (Revised 07-02-18, PN 514.)

Total Project Costs. The sum of all costs associated with a completed project. All costs associated with a completed project, including ineligible project costs, must be included regardless of the source of funds. For example, a proposal for a wind turbine must include all the costs associated with a completed project including the turbine, tower, foundation, and electrical. Total Project Costs for retrofitting an existing Renewable Energy System would include the costs associated with the modifications or replacement of the existing components. For example, if the tower is already in place but the turbine needs to be replaced, then the costs integral to the replacement of the turbine would be considered as Total Project Costs.

Used Equipment. Any equipment that has been used in any previous application and is provided in an "as is" condition.

§ 4280.104 Exception Authority.

The Administrator may, with the concurrence of the Secretary of Agriculture, make an exception, on a case-by-case basis, to any requirement or provision of this subpart that is not inconsistent with *RD Instructions 2006-D Page 20* any authorizing statute or applicable law, if the Administrator determines that application of the requirement or provision would adversely affect the Federal Government's financial interest.

§ 4280.105 Review or appeal rights.

An Applicant, lender, holder, borrower, or grantee may seek a review of an Agency decision or appeal to the National Appeals Division in accordance with 7 CFR part 11.

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(a) Guaranteed Loan. In cases where the Agency has denied or reduced the amount of final loss payment to the lender, the adverse decision may be appealed by the lender only. An adverse decision that only impacts the holder may be appealed by the holder only. A decision by a lender adverse to the interest of the borrower is not a decision by the Agency, whether or not concurred in by the Agency.

(b) Combined Guaranteed Loan and Grant. For an adverse decision involving a combination guaranteed loan and grant funding request, only the party that is adversely affected may request the review or appeal.

§ 4280.106 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 borrower when the recipient will retain any portion of ownership in the Applicant's or borrower'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.

(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 there from; 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.

§ 4280.107 Statute and Regulation References.

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

§ 4280.108 U.S. Department of Agriculture Departmental Regulations and Laws That Contain Other Compliance Requirements.

(a) Departmental Regulations. All projects funded under this subpart are subject to the provisions of the Departmental Regulations, as applicable, which are incorporated by reference herein. Applicant's income derives from any public assistance program; or

(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 States 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 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 includes collection and maintenance of data on the race, sex, and national origin of the recipient's membership/ownership and employees. These data must be available to conduct compliance reviews in accordance with 7 CFR 1901.204. *Compliance reviews are required for those programs that extend Federal financial assistance to a recipient which then provides assistance or activities to an ultimate beneficiary with those Federal funds, such as a rural electric cooperative receiving a grant to complete energy audits for farmers in their service area.*

(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 after the last disbursement of grant funds has been made.

(d) Environmental Requirements. Actions taken under this subpart must comply with 7 CFR part 1970. 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 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

(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 Rural Development.

§ 4280.109 Ineligible Applicants, Borrowers, and Owners.

Applicants, borrowers, and owners will be ineligible to receive funds under this subpart as discussed in paragraphs (a) and (b) of this section.

(a) If an Applicant, borrower, or owner has an outstanding judgment obtained by the U.S. in a Federal Court (other than in the United States Tax Court), is delinquent in the payment of Federal income taxes, or is delinquent on a Federal debt, the Applicant, borrower, or owner is not eligible to receive a grant or guaranteed loan until the judgment is paid in full or otherwise satisfied or the delinquency is resolved.

(b) If an Applicant, borrower, or owner is debarred from receiving Federal assistance, the Applicant, borrower, or owner is not eligible to receive a grant or guaranteed loan under this subpart.

§ 4280.110 General Applicant, Application, and Funding Provisions.

(a) Satisfactory Progress. An Applicant that has received one or more grants and/or guaranteed loans under this program must make satisfactory progress, as determined by the Agency, toward completion of any previously funded projects before the Applicant will be considered for subsequent funding. *Satisfactory progress for the EA and REDA grants are defined as at least 50 percent of previous award expended at the time the Agency makes its eligibility determination.*

(b) Application Submittal. Applications must be submitted in accordance with the provisions of this subpart unless otherwise specified in a Federal Register notice. Grant applications, guaranteed loan only applications, and combined guaranteed loan and grant applications for financial assistance under this subpart may be submitted at any time.

(1) **Grant Applications.** Complete grant applications will be accepted on a continuous basis, with awards made based on the application's score and subject to available funding.

(2) **Guaranteed Loan-only Applications.** Complete guaranteed loan-only applications will be accepted on a continuous basis, with awards made based on the application's score and subject to available funding. Each application that is ready for funding and that scores at or above the minimum score will be competed on a periodic basis with higher scoring applications receiving priority. Each application ready for funding that receives a score below the minimum score will be competed in a National Office competition at the end of the fiscal year in which the application was ready to be competed. *An application is considered ready for funding when it is determined complete, eligible, technically feasible, has a completed environmental assessment, and is recommended by the appropriate loan committee.*

(3) **Combined Guaranteed Loan and Grant Applications.** Applications requesting a RES or EEI grant and a guaranteed loan under this subpart will be accepted on a continuous basis, with awards made based on the grant application's score and subject to available funding.

(c) **Limit on Number of Applications.** An Applicant can apply for and compete only one RES project and one EEI project under this subpart per Federal Fiscal Year. *An Applicant that proposes to install the same RES (including Hybrid) across multiple facilities can be considered one project and be submitted in one application. For example, a Rural Small Business owns 5 retail stores and proposes to install solar panels on each store. The Rural Small Business owner may submit a single application for installing the solar panels on each of the 5 stores. However, if this same owner wishes to install solar panels on 3 of the 5 stores and wind turbines on the other 2 stores, the owner can only submit an application for one RES, either the solar panels or the wind turbines in the same fiscal year.*

(d) **Limit on Type of Funding Requests.** An Applicant can submit only one type of funding request (grant-only, guaranteed loan-only, or combined funding) for each project under this subpart per Federal Fiscal Year. *Unfunded combination applications can switch to and compete as a guaranteed loan only application, including increasing the loan amount, if requested by the Applicant. The Applicant must provide the remaining funds needed to complete the project.*

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(e) Application Modification. Once submitted and prior to Agency award, if an Applicant modifies its application, the application will be treated as a new application. The submission date of record for such modified applications will be the date the Agency receives the modified application, and the application will be processed by the Agency as a new application under this subpart.

(f) Incomplete Applications. Applicants must submit Complete Applications in order to be considered for funding. If an application is incomplete, the Agency will identify those parts of the application that are incomplete and return it, with a written explanation, to the Applicant for possible future resubmission. Upon receipt of a Complete Application by the appropriate Agency office, the Agency will complete its evaluation and will complete the application in accordance with the procedures specified in §§ 4280.121, 4280.179, or 4280.193 as applicable.

(g) Application Withdrawal. During the period between the submission of an application and the execution of loan and/or grant award documents for an application selected for funding, the Applicant must notify the Agency, in writing, if the project is no longer viable or the Applicant no longer is requesting financial assistance for the project. When the Applicant notifies the Agency, the selection will be rescinded and/or the application withdrawn.

(h) Technical Report. Each technical report submitted under this subpart, as specified in §§ 4280.117(e), 4280.118(b)(4), and 4280.119(b)(3) and 4280.119(b)(4) must comply with the provisions specified in paragraphs (h)(1) through (3), as applicable, of this section.

(1) Technical Report Format and Detail. The information in the technical report must follow the format specified in § 4280.119(b)(3), § 4280.119(b)(4), and Appendices A through C of this subpart, as applicable. Supporting information may be submitted in other formats. Design drawings and process flowcharts are encouraged as exhibits. In addition, information must be provided, in sufficient detail, to:

(i) Allow the Agency to determine the technical merit of the Applicant's project under § 4280.116;

(ii) Allow the calculation of Simple Payback as defined in § 4280.103; and

(iii) Demonstrate that the RES or EEI will operate or perform over the project's useful life in a reliable, safe, and a cost-effective manner. Such demonstration shall address project design, installation, operation, and maintenance.

(2) Technical Report Modifications. If a technical report is prepared prior to the Applicant's selection of a final design, equipment vendor, or contractor, or other significant decision, it may be modified and resubmitted to the Agency, provided that the overall scope of the project is not materially changed as determined by the Agency. Changes in the technical report may require additional environmental documentation in accordance with 7 CFR part 1970.

(3) Hybrid Projects. If the application is for a Hybrid project, technical reports must be prepared for each technology that comprises the Hybrid project.

(i) Time Limit on Use of Grant Funds. Except as provided in paragraph (i)(1) of this section, grant funds not expended within 2 years from the date the Financial Assistance Agreement was signed by the Agency will be returned to the Agency. (Revised 07-02-18, PN 514.)

(1) Time Extensions. The Agency may extend the 2-year time limit if the Agency determines, at its sole discretion, that the grantee is unable to complete the project for reasons beyond the grantee's control. Grantees must submit a request for the no-cost extension no later than 30 days before the expiration date of the Financial Assistance Agreement. This request must describe the extenuating circumstances that were beyond their control to complete the project for which the grant was awarded, and why an approval is in the government's best interest. *Requests for a no-cost extension can be approved by the approval official. The State Office must inform the National Office of any approvals given to extend Financial Assistance Agreements.* (Revised 07-02-18, PN 514.)

(2) Return of Funds to the Agency. Funds remaining after grant closeout that exceed the amount the grantee is entitled to receive under the Financial Agreement will be returned to the Agency.

(j) Application Funding.

(1) RES/EEI Grants. States will receive allocations of grant funds for the purpose of purchasing and installing RES and EEI in accordance with RD Instruction 1940-L. Funds will be allocated to each State through the Program Funds Control System (PFCS). Grants of \$20,000 or less funded out of the set-aside will have separate accounts in PFCS and Type of Assistance Codes from those grants of

\$20,000 or less funded from unrestricted funding. Mandatory funds including funds for grants of \$20,000 or less will be processed through the Commercial Loan Servicing System (CLSS) which was formerly named Rural Utilities Loan Servicing System (RULSS). Discretionary funding, if available, and guaranteed loan funding will be processed through the Guaranteed Loan System (GLS). States must obligate or demonstrate they will obligate all State allocated funds before submitting funding requests to the National Office.

(2) EA and REDA grants. Grant funds for EA and REDA will be retained in the National Office.

(k) RES applications. For RES projects, the following information must be completed in GLS:

(1) This Project Is - Select RES. This information can be obtained from the application scope of work or technical report.*

(2) Valid Energy Type - Select the Energy Type that best fits the project i.e. Wind, Geothermal, etc. (note: if none of the options apply, select "other", and then enter in a description in the other description field) - This information can be obtained from the Technical Report portion of the application. The following are the valid Energy Types:

<i>Biomass</i>	<i>Hydrogen</i>
<i>Geothermal</i>	<i>Hydropower</i>
<i>Hydroelectric</i>	<i>Ocean</i>
<i>Hybrid</i>	<i>Wind</i>
<i>Other</i>	<i>Solar</i>

If the project is for a biomass boiler, it would be classified as an RES, unless an EA or Energy Assessment demonstrates the new biomass boiler was more energy efficient than the existing boiler.

(3) Energy Subcategories - Select the Energy Subcategory that best fits the project, i.e., Biodiesel Production, Wind Small, etc. If "other" is selected, describe succinctly. This information can be obtained from the Technical Report portion of the application.

(1) EEI applications. For EEI projects, the following information must be completed in GLS:

(1) *This Project Is** - Select *EEI*. This information can be obtained from the application scope of work or technical report. All energy efficiency projects will have an Energy Audit or Energy Assessment submitted with the application. A RES application should not be recorded as an *EEI*, unless an Energy Audit or Energy Assessment is provided with the application and can demonstrate the RES will reduce energy consumption.

(2) *Valid Energy Type* - Select *Energy Efficiency*.

(3) *Energy Subcategories* - All energy efficiency projects should be input as "*EEI other*", enter in a description in the other description field. To ensure consistency on the description of *EEI other*, the user must utilize one of the descriptions in the *EEI other* section below, if appropriate. If the project is one of the six primary other descriptions listed below, start the other description field with the same. This is not an inclusive list and applications submitted may not fit into one these descriptions. For those applications use a brief but explanative description. When a project covers multiple improvements use descriptions with the largest portion of the project, in terms of dollars, being the first description.

(i) Grain dryer, can be more descriptive, such as "grain dryer, 60,000 bushels." Always list grain dryer first, as this will help to categorize *EEI*'s when reports are created. The description box is only 40 characters long and abbreviations maybe required.

(ii) Irrigation, can be more descriptive, such as "Irrigation, pump, motor, and pivot."

(iii) Poultry facility, can be more descriptive, such as a poultry facility project that is adding insulation and replacing lighting and ventilation fans, would be describe as "poultry, insulate/lights/ventilation."

(iv) Lighting.

(v) Heating ventilation and air conditioning (HVAC).

(vi) Refrigeration.

§ 4280.111 Notifications.

(a) Eligibility. If an Applicant and/or their application are determined by the Agency to be eligible for participation, the Agency will notify the Applicant or lender, as applicable, in writing.

(b) Ineligibility. If an Applicant and/or their application are determined to be ineligible at any time, the Agency will inform the Applicant or lender, as applicable, in writing of the decision, reasons therefore, and any appeal rights. No further processing of the application will occur.

(c) Funding Determinations. Each Applicant and/or lender, as applicable, will be notified of the Agency's decision on their application. If the Agency's decision is not to fund an application, the Agency will include in the notification any applicable appeal or review rights.

Renewable Energy System and Energy Efficiency Improvement Grants

§ 4280.112 Applicant Eligibility.

To receive a RES or EEI grant 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 an Agricultural Producer or Rural Small Business. *For-profit Rural Small Businesses that provide long-term care services that benefit residents, such as nursing homes and assisted living facilities, are eligible. For-profit Rural Small Businesses that provide short-term housing, such as hotels, are also eligible.*

(b) Ownership and Control. The Applicant must:

(1) Own or be the prospective owner of the project, and

(2) Own or control the site for the project described in the application at the time of application and, if an award is made, for the useful life of the project as described in the Financial Assistance Agreement. (Revised 07-02-18, PN 514.)

(3) *Some ownership examples include:*

(i) *An Agricultural Producer is a tenant proposing to apply for motor conversion for an irrigation project including equipment and real estate improvements. This could be eligible if:*

(A) *The Agricultural Producer/tenant has a lease with a comparable term to the life of the improvements;*

(B) *The Agricultural Producer/tenant does not have such a lease, they may be able to eliminate real estate improvements from the application and only apply for equipment. Under this scenario the project would be eligible if the Agricultural Producer/tenant, would buy the equipment, own and operate the equipment, and the equipment is severable from the land the tenant does not own. If the landlord qualified as a Small Business and was willing to incur the costs of the upgrades, the landlord may also be eligible because they own and control the land and would also own and control the equipment via the lease agreement with the Agricultural Producer/tenant.*

(ii) *A Rural Small Business Applicant owns a business incubator facility that houses three businesses. The proposal is to upgrade the facility with Energy Efficiency Improvements. This would be eligible as the Applicant owns the building. Under this scenario the tenants must execute any appropriate certifications, to ensure outcome reporting requirements can be met by the landlord.*

(iii) *Applicants can demonstrate site control through an appropriate lease that covers the life expectancy of the improvement. A Rural Small Business leases space within a business incubator and proposes to make Energy Efficiency Improvements to its leased space. The Rural Small Business has a lease with the appropriate terms. The Rural Small Business will pay for the improvements, operate the systems, and will have site control via an appropriate long-term lease. If a long-term lease is not provided, this would not be eligible.*

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(c) Revenues and Expenses. The Applicant must have available at the time of application satisfactory sources of revenue in an amount sufficient to provide for the operation, management, maintenance, and any debt service of the project for the useful life of the project. In addition, the Applicant must control the revenues and expenses of the project, including its operation and maintenance, for which the assistance is sought. Notwithstanding the provisions of this paragraph, the Applicant may employ a Qualified Consultant under contract to manage revenues and expenses of the project and its operation and/or maintenance.

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

(e) Universal Identifier and System for Awards Management (SAM). Unless exempt under 2 CFR 25.110, the Applicant must:

- (1) Be registered in the 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-424, "Application for Federal Assistance".

§ 4280.113 Project Eligibility.

For a project to be eligible to receive a RES or EEI grant under this subpart, the proposed project must meet each of the requirements specified in paragraphs (a) through (f) of this section.

- (a) Be for:
- (1) The purchase of a new RES;
 - (2) The purchase of a Refurbished RES;
 - (3) The Retrofitting of an existing RES; or
 - (4) Making EEI that will use less energy on an annual basis than the original building and/or equipment that it will improve or replace as demonstrated in an Energy Assessment or Energy Audit as applicable.

(i) Types of Improvements. Eligible EEI include, but are not limited to:

(A) Efficiency improvements to existing RES and

(B) Construction of a new energy efficient building only when the building is used for the same purpose as the existing building, and, based on an Energy Assessment or Energy Audit, as applicable, it will be more cost effective to construct a new building and will use less energy on annual basis than improving the existing building.

(ii) Subsequent Energy Efficiency Improvements. A proposed EEI that replaces or duplicates an EEI previously funded under this subpart may or may not be eligible for funding.

(A) If the proposed EEI would replace or duplicate the same EEI that had previously received funds under this subpart prior to the end of the useful life, as specified in the Financial Assistance Agreement, of that same EEI, then the proposed improvement, even if it is more energy efficient than the previously funded improvement, is ineligible. Example: An Applicant received a REAP grant to replace an exhaust fan (exhaust fan A) in a barn with a more energy efficient exhaust fan (exhaust fan B) with an expected useful life of 15 years, as specified in the Financial Assistance Agreement. If the Applicant decides to replace exhaust fan B after 8 years (i.e., before it has reached the end of its useful life as specified in the Financial Assistance Agreement), an application for exhaust fan C to replace exhaust fan B would be ineligible for funding under this subpart even if exhaust fan C is more energy efficient than exhaust fan B. *An additional example, a proposal to replace half the refrigerators in a convenience store one year which have a useful life of 10 years, then a subsequent proposal to replace the other half 2 years later, would be eligible. However replacing half of the refrigerator, with a useful life of 10 years, for a convenience store one year and 2 years later replacing all of the refrigerators, including the refrigerators previously replaced with more efficient ones, would be considered duplication and ineligible. Duplication occurs when the equipment or improvement that was previously funded is within its useful life and is being proposed for replacement in the new project. (Revised 07-02-18, PN 514.)*

§ 4280.113(a)(4)(ii) (Con.)

(B) If the proposed EEI would replace or duplicate the same EEI that had previously received funds under this subpart at or after the end of the useful life, as specified in the Financial Assistance Agreement, of that same EEI, then the proposed improvement is eligible for funding under this subpart provided it is more energy efficient than the previously funded improvement. If the proposed EEI is not more energy efficient than the previously funded improvement, then it is not eligible for funding under this subpart. (Revised 07-02-18, PN 514.)

(b) Be for a Commercially Available technology;

(c) Have technical merit, as determined using the procedures specified in § 4280.116; and

(d) Be located in a Rural Area including those areas previously approved, such as "string exclusions" and "rural in character determinations" in a State if the type of Applicant is a Rural Small Business, or in a Rural or non-Rural Area in a State if the type of Applicant is an Agricultural Producer. Applications cannot be approved subject to meeting Rural Area requirements. If the Agricultural Producer's operation is in a non-Rural Area, then the application can only be for RES or EEI on components of the business operation that are directly related to and their use and purpose is limited to the agricultural production operation, such as vertically integrated operations, and are part of and co-located with the agricultural production operation. The following examples illustrate how this definition is applied.

(1) An Agricultural Producer grows vegetables in a greenhouse located in a non-rural area. The Agricultural Producer also sells these vegetables at a retail operation collocated with the greenhouse. Since production is occurring at the site, both the greenhouse and retail operation are eligible for improvement. If the retail operation was not collocated with the greenhouse, improvement to the retail operation is not eligible. For retail only or operations that purchase and resell agricultural products not produced on site, the retail component is not eligible.

(2) An Agricultural Producer proposes to install solar panels on his packing/processing facility. The producer lives and produces crops in an eligible Rural Area, but the packing/processing facility is located in a non-rural area not collocated with the farming operation. In this example, installing solar panels on the packing/processing facility would not be eligible because it is not part of and collocated with the Agricultural Producer's crop production operation.

(e) For an RES project in which a residence is closely associated with and shares an energy metering device with a Rural Small Business, where the residence is located at the place of business, or agricultural operation, the application is eligible if the applicant can document that one of the options specified in paragraphs (e)(1) through (3) of this section is met:

(1) Installation of a second meter (or similar device) that results in all of the energy generated by the RES being used for non-residential energy usage;

(2) Certification is provided in the application that any excess power generated by the RES will be sold to the grid and will not be used by the Applicant for residential purposes; or

(3) Demonstration that 51 percent or greater of the energy to be generated will benefit the Rural Small Business or agricultural operation. The Applicant must provide documentation that includes, but is not limited to, the following:

(i) **A Renewable Energy Site Assessment.** *A Renewable Energy Site Assessment that does not provide all of the information required for a Renewable Energy Site Assessment defined § 4280.103 of this subpart may be accepted. or*

(ii) **The amount of energy that is used by the residence and the amount that is used by the Rural Small Business or agricultural operation. Provide documentation, calculations, etc. to support the breakout of energy amounts.** *The following home energy calculator sites can be utilized to support residential use: (<http://c03.apogee.net/calcs/rescalc5x/Question.aspx?hostheader=cpsenergy&utilityid=cpsenergy> or <http://www.homeenergysaver.lbl.gov/consumer/>). The Agency may request additional data to determine residential versus business operation usage; and*

(iii) **The actual percentage of energy determined to benefit the Rural Small Business or agricultural operation will be the basis to determine eligible project costs.** *The following example illustrates how this is applied.*

(A) A 10 kilowatt solar photovoltaic system is projected to produce 25,000 kilowatt hours per year. Total Project Costs are estimated at \$45,000. The Applicant provided

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documentation that shows the Small Business/farm operation needs 15,000 kilowatt hours per year. Eligible Project Costs would be calculated by:

(1) Percentage of kilowatt hours to be used by the operation: 15,000 kWh / 25,000 kWh = 60 percent

*(2) Eligible Project Costs
\$45,000 * 60 percent = \$27,000*

(f) The Applicant is cautioned against taking any actions or incurring any obligations prior to the Agency completing the environmental review that would either limit the range of alternatives to be considered or that would have an adverse effect on the environment, such as the initiation of construction. If the Applicant takes any such actions or incurs any such obligations, it could result in project ineligibility.

§ 4280.114 RES and EEI Grant Funding.

(a) Grant Amounts. The amount of grant funds that will be made available to an eligible RES or EEI project under this subpart will not exceed 25 percent of Eligible Project Costs. Eligible Project Costs are specified in paragraph (c) of this section.

(1) Minimum Request. Unless otherwise specified in a Federal Register notice, the minimum request for a RES grant application is \$2,500 and the minimum request for an EEI grant application is \$1,500.

(2) Maximum Request. Unless otherwise specified in a Federal Register notice, the maximum request for a RES grant application is \$500,000 and the maximum request for an EEI grant application is \$250,000.

(3) Maximum Grant Assistance. Unless otherwise specified in a Federal Register notice, the maximum amount of grant assistance to one individual or entity under this subpart will not exceed \$750,000 per Federal Fiscal Year.

(b) Matching Funds and Other Funds. The Applicant is responsible for securing the remainder of the Total Project Costs not covered by grant funds.

(1) Without specific statutory authority, other Federal grant funds cannot be used to meet the Matching Funds requirement. A copy of the statutory authority must be provided to the Agency to verify if the other Federal grant funds can be used to meet the Matching Funds requirement under this subpart. *For example, Federal funds awarded to State energy offices that are then provided as grants for*

Renewable Energy projects would be considered Federal funds. Funds awarded through the Natural Resource Conservation Service's (NRCS) Environmental Quality Incentive Program (EQIP) program are considered Federal funds.

(2) Passive third-party equity contributions are acceptable for RES projects, including equity raised from the sale of Federal tax credits. *Tax credits taken as grants after project completion cannot be considered Matching Funds. Only funding that an Applicant has a signed commitment demonstrating availability during project construction, which is provided to the Agency, at the time of application submittal, can be considered as Matching Funds or other funds.*

(c) Eligible Project Costs. **Eligible Project Costs are only those costs incurred after a Complete Application has been received by the Agency and are associated with the items identified in paragraphs (c)(1) through (6) of this section. Each item identified in paragraphs (c)(1) through (6) of this section is only an Eligible Project Cost if it is directly related to and its use and purpose is limited to the RES or EEI.**

(1) Purchase and installation of new or Refurbished equipment.

(2) Construction, Retrofitting, replacement, and improvements.

(3) EEI identified in the applicable Energy Assessment or Energy Audit.

(4) Fees for construction permits and licenses. *Fees required by an Interconnection Agreement are eligible. Direct payment for substations, overhead lines and poles, for example, that the Applicant will not have ownership and control of are not eligible. Project must be economically feasible.*

(5) Professional service fees related to the project for Qualified Consultants, contractors, installers, and other third-party services.

(6) For an eligible RES in which a residence is closely associated with the Rural Small Business or agricultural operation the installation of a second meter to separate the residence from the portion of the project that benefits the Rural Small Business or agricultural operation, as applicable.

(7) Projects similar to purchasing and installing solar panels to power a refrigerator or the replacement of a refrigerator for a more efficient one on a food truck may be considered eligible project costs if all other Applicant and project eligibility requirements are met.

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(d) **Ineligible Project Costs.** Ineligible project costs for RES and EEI projects include, but are not limited to:

(1) **Agricultural tillage equipment, Used Equipment, and vehicles.** *Ineligible Project Costs include costs for RES and/or EEI projects that are used to improve a vehicle's ability to propel itself. For example, modifying an existing vehicle's engine to run on renewable fuels or replacing an older vehicle with a new more efficient vehicle are ineligible.*

(2) **Residential RES or EEI projects.** *Residential is considered housing where normal living activities are conducted, such as apartment units, single family, and multi-family housing.*

(3) **Construction or equipment costs that would be incurred regardless of the installation of a RES or EEI shall not be included as an Eligible Project Costs.** For example, the foundation for a building where a RES is being installed, storage only grains bins connected to drying systems, and the roofing of a building where solar panels are being attached;

(4) **Business operations that derive more than 10 percent of annual gross revenue (including any lease income from space or machines) from gambling activity, excluding State or Tribal-authorized lottery proceeds, as approved by the Agency, conducted for the purpose of raising funds for the approved project;**

(5) **Business operations deriving income from activities of a sexual nature or illegal activities;**

(6) **Lease payments, including lease to own or capitalized lease projects;**

(7) **Any project that creates a conflict of interest or an appearance of a conflict of interest as provided in § 4280.106;**

(8) **Funding of political or lobbying activities; and**

(9) **To pay off any Federal direct or guaranteed loans or other Federal debts.**

(e) Award Amount Considerations. In determining the amount of a RES or EEI grant awarded, the Agency will take into consideration the following six criteria:

- (1) The type of RES to be purchased;
- (2) The estimated quantity of energy to be generated by the RES;
- (3) The expected environmental benefits of the RES;
- (4) The quantity of energy savings expected to be derived from the activity, as demonstrated by an Energy Audit/energy assessment;
- (5) The estimated period of time for the energy savings generated by the activity to equal the cost of the activity; and
- (6) The expected energy efficiency of the RES.

§ 4280.115 Grant Applications - General.

(a) General. Separate applications must be submitted for RES and EEI projects. An original of each application is required.

(b) Application Content. Applications for RES projects or EEI projects must contain the information specified in § 4280.117 unless the requirements of either § 4280.118(a) or § 4280.119(a) are met. If the requirements of § 4280.118(a) are met, the application may contain the information specified in § 4280.118(b). If the requirements of § 4280.119(a) are met, the application may contain the information specified in § 4280.119(b).

(c) Evaluation of Applications. The Agency will evaluate each RES and EEI grant application and make a determination as to whether *the application meets the criteria specified in paragraphs (c)(1) through (4). The REAP Grant Project Summary, Appendix G, should be completed and signed by the approval official in order to adequately document a review.*

- (1) The application is complete, as defined in § 4280.103;
- (2) The Applicant is eligible according to § 4280.112;
- (3) The project is eligible according to § 4280.113; and
- (4) The proposed project has technical merit as determined under § 4280.116.

§ 4280.116 Determination of Technical Merit.

The Agency will determine the technical merit of all proposed projects for which Complete Applications are submitted under §§ 4280.117, 4280.118, and 4280.119 under this subpart using the procedures specified in this section. Only projects that have been determined by the Agency to have technical merit are eligible for funding under this subpart.

(a) General. The Agency will use the information provided in the Applicant's technical report to determine whether or not the project has technical merit. In making this determination, the Agency may engage the services of other Government agencies or other recognized industry experts in the applicable technology field, at its discretion, to evaluate and rate the technical report. For guaranteed loan-only applications that are purchasing an existing RES, the technical report requirements can be provided in the technical feasibility section of the Feasibility Study, instead of completing separate technical report. The technical report can also be incorporated into the Feasibility Study for RES projects over \$200,000.

(b) Technical Report Areas. The areas that the Agency will evaluate in the technical reports when making the technical merit determination are specified in paragraphs (b)(1) through (5) of this section.

(1) EEI Whose Total Project Costs are \$80,000 or Less. The following areas will be evaluated in making the technical merit determination:

- (i) Project description;
- (ii) Qualifications of EEI provider(s); and
- (iii) Energy Assessment (or EA if applicable).

(2) RES Whose Total Project Costs are \$80,000 or Less. The following areas will be evaluated in making the technical merit determination:

- (i) Project description;
- (ii) Resource assessment;
- (iii) Project economic assessment; and
- (iv) Qualifications of key service providers.

(3) EEI Whose Total Project Costs are Greater Than \$80,000. The following areas will be evaluated in making the technical merit determination:

- (i) Project information;
- (ii) Energy Assessment or EA as applicable; and
- (iii) Qualifications of the contractor or installers.

(4) RES Whose Total Project Costs Less are \$200,000, but More Than \$80,000. The following areas will be evaluated in making the technical merit determination:

- (i) Project description;
- (ii) Resource assessment;
- (iii) Project economic assessment;
- (iv) Project construction and equipment; and
- (v) Qualifications of key service providers.

(5) RES Whose Total Project Costs are \$200,000 and Greater. The following areas will be evaluated in making the technical merit determination:

- (i) Qualifications of the project team;
- (ii) Agreements and permits;
- (iii) Resource assessment;
- (iv) Design and engineering;
- (v) Project development;
- (vi) Equipment procurement and installation; and
- (vii) Operations and maintenance.

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(c) Pass/Fail Assignments. The Agency will assign each area of the technical report, as specified in paragraph (b) of this section, a "pass" or "fail." An area will receive a "pass" if the information provided for the area has no weaknesses and meets or exceeds any requirements specified for the area. Otherwise, the area will receive a fail. An area will automatically receive a "fail" if it has been omitted or not addressed by the Applicant. An area that has substantial weaknesses or omissions as determined by the reviewer will receive a "fail".

(d) Determination. The Agency will compile the results for each area of the technical report to determine how to further process an application.

(1) A project whose technical report receives a "pass" in each of the applicable technical report areas will be considered to have "technical merit" and is eligible for further consideration for funding.

(2) A project whose technical report receives a "fail" in any one technical report area will be considered to be without technical merit and is not be eligible for funding.

§ 4280.117 Grant Applications for RES and EEI Projects with Total Project Costs of \$200,000 and Greater.

Grant applications for RES and EEI projects with Total Project Costs of \$200,000 and Greater must provide the information specified in this section. This information must be presented in the order shown in paragraphs (a) through (f), as applicable, of this section. Each Applicant is encouraged, but is not required, to self-score the project using the evaluation criteria in § 4280.120 and to submit with their application the total score, including appropriate calculations and attached documentation or specific cross-references to information elsewhere in the application. Applicants are encouraged to document both Applicant and project eligibility using RD Form 4280-3C, "Rural Energy for America Program Application for Renewable Energy Systems and Energy Efficiency Improvement Projects Total Project Costs of \$200,000 and Greater" and the applicable attachments.

(a) Forms and Certifications. Each application must contain the forms and certifications specified in paragraphs (a)(1) through (9), as applicable, of this section, except paragraph (a)(4).

- (1) Form SF-424.
- (2) Form SF-424C, "Budget Information-Construction Programs."
- (3) Form SF-424D, "Assurances-Construction Programs."
- (4) Identify the ethnicity, race, and gender of the applicant. This information is optional and is not required for a Complete Application.
- (5) Environmental documentation in accordance with 7 CFR part 1970. The Applicant should contact the Agency to determine what documentation is required to be provided.
- (6) The Applicant must identify whether or not the Applicant has a known relationship or association with an Agency employee. If there is a known relationship, the Applicant must identify each Agency employee with whom the Applicant has a known relationship. *An Agency employee is anyone who works for Rural Development.*
- (7) Certification that the Applicant is a legal entity in good standing (as applicable), and operating in accordance with the laws of the State(s) or Tribe where the Applicant has a place of business.
- (8) Certification by the Applicant that the equipment required for the project is available, can be procured and delivered within the proposed project development schedule, and will be installed in conformance with manufacturer's specifications and design requirements. This would not be applicable when equipment is not part of the project.
- (9) Certification by the Applicant that the project will be constructed in accordance with applicable laws, regulations, agreements, permits, codes, and standards.

(b) Applicant Information. Provide information specified in paragraphs (b)(1) through (4) of this section to allow the Agency to determine the eligibility of the Applicant. *The information listed below can be furnished by completing RD Form 4280-3C, and including the applicable attachments.*

(1) **Type of Applicant.** Demonstrate that the Applicant meets the definition of Agricultural Producer or Rural Small Business, including appropriate information necessary to demonstrate that the Applicant meets the Agricultural Producer's percent of gross income derived from agricultural operations or the Rural Small Business' size, as applicable, requirements identified in these definitions. Include a description of the Applicant's farm/ranch/business operation.

(i) **Rural Small Business Applicants.** Identify the primary North American Industry Classification System (NAICS) code applicable to the Applicant's business concern. Provide sufficient information to determine total Annual Receipts and number of employees of the business concern and any parent, subsidiary, or affiliate to demonstrate that the Applicant meets the definition of Small Business according to the time frames specified below. *When evaluating NAICS codes, use the latest SBA Small Business size standards table to determine eligibility in accordance with 13 CFR 121.301. Remember, Applicants applying as Small Businesses can be qualified based on the SBA NAICS code or using the Alternative Size Standard as defined in 13 CFR 121.301(b).*

(A) For Applicant business concerns, parents, subsidiaries, and affiliates that have been in operation for 36 months or more, provide Annual Receipts information for the 36 months and the number of employees for the 12 months preceding the date the application is submitted.

(B) For Applicant business concerns, parents, subsidiaries, and affiliates that have been in operation for less than 36 months but for at least 12 months, provide Annual Receipts and the number of employees for as long as the business concern, parent, subsidiary, or affiliate has been in operation.

(C) For Applicant business concerns, parents, subsidiaries, and affiliates that have been in operation for less than 12 months, provide Annual Receipts and number of employees projections for the applicable entity based upon a typical operating year for a 3-year time period.

(ii) Agricultural Producer Applicants. Provide the gross market value of the Applicant's agricultural products, gross agricultural income of the Applicant, and gross nonfarm income of the Applicant according to the Annual Receipts time frames specified in paragraphs (b)(1)(i)(A) through (C) of this section, as applicable to the length of time that Applicant's agricultural operation has been in operation.

(2) Applicant Description. Describe the ownership of the Applicant, including the following information if applicable.

(i) Ownership and Control. Describe how the Applicant meets the ownership and control requirements.

(ii) Affiliated Companies. For entities (e.g., corporate parents, affiliates, subsidiaries), provide a list of the individual owners with their contact information of those entities. Describe the relationship between the Applicant and these other entities, including management and products exchanged.

(3) Financial Information. Financial information is required on the total operation of the Agricultural Producer/Rural Small Business and its parent, subsidiary, or affiliates. All information submitted under this paragraph must be substantiated by authoritative records.

(i) Historical Financial Statements. Provide historical financial statements prepared in accordance with Generally Accepted Accounting Practices (GAAP) for the past 3 years, including income statements and balance sheets. If Agricultural Producers are unable to present this information in accordance with GAAP, they may instead present financial information in the format that is generally required by commercial agriculture lenders. For a Rural Small Business or Agricultural Producer that has been in operation for less than 3 years, provide income statements and balance sheets for as long as the business operation has been in existence.

(ii) Current Balance Sheet and Income Statement. Provide a current balance sheet and income statement prepared in accordance with GAAP and dated within 90 days of the application. Agricultural Producers can present financial information in the format that is generally required by commercial agriculture lenders.

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(iii) Pro Forma Financial Statements. Provide pro forma balance sheet at start-up of the Agricultural Producer's/Rural Small Business' business operation that reflects the use of the loan proceeds or grant award; and 3 additional years, indicating the necessary start-up capital, operating capital, and short-term credit; and projected cash flow and income statements for 3 years supported by a list of assumptions showing the basis for the projections.

(4) Previous Grants and Loans. State whether the Applicant has received any grants and/or loans under this subpart. If the Applicant has, identify each such grant and/or loan and describe the progress the Applicant has made on each project for which the grant and/or loan was received, including projected schedules and actual completion dates.

(c) Project Information. Provide information concerning the proposed project as a whole and its relationship to the Applicant's operations, including the following:

(1) Identification as to whether the project is for a RES or an EEI project. Include a description and the location of the project.

(2) A description of the process that will be used to conduct all procurement transactions to demonstrate compliance with § 4280.124(a)(1).

(3) Describe how the proposed project will have a positive effect on resource conservation (e.g., water, soil, forest), public health (e.g., potable water, air quality), and the environment (e.g., compliance with the U.S. Environmental Protection Agency's (EPA) renewable fuel standard(s), greenhouse gases, emissions, particulate matter).

(4) Identify the amount of funds and the source(s) the Applicant is proposing to use for the project. Provide written commitments for funds at the time the application is submitted to receive points under this scoring criterion.

(i) If financial resources come from the Applicant, the Applicant must submit documentation in the form of a bank statement that demonstrates availability of funds.

(ii) If a third party is providing financial assistance, the Applicant must submit a commitment letter signed by an authorized official of the third party. The letter must be specific to the project, identify the dollar amount and any applicable rates and terms. If the third party is a bank, a letter-of-intent, pre-qualification letter, subject to bank approval, or other underwriting requirements or contingencies are not acceptable. An acceptable condition may be based on the receipt of the REAP grant or an appraisal.

(d) Feasibility Study. If the application is for a RES project with Total Project Costs of \$200,000 and Greater, a Feasibility Study must be submitted. The Feasibility Study must be conducted by a Qualified Consultant. When reviewing an Applicant's Feasibility Study compare it to Appendix D. If the Feasibility Study does not contain all the information shown in Appendix D, request that the Applicant supply the missing information.

(e) Technical Report. Each application must contain a technical report prepared in accordance with § 4280.110(h) and Appendix A or C, as applicable, of this subpart.

(f) Construction Planning and Performing Development. Each application submitted must be in accordance with § 4280.124 for planning, designing, bidding, contracting, and constructing RES and EEI projects as applicable.

§ 4280.118 Grant Applications for RES and EEI Projects with Total Project Costs of Less Than \$200,000 but More Than \$80,000.

Grant applications for RES and EEI projects with Total Project Costs of less than \$200,000 but more than \$80,000, may provide the information specified in this section or, if the Applicant elects to do so, the information specified in § 4280.117. In order to submit an application under this section, the criteria specified in paragraph (a) of this section must be met. The content for applications submitted under this section is specified in paragraph (b) of this section. Unless otherwise specified in this subpart, the construction planning and performing development procedures and the payment process that will be used for awards for applications submitted under this section are specified in paragraphs (c) and (d), respectively, of this section. Encourage Applicants to document both Applicant and project eligibility using Form RD 4280-3B "Application for Renewable Energy Systems and Energy Efficiency Improvement Projects, Total Project Cost of Less Than \$200,000, but More Than \$80,000" and the applicable attachments.

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(a) Criteria for Submitting Applications for Projects with Total Project Costs of Less Than \$200,000 but More Than \$80,000. In order to submit an application under this section, each of the conditions specified in paragraphs (a)(1) through (7) of this section must be met.

(1) The Applicant must be eligible in accordance with § 4280.112.

(2) The project must be eligible in accordance with § 4280.113.

(3) Total Project Costs must be less than \$200,000, but more than \$80,000.

(4) Construction planning and performing development must be performed in compliance with paragraph (c) of this section. The Applicant or the Applicant's prime contractor assumes all risks and responsibilities of project development.

(5) The Applicant or the Applicant's prime contractor is responsible for all interim financing, including during construction.

(6) The Applicant agrees not to request reimbursement from funds obligated under this program until after project completion and is operating in accordance with the information provided in the application for the project.

(7) The Applicant must maintain insurance as required under § 4280.122(b), except business interruption insurance is not required.

(b) Application Content. Applications submitted under this section must contain the information specified in paragraphs (b)(1) through (4) of this section and must be presented in the same order. Each Applicant is encouraged, but is not required, to self-score the project using the evaluation criteria in § 4280.120 and to submit with their application the total score, including appropriate calculations and attached documentation or specific cross-references to information elsewhere in the application.

(1) Forms and Certifications. The application must contain the items identified in § 4280.117(a). In addition, the Applicant must submit a certification that the Applicant meets each of the criteria for submitting an application under this section as specified in paragraph (a) of this section.

(2) Applicant Information. The application must contain the items identified in § 4280.117(b), except that the information specified in § 4280.117(b)(3) is not required. *Encourage Applicants to furnish the information by completing RD Form 4280-3B and the applicable attachments.*

(3) Project Information. The application must contain the items identified in § 4280.117(c).

(4) Technical Report. Each application must contain a technical report in accordance with § 4280.110(h) and Appendix A or B, as applicable, of this subpart.

(c) Construction Planning and Performing Development. Applicants submitting applications under this section must comply with the requirements specified in paragraphs (c)(1) through (3) of this section for construction planning and performing development.

(1) General. Paragraphs (a)(1), (2), and (4) of § 4280.124 apply.

(2) Small Acquisition and Construction Procedures. Small acquisition and construction procedures are those relatively simple and informal procurement methods that are sound and appropriate for a procurement of services, equipment, and construction of a RES or EEI project with a Total Project Cost of not more than \$200,000. The Applicant is solely responsible for the execution of all contracts under this procedure, and Agency review and approval is not required.

(3) Contractor Forms. Applicants must have each contractor sign, as applicable:

(i) Form RD 400-6, "Compliance Statement," for contracts exceeding \$10,000; and

(ii) Form AD-1048, "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," for contracts exceeding \$25,000.

(d) Payment Process for Applications for RES and EEI Projects with Total Project Costs of Less Than \$200,000 but More Than \$80,000.

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(1) Upon completion of the project, the grantee must submit to the Agency a copy of the contractor's certification of final completion for the project and a statement that the grantee accepts the work completed. At its discretion, the Agency may require the Applicant to have an Inspector certify that the project is constructed and installed correctly.

(2) The RES or EEI project must be constructed, installed, and operating as described in the technical report prior to disbursement of funds. For RES, the system must be operating at the steady state operating level described in the technical report for a period of not less than 30 days, unless this requirement is modified by the Agency, prior to disbursement of funds. Any modification to the 30-day steady state operating level requirement will be based on the Agency's review of the technical report and will be incorporated into the Letter of Conditions.

(3) Prior to making payment, the Agency will be provided with Form RD 1924-9, "Certificate of Contractor's Release," and Form RD 1924-10, "Release by Claimants," or similar forms, executed by all persons who furnished materials or labor in connection with the contract.

§ 4280.119 Grant Applications for RES and EEI Projects with Total Project Costs of \$80,000 or Less.

Grant applications for RES and EEI projects with Total Project Costs of \$80,000 or less must provide the information specified in this section or, if the Applicant elects to do so, the information specified in either §§ 4280.117 or 4280.118. In order to submit an application under this section, the criteria specified in paragraph (a) of this section must be met. The content for applications submitted under this section is specified in paragraph (b) of this section. Unless otherwise specified in this subpart, the construction planning and performing development procedures and the payment process that will be used for awards for applications submitted under this section are specified in paragraphs (c) and (d), respectively, of this section. *Encourage Applicants to document both Applicant and project eligibility using RD Form 4280-3A "Application for Renewable Energy Systems and Energy Efficiency Improvement Projects, Total Project Cost of \$80,000 or Less" and the applicable attachments.*

(a) Criteria for Submitting Applications for RES and EEI Projects with Total Project Costs of \$80,000 or Less. In order to submit an application under this section, each of the conditions specified in paragraphs (a)(1) through (7) of this section must be met.

- (1) The Applicant must be eligible in accordance with § 4280.112.
- (2) The project must be eligible in accordance with § 4280.113.
- (3) Total Project Costs must be \$80,000 or less.
- (4) Construction planning and performing development must be performed in compliance with paragraph (c) of this section. The Applicant or the Applicant's prime contractor assumes all risks and responsibilities of project development.
- (5) The Applicant or the Applicant's prime contractor is responsible for all interim financing, including during construction.
- (6) The Applicant agrees not to request reimbursement from funds obligated under this program until after the project has been completed and is operating in accordance with the information provided in the application for the project.
- (7) The Applicant must maintain insurance as required under § 4280.122(b), except business interruption insurance is not required.

(b) Application Content. Applications submitted under this section must contain the information specified in paragraphs (b)(1) through (4), as applicable, of this section and must be presented in the same order. Each Applicant is encouraged, but is not required, to self-score the project using the evaluation criteria in § 4280.120 and to submit with their application the total score, including appropriate calculations and attached documentation or specific cross-references to information elsewhere in the application.

(1) Forms and Certifications. Each application must contain the forms and certifications specified in paragraphs (b)(1)(i) through (ix), as applicable, of this section except that paragraph (b)(1)(iv) is optional.

(i) Form SF-424.

(ii) Form SF-424C.

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(iii) Form SF-424D.

(iv) Identify the ethnicity, race, and gender of the applicant. This information is optional and is not required for a Complete Application.

(v) Environmental documentation in accordance with 7 CFR part 1970. The Applicant should contact the Agency to determine what documentation is required to be provided.

(vi) Certification by the Applicant that:

(A) The Applicant meets each of the Applicant eligibility criteria found in § 4280.112;

(B) The proposed project meets each of the project eligibility requirements found in § 4280.113;

(C) The design, engineering, testing, and monitoring will be sufficient to demonstrate that the proposed project will meet its intended purpose;

(D) The equipment required for the project is available, can be procured and delivered within the proposed project development schedule, and will be installed in conformance with manufacturer's specifications and design requirements. This would not be applicable when equipment is not part of the project;

(E) The project will be constructed in accordance with applicable laws, regulations, agreements, permits, codes, and standards;

(F) The Applicant meets the criteria for submitting an application for projects with Total Project Costs of \$80,000 or less;

(G) The Applicant will abide by the open and free competition requirements in compliance with § 4280.124(a)(1); and

(H) For Bioenergy Projects, any and all woody biomass feedstock from National Forest System land or public lands cannot be otherwise used as a higher value wood-based product.

(vii) State whether the Applicant has received any grants and/or loans under this subpart. If the Applicant has, identify each such grant and/or loan and describe the progress the Applicant has made on each project for which the grant and/or loan was received, including projected schedules and actual completion dates.

(viii) The Applicant must identify whether or not the Applicant has a known relationship or association with an Agency employee. If there is a known relationship, the Applicant must identify each Agency employee with whom the Applicant has a known relationship. *An Agency employee is anyone who works for Rural Development.*

(ix) The Applicant is a legal entity in good standing (as applicable), and operating in accordance with the laws of the state(s) or Tribe where the Applicant has a place of business.

(2) General. For both RES and EEI project applications:

(i) Identify whether the project is for a RES or an EEI project;

(ii) Identify the primary NAICS code applicable to the Applicant's operation if known or a description of the operation in enough detail for the Agency to determine the primary NAICS code;

(iii) Describe in detail or document how the proposed project will have a positive effect on resource conservation (e.g., water, soil, forest), public health (e.g., potable water, air quality), and the environment (e.g., compliance with the EPA's renewable fuel standard(s), greenhouse gases, emissions, particulate matter); and

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(iv) Identify the amount of Matching Funds and other funds and the source(s) the Applicant is proposing to use for the project. In order to receive points under this scoring criterion, written commitments for funds (e.g., a Letter of Commitment, bank statement) must be submitted when the application is submitted.

(A) If financial resources come from the Applicant, the Applicant must submit documentation in the form of a bank statement that demonstrates availability of funds.

(B) If a third party is providing financial assistance, the Applicant must submit a commitment letter signed by an authorized official of the third party. The letter must be specific to the project, identify the dollar amount and any applicable rates and terms. If the third party is a bank, a letter-of-intent, pre-qualification letter, subject to bank approval, or other underwriting requirements or contingencies are not acceptable. An acceptable condition may be based on the receipt of the REAP grant or an appraisal.

(3) Technical Report for EEI. Each EEI application submitted under this section must include a technical report in accordance with § 4280.110(h) and paragraphs (b)(3)(i) through (iv) of this section.

(i) Project Description. Provide a description of the proposed EEI, including its intended purpose and how it meets the requirements for being Commercially Available.

(ii) Qualifications of EEI Provider(s). Provide a resume or other evidence of the contractor or installer's qualifications and experience with the proposed EEI technology. Any contractor or installer with less than 2 years of experience may be required to provide additional information in order for the Agency to determine if they are a qualified installer/contractor.

(iii) Energy Assessment. Provide a copy of the Energy Assessment (or Energy Audit) performed for the project as required under Section C of Appendix A to this subpart and the qualifications of the individual or entity which completed the Energy Assessment.

(iv) Simple Payback. Provide an estimate of Simple Payback, including all calculations, documentation, and any assumptions.

(4) Technical Report for RES. Each RES application submitted under this section must include a technical report in accordance with § 4280.110(h) and paragraphs (b)(4)(i) through (iv) of this section.

(i) Project Description. Provide a description of the project, including its intended purpose and a summary of how the project will be constructed and installed, and how it meets the definition of Commercially Available. Identify the project's location and describe the project site.

(ii) Resource Assessment. Describe the quality and availability of the renewable resource to the project. Identify the amount of Renewable Energy that will be generated once the proposed system is operating at its steady state operating level.

(iii) Project Economic Assessment. Describe the projected financial performance of the proposed project. The description must address Total Project Costs, energy savings, and revenues, including applicable investment and other production incentives accruing from government entities. Revenues to be considered shall accrue from the sale of energy, offset or savings in energy costs, byproducts. Provide an estimate of Simple Payback, including all calculations, documentation, and any assumptions.

(iv) Qualifications of Key Service Providers. Describe the key service providers, including the number of similar systems installed and/or manufactured, professional credentials, licenses, and relevant experience. If specific numbers are not available for similar systems, you may submit an estimation of the number of similar systems.

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(c) Construction Planning and Performing Development for Applications Submitted Under this Section. All Applicants submitting applications under this section must comply with the requirements specified in paragraphs (c)(1) through (3) of this section for construction planning and performing development.

(1) General. Paragraphs (a)(1), (2), and (4) of § 4280.124 apply.

(2) Small Acquisition and Construction procedures. Small acquisition and construction procedures are those relatively simple and informal procurement methods that are sound and appropriate for a procurement of services, equipment and construction of a RES or EEI project with a Total Project Cost of not more than \$80,000. The Applicant is solely responsible for the execution of all contracts under this procedure, and Agency review and approval is not required.

(3) Contractor Forms. Applicants must have each contractor sign, as applicable:

(i) Form RD 400-6 for contracts exceeding \$10,000; and

(ii) Form AD-1048 for contracts exceeding \$25,000.

(d) Payment Process for Applications for RES and EEI Projects with Total Project Costs of \$80,000 or Less.

(1) Upon completion of the project, the grantee must submit to the Agency a copy of the contractor's certification of final completion for the project and a statement that the grantee accepts the work completed. At its discretion, the Agency may require the Applicant to have an Inspector certify that the project is constructed and installed correctly.

(2) The RES or EEI project must be constructed, installed, and operating as described in the technical report prior to disbursement of funds. For RES, the system must be operating at the steady state operating level described in the technical report for a period of not less than 30 days, unless this requirement is modified by the Agency, prior to disbursement of funds. Any modification to the 30-day steady state operating level requirement will be based on the Agency's review of the technical report and will be incorporated into the Letter of Conditions.

(3) Prior to making payment, the grantee must provide the Agency with Form RD 1924-9 and Form RD 1924-10, or similar forms, executed by all persons who furnished materials or labor in connection with the contract.

§ 4280.120 Scoring RES and EEI Grant Applications.

Agency personnel will score each eligible RES and EEI application based on the scoring criteria specified in this section, unless otherwise specified in a Federal Register notice, with a maximum score of 100 points possible. *Carry scores to the hundredth decimal place where applicable and when rounding is necessary simple rounding rules will be applied.*

(a) Environmental Benefits. A maximum of 5 points will be awarded for this criterion based on whether the Applicant has documented in the application that the proposed project will have a positive effect on any of the three impact areas: resource conservation (e.g., water, soil, forest), public health (e.g., potable water, air quality), and the environment (e.g., compliance with EPA's renewable fuel standard(s), greenhouse gases, emissions, particulate matter). Points will be awarded as follows:

(1) If the proposed project has a positive impact on any one of the three impact areas, 1 point will be awarded.

(2) If the proposed project has a positive impact on any two of the three impact areas, 3 points will be awarded.

(3) If the proposed project has a positive impact on all three impact areas, 5 points will be awarded.

(b) Energy Generated, Replaced, or Saved. A maximum of 25 points will be awarded for this criterion. Applications for RES and EEI projects will be awarded points under both paragraphs (b)(1) and (2) of this section.

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(1) Quantity of Energy Generated or Saved per REAP Grant Dollar Requested. A maximum of 10 points will be awarded for this sub-criterion. For RES and EEI projects, points will be awarded for either the amount of energy generation per grant dollar requested, which includes those projects that are replacing energy usage with a renewable source, or the actual annual average energy savings over the most recent 12, 24, 36, 48, or 60 consecutive months of operation per grant dollar requested; points will not be awarded for more than one category.

(i) Renewable Energy Systems. The quantity of energy generated per grant dollar requested will be determined by dividing the projected total annual energy generated by the RES, which will be converted to BTUs, by the grant dollars requested. Points will be awarded based on the annual amount of energy generated per grant dollar requested for the proposed RES as determined using paragraphs (b)(1)(i)(A) and (B) of this section. A maximum of 10 points will be awarded under this criterion.

(A) The energy generated per grant dollar requested will be calculated using Equation 1.

Equation 1: $EG/\$ = (EG_{12}/GR)$ where:

$EG/\$$ = Energy generated per grant dollar requested.

EG_{12} = Projected total annual energy generated (BTUs) by the proposed RES for a typical year.

GR = Grant amount requested under this subpart.

(B) If the projected total annual energy generated per grant dollar requested calculated under paragraph (b)(1)(i)(A) of this section is:

(1) Less than 50,000 BTUs annual energy generated per grant dollar requested, points will be awarded as follows: Points awarded = $(EG/\$)/50,000 \times 10$ points, where the points awarded are rounded to the nearest hundredth of a point.

(2) 50,000 BTUs average annual energy saved per grant dollar requested or higher, 10 points will be awarded. For example, an Applicant has requested a \$500,000 grant to install an Anaerobic Digester Project with a 500 kilowatt (kW) generator set. The Anaerobic Digester Project will produce 5,913,000 kilowatt hours (kWh) per year. At 3,412 BTUs per kWh, this is equivalent to 20,175,156,000 BTUs. Based on this example, there are 40,350.312 BTUs generated per grant dollar requested (20,175,156,000 BTUs/\$500,000). Because this is less than 50,000 BTUs average annual energy saved per grant dollar requested, points will be awarded as follows:

Points awarded = $40,350.312 \text{ BTUs} / 50,000 \text{ BTUs} \times 10 = 8.07006$. This would be rounded to the nearest hundredth, or to 8.07 points.

(ii) Energy Efficiency Improvements. Energy savings per grant dollar requested will be determined by dividing the average annual energy projected to be saved as determined by the Energy Assessment or Energy Audit for the EEI, which will be converted to BTUs, by the grant dollars requested. Points will be awarded based on the average annual amount of energy saved per grant dollar requested for the proposed EEI as determined using paragraphs (b)(1)(ii)(A) and (B) of this section. A maximum of 10 points will be awarded under this criterion.

(A) The average annual energy saved per grant dollar requested shall be calculated using Equation 2.

Equation 2: $ES/\$ = (ES_{36}/GR)$ where:

$ES/\$$ = Average annual energy saved per grant dollar requested.

ES_{36} = Average annual energy saved by the proposed EEI over the same period used in the Energy Assessment or Energy Audit, as applicable.

GR = Grant amount requested under this subpart.

(B) If the average annual energy saved per grant dollar requested calculated under paragraph (b)(1)(ii)(A) of this section is:

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(1) Less than 50,000 BTUs average annual energy saved per grant dollar requested, points will be awarded as follows: $\text{Points awarded} = (\text{ES}/\$)/50,000 \times 10$ points, where the points awarded are rounded to the nearest hundredth of a point.

(2) 50,000 BTUs average annual energy saved per grant dollar requested or higher, 10 points will be awarded. For example, an Applicant has requested a \$1,500 grant to install a new boiler. The average BTU usage of the existing boiler for the most recent 12 months prior to submittal of the application was 125,555,000 BTUs per year. If the new boiler had been in place for those same 12 months, the annual average BTU usage is estimated to be 100,000,000 BTUs. Thus, the new boiler is projected to save the Applicant 25,555,000 BTUs per year. Based on this example, there are 17,036.6667 BTUs saved per grant dollar requested (25,555,000 BTUs/\$1,500). Because this is less than 50,000 BTUs average annual energy saved per grant dollar requested, points will be awarded as follows:

Points awarded = $17,036.6667 \text{ BTUs}/50,000 \text{ BTUs} \times 10 = 3.407$. This would be rounded to the nearest hundredth, or to 3.41 points.

(3) Quantity of Energy Replaced, Saved, or Generated. A maximum of 15 points will be awarded for this sub-criterion. Points may only be awarded for energy replacement, energy savings, or energy generation. Points will not be awarded for more than one category.

(i) Energy Replacement. If the proposed RES is intended primarily for self-use by the Agricultural Producer or Rural Small Business and will provide energy replacement of greater than zero, but equal to or less than 25 percent, 5 points will be awarded; greater than 25 percent, but equal to or less than 50 percent, 10 points will be awarded; or greater than 50 percent, 15 points will be awarded. Energy replacement is to be determined by dividing the estimated quantity of Renewable Energy to be generated over the most recent 12-month period, by the quantity of energy consumed over the same period by the applicable energy application. For a project to qualify as an energy replacement it must provide documentation on prior energy use. For a project involving new construction and being installed to serve the new facility, the project may be classified as energy replacement only if the applicant can document previous energy use from a facility of approximately the same size. Approximately the same size is further clarified to be 10 percent larger or smaller than the facility it is replacing. The estimated quantities of energy must be converted to either BTUs, Watts, or similar energy equivalents to facilitate scoring. If the estimated energy produced equals more than 150 percent of the energy requirements of the applicable process(es), the project will be scored as an energy generation project.

(ii) Energy Savings. If the estimated energy expected to be saved over the same period used in the Energy Assessment or Energy Audit, as applicable, by the installation of the EEI will be from 20 percent up to, but not including 35 percent, 5 points will be awarded; 35 percent up to, but not including 50 percent, 10 points will be awarded; or, 50 percent or greater, 15 points will be awarded. Energy savings will be determined by the projections in an Energy Assessment or Energy Audit.

(iii) Energy Generation. If the proposed RES is intended for production of energy, 10 points will be awarded.

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(c) Commitment of Funds. A maximum of 20 points will be awarded for this criterion based on the percentage of written commitment an Applicant has from its fund sources that are documented with a Complete Application. The percentage of written commitment must be calculated using the following equation. Percentage of written commitment = Total amount of funds for which written commitments have been submitted with the application / Total amount of Matching Funds and other funds required.

(1) If the percentage of written commitments as calculated is 100 percent of the Matching Funds, 20 points will be awarded.

(2) If the percentage of written commitments as calculated is less than 100 percent, but more than 50 percent, points will be awarded as follows: $((\text{percentage of written commitments} - 50 \text{ percent}) / (50 \text{ percent})) \times 20 \text{ points}$, where points awarded are rounded to the nearest hundredth of a point.

(3) If the percentage of written commitments as calculated is 50 percent or less, no points will be awarded.

(d) Size of Agricultural Producer or Rural Small Business. A maximum of 10 points will be awarded for this criterion based on the size of the Applicant's agricultural operation or business concern, as applicable, compared to the SBA Small Business size standards categorized by the NAICS found in 13 CFR 121.201. For Applicants that are:

(1) One-third or less of the maximum size standard identified by SBA, 10 points will be awarded.

(2) Greater than one-third up to and including two-thirds of the maximum size standard identified by SBA, 5 points will be awarded.

(3) Larger than two-thirds of the maximum size standard identified by SBA, no points will be awarded.

(4) *Make the calculations using the information from the most recent year. For example, Agricultural Producers will base the calculation on the producer's Annual Receipts from the most recent year. The maximum size standard for most agricultural production NAICS codes is \$750,000 in Annual Receipts. An Agricultural Producer within one of these agricultural production NAICS codes that had Annual Receipts of \$250,000 or less in the most recent year would be awarded 10 points. An Agricultural Producer with Annual Receipts of more than \$250,000, but \$500,000 or less, in the most recent year would be awarded 5 points. This calculation will not include income that is not related to the agricultural operation i.e. non-farm income sources. Make the calculation based on the Applicant alone, and do not include any income from affiliates. Generally the most recent year will be the year preceding the application date.*

(e) **Previous Grantees and Borrowers.** A maximum of 15 points will be awarded for this criterion based on whether the Applicant has received a grant or guaranteed loan under this subpart. *Base this calculation on the fiscal year in which the obligation was made.*

(1) If the Applicant has never received a grant and/or guaranteed loan under this subpart, 15 points will be awarded.

(2) If the Applicant has not received a grant and/or guaranteed loan under this subpart within the 2 previous Federal Fiscal Years, 5 points will be awarded.

(3) If the Applicant has received a grant and/or guaranteed loan under this subpart within the 2 previous Federal Fiscal Years, no points will be awarded.

(f) **Simple Payback.** A maximum of 15 points will be awarded for this criterion based on the Simple Payback of the project. Points will be awarded for either RES or EEI; points will not be awarded for more than one category.

(1) **Renewable Energy Systems.** If the Simple Payback of the proposed project is:

(i) Less than 10 years, 15 points will be awarded;

(ii) 10 years up to but not including 15 years, 10 points will be awarded;

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(iii) 15 years up to and including 25 years, 5 points will be awarded; or

(iv) Longer than 25 years, no points will be awarded.

(2) Energy Efficiency Improvements. If the Simple Payback of the proposed project is:

(i) Less than 4 years, 15 points will be awarded;

(ii) 4 years up to but not including 8 years, 10 points will be awarded;

(iii) 8 years up to and including 12 years, 5 points will be awarded; or

(iv) Longer than 12 years, no points will be awarded.

(g) State Director and Administrator Priority Points. A maximum of 10 points will be awarded for this criterion. A State Director, for its State allocation under this subpart, or the Administrator, for making awards from the National Office reserve, may award up to 10 points to an application based on the conditions specified in paragraphs (g)(1) through (5) of this section. In no case shall an application receive more than 10 points under this criterion.

(1) **The application is for an under-represented technology.** *If State Director points are awarded for an under-represented technology, then all applications for that technology will be awarded the same number of points in that competition.*

(2) **Selecting the application helps achieve geographic diversity.** *If State Director points are awarded to help achieve geographic diversity, then all applications in that area will be awarded the same number of points in that competition.*

(3) **The Applicant is a member of an unserved or under-served population.** *If State Director points are awarded to unserved or under-served, then all applications for the unserved or under-served will be awarded the same number of points in that competition.*

(4) **Selecting the application helps further a Presidential initiative or a Secretary of Agriculture priority.** *If State Director points are awarded for a Presidential initiative or Secretary of Agriculture priority, then all applications related to the initiative or priority will be awarded the same number of points in that competition.*

(5) The proposed project is located in an impoverished area, has experienced long-term population decline, or loss of employment. *If State Director points are awarded for projects in an impoverished area, an area experiencing long-term population decline, or loss of employment, then all projects in an impoverished area, in an area experiencing long-term population decline, or loss of employment will be awarded the same number of points in that competition.*

§ 4280.121 Selecting RES and EEI Grant Applications for Award.

Unless otherwise provided for in a Federal Register notice, RES and EEI grant applications will be processed in accordance with this section. Complete Applications will be evaluated, processed, and subsequently ranked, and will compete for funding, subject to the availability of grant funding.

(a) RES and EEI Grant Applications. Complete RES and EEI grant applications, regardless of the amount if funding requested (which includes \$20,000 or less), are eligible to compete in two competitions each Federal Fiscal Year - a State competition and a National competition.

(1) To be competed in the State and National competitions, Complete Applications must be received by the applicable State Office by 4:30 p.m. local time no later than April 30. If April 30 falls on a weekend or a federally-observed holiday, the next Federal business day will be considered the last day for receipt of a Complete Application. Complete Applications received after this date and time will be processed in the subsequent fiscal year.

(2) All eligible RES and EEI grant applications that remain unfunded after completion of the State competitions will be competed in a National competition.

(b) RES and EEI Grant Applications Requesting \$20,000 or Less. Complete RES and EEI grant applications requesting \$20,000 or less are eligible to compete in up to five competitions - two State competitions and a National competition for grants of \$20,000 or less set aside, as well as the two competitions referenced in paragraph (a) of this section (see paragraph (e)(2) of this section).

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(1) For Complete RES and EEI grant applications for grants requesting \$20,000 or less, there will be two State competitions each Federal Fiscal Year. Complete Applications for \$20,000 or less that are received by the Agency by 4:30 p.m. local time on October 31 of the Federal Fiscal Year will be competed against each other. Complete Applications for \$20,000 or less that are received by the Agency by 4:30 p.m. local time on April 30 of the Federal Fiscal Year will be competed against each other, including any applications for \$20,000 or less that were not funded from the prior competition. If either October 31 or April 30 falls on a weekend or a federally-observed holiday, the next Federal business day will be considered the last day for receipt of a Complete Application. Complete Applications received after 4:30 p.m. local time on April 30, regardless of the postmark on the application, will be processed in the subsequent fiscal year.

(2) All eligible RES and EEI grant applications requesting \$20,000 or less that remain unfunded after completion of the State competition for applications received by April 30 will be competed in the National competition.

(c) Ranking of Applications. The Agency will rank complete eligible applications using the scoring criteria specific in § 4280.120. Higher scoring applications will receive first consideration.

(d) Funding Selected Applications. As applications are funded, if insufficient funds remain to fund the next highest scoring application, the Agency may elect to fund a lower scoring application. Before this occurs, the Agency will provide the Applicant of the higher scoring application the opportunity to reduce the amount of the Applicant's grant request to the amount of funds available. If the Applicant agrees to lower its grant request, the Applicant must certify that the purposes of the project will be met and provide the remaining total funds needed to complete the project. At its discretion, the Agency may also elect to allow any remaining multi-year funds to be carried over to the next fiscal year rather than selecting a lower scoring application.

(e) Handling of Ranked Applications Not Funded. Based on the availability of funding, a ranked application might not be funded. How the unfunded application is handled depends on whether it is requesting more than \$20,000 or is requesting \$20,000 or less

(1) The Agency will discontinue consideration for funding all complete and eligible applications requesting more than \$20,000 that are not selected for funding after the State and National competitions for the Federal Fiscal Year.

(2) All complete and eligible applications requesting \$20,000 or less may be competed in up to five consecutive competitions as illustrated below. Example 1: An application that is unfunded in the first State competition of a fiscal year is eligible to be competed in the second State competition and the National competition for grants of \$20,000 or less, as well as, the State and National competitions for all grants regardless of the dollar amount being requested, in that fiscal year. Example 2: An application that is first competed in the second State competition of a fiscal year can be compete in the National competition for that fiscal year and the first State competition in the following fiscal year for grants of \$20,000 or less. In addition the application may compete in the State and National competitions for all grants regardless of the amount if funding requested, which are referenced in paragraph (a) of this section. The Agency will discontinue for potential funding all application requesting \$20,000 or less that are not selected for funding after competing in a total of three State competitions and two national competition.

(f) Commencement of the Project. Not all grant applications that compete for funding will receive an award. Thus, the Applicant assumes all risks if the Applicant chooses to purchase the technology proposed or start construction of the project to be financed in the grant application after the Complete Application has been received by the Agency, but before the Applicant is notified as to whether or not they have been selected for an award.

§ 4280.122 Awarding and Administering RES and EEI Grants.

The Agency will award and administer RES and EEI grants in accordance with Departmental Regulations and with paragraphs (a) through (h) of this section.

§ 4280.122 (Con.)

(a) Letter of Conditions. A Letter of Conditions will be prepared by the Agency, establishing conditions that must be agreed to by the Applicant before any obligation of funds can occur. Upon reviewing the conditions and requirements in the Letter of Conditions, the Applicant must complete, sign, and return the Form RD 1942-46, "Letter of Intent to Meet Conditions," and Form RD 1940-1, "Request for Obligation of Funds," to the Agency if they accept the conditions of the grant; or if certain conditions cannot be met, the Applicant may propose alternate conditions to the Agency. The Agency must concur with any changes proposed to the Letter of Conditions by the Applicant before the application will be further processed.

(b) Insurance Requirements. Agency approved insurance coverage must be maintained for 3 years after the Agency has approved the final performance report unless this requirement is waived or modified by the Agency in writing. Insurance coverage shall include, but is not limited to:

(1) Property insurance, such as fire and extended coverage, will normally be maintained on all structures and equipment.

(2) Liability.

(3) National flood insurance is required in accordance with 7 CFR part 1806, subpart B, if applicable.

(4) Business interruption insurance for projects with Total Project Costs of more than \$200,000.

(c) Forms and Certifications. The forms specified in paragraphs (c)(1) through (8) of this section will be attached to the Letter of Conditions referenced in paragraph (a) of this section. The forms specified in paragraphs (c)(1) through (7) of this section and all of the certifications must be submitted prior to grant approval. The form specified in paragraph (c)(8) of this section, which is to be completed by contractors, does not need to be returned to the Agency, but must be kept on file by the grantee.

(1) Form RD 1942-46, "Letter of Intent to Meet Conditions."

(2) Form RD 1940-1.

(3) Form AD-1049, "Certification Regarding Drug-Free Workplace Requirements (Grants) Alternative 1-For Grantees Other than Individuals."

- (4) Form SF-LLL, "Disclosure of Lobbying Activities," if the grant exceeds \$100,000 and/or if the grantee has made or agreed to make payment using funds other than Federal appropriated funds to influence or attempt to influence a decision in connection with the application.
 - (5) Form AD-1047, "Certification Regarding Debarment, Suspension, and Other Responsibility Matters-Primary Covered Transactions."
 - (6) Form RD 400-1, "Equal Opportunity Agreement," or successor form.
 - (7) Form RD 400-4, "Assurance Agreement," or successor form.
 - (8) Form AD-1048, as signed by the contractor or other lower tier party.
- (d) Evidence of Matching Funds and Other Funds. If an Applicant submitted written evidence of Matching Funds and other funds with the application, the Applicant is responsible for ensuring that such written evidence is still in effect (i.e., not expired) when the grant is executed. If the Applicant did not submit written evidence of Matching Funds and other funds with the application, the Applicant must submit such written evidence that is in effect before the Agency will execute the Financial Assistance Agreement. In either case, written evidence of Matching Funds and other funds must be provided to the Agency before execution of the Financial Assistance Agreement and must be in effect (i.e., must not have expired) at the time Financial Assistance Agreement is executed. (Revised 07-02-18, PN 514.)
- (e) SAM Number. Before the Financial Assistance Agreement can be executed, the number and expiration date of the Applicant's SAM number are required. (Revised 07-02-18, PN 514.)
- (f) Financial Assistance Agreement. Once the requirements specified in paragraphs (a) through (e) of this section have been met, the Financial Assistance Agreement can be executed by the grantee and the Agency. The grantee must abide by all requirements contained in the Financial Assistance Agreement, this subpart, and any other applicable Federal statutes or regulations. Failure to follow these requirements might result in termination of the grant and adoption of other available remedies. (Revised 07-02-18, PN 514.)
- (g) Grant Approval. The grantee will be sent a copy of the executed Form RD 1940-1, the approved scope of work, and the Financial Assistance Agreement. (Revised 07-02-18, PN 514.)

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(h) Power Purchase Agreement. Where applicable, the grantee shall provide to the Agency a copy of the executed Power Purchase Agreement within 12 months from the date that the Financial Assistance Agreement is executed, unless otherwise approved by the Agency. (Revised 07-02-18, PN 514.)

(i) REAP Obligated and Closed Grants. REAP obligated and closed grants will be randomly selected for review by the National Office. If selected for review, the State Office will provide the following information:

- (1) Copy of project summary;
- (2) Copy of score sheet;
- (3) Copy of the Scope of Work;
- (4) Copy of the Letter of Conditions;
- (5) Copy of the technical report;
- (6) Grant disbursement documentation, including all Forms SF 271, "Outlay Report and Request for Reimbursement for Construction Programs," received to date with supporting documentation; and
- (7) Evidence of grant monitoring, including all Forms SF 425, "Federal Financial Report," and SF 425A, "Federal Financial Report Attachment," received to date.

§ 4280.123 Servicing RES and EEI Grants.

The Agency will service RES and EEI grants in accordance with the requirements specified in Departmental Regulations; 7 CFR part 1951, subparts E and O, other than 7 CFR 1951.709(d)(1)(B)(iv); the Financial Assistance Agreement; and paragraphs (a) through (k) of this section. (Revised 07-02-18, PN 514.)

(a) Inspections. Grantees must permit periodic inspection of the project records and operations by a representative of the Agency.

(b) Programmatic Changes. Grantees may make changes to an approved project's costs, scope, contractor, or vendor subject to the provisions specified in paragraphs (b)(1) through (3) of this section. If the changes result in lowering the project's score to below what would have qualified the application for award, the Agency will not approve the changes.

(1) Prior Approval. The grantee must obtain prior Agency approval for any change to the scope, contractor, or vendor of the approved project. Changes in project cost will require Agency Approval as outlined in paragraph (a)(1)(iii) of this section.

(i) Grantees must submit requests for programmatic changes in writing to the Agency for Agency approval.

(ii) Failure to obtain prior Agency approval of any such change could result in such remedies as suspension, termination, and recovery of grant funds.

(iii) Prior Agency approval is required for all increases in project costs. Prior Agency approval is required for a decrease in project cost only if the decrease would have a negative effect on the long-term viability of the project. A decrease in project cost that does not have a negative impact on long-term viability requires Agency review and approval prior to disbursement of funds.

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(2) Changes in Project Cost or Scope. If there is a significant change in project cost or any change in project scope, then the grantee's funding needs, eligibility, and scoring, as applicable, will be reassessed. Decreases in Agency funds will be based on revised project costs and other factors, including Agency regulations used at the time of grant approval.

(3) Change of Contractor or Vendor. When seeking a change, the grantee must submit to the Agency a written request for approval. The proposed contractor or vendor must have qualifications and experience acceptable to the Agency. The written request must contain sufficient information, which may include a revised technical report as required under § 4280.117(e), § 4280.118(b)(4), § 4280.119(b)(3), or § 4280.119(b)(4), as applicable, to demonstrate to the Agency's satisfaction that such change maintains project integrity. If the Agency determines that project integrity continues to be demonstrated, the grantee may make the change. If the Agency determines that project integrity is no longer demonstrated, the change will not be approved and the grantee has the following options: continue with the original contractor or vendor; find another contractor or vendor that has qualifications and experience acceptable to the Agency to complete the project; or terminate the grant by providing a written request to the Agency. No additional funding will be available from the Agency if costs for the project have increased. The Agency decision will be provided in writing.

(c) Transfer of Obligations. Prior to the construction of the project, the grantee may request, in writing, a transfer of obligation to a different (substitute) grantee. Subject to Agency approval provided in writing, an obligation of funds established for a grantee may be transferred to a substitute grantee provided: *National Office approval, including OGC opinion, is required for transfer of obligations.*

(1) The substituted grantee

(i) Is eligible;

(ii) Has a close and genuine relationship with the original grantee; and

(iii) Has the authority to receive the assistance approved for the original grantee; and

(2) The type of RES or EEI technology, the project cost and scope of the project for which the Agency funds will be used remain unchanged.

(d) Transfer of Ownership. After the project is completed and operational, the grantee may request, in writing, a transfer of the Financial Assistance Agreement to another entity. Subject to Agency approval provided in writing, the Financial Assistance Agreement may be transferred to another entity provided: (Revised 07-02-18, PN 514.)

(1) The entity is determined by the Agency to be an eligible entity under this subpart; and

(2) The type of RES or EEI technology and the scope of the project for which the Agency funds will be used remain unchanged.

(e) Disposition of Acquired Property. Grantees must abide by the disposition requirements outlined in Departmental Regulations.

(f) Financial Management System and Records. The grantee must provide for financial management systems and maintain records as specified in paragraphs (f)(1) and (2) of this section.

(1) Financial Management System. The grantee will provide for a financial system that will include:

(i) Accurate, current, and complete disclosure of the financial results of each grant;

(ii) Records that identify adequately the source and application of funds for grant-supporting activities, together with documentation to support the records. Those records must contain information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income; and

(iii) Effective control over and accountability for all funds. The grantee must adequately safeguard all such assets and must ensure that funds are used solely for authorized purposes.

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(2) Records. The grantee will retain financial records, supporting documents, statistical records, and all other records pertinent to the grant for a period of at least 3 years after completion of grant activities except that the records must be retained beyond the 3-year period if audit findings have not been resolved or if directed by the United States. The Agency and the Comptroller General of the United States, or any of their duly authorized representatives, must have access to any books, documents, papers, and records of the grantee that are pertinent to the specific grant for the purpose of making audit, examination, excerpts, and transcripts.

(g) Audit Requirements. If applicable, grantees must provide an annual audit in accordance with 7 CFR part 3052. The Agency may exercise its right to do a program audit after the end of the project to ensure that all funding supported Eligible Project Costs.

(h) Grant Disbursement. As applicable, grantees must disburse grant funds as scheduled in accordance with the appropriate construction and inspection requirements in §§ 4280.118, 4280.119 or 4280.124 as applicable. Unless required by third parties providing cost sharing payments to be provided on a pro-rata basis with other funds, grant funds will be disbursed after all other funds have been expended.

(1) Unless authorized by the Agency to do so, grantees may submit requests for reimbursement no more frequently than monthly. Ordinarily, payment will be made within 30 days after receipt of a proper request for reimbursement.

(2) Grantees must not request reimbursement for the Federal share of amounts withheld from contractors to ensure satisfactory completion of work until after it makes those payments.

(3) Payments will be made by electronic funds transfer.

(4) Grantees must use SF-271, "Outlay Report and Request for Reimbursement for Construction Programs," or other format prescribed by the Agency to request grant reimbursements. *Fund requests should include documentation of costs and evidence of payment, including payment date.*

(5) For a grant awarded to a project with Total Project Costs of \$200,000 and greater, grant funds will be disbursed in accordance with the above through 90 percent of grant disbursement. The final 10 percent of grant funds will be held by the Agency until construction of the project is completed, the project is operational, and the project has met or exceeded the steady state operating level as set out in the grant award requirements. In addition, the Agency reserves the right to request additional information or testing if upon a final site visit the 30 day steady state operating level is not found acceptable to the Agency.

(i) Monitoring of Project. Grantees are responsible for ensuring that all activities are performed within the approved scope of work and that funds are only used for approved purposes.

(1) Grantees shall constantly monitor performance to ensure that:

(i) Time schedules are being met;

(ii) Projected work by time periods is being accomplished by projected time periods;

(iii) Financial resources are being appropriately expended by contractors (if applicable); and

(iv) Any other performance objectives identified in the scope of work are being achieved.

(2) To the extent that resources are available, the Agency will monitor grantees to ensure that activities are performed in accordance with the Agency-approved scope of work and to ensure that funds are expended for approved purposes. The Agency's monitoring of grantees neither:

(i) Relieves the grantee of its responsibilities to ensure that activities are performed within the scope of work approved by the Agency and that funds are expended for approved purposes only; nor

(ii) Provides recourse or a defense to the grantee should the grantee conduct unapproved activities, engage in unethical conduct, engage in activities that are or that give the appearance of a conflict of interest, or expend funds for unapproved purposes.

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(j) Reporting Requirements. Financial and project performance reports must be provided by grantees and contain the information specified in paragraphs (j)(1) through (3) of this section.

(1) Federal Financial Reports. Between grant approval and completion of project (i.e., construction), SF-425, "Federal Financial Report" will be required of all grantees as applicable on a semiannual basis. The grantee will complete the project within the total sums available to it, including the grant, in accordance with the scope of work and any necessary modifications thereof prepared by grantee and approved by the Agency.

(2) Project Performance Reports. Between grant approval and completion of project (i.e., construction), grantees must provide semiannual project performance reports and a final project development report containing the information specified in paragraphs (j)(2)(i) and (ii) of this section. These reports are due 30 working days after June 30 and December 31 of each year.

(i) Semiannual Project Performance Reports. Each semiannual project performance report must include the following:

(A) A comparison of actual accomplishments to the objectives for that period;

(B) Reasons why established objectives were not met, if applicable;

(C) Reasons for any problems, delays, or adverse conditions which will affect attainment of overall program objectives, prevent meeting time schedules or objectives, or preclude the attainment of particular objectives during established time periods. This disclosure must be accompanied by a statement of the action taken or planned to resolve the situation; and

(D) Objectives and timetables established for the next reporting period.

(ii) Final Project Development Report. The final project development report must be submitted 90 days after project completion and include:

(A) A detailed project funding and expense summary; and

(B) A summary of the project's installation/construction process, including recommendations for development of similar projects by future Applicants to the program.

(3) Outcome Project Performance Reports. Once the project has been constructed, the grantee must provide the Agency periodic reports. These reports will include the information specified in paragraphs (j)(3)(i) or (ii) of this section, as applicable.

(i) Renewable Energy Systems. For RES projects, commencing the first full calendar year following the year in which project construction was completed and continuing for 3 full years, provide a report detailing the information specified in paragraphs (j)(3)(i)(A) through (G) of this section.

(A) Type of technology;

(B) The actual annual amount of energy generated in BTUs, kilowatt-hours, or similar energy equivalents;

(C) Annual income for systems that are selling energy, if applicable, and/or energy savings of the RES;

(D) A summary of the cost of operations and maintenance;

(E) A description of any associated major maintenance or operational problems;

(F) Recommendations for development of future similar projects; and

(G) Actual number of jobs, if any, created or saved as a direct result of the RES project for which REAP funding was used.

§ 4280.123(j)(3) (Con.)

(ii) Energy Efficiency Improvements. For EEI projects, commencing the first full calendar year following the year in which project construction was completed and continuing for 2 full years, provide a report detailing, including calculations and any assumptions:

(A) The actual amount of energy saved annually as determined by the difference between:

(1) The annual amount of energy used by the project with the project in place and

(2) The annual average amount of energy used in the period prior to application submittal as reported in the Energy Assessment or Energy Audit submitted with the application; and

(B) Actual number of jobs, if any, created or saved as a direct result of the EEI project for which REAP funding was used.

(k) Grant Close-out. Grant close-out must be performed in accordance with the requirements specified in Departmental Regulations.

§ 4280.124 Construction Planning and Performing development.

(a) General. The following requirements are applicable to all procurement methods specified in paragraph (f) of this section.

(1) Maximum Open and Free Competition. All procurement transactions, regardless of procurement method and dollar value, must be conducted in a manner that provides maximum open and free competition. Procurement procedures must not restrict or eliminate competition. Competitive restriction examples include, but are not limited to, the following: placing unreasonable requirements on firms in order for them to qualify to do business; noncompetitive practices between firms; organizational conflicts of interest; and unnecessary experience or excessive bonding requirements. In specifying material(s), the grantee and its consultant will consider all materials normally suitable for the project commensurate with sound engineering practices and project requirements. The Agency will consider any recommendation made by the grantee's consultant concerning the technical design and choice of materials to be used for such a project. If the Agency determines that a design or material, other than those that were recommended, should be considered by including them in the procurement process as an acceptable design or material in the project, the Agency will provide such Applicant or grantee with a comprehensive justification for such a determination. The justification will be documented in writing.

(2) 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 Executive Order 13672, and as supplemented by applicable Department of Labor regulations (41 CFR part 60). The Applicant, or the lender and borrower, as applicable, is responsible for ensuring that the contractor complies with these requirements.

(3) Surety. Any contract exceeding \$100,000 for procurement will require surety, except as provided for in paragraph (a)(3)(v) of this section.

(i) Surety covering both performance and payment will be required. The United States, acting through the Agency, will be named as co-obligee on all surety unless prohibited by State or Tribal law. Surety may be provided as specified in paragraphs (a)(3)(i)(A) or (B) of this section.

(A) Surety in the amount of 100 percent of the contract cost may be provided using either:

(1) A bank letter of credit; or

§ 4280.124(a)(3)(i) (Con.)

(2) Performance bonds and payment bonds. Companies providing performance bonds and payment bonds must hold a certificate of authority as an acceptable surety on Federal bonds as listed in Treasury Circular 570 as amended and be legally doing business in the State where the project is located.

(B) Cash deposit in escrow of at least 50 percent of the contract amount. The cash deposit cannot be from funds awarded under this subpart.

(ii) The surety will normally be in the form of performance bonds and payment bonds; however, when other methods of surety are necessary, bid documents must contain provisions for such alternative types of surety. The use of surety other than performance bonds and payment bonds requires concurrence by the Agency after submission of a justification to the Agency together with the proposed form of escrow agreement or letter of credit.

(iii) For contracts of lesser amounts, the grantee may require surety.

(iv) When surety is not provided, contractors must furnish evidence of payment in full for all materials, labor, and any other items procured under the contract in an Agency-approved form.

(v) Applicants may request exceptions to surety for any of the situations identified in paragraphs (a)(3)(v)(A) through (D) of this section. Applicants must submit a written request to the Agency.

(A) Small acquisition and construction procedures as specified in § 4280.118(c) and (d) or § 4280.119(c) and (d) as applicable are used.

(B) The proposed project is for equipment purchase and installation only and the contract costs for the equipment purchase and installation are \$200,000 or less.

(C) The proposed project is for equipment purchase and installation only and the contract costs for the equipment purchase and installation are more than \$200,000 and the following requirements can be met:

(1) The project involves two or fewer subcontractors;
and

(2) The equipment manufacturer or provider must act as the general contractor.

(D) Other construction projects that have only one contractor performing work.

(4) Grantees Accomplishing Work. In some instances, grantees may wish to perform a part of the work themselves. Grantees may accomplish construction by using their own personnel and equipment, provided the grantees possess the necessary skills, abilities, and resources to perform the work and there is not a negative impact to their business operation. For a grantee to provide a portion of the work, with the remainder to be completed by a contractor:

(i) A clear understanding of the division of work must be established and delineated in the contract;

(ii) Grantees are not eligible for payment for their own work as it is not an Eligible Project Cost;

(iii) Warranty requirements applicable to the technology must cover the grantee's work; and

(iv) Inspection and acceptance of the grantee's work must be completed by either:

(A) An Inspector that will:

(1) Inspect, as applicable, and accept construction;
and

(2) Furnish inspection reports; or

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(B) A licensed engineer that will:

- (1) Prepare design drawings and specifications;
- (2) Inspect, as applicable, and accept construction;
and
- (3) Furnish inspection reports.

(b) Forms Used. Technical service and procurement documents must be approved by the Agency and may be used only if they are customarily used in the area and protect the interest of the Applicant and the Government with respect to compliance with items such as the drawings, specifications, payments for work, inspections, completion, nondiscrimination in construction work and acceptance of the work. The Agency will not become a party to a construction contract or incur any liability under it. No contract will become effective until concurred in writing by the Agency. Such concurrence statement must be attached to and made a part of the contract.

(c) Technical Services. Unless the requirements of paragraph (c)(4) of this section can be met, all RES and EEI projects with Total Project Costs greater than \$400,000 require:

- (1) The design, installation monitoring, testing prior to commercial operation, and project completion certification be completed by a licensed professional engineer (PE) or team of licensed PEs. Licensed PEs may be "in-house" PEs or contracted PEs.
- (2) Any contract for design services must be subject to Agency concurrence.
- (3) Engineers must be licensed in the State where the project is to be constructed.
- (4) The Agency may grant an exception to the requirements of paragraphs (c)(1) through (3) of this section if the following requirements are met:
 - (i) State or Tribal law does not require the use of a licensed PE; and
 - (ii) The project is not complex, as determined by the Agency, and can be completed to meet the requirements of this program without the services of a licensed PE.

(d) Design Policies. Final plans and specifications must be reviewed by the Agency and approved prior to the start of construction. *When the contract is expected to be funded in part with funds from the Rural Development, neither the United States nor any of its departments, agencies, or employees is or will be a party to this contract or any subcontract.* Facilities funded by the Agency must meet the following design requirements, as applicable:

(1) Environmental Requirements. Actions taken under this subpart must comply with the environmental review requirements in accordance with 7 CFR part 1970. Project planning and design must not only be responsive to the grantee's needs but must consider the environmental consequences of the proposed project. Project design must incorporate and integrate, where practicable, mitigation measures that avoid or minimize adverse environmental impacts. Environmental reviews serve as a means of assessing environmental impacts of project proposals, rather than justifying decisions already made. Applicants may not take any action on a project proposal that will have an adverse environmental impact or limit the choice of reasonable project alternatives being reviewed prior to the completion of the Agency's environmental review. If such actions are taken, the Agency has the right to withdraw and discontinue processing the application.

(2) Architectural Barriers. All facilities intended for or accessible to the public or in which physically handicapped persons may be employed must be developed in compliance with the Architectural Barriers Act of 1968 (42 U.S.C. 4151 *et seq.*) as implemented by 41 CFR 101-19.6, section 504 of the Rehabilitation Act of 1973 (42 U.S.C. 1474 *et seq.*) as implemented by 7 CFR parts 15 and 15b, and Titles II and III of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*).

(3) Energy/Environment. Project design shall consider cost effective energy-efficient and environmentally-sound products and services.

(4) Seismic Safety. All new structures, fully or partially enclosed, used or intended for sheltering persons or property will be designed with appropriate seismic safety provisions in compliance with the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 *et seq.*), and EO 12699, Seismic Safety of Federal and Federally Assisted or Regulated New Building Construction. Designs of components essential for system

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operation and substantial rehabilitation of structures that are used for sheltering persons or property shall incorporate seismic safety provisions to the extent practicable as specified in 7 CFR part 1792, subpart C.

(e) Contract Methods. This paragraph identifies the three types of contract methods that can be used for projects funded under this subpart. The procurement methods, which are applicable to each of these contract methods, are specified in paragraph (f) of this section.

(1) Traditional Method or Design-bid-build. The services of the consulting engineer or architect and the general construction contractor must be procured in accordance with the following paragraphs.

(i) Solicitation of Offers. Solicitation of offers must:

(A) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. The description must not, in competitive procurements, contain features that unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured, and when necessary will set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equal" description may be used to define the performance or other salient requirements of a procurement. The specific features of the named brands which must be met by offerors must be clearly stated.

(B) Clearly specify all requirements which offerors must fulfill and all other factors to be used in evaluating bids or proposals.

(ii) Contract Pricing. Cost plus a percentage of cost method of contracting must not be used.

(iii) Unacceptable Bidders. The following will not be allowed to bid on, or negotiate for, a contract or subcontract related to the construction of the project:

(A) An engineer or architect as an individual or entity who has prepared plans and specifications or who will be responsible for monitoring the construction;

(B) Any entity in which the grantee's architect or engineer is an officer, employee, or holds or controls a substantial interest in the grantee;

(C) The grantee's governing body officers, employees, or agents;

(D) Any member of the grantee's Immediate Family or partners in paragraphs (e)(1)(iii)(A), (B), or (C) of this section; or

(E) An entity which employs, or is about to employ, any person in paragraph (e)(1)(iii)(A), (B), (C), or (D) of this section.

(iv) Contract Award. Contracts must be made only with responsible parties possessing the potential ability to perform successfully under the terms and conditions of a proposed procurement. Consideration must include, but not be limited to, matters such as integrity, record of past performance, financial and technical resources, and accessibility to other necessary resources. Contracts must not be made with parties who are suspended or debarred.

(2) Design/Build Method. The Design/Build Method, where the same person or entity provides design and engineering work, as well as construction or installation, may be used with Agency written approval.

(i) Concurrence Information. The Applicant will request Agency concurrence by providing the Agency at least the information specified in paragraphs (e)(2)(i)(A) through (H) of this section.

(A) The grantee's written request to use the Design/Build Method with a description of the proposed method.

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(B) A proposed scope of work describing in clear, concise terms the technical requirements for the contract. It shall include a nontechnical statement summarizing the work to be performed by the contractor, the results expected, and a proposed construction schedule showing the sequence in which the work is to be performed.

(C) A proposed firm-fixed-price contract for the entire project which provides that the contractor will be responsible for any extra cost which result from errors or omissions in the services provided under the contract, as well as compliance with all Federal, State, local, and Tribal requirements effective on the contract execution date.

(D) Where noncompetitive negotiation is proposed and found, by the Agency, to be an acceptable procurement method, then the Agency will evaluate documents indicating the contractor's performance on previous similar projects in which the contractor acted in a similar capacity.

(E) A detailed listing and cost estimate of equipment and supplies not included in the construction contract but which are necessary to properly operate the project.

(F) Evidence that a qualified construction Inspector who is independent of the contractor has or will be hired.

(G) Preliminary plans and outline specifications. However, final plans and specifications must be completed and reviewed by the Agency prior to the start of construction.

(H) The grantee's attorney's opinion and comments regarding the legal adequacy of the proposed contract documents and evidence that the grantee has the legal authority to enter into and fulfill the contract.

(ii) Agency Concurrence of Design/Build Method. The Agency will review the material submitted by the Applicant. When all items are acceptable, the Agency approval official will concur in the use of the Design/Build Method for the proposal.

(iii) Forms Used. Agency approved contract documents must be used provided they are customarily used in the area and protect the interest of the Applicant and the Agency with respect to compliance with items such as the drawings, specifications, payments for work, inspections, completion, nondiscrimination in construction work, and acceptance of the work. The Agency will not become a party to a construction contract or incur any liability under it. No contract shall become effective until concurred, in writing, by the Agency. Such concurrence statement must be attached to and made a part of the contract.

(iv) Contract Provisions. Contracts will have a listing of attachments and must contain the following:

- (A) The contract sum;
- (B) The dates for starting and completing the work;
- (C) The amount of liquidated damages, if any, to be charged;
- (D) The amount, method, and frequency of payment;
- (E) Surety provisions that meet the requirements of paragraph (a)(3) of this section;
- (F) The requirement that changes or additions must have prior written approval of the Agency as identified in the letter of conditions;
- (G) Contract review and concurrence. The grantee's attorney will review the executed contract documents, including performance and payment bonds, and will certify that they are in compliance with Federal, State, or Tribal law, and that the persons executing these documents have been properly authorized to do so. The contract documents, engineer's recommendation for award, and bid tabulation sheets will be forwarded to the Agency for concurrence prior to awarding the contract. All contracts will contain a provision that they are not effective until they have been concurred, in writing, by the Agency;

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(H) This part does not relieve the grantee of any responsibilities under its contract. The grantee is responsible for the settlement of all contractual and administrative issues arising out of procurement entered into in support of Agency funding. These include, but are not limited to, source evaluation, protests, disputes, and claims. Matters concerning violation of laws are to be referred to the applicable local, State, Tribal, or Federal authority; and

(3) Construction Management. Construction managers as a constructor (CMc) acts in the capacity of a general contractor and is financially and professionally responsible for the construction. This type of construction management is also referred to as construction manager "At Risk." The construction contract is between the grantee and the CMc. The CMc in turn subcontracts for some or all of the work. The CMc will need to carry the Agency required 100 percent surety and insurance, as required under paragraph (a)(3) of this section. Projects using construction management must follow the requirements of (e)(2)(i) through (iv) of this section.

(f) Procurement Methods. Procurement must be made by one of the following methods: competitive sealed bids (formal advertising); competitive negotiation; or noncompetitive negotiation. Competitive sealed bids (formal advertising) are the preferred procurement method for construction contracts.

(1) Competitive Sealed Bids. In competitive sealed bids (formal advertising), sealed bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is lowest, price and other factors considered. When using this method, the following will apply:

(i) At a sufficient time prior to the date set for opening of bids, bids must be solicited from an adequate number of qualified sources. In addition, the invitation must be publicly advertised.

(ii) The invitation for bids, including specifications and pertinent attachments, must clearly define the items or services needed in order for the bidders to properly respond to the invitation under paragraph (f)(1) of this section.

(iii) All bids must be opened publicly at the time and place stated in the invitation for bids.

(iv) A firm-fixed-price contract award must be made by written notice to that responsible bidder whose bid, conforming to the invitation for bids, is lowest. When specified in the bidding documents, factors such as discounts and transportation costs will be considered in determining which bid is lowest.

(v) The Applicant, with the concurrence of the Agency, will consider the amount of the bids or proposals, and all conditions listed in the invitation. On the basis of these considerations, the Applicant will select and notify the lowest responsible bidder. The contract will be awarded using an Agency-approved form.

(vi) Any or all bids may be rejected by the grantee when it is in their best interest.

(2) Competitive Negotiation. In competitive negotiations, proposals are requested from a number of sources. Negotiations are normally conducted with more than one of the sources submitting offers (offerors). Competitive negotiation may be used if conditions are not appropriate for the use of formal advertising and where discussions and bargaining with a view to reaching agreement on the technical quality, price, other terms of the proposed contract and specifications are necessary. If competitive negotiation is used for procurement, the following requirements will apply:

(i) Proposals must be solicited from two qualified sources, unless otherwise approved by the Agency, to permit reasonable competition consistent with the nature and requirements of the procurement.

(ii) The Request for Proposal must identify all significant evaluation factors, including price or cost where required, and their relative importance.

(iii) The grantee must provide mechanisms for technical evaluation of the proposals received, determination of responsible offerors for the purpose of written or oral discussions, and selection for contract award.

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(iv) Award may be made to the responsible offeror whose proposal will be most advantageous to the grantee, price and other factors considered. Unsuccessful offerors must be promptly notified.

(v) Owners may utilize competitive negotiation procedures for procurement of architectural/engineering and other professional services, whereby the offerors' qualifications are evaluated and the most qualified offeror is selected, subject to negotiations of fair and reasonable compensation.

(3) Noncompetitive Negotiation. Noncompetitive negotiation is procurement through solicitation of a proposal from only one source. Noncompetitive negotiation may be used when the award of a contract is not feasible under small acquisition and construction procedures, competitive sealed bids (formal advertising) or competitive negotiation procedures. Circumstances under which a contract may be awarded by noncompetitive negotiations are limited to the following:

(i) After solicitation of a number of sources, competition is determined inadequate; or

(ii) No acceptable bids have been received after formal advertising.

(4) Additional Procurement Methods. The grantee may use additional innovative procurement methods provided the grantee receives prior written approval from the Agency. Contracts will have a listing of attachments and the minimum provisions of the contract will include:

(i) The contract sum;

(ii) The dates for starting and completing the work;

(iii) The amount of liquidated damages to be charged;

(iv) The amount, method, and frequency of payment;

(v) Whether or not surety bonds will be provided; and

(vi) The requirement that changes or additions must have prior written approval of the Agency.

(g) Contracts Awarded Prior to Applications. Owners awarding construction or other procurement contracts prior to filing an application, must provide evidence that is satisfactory to the Agency that the contract was entered into without intent to circumvent the requirements of Agency regulations.

(1) Modifications. The contract shall be modified to conform to the provisions of this subpart. Where this is not possible, modifications will be made to the extent practicable and, as a minimum, the contract must comply with all State and local laws and regulations as well as statutory requirements and executive orders related to the Agency financing.

(2) Consultant's Certification. Provide a certification by an engineer, licensed in the State where the facility is constructed, that any construction performed complies fully with the plans and specifications.

(3) Owner's Certification. Provide a certification by the owner that the contractor has complied with applicable statutory and executive requirements related to Agency financing.

(h) Contract Administration. Contract administration must comply with 7 CFR 1780.76. If another authority, such as a Federal, State, or Tribal agency, is providing funding and requires oversight of inspections, change orders, and pay requests, the Agency will accept copies of their reports or forms as meeting oversight requirements of the Agency.

Renewable Energy System and Energy Efficiency Improvement Guaranteed Loans

§ 4280.125 Compliance with §§ 4279.29 through 4279.99 of this chapter.

(Revised 07-02-18, PN 514.)

(a) **General**. Except for § 4279.29 of this chapter, all loans guaranteed under this subpart must comply with the provisions found in §§ 4279.30 through 4279.99 of this chapter.

(b) Instead of § 4279.29 of this chapter, the Eligible lenders provisions of this subpart are:

§ 4280.125(b) (Con.)

(1) Traditional lenders. An eligible lender is any Federal or State chartered bank, Farm Credit Bank, other Farm Credit System institution with direct lending authority, Bank for Cooperatives, Savings and Loan Association, or mortgage company that is part of a bank-holding company. These entities must be subject to credit examination and supervision by either an agency of the United States or a State. Eligible lenders may also include credit unions provided, they are subject to credit examination and supervision by either the National Credit Union Administration or a State agency, and insurance companies provided they are regulated by a State or National insurance regulatory agency. Eligible lenders include the National Rural Utilities Cooperative Finance Corporation.

(2) Other lenders. Rural Utilities Service borrowers and other lenders not meeting the criteria of paragraph (a) of this section may be considered by the Agency for eligibility to become a guaranteed lender provided, the Agency determines that they have the legal authority to operate a lending program and sufficient lending expertise and financial strength to operate a successful lending program.

(i) Such a lender must:

(A) Have a record of successfully making at least three commercial loans annually for at least the most recent 3 years, with delinquent loans not exceeding 10 percent of loans outstanding and historic losses not exceeding 10 percent of dollars loaned, or when the proposed lender can demonstrate that it has personnel with equivalent previous experience and where the commercial loan portfolio was of a similar quantity and quality; and

(B) Have tangible balance sheet equity of at least seven percent of tangible assets and sufficient funds available to disburse the guaranteed loans it proposes to approve within the first 6 months of being approved as a guaranteed lender.

(ii) A lender not eligible under paragraph (a) of this section that wishes consideration to become a guaranteed lender must submit a request in writing to the State Office for the State where the lender's lending and servicing activity takes place. The lender's written request must include:

(A) Evidence showing that the lender has the necessary capital and resources to successfully meet its responsibilities.

(B) Copy of any license, charter, or other evidence of authority to engage in the proposed loanmaking and servicing activities. If licensing by the State is not required, an attorney's opinion to this effect must be submitted.

(C) Information on lending experience, including length of time in the lending business; range and volume of lending and servicing activity; status of loan portfolio including delinquency rate, loss rate as a percentage of loan amounts, and other measures of success; experience of management and loan officers; audited financial statements not more than 1 year old; sources of funds for the proposed loans; office location and proposed lending area; and proposed rates and fees, including loan origination, loan preparation, and servicing fees. Such fees must not be greater than those charged by similarly located commercial lenders in the ordinary course of business.

(D) An estimate of the number and size of guaranteed loan applications the lender will develop.

(3) Expertise. Loan guarantees will only be approved for lenders with adequate experience and expertise to make, secure, service, and collect REAP loans.

§ 4280.126 Guarantee/annual renewal fee. (Revised 07-02-18, PN 514.)

Except for the conditions for receiving reduced guarantee fee and unless otherwise specified in a Federal Register notice, the provisions specified in § 4279.120 of this chapter apply to loans guaranteed under this subpart.

§ 4280.127 Borrower Eligibility.

To receive a RES or EEI guaranteed loan under this subpart, a borrower must be eligible under § 4280.112. In addition, borrower must meet the requirements of paragraphs (a) through (e) of this section. Borrowers who receive a loan guaranteed under this subpart must continue to meet the requirements specified in this section.

(a) Type of Borrower. The borrower must be an Agricultural Producer or Rural Small Business.

(b) Ownership. The borrower must:

- (1) Own or be the prospective owner of the project; and
- (2) Own or control the site for the project at the time of application and, if the loan is guaranteed under this subpart, for the term of the loan.

(c) Revenues and Expenses. The borrower must have available or be able to demonstrate, at the time of application, satisfactory sources of revenue in an amount sufficient to provide for the operation, management, maintenance, and any debt service of the project for the term of the loan. In addition, the borrower must control the revenues and expenses of the project, including its operation and maintenance, for which the loan is sought. Notwithstanding the provisions of this paragraph, the borrower may employ a Qualified Consultant under contract to manage revenues and expenses of the project and its operation and/or maintenance.

(d) Legal Authority and Responsibility. Each borrower and lender must have the legal authority necessary to apply for and carry out the purpose of the guaranteed loan.

(e) Universal Identifier and SAM. Unless exempt under 2 CFR 25.110, the borrower must:

- (1) Be registered in the 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 DUNS number in each application it submits to the Agency.

§ 4280.128 Project Eligibility.

For a RES or EEI project to be eligible to receive a guaranteed loan under this subpart, the project must meet each criteria specified in § 4280.113(a) through (f). In addition, the purchase of an existing RES that meets the criteria specified in § 4280.113(b) through (f) is an eligible project under this section.

§ 4280.129 Guaranteed Loan Funding.

(a) The amount of the loan that will be made available to an eligible project under this subpart will not exceed 75 percent of Eligible Project Costs. Eligible Project Costs are specified in paragraph (e) of this section. Ineligible project costs are identified in paragraph (f) of this section.

(b) The minimum amount of a guaranteed loan made to a borrower will be \$5,000, less any program grant amounts. The maximum amount of a guaranteed loan made to a borrower is \$25 million.

(c) The percentage of guarantee, up to the maximum allowed by this section, will be negotiated between the lender and the Agency. The maximum percentage of guarantee is:

- (1) 85 percent for loans of \$600,000 or less;
- (2) 80 percent for loans greater than \$600,000 up to and including \$5 million;
- (3) 70 percent for loans greater than \$5 million up to and including \$10 million; and
- (4) 60 percent for loans greater than \$10 million.

(d) The total amount of the loans guaranteed under this subpart to one borrower, including the guaranteed and unguaranteed portion, the outstanding principal, and interest balance of any existing loans guaranteed under this program and the new loan request, must not exceed \$25 million.

§ 4280.129 (Con.)

(e) Eligible Project Costs are only those costs associated with the items identified in § 4280.114(c)(1) through (c)(6) and paragraphs (e)(1) through (6) of this section as long as the items identified in both sets of paragraphs are directly related to the RES or EEI. The Eligible Project Costs identified in paragraphs (e)(1) through (4) of this section cannot exceed more than 5 percent of the loan amount. *Guaranteed loan costs can be incurred pre or post application.*

(1) Working capital.

(2) Land acquisition.

(3) Routine lender fees, as described in § 4279.120 (c) of this chapter. (Revised 07-02-18, PN 514.)

(4) Energy Assessments, Energy Audits, technical reports, business plans, and Feasibility Studies completed and acceptable to the Agency, except if any portion was financed by any other Federal or State grant or payment assistance, including, but not limited to, a REAP Energy Assessment or Energy Audit, or REDA grant.

(5) Building and equipment for an existing RES.

(6) Refinancing outstanding debt when the original purpose of the debt being refinanced meets the eligible project requirements of § 4280.128. Existing debt may be refinanced provided that:

(i) The project identified in the application meets the requirements of § 4280.128;

(ii) The debt being refinanced must be less than 50 percent of the overall loan;

(iii) Refinancing is necessary to improve cash flow and viability of the project identified in the application;

(iv) At the time of application, the loan being refinanced has been current for at least the past 12 months (unless such status is achieved by the lender forgiving the borrower's debt); and

(v) The lender is providing better rates or terms for the loan being refinanced.

(f) Ineligible project costs include, but are not limited to costs identified in §§ 4280.114(d)(1), (d)(2), (d)(4) through (d)(9), guaranteeing loans made by other Federal agencies, subordinated owner debt, and loans made with the proceeds of any obligation the interest on which is excludable from income under 26 U.S.C. 103 or a successor statute. Funds generated through the issuance of tax-exempt obligations may neither be used to purchase the guaranteed portion of any Agency guaranteed loan nor may an Agency guaranteed loan serve as collateral for a tax-exempt issue. The Agency may guarantee a loan for a project which involves tax-exempt financing only when the guaranteed loan funds are used to finance a part of the project that is separate and distinct from the part which is financed by the tax-exempt obligation, and the guaranteed loan has at least a parity security position with the tax-exempt obligation.

(g) In determining the amount of a loan awarded, the Agency will take into consideration the criteria specified in § 4280.114(e).

§ 4280.130 Loan Processing.

(a) Processing RES and EEI guaranteed loans under this subpart must comply with the provisions found in §§ 4279.120 through 4279.187 of this chapter, except for those sections specified in paragraph (b) of this section, and as provided in §§ 4280.131 through 4280.142. *REAP Guaranteed Loan Project Summary, Appendix H, should be completed and signed by the approval official in order to adequately document a review.*

(b) The provisions found in §§ 4279.125(d), 4279.150, 4279.166, 4279.161, and 4279.167(b) of this chapter do not apply to loans guaranteed under this subpart. (Revised 07-02-18, PN 514.)

(c) State loan committee. *The State Director will establish a State loan committee to review all loan applications, changes in conditions, and loan servicing actions of a monetary-type nature. The makeup of such a committee is at the discretion of the State Director; however, only Agency employees will be members of a State loan committee. This committee is advisory in nature as the State Director is solely responsible for all decisions. Each State Office will develop and maintain written procedures that identify elements of the State loan committee process, such as the members of the committee, what documents are to be prepared for and signed by the committee, and procedures for resolving any differences of opinion among members. A State loan committee operational file should be established that contains copies of loan packages and related materials. However, minutes of the meeting, including recommendations of the committee, should also be filed in the individual case file.*

§ 4280.130 (Con)

(d) Concurrence. If concurrence of the National Office is necessary, promptly send the entire case file, with recommendations and the environmental review documents, for review and concurrence. To help ensure a quick response, make sure the file is well organized and that pertinent information is easily accessible for National Office loan specialists. If public comments on environmental issues or assessments are required, you should attempt to have the comment period completed as early as possible. However, if the comment period is the only loan docket item not completed, do not wait to submit the file to the National Office. The National Office will commence its review but withhold its concurrence until the expiration of the comment period and the resolution of any comments.

(e) National Office Loan Committees. The Administrator will establish a National Office Renewable Energy (NORE) Committee to review all REAP loan applications in excess of the State's lending authority, changes in conditions, and loan servicing actions of a monetary-type nature that are in excess of authorities delegated to State Directors. The NORE Committee will be composed of the Administrator, as the chairperson and approval official, and at least two other Agency staff members as designated by the Administrator. This committee is advisory in nature as the approval official is responsible for the decisions. All recommendations will be in written form based on an objective analysis conducted by a National Office loan specialist. All requests for exceptions being considered by the Administrator will be reviewed by the NORE Committee in accordance with RD Instructions 4280.104.

§ 4280.131 Credit quality. (Revised 07-02-18, PN 514.)

The lender is primarily responsible for determining credit quality and must address all of the elements of credit quality in a written credit analysis including adequacy of equity, cash flow, collateral, history, management, and the current status of the industry for which credit is to be extended.

(a) Cash flow. All efforts will be made to structure or restructure debt so that the business has adequate debt coverage and the ability to accommodate expansion.

(b) Collateral.

(1) Collateral must have documented value sufficient to protect the interest of the lender and the Agency and, except as set forth in paragraph (b)(2) of this section, the discounted collateral value will be at least equal to the loan amount. Lenders will discount collateral consistent with sound loan-to-value policy.

(2) Some businesses are predominantly cash-flow oriented, and where cash flow and profitability are strong, loan-to-value coverage may be discounted accordingly. A loan primarily based on cash flow must be supported by a successful and documented financial history.

(c) Industry. Current status of the industry will be considered and businesses in areas of decline will be required to provide strong business plans which outline how they differ from the current trends. The regulatory environment surrounding the particular business or industry will be considered.

(d) Equity. Borrowers must demonstrate evidence of a financial contribution in the project of not less than 25 percent of total Eligible Project Costs. Federal grant funds may be used as the financial contribution.

(e) Lien priorities. The entire loan will be secured by the same security with equal lien priority for the guaranteed and unguaranteed portions of the loan. The unguaranteed portion of the loan will neither be paid first nor given any preference or priority over the guaranteed portion. A parity or junior position may be considered provided that discounted collateral values are adequate to secure the loan in accordance with paragraph (b) of this section after considering prior liens.

(f) Management. A thorough review of key management personnel will be completed to ensure that the business has adequately trained and experienced managers.

§ 4280.132 Financial Statements.

All financial statements must be in accordance with § 4279.137 of this chapter except that, for Agricultural Producers, the borrower may provide financial information in the manner that is generally required by agricultural commercial lenders.

§ 4280.133 [Reserved]

§ 4280.134 Personal and corporate guarantees.

Except for Passive Investors, all personal and corporate guarantees must be in accordance with § 4279.132 of this chapter. (Revised 07-02-18, PN 514.)

§ 4280.135 Scoring RES and EEI Guaranteed Loan-only Applications.

(a) Evaluation Criteria. The Agency will score each guaranteed loan only application received using the evaluation criteria specified in § 4280.120, except that, in § 4280.120(b)(1), the calculation will be made on the loan amount requested and not on the grant amount requested.

(b) Minimum Score. The Agency will establish a minimum score that guaranteed loan-only applications must meet in order to be considered for funding in monthly competitions, as specified in § 4280.139(a). The minimum score is 50 points, and may be adjusted through the publishing of a Notice in the Federal Register. Any application that does not meet the applicable minimum score is only eligible to compete in a National competition as specified in § 4280.139(c)(2).

(c) Notification. The Agency will notify in writing each lender and borrower whose application does not meet the applicable minimum score.

§ 4280.136 [Reserved]

§ 4280.137 Application and Documentation.

The requirements in this section apply to guaranteed loan applications for RES and EEI projects under this subpart.

(a) General. Guaranteed loan applications must be submitted in accordance with the guaranteed loan requirements specified in § 4280.110 and in this section.

§ 4280.137 (Con.)

(b) Application Content for Guaranteed Loans Greater Than \$600,000. Each guaranteed loan only application for greater than \$600,000 must contain the information specified in paragraphs (b)(1) and (2) of this section.

(1) Application Content. Each application submitted under this paragraph must contain the information specified in §§ 4280.117(a)(6) through (9) and (b) through (e) and as specified in paragraph (b)(2) of this section, and must present the information in the same order as shown in § 4280.117.

(2) Lender Forms, Certifications, and Agreements. Each application submitted under paragraph (b) of this section must contain applicable forms, certifications, and agreements specified in paragraphs (b)(2)(i) through (xi) of this section instead of the forms and certifications specified in § 4280.117(a).

(i) A completed Form RD 4279-1, "Application for Loan Guarantee."

(ii) Environmental documentation in accordance with 7 CFR part 1970.

(iii) Identify the ethnicity, race, and gender of the applicant. This information is optional and is not required for a Complete Application.

(iv) A personal credit report from an Agency approved credit reporting company for each owner, partner, officer, director, key employee, and stockholder owning 20 percent or more interest in the borrower's business operation, except Passive Investors and those corporations listed on a major stock exchange.

(v) Appraisals completed in accordance with § 4279.144 of this chapter. Completed appraisals should be submitted when the application is filed. If the appraisal has not been completed when the application is filed, the Lender must submit an estimated appraisal. Agency approval in the form of a Conditional Commitment may be issued subject to receipt of adequate appraisals. In all cases, a completed appraisal must be submitted prior to the loan being closed.

(vi) Commercial credit reports obtained by the lender on the borrower and any parent, affiliate, and subsidiary firms.

(vii) Current personal and corporate financial statements of any guarantors.

(viii) Financial information is required on the total operation of the Agricultural Producer/Rural Small Business and its parent, subsidiary, or affiliates. All information submitted under this paragraph must be substantiated by authoritative records.

(A) Historical Financial Statements. Provide historical financial statements, including income statements and balance sheets, according to the Annual Receipts time frames specified in paragraphs § 4280.117(b)(1)(i)(A) through (C), as applicable to the length of time that Applicant's Rural Small Business or agricultural operation has been in operation. Agricultural Producers may present historical financial information in the format that is generally required by commercial agriculture lenders.

(B) Current Balance Sheet and Income Statement. Provide a current balance sheet and income statement presented in accordance with GAAP and dated within 90 days of the application submittal. Agricultural Producers may present financial information in the format that is generally required by commercial agriculture lenders or in a similar format used when submitting the same information in support of the borrower's Federal income tax returns.

(C) Pro forma financial statements. Provide pro forma balance sheet at start-up of the borrower's business operation that reflects the use of the loan proceeds or grant award; 2 additional years of financial statements, indicating the necessary start-up capital, operating capital, and short-term credit; and projected cash flow and income statements for 3 years supported by a list of assumptions showing the basis for the projections.

(Revised 07-02-18, PN 514.)

(ix) Lender's complete comprehensive written analysis in accordance with § 4280.131.

§ 4280.137(b)(2) (Con.)

(x) A certification by the lender that the borrower is eligible, the loan is for authorized purposes, and there is reasonable assurance of repayment ability based on the borrower's history, projections, equity, and the collateral to be obtained.

(xi) A proposed loan agreement or a sample loan agreement with an attached list of the proposed loan agreement provisions. The following requirements must be addressed in the proposed or sample loan agreement:

- (A) Prohibition against assuming liabilities or obligations of others;
- (B) Restriction on dividend payments;
- (C) Limitation on the purchase or sale of equipment and fixed assets;
- (D) Limitation on compensation of officers and owners;
- (E) Minimum working capital or current ratio requirement;
- (F) Maximum debt-to-net worth ratio;
- (G) Restrictions concerning consolidations, mergers, or other circumstances;
- (H) Limitations on selling the business without the concurrence of the lender;
- (I) Repayment and amortization provisions of the loan;
- (J) List of collateral and lien priority for the loan, including a list of persons and corporations guaranteeing the loan with a schedule for providing the lender with personal and corporate financial statements. Financial statements for corporate and personal guarantors must be updated at least annually once the guarantee is provided;

(K) Type and frequency of financial statements to be required from the borrower for the duration of the loan;

(L) The addition of any requirements imposed by the Agency in its Conditional Commitment;

(M) A reserved section for any Agency environmental requirements; and

(N) A provision for the lender or the Agency to have reasonable access to the project and its performance information during its useful life or the term of the loan, whichever is longer, including the periodic inspection of the project by a representative of the lender or the Agency.

(c) Application Content for Guaranteed Loans of \$600,000 or Less. Each guaranteed loan only application for \$600,000 or less must contain the information specified in paragraphs (c)(1) and (2) of this section.
(Revised 07-02-18, PN 514.)

(1) Application contents. If the application is for a loan with total project costs in the amount of \$80,000 or less, the application must contain the information specified in § 4280.119(b), except as specified in paragraph (c)(2) of this section (e.g., the grant application SF-424 forms under § 4280.119(b) are not required to be submitted), and must present the information in the same order as shown in § 4280.119(b). If the application is for less than \$200,000, but more than \$80,000, the application must contain the information specified in § 4280.118(b), except as specified in paragraph (c)(2) of this section (e.g., the grant application SF-424 forms under § 4280.117(a) are not required to be submitted), and must present the information in the same order as shown in § 4280.118(b). If the application is for \$200,000 and greater, the application must contain the information specified in § 4280.117, except as specified in paragraph (c)(2) of this section, (e.g., the grant application SF-424 forms under § 4280.117(a) are not required to be submitted), and must present the information in the same order as shown in § 4280.117. (Revised 07-02-18, PN 514.)

(2) Lender Forms, Certifications, and Agreements. Lender forms, certifications, and agreements. Each application submitted under paragraph (c) of this section must use Form RD 4279-1, "Application for Loan Guarantee," and the forms and certifications specified in paragraphs (b)(2)(ii), (iii) (if not previously submitted), (v), (viii), (ix), (x), and (xi) of this section. The lender must have the documentation contained in paragraphs (b)(2)(iv), (vi), and (vii) available in its files for the Agency's review. (Revised 07-02-18, PN 514.)

§ 4280.138 Evaluation of RES and EEI Guaranteed Loan Applications.

The provisions of § 4279.165 of this chapter apply to this subpart, although the Agency will determine borrower and project eligibility in accordance with the provisions of this subpart.

§ 4280.139 Selecting RES and EEI Guaranteed Loan-only Applications for Award.

Complete and eligible guaranteed loan-only applications that are ready to be approved will be processed according to this section, unless otherwise modified by the Agency in a notice published in the Federal Register. Guaranteed loan applications that are part of a grant-guaranteed loan combination request will be processed according to § 4280.165(d).

(a) Competing Applications. On a periodic basis, the Agency will compete each eligible application that is ready to be funded and that has a priority score, as determined under § 4280.135, that meets or exceeds the applicable minimum score. Higher scoring applications will receive first consideration. An application that does not meet the minimum score will be competed as provided in paragraph (c)(2) of this section.

(b) Funding Selected Applications. As applications are funded, the remaining guaranteed funding authority may be insufficient to fund the next highest scoring application or applications in those cases where two or more applications receive the same priority score. The procedures described in paragraphs (b)(1) and (2) of this section may be repeated as necessary in order to consider all applications as appropriate.

(1) If the remaining funds are insufficient to fund the next highest scoring project completely, the Agency will notify the lender and offer the lender the opportunity to accept the level of funds available. If the lender does not accept the offer, the Agency will process the next highest scoring application.

(2) If the remaining funds are insufficient to fund each project that receives the same priority score, the Agency will notify each lender and offer the lenders the opportunity to accept the level of funds available and the level of funds the Agency offers to each such lender will be proportional to the amount of the lenders' requests. If funds are still remaining, the Agency may consider funding the next highest scoring project.

(3) Any lender offered less than the full amount requested under either paragraph (b)(1) or (2) of this section may either accept the funds available or can request to compete in the next competition. Under no circumstances would there be an assurance that the project(s) would be funded in subsequent competitions.

(4) If a lender agrees to the lower loan funding offered by the Agency under either paragraph (b)(1) or (2) of this section, the lender must certify that the purpose(s) of the project can still be met at the lower funding level and must provide documentation that the borrower has obtain the remaining total funds needed to complete the project.

(c) Handling of Ranked Applications Not Funded. How the Agency disposes of ranked applications that have not received funding depends on whether the application's priority score is equal to or greater than the minimum score or is less than the minimum score.

(1) An application with a priority score equal to or greater than the minimum score that is not funded in a periodic competition will be retained by the Agency for consideration in subsequent monthly competitions. If an application is not selected for funding after 12 months, including the first month in which the application was competed, the application will be withdrawn by the Agency from further funding consideration.

(2) An application with a priority score less than the applicable minimum priority score will be competed against all other guaranteed loan-only applications in a National competition on the first business day of September of the Federal Fiscal Year in which the application is ready for funding. If the application is not funded, the application will be withdrawn by the Agency from further funding consideration.

(d) Unused Funding. After each periodic competition, the Agency will roll any remaining guaranteed funding authority into the next competition. At the end of each Federal Fiscal Year, the Agency may elect at its discretion to allow any remaining multi-year funds to be carried over to the next Federal Fiscal Year rather than selecting a lower scoring application.

(e) Commencement of the Project. The Applicant assumes all risks if the choice is made to purchase the technology proposed or start construction of the project to be financed in the guaranteed loan only application after the Complete Application has been received by the Agency, but prior to award announcement.

§ 4280.140 Loan Approval and Obligation of Funds. Each State is delegated specific authority by memorandum signed by the Administrator. The State's delegated authority will be the same for both the REAP and Business and Industry programs. The delegated authority will remain in effect until the authority is otherwise rescinded by the National Office. All loan approval and servicing actions exceeding the delegated authority must be submitted to the National Office for concurrence prior to approval as outlined in 4280.130 (d) of this instruction. REAP obligated and closed loans within the delegated authorities of the State will be randomly selected for review by the National Office. If selected for review, the State Office will provide the following information:

- (a). Copy of the REAP Guarantee Loan Project Summary, Appendix H, including supporting documentation, financial analysis software reports, and spreads analyzed by the State Office.
- (b) Copy of RD Form 4279-1.
- (c) Projects that exceed \$200,000 in total Eligible Project Costs, a copy of the project specific Technical Report, and technical merit determination document, where applicable.
- (d) Renewable Energy projects that exceed \$200,000 in total Eligible Project Costs, a copy of the project specific Feasibility Study will be provided.
- (e) Lenders complete comprehensive written analysis as required by § 4280.130, including pro forma balance sheet projected for loan closing and spreads of historic and projected financial statements.
- (f) Summary pages of the appraisal report(s), including the qualifications of the appraiser and a copy of the desk or technical review by the State Review Appraiser, if applicable.
- (g) Copy of State loan committee minutes.
- (h) Business Loan Agreement executed between the Lender and Borrower.
- (i) Copy of the executed Conditional Commitment.
- (j) Copy of the Lenders Agreement.

§ 4280.141 Changes in Borrower.

All changes in borrowers must be in accordance with § 4279.180 of this chapter, but the eligibility requirements of this subpart apply.

§ 4280.142 Conditions Precedent to Issuance of Loan Note Guarantee.

The provisions of §4279.181 of this chapter apply except for § 4279.181(a)(9)(v). In addition, paragraphs (a) and (b) of this section must be met. (Revised 07-02-18, PN 514.)

(a) The project has been performing at a steady state operating level in accordance with the technical requirements, plans, and specifications, conforms with applicable Federal, State, and local codes, and costs have not exceeded the amount approved by the lender and the Agency.

(b) Where applicable, the lender must provide to the Agency a copy of the executed Power Purchase Agreement.

§ 4280.143 Requirements After Project Construction.

Once the project has been constructed, the lender must provide the Agency reports from the borrower in accordance with § 4280.123(j)(3), as applicable.

§§ 4280.144 - 4280.151 [Reserved]

§ 4280.152 Servicing Guaranteed Loans.

Except as specified in paragraphs (a) and (b) of this section, all loans guaranteed under this subpart must be in compliance with the provisions found in § 4287.101(b) and in §§ 4287.107 through 4287.199 of this chapter.

(a) Documentation of Request. In complying with § 4287.134(a) of this chapter, all transfers and assumptions must be to eligible borrowers in accordance with § 4280.127.

§ 4280.152 (Con.)

(b) Additional Loan Funds. In complying with § 4287.134(e) of this chapter, loans to provide additional funds in connection with a transfer and assumption must be considered as a new loan application under § 4280.137.

§§ 4280.153 - 4280.164 [Reserved]

Combined Funding for Renewable Energy Systems and Energy Efficiency Improvements

§ 4280.165 Combined grant and guaranteed loan funding requirements.

The requirements for a RES or EEI project for which an Applicant is seeking a combined grant and guaranteed loan are specified in this section.

(a) Eligibility. All Applicants must be eligible under the requirements specified in § 4280.112. If the Applicant is seeking a grant, the Applicant must also meet the Applicant eligibility requirements specified in § 4280.112. If the Applicant is seeking a loan, the Applicant must also meet the borrower eligibility requirements specified in § 4280.127. Projects must meet the project eligibility requirements specified in §§ 4280.113 and 4280.128, as applicable.

(b) Funding. Funding provided under this section is subject to the limits described in paragraphs (b)(1) and (2) of this section.

(1) The amount of any combined grant and guaranteed loan shall not exceed 75 percent of Eligible Project Costs and the grant portion shall not exceed 25 percent of Eligible Project Costs. For purposes of combined funding requests, Eligible Project Costs are based on the total costs associated with those items specified in §§ 4280.114(c) and 4280.129(e). The Applicant must provide the remaining total funds needed to complete the project.

(2) The minimum combined funding request allowed is \$5,000, with the grant portion of the funding request being at least \$1,500 for EEI projects and at least \$2,500 for RES projects.

(c) Application and Documentation. When applying for combined funding, the Applicant must submit separate applications for both types of assistance (grant and guaranteed loan). The separate applications must be submitted simultaneously by the lender.

(1) Each application must meet the requirements, including the requisite forms and certifications, specified in §§ 4280.117, 4280.118, 4280.119, and 4280.137, as applicable, and as follows:

(i) Notwithstanding Form RD 4279-1, the SAM number and its expiration date must be provided prior to obligation of funds;

(ii) A combined funding request for a guaranteed loan greater than \$600,000 must contain the information specified in § 4280.137(b)(1) and (2); and

(iii) A combined funding request for a guaranteed loan of \$600,000 or less must contain the information specified in § 4280.137(c)(1) and (2).

(2) Where both the grant application and the guaranteed loan application provisions request the same documentation, form, or certification, such documentation, form, or certification may be submitted once; that is, the combined application does not need to contain duplicate documentation, forms, and certifications.

(d) Evaluation. The Agency will evaluate each application according to § 4280.115(c). The Agency will select applications according to applicable procedures specified in § 4280.121(a) unless modified by this section. A combination loan and grant request will be selected based upon the grant score of the project.

(e) Interest Rate and Terms of Loan. The interest rate and terms of the guaranteed loan for the loan portion of the combined funding request will be determined based on the procedures specified in §§ 4279.125 and 4279.126 of this chapter for guaranteed loans.

(f) Other Provisions. In addition to the requirements specified in paragraphs (a) through (e) of this section, the combined funding request is subject to the other requirements specified in this subpart, including, but not limited to, processing and servicing requirements, as applicable, as described in paragraphs (f)(1) through (6) of this section.

(1) All other provisions of §§ 4280.101 through 4280.111 apply to the combined funding request.

§ 4280.165 (f) (Con.)

(2) All other provisions of §§ 4280.112 through 4280.123 apply to the grant portion of the combined funding request and § 4280.124 applies if the project for which the grant is sought has a Total Project Cost of \$200,000 and greater.

(3) All other provisions of §§ 4280.125 through 4280.152, as applicable, apply to the guaranteed loan portion of the combined funding request.

(4) All guarantee loan and grant combination applications that are ranked, but not funded, will be processed in accordance with provisions found in § 4280.121(d), (e), and (f).

(5) Applicants whose combination applications are approved for funding must utilize both the loan and the grant. The guaranteed loan will be closed prior to grant funds being disbursed. The Agency reserves the right to reduce the total loan guarantee and grant award, as appropriate, if construction costs are less than projected or if funding sources differ from those provided in the application.

(6) Compliance reviews will be conducted on a combined grant and guaranteed loan request *if the Federal financial assistance is extended to a recipient which then provides assistance or activities to an ultimate beneficiary with those Federal funds.* The compliance review will encompass the entire operation, program, or activity to be funded with Agency assistance.

§§ 4280.166 - 4280.185 [Reserved]

Energy Audit and Renewable Energy Development Assistance (REDA) Grants

§ 4280.186 Applicant Eligibility.

To be eligible for an Energy Audit grant or a REDA grant under this subpart, the Applicant must meet each of the criteria, as applicable, specified in paragraphs (a) through (d) of this section. The Agency will determine an Applicant's eligibility.

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

- (1) A unit of State, Tribal, or local government;
- (2) A land-grant college or university, or other Institution of Higher Education;
- (3) A rural electric cooperative;

- (4) A Public Power Entity;
- (5) An Instrumentality of a State, Tribal, or local government; or
- (6) A Council.

(b) The Applicant must have sufficient capacity to perform the Energy Audit or REDA activities proposed in the application to ensure success. The Agency will make this assessment based on the information provided in the application.

(c) The Applicant must have the legal authority necessary to apply for and carry out the purpose of the grant.

(d) The Applicant must:

- (1) Be registered in the 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 DUNS number in each application it submits to the Agency. Generally, the DUNS number is included on Standard Form-424.

§ 4280.187 Project Eligibility.

To be eligible for an Energy Audit or a REDA grant, the grant funds for a project must be used by the grantee to assist Agricultural Producers or Rural Small Businesses in one or both of the purposes specified in paragraphs (a) and (b) of this section, and must also comply with paragraphs (c) through (f) of this section.

(a) Conducting and promoting Energy Audits as defined in § 4280.103. *Energy Assessments are not eligible.*

(b) Conducting and promoting REDA by providing to Agricultural Producers and Rural Small Businesses recommendations and information on how to improve the energy efficiency of their operations and to use Renewable Energy technologies and resources in their operations.

§ 4280.187 (Con.)

(c) Energy Audit and REDA can be provided only to a project located in a Rural Area unless the grantee of such project is an Agricultural Producer. If the project is owned by an Agricultural Producer, the project for which such services are being provided may be located in either a Rural or non-Rural Area. If the Agricultural Producer's project is in a non-Rural Area, then the Energy Audit or REDA can only be for an EEI or RES on components *of the business operation* that are directly related to and their use and purpose is limited to the Agricultural Producer's project, such as vertically integrated operations, and are part of and co-located with the agricultural production operation.

(d) The Energy Audit or REDA must be provided to a recipient in a State.

(e) The Applicant must have a place of business in a State.

(f) The Applicant is cautioned against taking any actions or incurring any obligations prior to the Agency completing the environmental review that would either limit the range of alternatives to be considered or that would have an adverse effect on the environment, such as the initiation of construction. If the Applicant takes any such actions or incurs any such obligations, it could result in project ineligibility.

§ 4280.188 Grant Funding for Energy Audit and Renewable Energy Development Assistance.

(a) Maximum Grant Amount. The maximum aggregate amount of Energy Audit and REDA grants awarded to any one recipient under this subpart cannot exceed \$100,000 in a Federal Fiscal Year. Grant funds awarded for Energy Audit and REDA projects may be used only to pay Eligible Project Costs, as described in paragraph (b) of this section. Ineligible project costs are listed in paragraph (c) of this section.

(b) Eligible Project Costs. Eligible Project Costs for Energy Audits and Renewable Energy Development Assistance are those costs incurred after the date a Complete Application has been received by the Agency and that are directly related to conducting and promoting Energy Audits and REDA, which include but are not limited to:

- (1) Salaries;
- (2) Travel expenses;
- (3) Office supplies (e.g., paper, pens, file folders); and
- (4) Expenses charged as a direct cost or as an indirect cost of up to a maximum of 5 percent for administering the grant.

(c) Ineligible Project Costs. Ineligible project costs for Energy Audit and REDA grants include, but are not limited to:

- (1) Payment for any construction-related activities;
- (2) Purchase or lease of equipment;
- (3) Payment of any judgment or debt owed to the United States;
- (4) Any goods or services provided by a person or entity who has a conflict of interest as provided in § 4280.106;
- (5) Any costs of preparing the application package for funding under this subpart; and
- (6) Funding of political or lobbying activities.

(d) Energy Audits. A grantee that conducts an Energy Audit must require that, as a condition of providing the Energy Audit, the Agricultural Producer or Rural Small Business pay at least 25 percent of the cost of the Energy Audit. Further, the amount paid by the Agricultural Producer or Rural Small Business will be retained by the grantee as a contribution towards the cost of the Energy Audit and considered program income. The grantee may use the program income to further the objectives of their project or Energy Audit services offered during the grant period in accordance with Departmental Regulations.

§ 4280.189 [Reserved]

§ 4280.190 Energy Audit and REDA Grant Applications - Content.

(a) Unless otherwise specified in a Federal Register notice, Applicants may only submit one Energy Audit grant application and one REDA grant application each Federal Fiscal Year. No combination (Energy Audit and REDA) applications will be accepted.

§ 4280.190 (Con.)

(b) Applicants must submit Complete Applications consisting of the elements specified in paragraphs (b)(1) through (7) of this section, except that paragraph (b)(4) is optional.

(1) Form SF-424.

(2) Form SF-424A.

(3) Form SF-424B.

(4) Identify the ethnicity, race, and gender of the applicant. This information is optional and is not required for a Complete Application.

(5) Certification that the Applicant is a legal entity in good standing (as applicable), and operating in accordance with the laws of the state(s) or Tribe where the Applicant has a place of business.

(6) The Applicant must identify whether or not the Applicant has a known relationship or association with an Agency employee. If there is a known relationship, the Applicant must identify each Agency employee with whom the Applicant has a known relationship. *An Agency employee is anyone who works for Rural Development*

(7) A proposed scope of work to include the following items:

(i) A brief summary including a project title describing the proposed project;

(ii) Goals of the proposed project;

(iii) Geographic scope or service area of the proposed project and the method and rationale used to select the service area;

(iv) Identification of the specific needs for the service area and the target audience to be served. The number of Agricultural Producers and/or Rural Small Businesses to be served must be identified including name and contact information, if available, as well as the method and rationale used to select the Agricultural Producers and/or Rural Small Businesses;

(v) Timeline describing the proposed tasks to be accomplished and the schedule for implementation of each task. Include whether organizational staff, consultants, or contractors will be used to perform each task. If a project is located in multiple States, resources must be sufficient to complete all projects;

(vi) Marketing strategies to include a discussion on how the Applicant will be marketing and providing outreach activities to the proposed service area ensuring that Agricultural Producers and/or Rural Small Businesses are served;

(vii) Applicant's experience as follows:

(A) If applying for a REDA grant, the Applicant's experience in completing similar REDA activities, including the number of similar projects the Applicant has performed and the number of years the Applicant has been performing a similar service.

(B) If applying for an Energy Audit grant, the number of energy audits and energy assessments the Applicant has completed and the number of years the Applicant has been performing those services;

(C) For all Applicants, the amount of experience in administering Energy Audit, REDA, or similar activities as applicable to the purpose of the proposed project. Provide discussion if the Applicant has any existing programs that can demonstrate the achievement of energy savings or energy generation with the Agricultural Producers and/or Rural Small Businesses the Applicant has served. If the Applicant has received one or more awards within the last 5 years in recognition of its Renewable Energy, energy savings, or energy-based technical assistance, please describe the achievement; and

§ 4280.190(b)(7)(vii) (Con.)

(viii) Identify the amount of Matching Funds and other funds and the source(s) the Applicant is proposing to use for the project. Provide written commitments for Matching Funds and other funds at the time the application is submitted. *Remember the grantee must provide evidence that a recipient of an Energy Audit paid 25 percent of the cost of the audit.*

(A) If financial resources come from the Applicant, the Applicant must submit documentation in the form of a bank statement that demonstrates availability of funds.

(B) If a third party is providing financial assistance to the project, the Applicant must submit a commitment letter signed by an authorized official of the third party. The letter must be specific to the project and identify the dollar amount being provided.

§ 4280.191 Evaluation of Energy Audit and REDA Grant Applications.

Section 4280.115(c) applies to Energy Audit and REDA grants, except for § 4280.115(c)(4).

§ 4280.192 Scoring Energy Audit and REDA Grant Applications.

The Agency will score each Energy Audit and REDA application using the criteria specified in paragraphs (a) through (f) of this section, with a maximum score of 100 points possible.

(a) Applicant's Organizational Experience in Completing the Energy Audit or REDA Proposed Activity. A maximum of 25 points will be awarded for this criterion based on the experience of the organization in providing energy audits or renewable energy development assistance as applicable to the purpose of the proposed project. The organization must have been in business and provided services for the number of years as identified in the paragraphs below.

(1) More than 10 years of experience, 25 points will be awarded.

(2) At least 5 years and up to and including 10 years of experience, 20 points will be awarded.

- (3) At least 2 years and up to and including 5 years of experience, 10 points will be awarded.
 - (4) Less than 2 years of experience, no points will be awarded.
- (b) Geographic Scope of Project in Relation to Identified Need. A maximum of 20 points can be awarded.
- (1) If the Applicant's proposed or existing service area is State-wide or includes all or parts of multiple States, and the scope of work has identified needs throughout that service area, 20 points will be awarded.
 - (2) If the Applicant's proposed or existing service area consists of multiple counties in a single State and the scope of work has identified needs throughout that service area, 15 points will be awarded.
 - (3) If the Applicant's service area consists of a single county or municipality and the scope of work has identified needs throughout that service area, 10 points will be awarded.
- (c) Number of Agricultural Producers/Rural Small Businesses to be Served. A maximum of 20 points will be awarded for this criterion based on the proposed number of ultimate recipients to be assisted and if the Applicant has provided the names and contact information for the ultimate recipients to be assisted.
- (1) If the Applicant plans to provide Energy Audits or REDA to:
 - (i) Up to 10 ultimate recipients, 2 points will be awarded.
 - (ii) Between 11 and up to and including 25 ultimate recipients, 5 points will be awarded.
 - (iii) More than 25 ultimate recipients, 10 points will be awarded.
 - (2) If the Applicant provides a list of ultimate recipients, including their name and contact information, that are ready to be assisted, an additional 10 points may be awarded.

(d) Potential of Project to Produce Energy Savings or Generation and Its Attending Environmental Benefits. A maximum of 10 points will be awarded for this criterion under both paragraphs (d)(1) and (2) of this section

(1) If the Applicant has an existing program that can demonstrate the achievement of energy savings or energy generation with the Agricultural Producers and/or Rural Small Businesses it has served, 5 points will be awarded.

(2) If the Applicant provides evidence that it has received one or more awards within the last 5 years in recognition of its renewable energy, energy savings, or energy-based technical assistance, up to a maximum of 5 points will be awarded as follows:

(i) International/national - 3 points for each.

(ii) Regional/State - 2 points for each.

(iii) Local - 1 point for each.

(e) Marketing and Outreach Plan. A maximum of 5 points will be awarded for this criterion. If the scope of work included in the application provides a satisfactory discussion of each of the following criteria, one point for each can be awarded.

(1) The goals of the project;

(2) Identified need;

(3) Targeted ultimate recipients;

(4) Timeline and action plan; and

(5) Marketing and outreach strategies and supporting data for strategies.

(f) Commitment of Funds for the Total Project Cost. A maximum of 20 points will be awarded for this criterion if written documentation from each source providing Matching Funds and other funds are submitted with the application.

(1) If the Applicant proposes to match 50 percent or more of the grant funds requested, 20 points will be awarded.

(2) If the Applicant proposes to match 20 percent or more but less than 50 percent of the grant funds requested, 15 points will be awarded.

(3) If the Applicant proposes to match 5 percent or more but less than 20 percent of the grant funds requested, 10 points will be awarded.

(4) If the Applicant proposes to match less than 5 percent of the grant funds requested, no points will be awarded.

§ 4280.193 Selecting Energy Audit and REDA Grant Applications for Award.

Unless otherwise provided for in a Federal Register notice, Energy Audit and REDA grant applications will be processed in accordance with this section.

(a) Application Competition. Complete Energy Audit and REDA applications received by the Agency by 4:30 p.m. local time on January 31 will be competed against each other. If January 31 falls on a weekend or a federally-observed holiday, the next Federal business day will be considered the last day for receipt of a Complete Application. Complete Applications received after 4:30 p.m. local time on January 31, regardless of the postmark on the application, will be processed in the subsequent fiscal year. Unless otherwise specified in a Federal Register notice, the two highest scoring applications from each State, based on the scoring criteria established under § 4280.192, will compete for funding.

(b) Ranking of Applications. All applications submitted to the National Office under paragraph (a) of this section will be ranked in priority score order. All applications that are ranked will be considered for selection for funding.

(c) Selection of Applications for Funding. Using the ranking created under paragraph (a) of this section, the Agency will consider the score an application has received compared to the scores of other ranked applications, with higher scoring applications receiving first consideration for funding. If two or more applications score the same and if remaining funds are insufficient to fund each such application, the Agency will distribute the remaining funds to each such application on a pro-rata basis. At its discretion, the Agency may also elect to allow any remaining multi-year funds to be carried over to the next fiscal year rather than funding on a pro-rata basis.

§ 4280.193 (Con.)

(d) Handling of Ranked Applications not Funded. Based on the availability of funding, a ranked application submitted for Energy Audit and/or REDA funds may not be funded. Such ranked applications will not be carried forward into the next Federal Fiscal Year's competition.

§ 4280.194 [Reserved]

§ 4280.195 Awarding and Administering Energy Audit and REDA Grants.

The Agency will award and administer Energy Audit and REDA grants in accordance with Departmental Regulations and with the procedures and requirements specified in § 4280.122, except as specified in paragraphs (a) through (c) of this section.

(a) Instead of complying with § 4280.122(b), the grantee must provide satisfactory evidence to the Agency that all officers of grantee organization authorized to receive and/or disburse Federal funds are covered by such bonding and/or insurance requirements as are normally required by the grantee.

(b) Form RD 400-1 specified in § 4280.122(c)(6) is not required.

(c) The Power Purchase Agreement specified in § 4280.122(h) is not required.

§ 4280.196 Servicing Energy Audit and REDA Grants.

The Agency will service Energy Audit and REDA grants in accordance with the requirements specified in Departmental Regulations, the Financial Assistance Agreement, 7 CFR part 1951, subparts E and O, other than 7 CFR 1951.709(d)(1)(i)(B)(iv), and the requirements in § 4280.123, except as specified in paragraphs (a) through (d) of this section. (Revised 07-02-18, PN 514.)

(a) Grant Disbursement. The Agency will determine, based on the applicable Departmental Regulations, whether disbursement of a grant will be by advance or reimbursement. Form SF-270 must be completed by the grantee and submitted to the Agency no more often than monthly to request either advance or reimbursement of funds.

(b) Semiannual Performance Reports. Project performance reports shall include, but not be limited to, the following:

(1) A comparison of actual accomplishments to the objectives established for that period (e.g., the number of Energy Audits performed, number of recipients assisted and the type of assistance provided for REDA);

(2) A list of recipients, each recipient's location, and each recipient's NAICS code;

(3) Problems, delays, or adverse conditions, if any, that have in the past or will in the future affect attainment of overall project objectives, prevent meeting time schedules or objectives, or preclude the attainment of particular project work elements during established time periods. This disclosure shall be accompanied by a statement of the action taken or planned to resolve the situation;

(4) Objectives and timetable established for the next reporting period.

(c) Final Performance Report. A final performance report will be required with the final Federal financial report within 90 days after project completion. The final performance report must contain the information specified in paragraphs (c)(2)(i) or (ii), as applicable, of this section.

(1) For Energy Audit projects, the final performance report must provide complete information regarding:

(i) The number of audits conducted,

(ii) A list of recipients (Agricultural Producers and Rural Small Businesses) with each recipient's NAICS code,

(iii) The location of each recipient,

(iv) The cost of each audit and documentation showing that the recipient of the Energy Audit provided 25 percent of the cost of the audit, and

(v) The expected energy saved for each audit conducted if the audit is implemented.

(2) For REDA projects, the final performance report must provide complete information regarding:

(i) The number of recipients assisted and the type of assistance provided,

(ii) A list of recipients with each recipient's NAICS code,

§ 4280.196(c)(2) (Con.)

(iii) The location of each recipient, and

(iv) The expected Renewable Energy that would be generated if the projects were implemented.

(d) Outcome Project Performance Report. One year after submittal of the final performance report, the grantee will provide the Agency a final status report on the number of projects that are proceeding with the grantee's recommendations, including the amount of energy saved and the amount of Renewable Energy generated, as applicable.

§§ 4280.197 - 4280.199 [Reserved]

§ 4280.200. OMB control number.

The information collection requirements contained in this subpart have been approved by the Office of Management and Budget (OMB) and have been assigned OMB control number 0570-0067. A person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

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Appendix A to Subpart B of Part 4280 -- Technical Reports for Energy
Efficiency Improvement (EEI) Projects

For all EEI projects with Total Project Costs of more than \$80,000, provide the information specified in Sections A and D and in Section B or Section C, as applicable. If the application is for an EEI project with Total Project Costs of \$80,000 or less, please see § 4280.119(b)(3) for the technical report information to be submitted with your application.

If the application is for an EEI project with Total Project Costs of \$200,000 and greater, you must conduct an Energy Audit. However, if the application is for an EEI project with a Total Project Costs of less than \$200,000, you may conduct either an Energy Assessment or an Energy Audit. Energy Audits that meet the American Society of Heating, Refrigeration and Air-Conditioning Engineers (ASHREA) Level II Energy Survey; Analysis and American National Standards Institute (ANSI); or American Society of Agricultural and Biological Engineers (ASABE)_ S162 Standard for performing on farm Energy Audits will be considered by the Agency to be acceptable audits.

Section A. Project Information

Describe how all the improvements to or replacement of an existing building and/or equipment meet the requirements of being Commercially Available. Describe how the design, engineering, testing, and monitoring are sufficient to demonstrate that the proposed project will meet its intended purpose, ensure public safety, and comply with applicable laws, regulations, agreements, permits, codes, and standards. Describe how all equipment required for the EEI(s) is available and able to be procured and delivered within the proposed project development schedule. In addition, present information regarding component warranties and the availability of spare parts.

Section B. Energy Audit

If conducting an EA, provide the following information.

(1) Situation Report. Provide a narrative description of the existing building and/or equipment, its energy system(s) and usage, and activity profile. Also include average price per unit of energy (electricity, natural gas, propane, fuel oil, renewable energy, etc.) paid by the customer for the most recent 12 months, or an average of 2, 3, 4, or 5 years, for the building and equipment being audited. Any energy conversion should be based on use rather than source.

(2) Potential Improvement Description. Provide a narrative summary of the potential improvement and its ability to reduce energy consumption or improve energy efficiency, including a discussion of reliability and durability of the improvements.

- (i) Provide preliminary specifications for critical components.
- (ii) Provide preliminary drawings of project layout, including any related structural changes.
- (iii) Identify significant changes in future related operations and maintenance costs.
- (iv) Describe explicitly how outcomes will be measured.

(3) Technical Analysis. Give consideration to the interactions among the potential improvements and the current energy system(s).

- (i) For the most recent 12 months, or an average of 2, 3, 4, or 5 years, prior to the date the application is submitted, provide both the total amount and the total cost of energy used for the original building and/or equipment, as applicable, for each improvement identified in the potential project. In addition, provide for each improvement identified in the potential project an estimate of the total amount of energy that would have been used and the total cost that would have been incurred if the proposed project were in operation for this same time period.
- (ii) Calculate all direct and attendant indirect costs of each improvement;
- (iii) Rank potential improvements measures by cost-effectiveness; and
- (iv) Provide an estimate of Simple Payback, including all calculations, documentation, and any assumptions.

(4) Qualifications of the Auditor. Provide the qualifications of the individual or entity which completed the Energy Audit.

Section C. Energy Assessment

If conducting an Energy Assessment, provide the following information.

(1) Situation Report. Provide a narrative description of the existing building and/or equipment, its energy system(s) and usage, and activity profile. Also include average price per unit of energy (electricity, natural gas, propane, fuel oil, renewable energy, etc.) paid by the customer for the most recent 12 months, or an average of 2, 3, 4, or 5 years, for the building and equipment being evaluated. Any energy conversion shall be based on use rather than source.

(2) Potential Improvement Description. Provide a narrative summary of the potential improvement and its ability to reduce energy consumption or improve energy efficiency.

(3) Technical Analysis. Giving consideration to the interactions among the potential improvements and the current energy system(s), provide the information specified in paragraphs (3)(i) through (iii) of this appendix.

(i) For the most recent 12 months, or an average of 2, 3, 4, or 5 years, prior to the date the application is submitted, provide both the total amount and the total cost of energy used for the original building and/or equipment, as applicable, for each improvement identified in the potential project. In addition, provide for each improvement identified in the potential project an estimate of the total amount of energy that would have been used and the total cost that would have been incurred if the proposed project were in operation for this same time period.

(ii) Document baseline data compared to projected consumption, together with any explanatory notes on source of the projected consumption data. When appropriate, show before-and-after data in terms of consumption per unit of production, time, or area.

(iii) Provide an estimate of Simple Payback, including all calculations, documentation, and any assumptions.

(4) Qualifications of the Assessor. Provide the qualifications of the individual or entity that completed the assessment. If the Energy Assessment for a project with Total Project Costs of \$80,000 or less is not conducted by Energy Auditor or Energy Assessor, then the individual or entity must have at least 3 years of experience and completed at least five Energy Assessments or Energy Audits on similar type projects.

Section D. Qualifications

Provide a resume or other evidence of the contractor or installer's qualifications and experience with the proposed EEI technology. Any contractor or installer with less than 2 years of experience may be required to provide additional information in order for the Agency to determine if they are qualified installer/contractor.

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Appendix B to Subpart B of Part 4280 -- Technical Reports for Renewable Energy System (RES) Projects with Total Project Costs of Less Than \$200,000 but More Than \$80,000

Provide the information specified in Sections A through D for each technical report prepared under this appendix. A Renewable Energy Site Assessment may be used in lieu of Sections A through C if the Renewable Energy Site Assessment contains the information requested in Sections A through C. In such instances, the technical report would consist of Section D and the Renewable Energy Site Assessment.

NOTE: If the Total Project Cost for the RES project is \$80,000 or less, this appendix does not apply. Instead, for such projects, please provide the information specified in § 4280.119(b)(4).

Section A. Project Description

Provide a description of the project, including its intended purpose and a summary of how the project will be constructed and installed. Describe how the system meets the definition of Commercially Available. Identify the project's location and describe the project site.

Section B. Resource Assessment

Describe the quality and availability of the renewable resource to the project. Identify the amount of Renewable Energy generated that will be generated once the proposed project is operating at its steady state operating level. If applicable, also identify the percentage of energy being replaced by the system.

If the application is for a Bioenergy Project, provide documentation that demonstrates that any and all woody biomass feedstock from National Forest System land or public lands cannot be used as a higher value wood-based product.

Section C. Project Economic Assessment

Describe the projected financial performance of the proposed project. The description must address Total Project Costs, energy savings, and revenues, including applicable investment and other production incentives accruing from Government entities. Revenues to be considered shall accrue from the sale of energy, offset or savings in energy costs, byproducts, and green tags. Provide an estimate of Simple Payback, including all calculations, documentation, and any assumptions.

Section D. Project Construction and Equipment Information

Describe how the design, engineering, testing, and monitoring are sufficient to demonstrate that the proposed project will meet its intended purpose, ensure public safety, and comply with applicable laws, regulations, agreements, permits, codes, and standards. Describe how all equipment required for the RES is available and able to be procured and delivered within the proposed project development schedule. In addition, present information regarding component warranties and the availability of spare parts.

Section E. Qualifications of Key Service Providers

Describe the key service providers, including the number of similar systems installed and/or manufactured, professional credentials, licenses, and relevant experience. When specific numbers are not available for similar systems, estimations will be acceptable.

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Appendix C to Subpart B of Part 4280 -- Technical Reports for Renewable Energy System (RES) Projects with Total Project Costs of \$200,000 and Greater

Provide the information specified in Sections A through G for each technical report prepared under this appendix. Provide the resource assessment under Section C that is applicable to the project.

Section A. Qualifications of the Project Team

Describe the project team, their professional credentials, and relevant experience. The description shall support that the project team key service providers have the necessary professional credentials, licenses, certifications, and relevant experience to develop the proposed project.

Section B. Agreements and Permits

Describe the necessary agreements and permits (including any for local zoning requirements) required for the project and the anticipated schedule for securing those agreements and permits. For example, Interconnection Agreements and Power Purchase Agreements are necessary for all Renewable Energy projects electrically interconnected to the utility grid.

Section C. Resource Assessment

Describe the quality and availability of the renewable resource and the amount of Renewable Energy generated through the deployment of the proposed system. For all Bioenergy Projects, except Anaerobic Digesters Projects, complete Section C.3 of this appendix. For Anaerobic Digester Projects, complete Section C.6 of this appendix.

(1) Wind. Provide adequate and appropriate data to demonstrate the amount of renewable resource available. Indicate the source of the wind data and the conditions of the wind monitoring when collected at the site or assumptions made when applying nearby wind data to the site.

(2) Solar. Provide adequate and appropriate data to demonstrate the amount of renewable resource available. Indicate the source of the solar data and assumptions.

(3) Bioenergy Project. Provide adequate and appropriate data to demonstrate the amount of renewable resource available. Indicate the type, quantity, quality, and seasonality of the Renewable Biomass resource, including harvest and storage, where applicable. Where applicable, also indicate shipping or receiving method and required infrastructure for shipping. For proposed projects with an established resource, provide a summary of the resource. Document that any and all woody biomass feedstock from National Forest System land or public lands cannot be used as a higher value wood-based product.

(4) Geothermal Electric Generation. Provide adequate and appropriate data to demonstrate the amount of renewable resource available. Indicate the quality of the geothermal resource, including temperature, flow, and sustainability and what conversion system is to be installed. Describe any special handling of cooled geothermal waters that may be necessary. Describe the process for determining the geothermal resource, including measurement setup for the collection of the geothermal resource data. For proposed projects with an established resource, provide a summary of the resource and the specifications of the measurement setup.

(5) Geothermal Direct Generation. Provide adequate and appropriate data to demonstrate the amount of renewable resource available. Indicate the quality of the geothermal resource, including temperature, flow, and sustainability and what direct use system is to be installed. Describe any special handling of cooled geothermal waters that may be necessary. Describe the process for determining the geothermal resource, including measurement setup for the collection of the geothermal resource data. For proposed projects with an established resource, provide a summary of the resource and the specifications of the measurement setup.

(6) Anaerobic Digester Project. Provide adequate and appropriate data to demonstrate the amount of renewable resource available. Indicate the substrates used as digester inputs, including animal wastes or other Renewable Biomass in terms of type, quantity, seasonality, and frequency of collection. Describe any special handling of feedstock that may be necessary. Describe the process for determining the feedstock resource. Provide either tabular values or laboratory analysis of representative samples that include biodegradability studies to produce gas production estimates for the project on daily, monthly, and seasonal basis.

(7) Hydrogen Project. Provide adequate and appropriate data to demonstrate the amount of renewable resource available. Indicate the type, quantity, quality, and seasonality of the Renewable Biomass resource. For solar, wind, or geothermal sources of energy used to generate hydrogen, indicate the renewable resource where the hydrogen system is to be installed. Local resource maps may be used as an acceptable preliminary source of renewable resource data. For proposed projects with an established renewable resource, provide a summary of the resource.

(8) Hydroelectric/Ocean Energy Projects. Provide adequate and appropriate data to demonstrate the amount of renewable resource available. Indicate the quality of the resource, including temperature (if applicable), flow, and sustainability of the resource, including a summary of the resource evaluation process and the specifications of the measurement setup and the date and duration of the evaluation process and proximity to the proposed site. If less than 1 year of data is used, a Qualified Consultant must provide a detailed analysis of the correlation between the site data and a nearby, long-term measurement site.

Section D. Design and Engineering

Describe the intended purpose of the project and the design, engineering, testing, and monitoring needed for the proposed project. The description shall support that the system will be designed, engineered, tested, and monitored so as to meet its intended purpose, ensure public safety, and comply with applicable laws, regulations, agreements, permits, codes, and standards. In addition, identify that all major equipment is Commercially Available, including proprietary equipment, and justify how this unique equipment is needed to meet the requirements of the proposed design. In addition, information regarding component warranties and the availability of spare parts must be presented.

Section E. Project Development

Describe the overall project development method, including the key project development activities and the proposed schedule, including proposed dates for each activity. The description shall identify each significant historical and projected activity, its beginning and end, and its relationship to the time needed to initiate and carry the activity through to successful project completion. The description shall address Applicant project development cash flow requirements. Details for equipment procurement and installation shall be addressed in Section F of this Appendix. Applications should include a concise development schedule with timelines for activities.

Section F. Equipment Procurement and Installation

Describe the availability of the equipment required by the system. The description shall support that the required equipment is available and can be procured and delivered within the proposed project development schedule. Describe the plan for site development and system installation, including any special equipment requirements. In all cases, the system or improvement shall be installed in conformance with manufacturer's specifications and design requirements, and comply with applicable laws, regulations, agreements, permits, codes, and standards. *Applications should include adequate information to:*

(1) Ensure open and free completion will be used for the procurement of project components in a manner consistent with the requirements of 2 CFR part 200 of this title.

(2) Ensure that the system or improvements will be installed in full compliance with the National Electric Code, and all applicable local building codes and standards, with permits, and in conformance with the manufacturer's intended purpose for the specified products.

Section G. Operations and Maintenance

Describe the operations and maintenance requirements of the system, including major rebuilds and component replacements necessary for the system to operate as designed over its useful life. The warranty must cover and provide protection against both breakdown and a degradation of performance. The performance of the RES or EEI shall be monitored and recorded as appropriate to the specific technology. *REAP deals with too many technologies and different equipment to track applicable warranties for components and a one size fits all warranty does not work well. Therefore the approval official will need to make a determination that the warranty being provided is similar to that industry standard.*

Appendix D to Subpart B of Part 4280 - Feasibility Study Content

The Feasibility Study should be prepared by a Qualified Consultant and should address Sections A through G, as applicable, of Appendix D. If the Feasibility Study does not contain all of the information shown in this appendix, the Agency may request that the Applicant supply the additional information.

Section A. Executive Summary. Provide an introduction and overview of the project. In the overview, describe the nature and scope of the proposed project, including purpose, project location, design features, Capacity, and estimated total capital cost. Include a summary of each of the elements of the Feasibility Study, including:

- (1) Economic feasibility determinations;*
- (2) Market feasibility determinations;*
- (3) Technical feasibility determinations;*
- (4) Financial Feasibility determinations;*
- (5) Management feasibility determinations; and*
- (6) Recommendations for implementation of the proposed project.*

Section B. Economic Feasibility. Provide information regarding project site; the availability of trained or trainable labor; and the availability of infrastructure, including utilities, and rail, air and road service to the site. Discuss feedstock source management, including feedstock collection, pre-treatment, transportation, and storage, and provide estimates of feedstock volumes and costs. Discuss the proposed project's potential impacts on existing manufacturing plants or other facilities that use similar feedstock if the proposed technology is adopted. Provide projected impacts of the proposed project on resource conservation, public health, and the environment. Provide an overall economic impact of the project including any additional markets created (e.g., for agricultural and forestry products and agricultural waste material) and potential for Rural economic development. Provide feasibility/plans of project to work with producer associations or cooperatives including estimated amount of annual feedstock and biofuel and byproduct dollars from producer associations and cooperatives.

Section C. Market Feasibility. Provide information on the sales organization and management. Discuss the nature and extent of market and market area and provide marketing plans for sale of projected output, including both the principal products and the by-products. Discuss the extent of competition including other similar facilities in the market area. Provide projected total supply of and projected competitive demand for raw materials. Describe the procurement plan, including projected procurement costs and the form of commitment of raw materials (e.g., marketing agreements, etc.). Identify commitments from customers or brokers for both the principal products and the by-products. Discuss all risks related to the industry, including industry status.

Section D. Technical Feasibility. The technical feasibility report shall be based upon verifiable data and contain sufficient information and analysis so that a determination may be made on the technical feasibility of achieving the levels of income or production that are projected in the financial statements. The project engineer or architect is considered an independent party provided neither the principals of the firm nor any individual of the firm who participates in the technical feasibility report has a financial interest in the project. If no other individual or firm with the expertise necessary to make such a determination is reasonably available to perform the function, an individual or firm that is not independent may be used.

(1) Identify any constraints or limitations in the financial projections and any other facility or design-related factors that might affect the success of the enterprise. Identify and estimate project operation and development costs and specify the level of accuracy of these estimates and the assumptions on which these estimates have been based.

(2) Discuss all risks related to construction of the project and regulation and governmental action as they affect the technical feasibility of the project.

Section E. Financial Feasibility. Discuss the reliability of the financial projections and assumptions on which the financial statements are based including all sources of project capital both private and public, such as Federal funds. Provide 3 years (minimum) projected Balance Sheets and Income Statements and cash flow projections for the life of the project. Discuss the ability of the business to achieve the projected income and cash flow. Provide an assessment of the cost accounting system. Discuss the availability of short-term credit or other means to meet reasonable business costs and the adequacy of raw materials and supplies. Provide a sensitivity analysis, including feedstock and energy costs. Discuss all risks related to the project, financing plan, the operational units, and tax issues.

Section F. Management Feasibility. Discuss the continuity and adequacy of management. Identify Applicant and/or management's previous experience concerning the receipt of federal financial assistance, including amount of funding, date received, purpose, and outcome. Discuss all risks related to the Applicant as a company (e.g., Applicant is at the Development-Stage) and conflicts of interest, including appearances of conflicts of interest.

Section G. Qualifications. Provide a resume or statement of qualifications of the author of the Feasibility Study, including prior experience.

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Appendix E to Subpart B of Part 4280 - Rural Energy for America Program					
Renewable Energy Systems and Energy Efficiency Improvement					
Evaluation Criteria Scoring Guide					
		Post Review by:			
Name of Applicant:					
Name of Reviewer:					
Type of Technology:					
Grant Request:	\$				
Loan Request:	\$				
Total Project Cost:			Eligible Project Cost:		
\$			\$		
	Base Priority Score	Administrative Points	Total Grant/Combo Score	Total Loan Only Score	
Energy Generation					
Energy Generation for Direct Use/Replacement					
Energy Efficiency					
Complete using TAB key the yellow highlighted text boxes or insert the maximum points the Applicant is eligible for under each of the following seven categories, the individual scores are automatically summed and placed in the "Total Score" columns above.					
(1) Quantity of Energy Generated, Replaced or Saved					
A maximum of 25 points will be awarded for Criterion 1. Complete sub-criteria (i) and (ii) below.					
Sub-Criteria (i): Quantity of Energy Generated or Saved per REAP Grant or Loan Dollar Requested (10 points max.)					
<i>For RES and EEI projects, points will be awarded for either the amount of energy generation per grant or loan dollar requested, which includes those projects that are replacing energy usage with a renewable source, or the actual annual average energy savings over the most recent 12, 24, 36, 48, or 60 consecutive months of operation per grant or loan dollar requested; <u>points will not be awarded for more than one category.</u></i>					

(A) Renewable Energy Systems			
Projected Annual Energy Generated (EG) in BTU's:		EG/Grant Dollar (G or Combo): (Auto-Calculates)	
			Points
(1) Less than 50,000 BTU per Grant or Loan Dollar Auto Calculates (EG/\$) / 50,000 x 10 points (2) Greater than 50,000 BTU per Grant or Loan Dollar = 10 points Auto Calculates: (EG/\$) > 50,000 = 10 points			
		EG/Loan Dollar	
		(Auto-Calculates)	
OR			
(B) Energy Efficiency Improvement			
Projected Average Annual Energy Saved (ES) in BTU's		ES/Grant Dollar (G or Combo): (Auto-Calculates)	
(1) Less than 50,000 BTU per Grant or Loan Dollar Auto Calculates: (ES/\$) / 50,000 x 10 points (2) Greater than 50,000 BTU per Grant or Loan Dollar = 10 points Auto Calculates: (ES/\$) > 50,000 = 10 points			Points
		ES/Loan Dollar	
		(Auto-Calculates)	
Provide additional documentation (if applicable) to substantiate the score for this category below.			
Sub-Criteria (ii): Quantity of Energy Replaced, Saved or Generated (15 points max)			
Points may only be awarded for energy replacement, energy savings or generation. Points will not be awarded for more than one category.			
(A) Energy replacement			
For a project to qualify as an energy replacement it must provide documentation on prior energy use. For new construction the project may classify as energy replacement only if the Applicant can document previous energy use from a facility of approximately the same size (+/- 10%).			

Determine energy replacement by dividing the estimated quantity of Renewable Energy to be generated over a 12-month period by the estimated quantity of energy consumed over the same 12-month period during the previous year by the applicable energy application:			
Projected Annual Energy Generated (EG) in BTU's:		Percent Energy Replacement (Auto-Calculates)	
Historical Annual Energy Consumption (EC) in BTU's:			
If the proposed Renewable Energy System is intended primarily for self-use by the Agricultural Producer or Rural Small Business, and will provide energy replacement of:			
(1) Greater than 0 but equal to or less than 25%, award 5 points.			Points
(2) Greater than 25%, but equal to or less than 50%, award 10 points.			
(3) Greater than 50%, award 15 points.			
(4) Greater than 150% , Score as Energy Generation			
Provide additional documentation (if applicable) to substantiate the score for this category below.			
OR			
(B) Energy Savings			
<i>Energy savings will be determined by the projections in an Energy Assessment or audit.</i>			
Historical Annual Energy Consumption (HEC) in BTU's:		Energy Savings (Auto-Calculates)	
Projected Annual Energy Consumption (PEC) in BTU's:			
If the estimated energy expected to be saved by the installation of the Energy Efficiency Improvements will be from:			
(1) 20% up to but not including 35%, award 5 points.			Points
(2) 35% up to but not including 50%, award 10 points.			
(3) 50% or greater, award 15 points.			
Provide additional documentation (if applicable) to substantiate the score for this category below.			

OR	
(C) Energy Generation	
(1) If the proposed Renewable Energy System is intended for production of energy, Award 10 points.	Points
Provide additional documentation (if applicable) to substantiate the score for this category below.	
(2) Environmental benefits	
<i>A maximum of 5 points will be awarded for criterion 2.</i>	
Points are awarded based on whether the Applicant has documented in the application that the proposed project will have a positive effect on any of the three impact areas: resource conservation (e.g., water, soil, forest), public health (e.g., potable water, air quality), and the environment (e.g., compliance with EPA's renewable fuel standard(s), greenhouse gases, emissions, particulate matter). Points will be awarded as follows:	Points
(i) If the proposed project has a positive impact on any one of the three impact areas, Award 1 point.	
(ii) If the proposed project has a positive impact on any two of the three impact areas, Award 3 points.	
(iii) If the proposed project has a positive impact on all three impact areas, Award 5 points	
Provide documentation to substantiate the score for this category below.	

(3) Commitment of Funds				
A maximum of 20 points will be awarded for criterion 3.				
If the Applicant has written commitments, received by the Agency as part of the Complete Application, from the source(s) confirming commitment of:				
Commitment Needed	\$0	Commitment Provided		
(i) 50% or less, award 0 points.				Points
(ii) Over 50% but not including 100% of the commitment needed, calculate the points as:				
Percentage of Committed Funds Provided (Auto-Calculates)		(PM-50% / 50% x 20 points) Auto-Calculates Points		
(iii) 100%, award 20 points.				
Provide documentation to substantiate the score for this category below.				
(4) Size of the Agricultural Producer or Rural Small Business				
A maximum of 10 points will be awarded for criterion 4.				
If the size of the Applicant's ag operation or business concern from the most recent year compared to the SBA Small Size Standard is:				
NAICS Code				Points
Size Limitation(\$ or Employee #)				
Annual Income or Employee #		Size Calculation (Auto-Calculates)		
(i) 33% or less of the maximum size, 10 points				
(ii) Over 33% up to and including 67%, 5 points				
(iii) Over 67%, 0 points				
Provide additional documentation (if applicable) to substantiate the score for this category below.				

(5) Previous Grantees and Borrowers			
A maximum of 15 points will be awarded for criterion 5.			
(i) If the Applicant has never received a grant and/or guaranteed loan under this subpart, Award 15 points		Points	
(ii) If the Applicant has not received a grant and/or guaranteed loan under this subpart within the 2 previous Federal Fiscal Years, Award 5 points			
(iii) If the Applicant has received a grant and/or guaranteed loan under this subpart within the 2 previous Federal Fiscal Years, Award 0 points.			
Provide documentation to substantiate the score for this category below.			
(6) Simple Payback			
A maximum of 15 points will be awarded for criterion 6.			
Points will be awarded for Renewable Energy Systems or Energy Efficiency Improvements; points will not be awarded for more than one category.			
(i) Renewable Energy Systems			
(A) Energy Generation for Use Offsite: Simple Payback = (Eligible Project Costs) / ((Typical year) Earnings before interest, taxes, depreciation, and amortization (EBITDA) for the project only). EBITDA is based on all energy and byproduct related revenue streams for a typical year including the fair market value of byproducts produced and used in the project or related enterprises; income remaining after all project obligations are paid (O&M); Agency's review of projections (after operating and stabilized) ; does not include tax credits, carbon credits, RECs and construction or investment related benefits:			
Eligible Project Costs (Auto Calculates from page 1):		Annual O&M Cost	
Total Income:			
If the Simple Payback of the proposed project is:			
(1) Less than 10 years, award 15 points.		Points	
(2) 10 years up to but not including 15 years, award 10 points.			
(3) 15 years up to and including 25 years, award 5 points.			
(4) Longer than 25 years, award 0 points.			
Provide documentation to substantiate the score for this category below.			

<p>(B)Replace Onsite Energy Use (RES Replacement): Simple Payback = (Eligible Project Costs) / Dollar Value of Energy Reduced or Replaced. Dollar value of energy reduced or replaced incorporates the following: Energy Savings using a constant value or price of energy; historical energy use of building or equipment must be based on actual average annual BTU used over the most recent 12-60 consecutive month period. Value or price of energy must be actual average price paid over same period as above. If replacing 100% of energy, actual average price paid for the energy replaced and the projected revenue received from the energy sold in a typical year are required. EEI improvements cannot monetize benefits other than the dollar amount of energy savings realized as a result of the improvement. Does not include tax credits, carbon credits, REC's, and construction and investment-related benefits.</p>	
Eligible Project Costs (Auto Calculates from page 1):	
Dollar value of energy reduced or replaced.	
If the Simple Payback of the proposed project is:	
(1)Less than 10 years, award 15 points.	Points
(2)10 years up to but not including 15 years, award 10 points.	Points
(3)15 years up to and including 25 years, award 5 points.	
(4)Longer than 25 years, award 0 points.	
Provide documentation to substantiate the score for this category below.	
OR	
(ii) Energy Efficiency Improvements	
<p>Reduce Energy Use such as EEI projects: Simple Payback = (Eligible Project Costs)/Dollar Value of Energy Reduced or Replaced. Dollar value of energy reduced or replaced incorporates the following: Energy Savings using a constant value or price of energy; historical energy use of building or equipment must be based on actual average annual BTU used over the most recent 12-60 consecutive month period. Value or price of energy must be actual average price paid over same period as above. If replacing 100% of energy, actual average price paid for the energy replaced and the projected revenue received from the energy sold in a typical year are required. EEI improvements cannot monetize benefits other than the dollar amount of energy savings realized as a result of the improvement. Does not include tax credits, carbon credits, REC's, and construction and investment-related benefits.</p>	

Eligible Project Costs (Auto Calculates from page 1):	\$	Dollar Value of Energy Reduced or Replaced:	\$
If the Simple Payback of the proposed project is:			
(A) Less than 4 years, award 15 points.			Points
(B) 4 years up to but not including 8 years, award 10 points.			
(C) 8 years up to and including 12 years, award 5 points.			
(D) Longer than 12 years, award 0 points.			
Provide documentation to substantiate the score for this category below.			
(7) State Director and Administrator priorities and points			
<i>A maximum of 10 points will be awarded for criterion 7.</i>			
A State Director, for its State allocation under this subpart, or the Administrator, for making awards from the National Office reserve, may award up to 10 points to an application if the application is for:			Points
(i) An under-represented technology,			
(ii) If selecting the application would help achieve geographic diversity,			
(iii) The Applicant is a member of an unserved or under-served population,			
(vi) Selecting the application helps further a Presidential Initiative or a Secretary of Agriculture priority,			
(v) The proposed project is located in an impoverished area, has experienced long-term population decline, or loss of employment.			
Provide documentation to substantiate the score for this category below.			

Appendix F to Subpart B of Part 4280 - Rural Energy for America Program			
Energy Audits and Renewable Energy Development Assistance			
Evaluation Criteria Scoring Guide			
		Post Review by:	
Name of Applicant:			
Name of Reviewer:			
Fiscal Year:			
Type of Request (EA or REDA):	\$		
Grant Request:	\$		
Total Project Cost:	\$		
Grant Score:			
List the maximum points the Applicant is eligible for under each of the following categories in the shaded cells. The Grant score will automatically total and will be reported above.			
(1) Applicant's Organizational Experience			
<i>A maximum of 25 points will be awarded. Points will be determined as follows. Applicant's Organizational Experience in Completing the Energy Audit or REDA Proposed Activity. The Applicant will be scored based on the experience of the organization in providing Energy Audits or Renewable Energy Development Assistance as applicable to the purpose of the proposed project. The organization must have been in business and provided services for the number of years as identified below.</i>			
(i)	More than 10 years of experience. Award 25 points.	Points	
(ii)	At least 5 years and up to and including 10 years of experience. Award 20 points		
(iii)	At least 2 years and up to and including 5 years of experience. Award 10 points		
(vi)	Less than 2 years of experience. Award 0 points		
Provide documentation to substantiate the score for this category below.			

(2) Geographic Scope of Project in Relation to Need	
A maximum of 20 points will be awarded. Points to be awarded will be determined as follows.	
Applicant's proposed or existing service area:	
(i) Is State-wide or includes all or parts of multiple States, and the scope of work has identified needs throughout that service area. Award 20 points	Points
(ii) Consists of multiple counties in a single State and the scope of work has identified needs throughout that service area. Award 15 points	
(iii) Consists of a single county or municipality and the scope of work has identified needs throughout that service area. Award 10 points	
Provide documentation to substantiate the score for this category below.	
(3) Number of Ultimate Recipients Served	
A maximum of 20 points will be awarded. Points to be awarded will be determined as follows.	
The proposed number of ultimate recipients to be assisted and if the Applicant has provided the names and contact information for the ultimate recipients to be assisted. If the Applicant plans to provide Energy Audits or REDA to:	
(i) Up to 10 ultimate recipients. Award 2 points	Points
(ii) Between 11 and up to and including 25 ultimate recipients. Award 5 points	
(iii) More than 25 ultimate recipients. Award 10 points	
If the Applicant provides a list of ultimate recipients, including their name and contact information, that are ready to be assisted, Award an Additional 10 Points.	
Provide documentation to substantiate the score for this category below.	

(4) Potential to Produce Energy Savings or Generation & Environmental Benefits	
<i>A maximum of 10 points total will be awarded. Points to be awarded will be determined as follows:</i>	
(i) If the Applicant has an existing program that can demonstrate the achievement of energy savings or energy generation with the Agricultural Producers and/or Rural Small Businesses it has served:	Points
Award 5 points	
(ii) If the Applicant provides evidence that it has received one or more awards within the last 5 years in recognition of its Renewable Energy, energy savings, or energy-based technical assistance, up to a maximum of 5 points will be awarded as follows:	
(A) International/National--3 points for each award	
(B) Regional/State-- 2 points for each award	
(C) Local -- 1 point for each award	
Provide documentation to substantiate the score for this category below.	
(5) Marketing and Outreach Plan	
<i>A maximum of 5 points will be awarded. Points to be awarded will be determined as follows:</i>	
If the scope of work included in the application provides a satisfactory discussion of each of the following criteria, one point for each can be awarded.	
(i) The goals of the project. Award 1 point	Points
(ii) Identified need. Award 1 point	
(iii) Targeted ultimate recipients. Award 1 point	
(iv) Timeline and action plan. Award 1 point	
(v) Marketing and outreach strategies and supporting data for strategies. Award 1 point	

Provide documentation to substantiate the score for this category below.	
(6) Commitment of Funds for the Total Project Cost	
<p><i>A maximum of 20 points will be awarded. Points to be awarded will be determined as follows:</i></p> <p>If written documentation from each source providing Matching Funds and other funds is submitted with the application. If the Applicant proposes written match of:</p>	
(i) 50 percent or more of the grant funds requested. Award 20 points	Points
(ii) 20 percent or more but less than 50 percent of the grant funds requested. Award 15 points	
(iii) 5 percent or more but less than 20 percent of the grant funds requested. Award 10 points	
(iv) Less than 5 percent of the grant funds requested. Award 0 points	
Provide documentation to substantiate the score for this category below.	

Rural Energy for America Program
Grant Project Summary

This document is used by Rural Development Staff to review Renewable Energy and energy efficiency grant applications for eligibility and provides the Agency's project summary and documentation necessary for the borrower file.

Applicant Name: _____

Applicant Address: _____

Location of Project: _____

Type of Project: _____ *Renewable Energy System*

(A system that produces or produces and delivers usable energy from a Renewable Energy source.)

_____ *Energy Efficiency Improvement*

(Improvements to facility, building, or process that reduce energy consumption.)

Amount of Energy Generated (as Applicable, use a scoresheet):

kWh BTU Gallons Therms Other

Amount of Energy Replaced (as applicable, use a scoresheet):

kWh BTU Gallons Therms Other

Amount of Energy Saved (as applicable, use a scoresheet):

kWh BTU Gallons Therms Other

Grant Request \$ _____

Project Description: _____

Please check one: _____ Grant only _____ Combo

The project summary is to be used for all RES_EEI Grant applications regardless of the size of the application.

There are 7 questions to be answered:

1. Is the application complete?
2. Is the Applicant eligible?
3. Is the project eligible?
4. Does the project meet funding requirements?
5. Does the Application meet the application requirements for the applicable application threshold?
6. Does the project have technical merit?
7. Has the environmental review been completed?

	Was the document submitted and/or the requirement met?
Complete Application: 4280.117-119	
A Complete Application was filed as documented in the <i>Application Processing Section</i> of the REAP Renewable Energy Systems and Energy Efficiency Improvements Grant Program Processing Checklist File Docket Index.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Applicant has identified the amount and source of Matching Funds.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Application contains statement about receipt of any grants and/or loans under 4280-B.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
If Applicant has been awarded previous funding, an acceptable description on the progress for that project is provided.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
The Applicant stated whether there is any known relationship or association with a Rural Development employee. If yes, process in accordance with 1900-D.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
The Applicant has certified they are a legal entity in good standing and are operating in accordance with the laws of the State or Tribe where the Applicant place of business is located.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Project Information	
Application contains information on the project as a whole and its relationship to the Applicant's operation: -The project has been identified as an RES Generation or Replacement or an EEI -The application includes a description of the process that will be used to conduct procurement and comply with maximum open and free competition, 4280.124(a)(1). (>\$200,000) -The application contains a Feasibility Study when applicable (>\$200,000), that indicates project viability. -The application contains a description of how the proposed project will have a positive effect on resource conservation, public health, and the environment.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Technical Report	
Does the technical report contain the items specified in 4280.119(b)(3) or (4) for RES or EEI projects with TPC of \$80,000 or less?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Does the technical report meet the requirements outlined in Appendix A, B, or C as applicable for RES EEI projects with TPC of greater than \$80,000?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Project Certifications	
Applicant has agreed to abide by open and free competition. 4280.124 certification	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Applicant has agreed to abide by Equal Employment Opportunity. 4280.124 certification	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Is the Grantee proposing to perform any of the work? If yes, is in compliance with 4280.124(a)(4)?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
The application is <input type="checkbox"/> complete <input type="checkbox"/> not complete in accordance with 4280.117, 4280.118, or 4280.119 as applicable. Comments: _____	
Applicant Eligibility (4280.109 and 4280.112)	
Rural Small Businesses must provide sufficient information to determine total Annual Receipts for and number of employees of the business and any parent, subsidiary, or affiliates at other locations. SBA small size standards can be found at: http://sba.gov/size/index.html	

NAICS Code for business type. _____
 NAICS Code limitations. _____ <http://www.sba.gov/content/small-business-size-standards#>
 How the Applicant meets those limitations (Show calculations):

	Year #1:	Year #2:	Year #3:	3-Year Average
(Insert Year)				
Annual Receipts				\$0
Jobs				0

Does the business have any affiliates? Yes No
 Does the Applicant alone (without affiliates) exceed the size standard for the industry in which the Applicant is primarily engaged in? See above table Yes No AND
 Does the Applicant business combined with its affiliates exceed the size standard designated for either the primary industry of the Applicant alone or the primary industry of the Applicant and its affiliates whichever is higher? See below table. Yes No N/A

NAICS Code for business type combined with Affiliates. _____
 NAICS Code limitations. _____ <http://www.sba.gov/content/small-business-size-standards#>
 How the Applicant business with its affiliates meets the primary industry limitations. (Show calculations)

	Year #1:	Year #2:	Year #3:	3-Year Average
(Insert Year)				
Annual Receipts				\$0
Jobs				0

OR, if using Alternative Size Standard, the maximum tangible net worth of the Applicant and its affiliates is not more than \$15,000,000 and the average net income after Federal income taxes (excluding carry-over losses) of the Applicant and its affiliates for the 2 full fiscal years before the date of application is not more than \$5,000,000.

Is the maximum tangible net worth of the Applicant and its Affiliates less than \$15,000,000?
Yes No N/A Maximum Tangible Net Worth: _____

Is Applicant and its Affiliates net income after Federal Income taxes for the 2 full fiscal years before the date of the application less than \$5,000,000? See below Yes No N/A

	Year #1:	Year #2:	
(Insert Year)			
Net Income After Federal Taxes for Applicant and its Affiliates			

Does the Applicant meet the definition of Small Business? Yes No N/A

Agricultural Producers must provide income directly related to agricultural products, and non-agricultural income for the 3 most recent years:

	Year #1:	Year #2:	Year #3:	3-
(Insert Year)				
Income directly related to Agricultural Products*				
Total Income **				
% Ag Income	#DIV/0!	#DIV/0!	#DIV/0!	

<p>*Examples include sale of crops, sale of livestock, fish, seafood, timber, and payments related to the crops and/or livestock production (insurance and commodity payments). **Includes all sources of income, agricultural income and non-agricultural income.</p> <p>Based on the information provided above does the Applicant receive more than 50% of income from agricultural products, and is the Applicant therefore an eligible Agricultural Producer?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p>	
<p>The Applicant is the owner of the project. <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A The Applicant is the prospective owner of the project. <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p>	
<p>The Applicant owns or controls the site for the proposed project. <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A If an award is made, the Applicant owns or controls the site for the useful life of the project. <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p>	
<p>The Applicant has satisfactory sources of revenue sufficient to provide for the operation, management, maintenance, and any debt service of the project for the useful life of the project. <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A The Applicant controls the revenues and expenses of the project, including its operation and maintenance. <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p>	
<p>The Applicant has certified that they have the legal authority necessary to apply for and carry out the purpose of the grant. <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p>	
<p>The Applicant has an active CAGE code. <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	
<p>Does the Applicant or owner have an outstanding judgment obtained by the U.S. in a Federal court (other than in the U.S. Tax Court), is delinquent in paying Federal income taxes, or is delinquent on a federal debt? <i>If so, the Applicant is NOT eligible to receive a grant, direct loan, or guaranteed loan until the judgment is paid in full or otherwise satisfied or the delinquency is resolved.</i></p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p>
<p>Has the applicant been debarred from receiving Federal assistance? <i>If so, the Applicant is NOT eligible to receive a grant, direct loan, or guaranteed loan under this subpart.</i></p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p>
<p>Has the Applicant received one or more grants and/or guaranteed loans under this program?</p> <p>If yes, have they made satisfactory progress, as determined by the Agency, toward completion of any previously funded project in ordered to be considered for subsequent funding?</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>The Applicant is <input type="checkbox"/> eligible <input type="checkbox"/> not eligible in accordance with 4280.109 and 4280.112. Comments: _____</p>	
<p>Project eligibility (4280.113)</p>	
<p>The project must be for the purchase of a Renewable Energy System or for Energy Efficiency Improvements.</p> <p><input type="checkbox"/> Renewable Energy System: Purchase of a new Renewable Energy System: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A Purchase of a Refurbished Renewable Energy System: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A The Retrofitting of an existing Renewable Energy System: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p><input type="checkbox"/> Energy Efficiency Improvement:</p> <p>Brief description: _____</p>	

<p>If project is an Energy Efficiency Improvement: Does it replace or duplicate an Energy Efficiency Improvement previously funded under 4280-B? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, is it still within its Grant Agreement or useful life? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>If yes, project is not eligible.</i></p>	
<p>Technology is Commercially Available?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<p>The project has technical merit?</p>	
<p>If Agricultural Producer Applicant:</p>	
<p>Project is located in City/County/State ____ / ____ / ____ 2010 population Census ____.</p> <p>The project is located in a Rural Area, as defined in 4280.103.</p> <p>If the project is located in a non-rural area. Project is for a RES or EEI on components that are directly related to agricultural production operation. The use and purpose of the proposed project is limited to the agricultural production operation. <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p style="text-align: center;">AND</p> <p>Project is co-located with the agricultural production operation and is part of and is co-located with ag production operation? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<p>If Small Business Applicant: Project is located in City/County/State ____/____/____ with a 2010 Census population of ____.</p> <p>Project is located in a Rural area as defined in 4280.103.</p>	
<p>If RES collocated with residence: If no proceed to next section.</p> <p>If RES, will the RES operate on its own separate meter to benefit only the business or agricultural producer? OR Is this an energy generation facility where all power is sold to the grid through a Power Purchase Agreement? OR Is the RES project closely associated with and will share a meter with a residence?</p> <p>If yes, has the Applicant provided a certification certifying that any excess power generated by the RES will be sold to the grid and will not be used by the Applicant for residential purposes?</p> <p>Is the system properly sized to support the certification?</p> <p>Has the Applicant demonstrated that 51% or more of the energy to be generated will benefit the Rural Small Business or agricultural operation?</p> <p>This was demonstrated using with an Energy Audit or Renewable Energy Site Assessment.</p> <p>This was demonstrated through documentation and calculations that support the breakout of the energy amounts.</p> <p><i>When a RES is closely associated with a residence the actual percentage of energy determined to benefit the Rural Small Business or agricultural operations will be used to determine Eligible Project Costs.</i></p> <p>Complete table below to determine Eligible Project Costs:</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

RES System Shares Meter with Residence			
Total Project Costs:			
Business/Ag Operations Energy Needs (kwh's)	Energy Generated by RES System (kwh's)	% of Eligible Project Costs	Eligible Project Costs
		#DIV/0!	#DIV/0!
The project is <input type="checkbox"/> eligible <input type="checkbox"/> not eligible in accordance with 4280.113. Comments: _____			
Funding Requirements (4280.114)			
Energy Efficiency Improvement			
The grant request is for \$1,500 or more but does not exceed \$250,000. <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A			
Renewable Energy System			
The grant request is for \$2,500 or more but does not exceed \$500,000. <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A			
The grant assistance does not exceed \$750,000 per Federal Fiscal Year <input type="checkbox"/> Yes <input type="checkbox"/> No			
Matching funds documentation - The application identifies sources of Matching Funds, amounts and status of the Matching Funds submitted.			<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Without specific statutory authority, other Federal grant awards and Applicant in-kind contributions cannot be used to meet the matching fund requirement. Third party in-kind contributions are eligible.			
Passive third party equity contributions are acceptable for Renewable Energy system projects, including those that are eligible for Federal production tax credits, provided the Applicant meets the requirements of Section 4280.107 (Applicant eligibility).			

Review of project budget to identify in-eligible project costs:	
	Project Costs Include:
	(1) Purchase and installation of new or refurbished equipment.
	(2) Construction, Retrofitting, replacement, and improvements.
	(3) EEI Identified in the applicable Energy Audit or Energy Assessment.
	(4) Fees for construction permits and licenses.
	(5) Professional service fees for Qualified Consultants, contractors, installers, and other third-party services.
	(6) Costs associated with installing a second meter (RES project where needed to separate residence use)
\$0.00	TOTAL PROJECT COSTS (TPC)
	Minus In-eligible Project Costs (4280.114 (d)) Include residential in eligilbe amount as a
\$0.00	TOTAL ELIGIBLE PROJECT COSTS
\$0.00	Maximum Grant (25%)

Does the Grant Request Exceed 25% of Eligible Project Costs? Yes No
If yes, the SF 424 must be revised with the Applicant initialing acceptance of the revised grant amount.

	TOTAL ELIGIBLE PROJECT COSTS
	Amount of Grant Requested
\$0.00	Matching Funds Required

The application meets funding requirements or does not meet funding requirements according to 4280.114.

Comments: _____

ENVIRONMENTAL

- | | | |
|---|--------------------------------------|--|
| <u>Type of Environmental Analysis</u> | <u>Status</u> | <u>Environmental Concerns</u> |
| <input type="checkbox"/> Categorical Exclusion (Cat-Ex) | <input type="checkbox"/> In Progress | <input type="checkbox"/> None |
| <input type="checkbox"/> Environmental Assessment (EA) | <input type="checkbox"/> Completed | <input type="checkbox"/> Mitigation required |
| <input type="checkbox"/> Class I | | |
| <input type="checkbox"/> Class II | | |

Environmental Impact Statement (EIS)
Environmental Review Comments or Conditions (As Applicable): _____

Complete One Section as Applicable:

Requirements for filing Applications for RES EEI Projects with Total Project Costs of \$80,000 or less
The Applicant is eligible in accordance with 4280.112.
The project is eligible in accordance with 4280.113.
The Total Project Costs are \$80,000 or less.
Applicant has certified that the design, engineering, testing, and monitoring will be sufficient to demonstrate that the proposed project will meet its intended purpose. <input type="checkbox"/> Yes <input type="checkbox"/> No
The Applicant or the Applicant's prime contractor have agreed to assume all risks and responsibility of project development. <input type="checkbox"/> Yes <input type="checkbox"/> No
The Applicant or the Applicant's prime contractor have agreed to be responsible for all interim financing, including during construction. <input type="checkbox"/> Yes <input type="checkbox"/> No
The Applicant has agreed not to request reimbursement from funds obligated from this program until after the project has been completed and is operating in accordance with information in the application. <input type="checkbox"/> Yes <input type="checkbox"/> No
The Applicant has agreed to maintain insurance as required under 4280.122(b), except business interruption insurance is not required.

The application meets or does not meet the requirements for an application of \$80,000 or less according to 4280.119.

Requirements for filing Applications for RES EEI Projects with Total Project Costs of less than \$200,000 but more than \$80,000.
The Applicant is eligible in accordance with 4280.112.
The project is eligible in accordance with 4280.113.
The Total Project Costs are less than \$200,000 but more than \$80,000.
Applicant has certified that the design, engineering, testing, and monitoring will be sufficient to demonstrate that the proposed project will meet its intended purpose. <input type="checkbox"/> Yes <input type="checkbox"/> No
The Applicant or the Applicant's prime contractor have agreed to assume all risks and responsibility of project development. <input type="checkbox"/> Yes <input type="checkbox"/> No
The Applicant or the Applicant's prime contractor have agreed to be responsible for all interim financing, including during construction. <input type="checkbox"/> Yes <input type="checkbox"/> No
The Applicant has agreed not to request reimbursement from funds obligated from this program until after the project has been completed and is operating in accordance with information in the application. <input type="checkbox"/> Yes <input type="checkbox"/> No
The Applicant has agreed to maintain insurance as required under 4280.122(b), except business interruption insurance is not required.

The application meets or does not meet the requirements for an application of less than \$200,000 but more than \$80,000 according to 4280.118.

The Applicant is eligible in accordance with 4280.112.
The project is eligible in accordance with 4280.113.
The Total Project Costs are greater than \$200,000.
Applicant has certified that construction planning and performing development will be in accordance with 4280.124. <input type="checkbox"/> Yes <input type="checkbox"/> No
Projects with Total Project Costs greater than \$400,000 will provide design, installation monitoring, testing prior to commercial operation, and project completion certification by a licensed professional engineer. <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

The Applicant certifies that construction planning and performance development, including that final plans and specifications must be reviewed by the Agency and approved prior to the start of construction, will be in accordance with 4280.124. <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
The Applicant has agreed to maintain insurance as required under 4280.122(b).

The application meets or does not meet the requirements for an application of greater than \$200,000 according to 4280.117.

SUMMARY:

	Yes	No
Question 1 - Is the Application Complete?	<input type="checkbox"/>	<input type="checkbox"/>
Question 2 - Is the Applicant Eligible?	<input type="checkbox"/>	<input type="checkbox"/>
Question 3 - Is the Project Eligible?	<input type="checkbox"/>	<input type="checkbox"/>
Question 4 - Does the Project meet Funding Requirements?	<input type="checkbox"/>	<input type="checkbox"/>
Question 5 - Does the Application meet the applicable grant requirements per 4280.117-119?	<input type="checkbox"/>	<input type="checkbox"/>
Question 6 - Does the Project have Technical Merit?	<input type="checkbox"/>	<input type="checkbox"/>
Question 7 - Has the Environmental Review been completed?	<input type="checkbox"/>	<input type="checkbox"/>

Comments: _____

<p>I _____ recommend _____ do not recommend this project be consideration for funding.</p> <p style="text-align: right;">_____ Date _____</p> <p>Agency Review Official</p>

oOo

Does the business have any affiliates? Yes No
 Does the Applicant alone (without affiliates) exceed the size standard for the industry in which the Applicant is primarily engaged in? See above table Yes No AND
 Does the Applicant business combined with its affiliates exceed the size standard designated for either the primary industry of the Applicant alone or the primary industry of the Applicant and its affiliates whichever is higher? See below table. Yes No N/A

NAICS Code for business type combined with Affiliates. _____
 NAICS Code limitations. _____ <http://www.sba.gov/content/small-business-size-standards#>
 How the Applicant business with its affiliates meets the primary industry limitations. (Show calculations)

	Year #1:	Year #2:	Year #3:	3-Year Average
(Insert Year)				
Annual Receipts				\$0
Jobs				0

OR, if using Alternative Size Standard, the maximum tangible net worth of the Applicant and its affiliates is not more than \$15,000,000 and the average net income after Federal income taxes (excluding carry-over losses) of the Applicant and its affiliates for the 2 full fiscal years before the date of application is not more than \$5,000,000.

Is the maximum tangible net worth of the Applicant and its Affiliates less than \$15,000,000?
Yes No N/A Maximum Tangible Net Worth: _____

Is Applicant and its Affiliates net income after Federal Income taxes for the 2 full fiscal years before the date of the application less than \$5,000,000? See below Yes No N/A

	Year #1:	Year #2:	Average
(Insert Year)			
Net Income After Federal Taxes for Applicant and its Affiliates			

Does the Applicant meet the definition of Small Business? Yes No N/A

Agricultural producers must provide income directly related to agricultural products, and non-agricultural income for the 3 most recent years:

	Year #1:	Year #2:	Year #3:
(Insert Year)			
Income directly related to Agricultural Products*			
Total Income **			
% Ag Income	#DIV/0!	#DIV/0!	#DIV/0!

*Examples include sale of crops, sale of livestock, fish, seafood, timber, and payments related to the crops and/or livestock production (insurance and commodity payments).

**Includes all sources of income, agricultural income and non-agricultural income.

Based on the information provided above does the Applicant receive more than 50% of income from agricultural products, and is the Applicant therefore an eligible Agricultural Producer?

Yes No N/A

Describe why Applicant is Eligible or Not Eligible? *Attach any necessary documentation.*

PROJECT Eligibility Determination (Skip if REAP Grant Project Summary completed)

<p>The project must be for the purchase of a Renewable Energy System or for Energy Efficiency Improvements.</p> <p><input type="checkbox"/> Renewable Energy System: Purchase of a new Renewable Energy System: <input type="checkbox"/>Yes <input type="checkbox"/>No <input type="checkbox"/>N/A Purchase of a Refurbished Renewable Energy System: <input type="checkbox"/>Yes <input type="checkbox"/>No <input type="checkbox"/>N/A The Retrofitting of an existing Renewable Energy System: <input type="checkbox"/>Yes <input type="checkbox"/>No <input type="checkbox"/>N/A</p> <p><input type="checkbox"/> Energy Efficiency Improvement:</p> <p>Brief description of proposed project: _____</p>	
<p>If project is an Energy Efficiency Improvement Does it replace or duplicate an Energy Efficiency Improvement previously funded under 4280-B? <input type="checkbox"/>Yes <input type="checkbox"/>No If Yes, is the previously funded project still within its Grant Agreement or useful life? <input type="checkbox"/>Yes <input type="checkbox"/>No <i>If yes, proposed project is not eligible.</i></p>	
Technology is Commercially Available?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
The project has technical merit?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<p>If Agricultural Producer Applicant: Project is located in City/County/State _____ / _____ / _____ with a 2010 Census population of _____. The project is located in a Rural Area, as defined in 4280.103.</p> <p>If the project is located in a non-rural area. Project is for a RES or EEI on components that are directly related to agricultural production operation. The use and purpose of the proposed project is limited to the agricultural production operation. <input type="checkbox"/>Yes <input type="checkbox"/>No AND Project is co-located with the agricultural production operation and is part of and is co-located with ag production operation? <input type="checkbox"/>Yes <input type="checkbox"/>No</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<p>If Small Business Applicant: Project is located in City/County/State _____ / _____ / _____ with a 2010 Census population of _____. Project is located in a Rural Area as defined in 4280.103.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

TECHNICAL REVIEW and TECHNICAL FEASIBILITY ASSESSMENT

Date Technical Report Review completed:

Technical Report Review complete by:

Project: Passed
 Failed

Technical Report Review Comments:

(06-02-16) SPECIAL PN

OWNERSHIP

Owners	Share	Position	Passive Investor *	Commercial Guaranty	Outside Net Worth
					\$ -
					\$ -

* If Passive Investor, describe ownership interest. Attach copies of contractual agreements or other documentation to support determination.

Does the borrower own or control the project site at the time of application? Yes No

Will the site be controlled by the Applicant for the term of the loan? Yes No

LENDER

Lender: _____

Loan Officer: _____

Does the lender have the legal authority necessary to apply for and carry out the purpose of the g-loan? Yes No

Discuss adequacy of Lender's experience and expertise to make, secure, service, and collect Energy loans. Attach any necessary documentation.

Has the lender has been involved in making guaranteed energy loans in the past?

REAP RES EEI LOAN

Loan	Amount	Rate	IR Formula	V/F	Term	Monthly Payment	Annual Debt Service
	\$	%			yrs	\$	\$

Approval Level _____

State National

SOURCE & USE OF FUNDS (4280.129)

Purpose	Borrower Contribution	Energy Loan	Energy Grant	Other *	Total
Purchase & Installation of New or Refurbished Equipment					
Construction, Retrofitting, Replacement, and Improvements	-	-	-	-	-
EE Improvements in Energy Assessment or Energy Audit					
Professional Fees for Qualified Consultants, Contractors, Installers, and other third-party services	-	-	-	-	-
Fees (Permits, Licenses)	-	-	-	-	-
Working Capital	-	-	ineligible	-	-
Land Acquisition	-	-	ineligible	-	-
Debt Refi (Conditional)					
Other Costs (Eligible)	-	-	-	-	-
Other Costs (Ineligible)	-	ineligible	ineligible	-	-
Vehicles	-	ineligible	ineligible	-	-
Packaging fee	-	ineligible	ineligible	-	-
Other	-	ineligible	ineligible	-	-
Total =	-	-	-	-	-

Percent Contribution (total project cost) = 0.0000% 0.0000% 0.0000% 0.0000%

	Energy Loan	Energy Grant	Combined Energy
Total Project Cost			
Total Ineligible Project Costs	-	-	
Total Eligible Project Costs	-	-	
Energy Loan as Percent of Eligible Costs			
Energy Grant as Percent of Eligible Costs			
Total Energy Program Funds			-
Energy Funds as Percent of Eligible Costs			

Matching Requirement (25% of Eligible Project Costs must be matched)

	Project Cost	Applicant Match	Other Sources of Match	Match
Total Project Costs				
Ineligible Project Costs	-			
Eligible Project Costs	-	0.0%		- 0.0%

BUSINESS REPUTATION & CREDIT HISTORY:

FINANCIAL POSITION:

Historical Balance Sheets
 (in \$1,000's)

	1/2/11		1/2/12		1/2/13		Current		RMA
Current Assets									
Fixed Assets									
<u>Other Assets</u>	-	0.0%	-	0.0%	-	0.0%	-	0.0%	
Total Asset	<u>-</u>	<u>0.0%</u>	<u>-</u>	<u>0.0%</u>	<u>-</u>	<u>0.0%</u>	<u>-</u>	<u>0.0%</u>	
Current Liabilities									
<u>Term Liabilities</u>									
Total Liabilities	<u>-</u>	<u>0.0%</u>	<u>-</u>	<u>0.0%</u>	<u>-</u>	<u>0.0%</u>	<u>-</u>	<u>0.0%</u>	
Equity	<u>-</u>		<u>-</u>		<u>-</u>		<u>-</u>		
Current Ratio	<u> </u>		<u> </u>		<u> </u>		<u> </u>		<u> </u>
Debt to Equity	<u> </u>		<u> </u>		<u> </u>		<u> </u>		<u> </u>

Discussion of significant changes or trends in liquidity and solvency.

Liquidity:

Solvency:

Projected Balance Sheets

<u>Other Assets</u>	-		-		-		-		
Total Asset	<u>-</u>	<u>0.0%</u>	<u>-</u>	<u>0.0%</u>	<u>-</u>	<u>0.0%</u>	<u>-</u>	<u>0.0%</u>	
Current Liabilities									
<u>Term Liabilities</u>									
Total Liabilities	<u>-</u>	<u>0.0%</u>	<u>-</u>	<u>0.0%</u>	<u>-</u>	<u>0.0%</u>	<u>-</u>	<u>0.0%</u>	
Equity	<u>-</u>		<u>-</u>		<u>-</u>		<u>-</u>		
Current Ratio	<u> </u>		<u> </u>		<u> </u>		<u> </u>		<u> </u>
Debt to Equity	<u> </u>		<u> </u>		<u> </u>		<u> </u>		<u> </u>

Pro forma working capital position and liquidity:

Liquidity:

Current Ratio:

Pro forma equity position and solvency

Compared to RMA industry standards:

Solvency: Solvency is the ability of an entity to pay its debts with available cash.

Debt to Equity:

The debt to equity ratio is to: .

Compared to RMA industry standards:

Does the borrower have satisfactory sources of revenue in an amount sufficient to provide for the operation, management, maintenance, and any debt service of the project for the term of the loan?
Yes No

Does the borrower control the revenues and expenses of the project, including its operation and maintenance, for which the loan is sought? Yes No

FINANCIAL FEASIBILITY & REPAYMENT ABILITY

Historical & Projected Income Statements

(in \$1,000's)	/2010	/2011	/2012	/2013	RMA	Year 1	Year 2
Gross Revenue	_____	_____	_____				
CGS							
Gross Profit	#####	#####	#####	- #####		- #####	- #####
Op'g & Other Exp					91.4%		
Net Profit	- #####	- #####	- #####	- #####	8.6%	- #####	- #####
Add Back							
+Rent							
+ Depr.							
+Int.							
Funds Avail.	_____ = #####	_____ = #####	_____ = #####	_____ = #####		#####	_____ = #####

Debt Service Ability (comparing historical/projected Funds Available with projected Debt Service)

Companion Loans	-	-	-	-		-	-
	-	-	-	-		-	-
	-	-	-	-		-	-
New Energy Loan	-	-	-	-		-	-
Continuing Debt	-	-	-	-		-	-
	-	-	-	-		-	-
	-	-	-	-		-	-
	-	-	-	-		-	-
	-	-	-	-		-	-
Debt Service	_____	_____	_____	_____		_____	_____
Margin	-	-	-	-		-	-
Coverage	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		#DIV/0!	#DIV/0!

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Described all Existing (Continuing) and Companion Loans, including Original Amount, Unpaid Balance, Rates, Terms, Payment Schedule, etc.:
Existing debt:

Historical trends:

Comparison with RMA industry averages:

Basis for projections:

Outlook:

Does the business demonstrate adequate debt coverage and cash-flow? Attach any necessary documentation.

Discuss Feasibility Study if applicable (Projects over \$200,000) (economic, market, technical, financial, and management feasibility). _____

Management experience:

Industry trends -- strength & weakness:

Market -- supply/demand, competition, locational factors, & demographics:

Lease or contractual commitments:

Support from related enterprises:

LENDER ASSESSMENT

ADEQUACY OF LENDER'S SPREADSHEET AND ANALYSIS:
(Overview of Lender's credit package submission)

Strengths / Weaknesses:

COLLATERAL

Energy Loan= \$ 1,000,000

Type	Description	Source	Value	Discount	Prior Liens *	Collateral Value
RE					-	-
RE			-	0%	-	-
M&E					-	
Inventory					-	-
A/R			-	0%	-	-
Total =			-		-	-

Total Loan-to-Value =	#DIV/0!
Loan to Discounted Value =	#DIV/0! Discounted 0.00

* Prior lienholders:

Key Person Life Insurance proposed Rationale

Does the business demonstrate adequate collateral coverage? Comment on sufficiency of collateral, lien priorities, adequacy of appraisal and qualifications of appraiser, appropriateness of discount factors used, personal guarantors, etc. Attach any necessary documentation.

LOAN SUPERVISION

<u>Level of Financials proposed</u> Annual Financial Statements	<u>FYE Date</u> 12/31	<u>Additional loan covenants needed</u>
--	--------------------------	---

Is the level of proposed loan supervision adequate? Attach any necessary documentation.

ENVIRONMENTAL

<u>Type of Environmental Analysis</u>	<u>Status</u>	<u>Studies Required</u>	<u>Environmental concerns</u>
<input type="checkbox"/> Categorical Exclusion (CE)	<input type="checkbox"/> In Progress	<input type="checkbox"/> Archeological Cost \$	<input type="checkbox"/> None
<input type="checkbox"/> Environmental Assessment (EA)	<input type="checkbox"/> Completed	<input type="checkbox"/> BA Cost \$	<input type="checkbox"/> Mitigation Required
<input type="checkbox"/> Environmental Impact Statement (EIS)		<input type="checkbox"/> Historic Structures, Buildings, Objects Cost \$	
		<input type="checkbox"/> Flood Insurance Required Cost \$	
		<input type="checkbox"/> TSQ Screening Cost \$	
		<input type="checkbox"/> Phase I ESA Cost \$	

Other Environmental Comments:

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Appendix H
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(Added 06-02-16, SPECIAL PN)

SUMMARY

<u>Strengths</u>	<u>Weaknesses</u>

RECOMMENDATION

Approval is recommended subject to the attached draft conditions.

APPROVAL OFFICIAL

Date

oOo

United States Department of Agriculture
Rural Development

Rural Energy for America Program

Energy Audit & Renewable Energy Development Assistance

The Energy Audits (EA) and Renewable Energy Development Assistance (REDA) grant application guide - on the following pages - provides a cover page, table of contents and a framework of divider pages to organize the grant application for submission to USDA-Rural Development. Each divider page will list the documents to be filed directly behind it. Please tab the divider pages as indicated.

Unless otherwise specified in a Federal Register notice, an original application must be received in the State Office by **4:30 PM local time on January 31** to complete for Fiscal Year Funding. If January 31 falls on a weekend or a federally-observed holiday, the next Federal business day will be considered the last day for receipt of a Complete Application. For contact information, view the State Energy Coordinator list found at:

http://www.rurdev.usda.gov/BCP_Energy_CoordinatorList.html

All Applicants must have a Dun and Bradstreet Data Universal Numbering System (DUNS) number, which can be obtained at no cost via a toll free request line at 1-866-705-5711 or at

<http://fedgov.dnb.com/webform> .

All applicants must also register the DUNS number through the System for Award Management (SAM) process and obtain a Commercial and Government Entity (CAGE) code. Go to www.sam.gov to register your DUNS number.



This guide is designed for training and education and does not replace the 4280-B Regulation.

USDA-Rural Development

Rural Energy for America Program

Energy Audits and Renewable Energy Development Assistance Grant Application
Guide

Title of Project:

Submitted by

Applicant Name: _____
Address: _____
City: _____
County: _____
State: _____
Zip code: _____
Phone #: _____
E-mail: _____
Fax: _____

Indicate the purpose of your grant request:

- Renewable Energy Development Assistance (REDA)
 Energy Audits (EA)

No combination (EA and REDA) applications will be accepted.
Applicants may only submit one EA & one REDA application per Fiscal year
(FY).

Maximum aggregate amount awarded to Applicant cannot exceed \$100,000 in a FY

\$_____ Grant Request

Grant Writer Name
Phone #

E-mail

Date Submitted to RD _____

Energy Audit and Renewable Energy Development Assistance Grant Application

Table of Contents

Applicant Name _____

Application and Submission Information - Applicants must submit an original application to the Rural Development State Office in which the Applicant's principal office is located. Applicants must submit Complete Applications, consisting of the following elements, in order to be considered.

Energy Audits and Renewable Energy Development Assistance Grant Application Components		Tab
1	Title Page	
2	Table of Contents	
3	Civil Rights Information. <i>Optional</i>	A
3	Project specific forms A. SF 424 - Application - the Federal Catalog number is 10.868 - requires a DUNS number B. SF 424 A - Budget C. SF 424 B - Assurances D. RD 1940-20 - Request for Environmental Information E. Applicant eligibility and Project eligibility certification form	B
4	Proposed Scope of Work cover page	C
	Executive Summary	1
	Project Goals	2
	Geographic Scope and Service Area	3
	Needs of Service Area and Target Audience	4
	Timeline and Resources	5
	Marketing Strategies	6
	Applicant Experience	7
	Itemized Budget	8
	Leveraging and Commitment of Other Sources of Funding	9

Tab A Divider Page	
Civil Rights Information	
<p><i>The purpose of these questions is to gather race, ethnicity, and gender information about persons who apply and participate in this USDA program. The information provided will not be used when reviewing the application or when determining eligibility to participate in this program. The answers provided are voluntary and are not required to be considered a Complete Application. The information provided will be used to improve the operation of this program, to help USDA design additional opportunities for program participation, and to monitor enforcement of laws that require equal access to this program for eligible persons. For entities, check all that apply. The information will be kept private to the extent permitted by law.</i></p>	
What is the Applicant's race (check all that apply)? :	American Indian or Alaska Native <input type="checkbox"/> Asian <input type="checkbox"/> Black or African American <input type="checkbox"/> Native Hawaiian or Other Pacific Islander <input type="checkbox"/> White <input type="checkbox"/>
What is the Applicant's Gender? :	Male <input type="checkbox"/> Female <input type="checkbox"/>
What is the Applicant's Ethnicity? :	Hispanic or Latino <input type="checkbox"/> Not Hispanic or Latino <input type="checkbox"/>

Tab B Divider Page	
Project Specific Forms	
Federal Tax ID #	
DUNS # To get a DUNS number, call 1-866-705-5711 or go to http://fedgov.dnb.com/webform Also Insert DUNS number on SF424 Form	
System for Award Management (SAM) (CAGE code) <u>All Applicants must also register their DUNS # in the System for Award Management and obtain a CAGE code prior to submitting an application. Registration in SAM must remain active during all times during which an active Federal award or application is under consideration.</u> For information on what is required to register with SAM, go to: https://www.sam.gov/sam/transcript/Quick_Guide_for_Grants_Registrations_v1.7.pdf To begin the SAM registration process, go to: https://www.sam.gov/portal/public/SAM/	CAGE Code Expiration Date
Project Specific Forms	
Forms can be found by typing in the form name (i.e. SF 424) in the "Form Number" column via this website: http://forms.sc.egov.usda.gov/eForms/searchAction.do?pageAction=BrowseForms&MenuAction=Yes Some forms can also be found at this website: http://www.rurdev.usda.gov/FormsAndPublications.html Insert the executed forms immediately after this divider page.	
SF 424 - Application for Federal Assistance	
SF 424A - Budget Information	
SF 424B - Assurances	
RD 1940-20 - Request for Environmental Information	
Applicant eligibility and project eligibility certification/determination (Certifications on following pages)	

Energy Audits and Renewable Energy Development Assistance Grant Program
 Applicant Eligibility and Project Eligibility Certification/Determination
 Form

Per 4280.186 - Applicant Eligibility

<p>(A) Type of Applicant. The eligible Applicant must be one of the following:</p>	<p>Applicant Certification: (Please Check 1)</p>
<p>(i) a unit of State, tribal or local government</p>	
<p>(ii) a land-grant college, a university, or another Institution of Higher Education</p>	
<p>iii) a Rural electric cooperative, or</p>	
<p>(iv) a Public Power Entity <i>Is defined using the definition of state utility as defined in section 217(A)(4) of the Federal Power Act (16 U.S.C. 824q(a)(4). As of this writing, the definition means a State or any political subdivision of a State, or any agency, authority, or Instrumentality of any one of more of the foregoing, or a corporation that is wholly owned, directly or indirectly, by any one or more of the foregoing, competent to carry on the business of developing, transmitting, utilizing, or distributing power.</i></p>	
<p>(v) an Instrumentality of a State, tribal or local government <i>An Instrumentality is an organization recognized, established, and controlled by a State, tribal, or local government, for a public purpose or to carry out special purposes.</i></p>	
<p>(vi) a Council as defined in 16 U.S.C. 3451 Resource Conservation and Development Districts are eligible Councils</p>	
<p>(B) Capacity to perform. The Applicant must have sufficient capacity to perform (or contract) the activities proposed in the application to ensure success. The Agency will make this assessment based on the information provided in the application.</p>	
<p>The Applicant's summary of information submitted to show sufficient capacity to perform the activities proposed in the application to ensure success is:</p>	

<p>(C) Legal entity in good standing. Each Applicant must certify that it is a legal entity in good standing (as applicable), and operating in accordance with the laws of the State(s) or Tribe where the Applicant has a place of business.</p>	
<p>Are you (the Applicant) a legal entity in good standing in accordance with the laws of the State(s) or Tribe where you have a place of business?</p> <p>List the State or Tribe where you have a place of business?</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>
<p>(D) Legal authority and responsibility. Each Applicant must have, or obtain, the legal authority necessary to carry out the purpose of the grant.</p>	
<p>The Applicant's evidence of legal authority to carry out the purpose of the grant is</p>	
<p>(E) Place of business. The Applicant must have a place of business in a State.</p>	
<p>The Applicant's business is located in :</p>	
<p>(F) Know relationship with Agency Employee. The Applicant must identify whether or not there is a known relationship or association with a Rural Development Employee. If there is a known relationship, identify each employee with whom you have a relationship.</p>	
<p>The Applicant has a known relationship with a Rural Development employee? Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes, identify the name of each employee:</p>	
<p>(G) Ineligible Applicants. Consistent with Department regulations, an Applicant is ineligible if it is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs.</p>	
<p>Have you (the Applicant) ever been debarred or determined ineligible for participation in Federal assistance programs?</p>	<p>Applicant certification: Yes <input type="checkbox"/> No <input type="checkbox"/></p>
<p>Applicants will also be considered ineligible for a grant if they have an outstanding Federal judgment (other than one obtained in the U.S. Tax Court), are delinquent on the payment of Federal income taxes, or are delinquent on Federal debt.</p>	
<p>Do you (the Applicant) have any outstanding federal judgment, or are you delinquent on federal income tax or delinquent on any federal debt?</p>	<p>Applicant certification: Yes <input type="checkbox"/> No <input type="checkbox"/></p>

Per 4280.187 - Project eligibility.

To be eligible for an Energy Audit or a Renewable Energy Development Assistance grant, the grant funds for a project must be used by the grant recipient to assist Agricultural Producers or Rural Small Businesses in one or both of the purposes specified in paragraphs (1) and (2) and shall also comply with paragraphs (3) through (6), as applicable.

Project eligibility questions for the Applicant	Yes	No
1. Is the proposal for a grant to conduct and promote Energy Audits?		
2. Is the proposal for a grant to conduct and promote Renewable Energy Development Assistance?		
3. For eligible Small Businesses, will the assistance you provide be for facilities located in a Rural Area? (less than 50,000 population)		
4. If the Agricultural Producer's facility is in a non-rural area, will the Energy Audit or Renewable Energy Development Assistance only be for a Renewable Energy System or Energy Efficiency Improvement on integral components of or directly related to the facility, that are part of and co-located with the agriculture production operation?		
5. Will the Energy Audit or REDA assistance be provided to a recipient in a State?		
6. If applicable, are small hydropower projects to be assisted with Energy Audits or Renewable Energy Development Assistance rated at 30 megawatts or less?		

<u>Applicant and Project Eligibility answers provided by:</u>
Applicant Name :
Authorized Representative Name:
Authorized Representative Signature:
Title:
Date:

Tab C Divider Page	
Scope of Work	
<p>Include a description of the proposed project, details of the proposed activities to be accomplished and timeframes for completion of each task, the duration of the project (number of months), and the estimated time it will take from grant approval to beginning of project implementation. A written narrative to be used as the scope of work includes, at a minimum, the following items:</p>	
Executive Summary (including descriptive project title) ;	1
The goals of the proposed project;	2
The geographic scope or service area of the proposed project and rationale used to select the service area;	3
<p>Identification of the specific needs for the service area and the target audience to be served. Must include:</p> <ul style="list-style-type: none"> a) the number of Ag Producers and/or Rural Small Business to be served, b) identify (if available) the name and contact information for the Ag Producers or Rural Small Business, c) method and rationale used to select the Ag Producers and Rural Small Businesses 	4
<p><i>An Agricultural Producer is an individual or entity directly engaged in the production of agricultural products, including crops (including farming); Livestock (including ranching); forestry products; hydroponics; nursery stock; or aquaculture, whereby 50% or greater of their gross income is derived from those products.</i></p>	
<p>An entity is considered a Small Business in accordance with the Small Business Administration's (SBA) Small Business size standards by the North American Industry Classification System (NAICS) found in 13 CFR part 121.301(a) or (b). A private for-profit entity, including a sole proprietorship, partnership, corporation, cooperative (including a cooperative qualified under section 501(c)(12) of the Internal Revenue Code), and an electric utility, including a Tribal or governmental electric utility, that provides service to Rural consumers.</p> <p>These entities must operate independent of direct Government control except for Tribal business entities chartered under Section 17 of the Indian Reorganization Act or other Tribal business entities that have similar structures and relationships with their Tribal governments as determined by the Agency. The Agency shall determine the Small Business status of such a Tribal entity without regard to the resources of the Tribal government. With the exception of the entities described above, all other non-profit entities are excluded.</p>	

<p>Timeline describing proposed tasks to be accomplished and the schedule for implementation of each task, including whether organizational staff, consultants, or contractors will be used to perform each task.</p> <p>Discuss Applicant's resources, including personnel, finances, and technology, to complete what is proposed. <i>If a project is located in multiple States, resources must be sufficient to complete all projects.</i></p>	<p>5</p>
<p>Marketing strategies to include a discussion on how the Applicant will be marketing and providing outreach activities to the proposed service area, ensuring that Ag Producers and Rural Small Businesses are served.</p>	<p>6</p>
<p>Applicant's experience as follows:</p> <ul style="list-style-type: none"> a) If applying for a REDA grant, Applicant's experience in completing similar REDA activities. Include number of similar projects performed and number of years performing the similar service. b) If applying for an EA grant, the number of Energy Audits and Energy Assessments the Applicant has completed and the number of years the Applicant has been performing those services. c) For all Applicants, the amount of experience in administrating Energy Audit, REDA, or similar activities as applicable to the purpose of the proposed project. <ul style="list-style-type: none"> (i) Include discussion on any existing programs to demonstrate achievement of energy savings or energy generation with clients served. (ii) Identify awards received within the last 5 years in recognition of the Applicant's Renewable Energy, energy savings, or energy-based technical assistance. (iii) Identify the achievement noting origin of award (local, State/regional, national/international award). 	<p>7</p>

An itemized budget. Provide a detailed description of the tasks to be performed and the associated budget for each item. Identify the intended use of grant, matching and other funds.

Grant funds awarded for Energy Audit and Renewable Energy Development Assistance projects may be used only to pay Eligible Project Costs.

Eligible Project Costs are post application expenses directly related to conducting and promoting Energy Audits and Renewable Energy Development Assistance, which include but are not limited to:

- (i) Salaries directly or indirectly related to the project;
- (ii) Travel expenses directly related to conducting and promoting Energy Audits or Renewable Energy Development Assistance;
- (iii) Office supplies (e.g. paper, pens, file folders); and
- (iv) Administrative expenses up to a maximum of 5% of the grant, which include but are not limited to:
 - (A) Utilities
 - (B) Office space; and
 - (C) Operation expenses of office and other project-related equipment (ex: computers, cameras, printers, copiers, scanners);

Ineligible grant purposes- grant funds may not be used for:

- (i) Pay for any construction-related activities;
- (ii) Purchase equipment;
- (iii) Pay any costs of preparing the application package for funding under this Notice;
- (iv) Pay any costs of the project incurred prior to the application date of the grant made under this Notice;
- (v) Fund political or lobbying activities;
- (vi) Pay any judgment or debt owed to the U.S.

The maximum aggregate grant amount to any one recipient cannot exceed \$100,000 per Federal Fiscal Year.

A recipient of a grant under this Notice that conducts an Energy Audit shall require that, as a condition of the Energy Audit, the Agricultural Producer or Rural Small Business pay at least 25% of the cost of the Energy Audit.

Further, the amount paid by the Agricultural Producer or Rural Small Business will be retained by the recipient as a contribution towards the cost of the Energy Audit.

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<p>Identify leveraging and commitment of other sources of funding being brought to the project (<i>in addition to the required 25% contribution from the Agricultural Producer or Rural Small Business for the cost of an Energy Audit</i>).</p> <p>Leveraged funds should be <u>clearly identified and listed by source</u>. <u>Written documentation/confirmation</u> from the party committing a specific amount of leveraged funds is required at the time of application;</p> <ul style="list-style-type: none">a) If financial resources are coming from the Applicant, provide documentation in the form of a bank statement demonstrating the availability of funds.b) If a third party is providing financial assistance to the project, a commitment letter signed by an authorized official of the third party must be submitted. It must be specific to the project and identify the dollar amount being provided.	9
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