

**§ 4280.113**

**7 CFR Ch. XLII (1-1-10 Edition)**

the calculation of simple payback. The description addresses project costs and revenues, such as applicable investment and production incentives, and other information to allow the assessment of the project's cost effectiveness.

(G) *Equipment procurement (maximum score of 5 points)*. The applicant has described the availability of the equipment required by the system. The description supports that the required equipment is available, and can be procured and delivered within the proposed project development schedule.

(H) *Equipment installation (maximum score of 5 points)*. The applicant has described the plan for site development and system installation.

(I) *Operation and maintenance (maximum score of 5 points)*. The applicant has described the operations and maintenance requirements of the system necessary for the system to operate as designed over the design life.

(J) *Dismantling and disposal of project components (maximum score of 5 points)*. The applicant has described the requirements for dismantling and disposing of project components at the end of their useful life and associated wastes.

(ii) *Calculation of Technical Merit Score*. To determine the actual points awarded a project for Technical Merit, the following procedure will be used: The score awarded for paragraphs (e)(4)(i)(A) through (J) of this section will be added together and then divided by 100, the maximum possible score, to achieve a percentage. This percentage will then be multiplied by the total possible points of 35 to achieve the points awarded for the proposed project for Technical Merit.

(5) *Readiness*. If the applicant has written commitments from the source(s) confirming commitment of 50 percent up to but not including 75 percent of the matching funds prior to the Agency receiving the complete application, 5 points will be awarded. If the applicant has written commitments from the source(s) confirming commitment of 75 percent up to but not including 100 percent of the matching funds prior to the Agency receiving the complete application, 10 points will be awarded. If the applicant has written

commitments from the source(s) of matching funds confirming commitment of 100 percent of the matching funds prior to the Agency receiving the complete application, 15 points will be awarded.

(6) *Small agricultural producer/very small business*. If the applicant is an agricultural producer producing agricultural products with a gross market value of less than \$600,000 in the preceding year, 5 points will be awarded. If the applicant is an agricultural producer producing agricultural products with a gross market value of less than \$200,000 in the preceding year or is a very small business, as defined in § 4280.103, 10 points will be awarded.

(7) *Simplified application/low cost projects*. If the applicant is eligible for and uses the simplified application process or the project has total eligible project costs of \$200,000 or less, 5 points will be awarded.

(8) *Previous grantees and borrowers*. If an applicant has not been awarded a grant or loan under this program within the 2 previous Federal fiscal years, 5 points will be awarded.

(9) *Return on investment*. If the proposed project will return the cost of the investment in less than 4 years, 10 points will be awarded; 4 years up to but not including 8 years, 4 points will be awarded; or 8 years up to 11 years, 2 point will be awarded.

**§ 4280.113 Insurance requirements.**

Agency approved insurance coverage must be maintained for the life of the grant unless this requirement is waived or modified by the Agency in writing.

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

(b) Business interruption insurance is required except for projects with total eligible project costs of \$200,000 or less.

**§ 4280.114 Laws that contain other compliance requirements.**

(a) *Equal employment opportunity*. For all construction contracts and grants in excess of \$10,000, the contractor must comply with Executive Order 11246, as amended by Executive Order 11375, and as supplemented by applicable Department of Labor regulations

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(41 CFR part 60). The applicant is responsible for ensuring that the contractor complies with these requirements.

(b) *Equal opportunity and non-discrimination.* The Agency will ensure that equal opportunity and non-discriminatory requirements are met in accordance with the Equal Credit Opportunity Act and 7 CFR 15d, Non-discrimination in Programs and Activities, conducted by USDA. 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); to the fact that all or part of the applicant's income derives from public assistance program; or to the fact that the applicant has in good faith exercised any right under the Consumer Credit Protection Act.

(c) *Civil rights compliance.* Recipients of grants must comply with the Americans with Disabilities Act of 1990, Title VI of the Civil Rights Act of 1964, and Section 504 of the Rehabilitation Act of 1973. This may include 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 part 1901, subpart E, §1901.204 of this title. Initial reviews will be conducted after Form RD 400-4 is signed and all subsequent reviews every 3 years thereafter for loans. The last review shall occur 3 years after the date of loan closing. Grants will require one subsequent compliance review after the last disbursement of grant funds have been made, and the facility has been in full operation for 90 days.

(d) *Environmental analysis.* Subpart G of part 1940 of this title outlines environmental procedures and requirements for this subpart. Prospective applicants are advised to contact the Agency to determine environmental requirements as soon as practicable after they decide to pursue any form of financial assistance directly or indirectly available through the Agency.

(1) Any required environmental review must be completed by the Agency

prior to the Agency obligating any funds.

(2) The applicant will be notified of all specific compliance requirements, including, but not limited to, the publication of public notices, and consultation with State Historic Preservation Offices and the U.S. Fish and Wildlife Service.

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

(4) The applicant taking any actions or incurring any obligations during the time of application or application review and processing 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, will result in project ineligibility.

(e) *Executive Order 12898.* When a project is proposed and financial assistance requested, the Agency will conduct a Civil Rights Impact Analysis (CRIA) with regards to environmental justice. The CRIA must be conducted and the analysis documented utilizing Form RD 2006-38, "Civil Rights Impact Analysis Certification." This certification must be done prior to loan approval, obligation of funds, or other commitments of Agency resources, including issuance of a Letter of Conditions or Form RD 4279-3 of guarantee, whichever occurs first.

(f) *Uniform Federal assistance regulations.* Grants will be administered in accordance with 7 CFR part 3015 of this title.

### § 4280.115 Construction planning and performing development.

The requirements of this section apply for planning, designing, bidding, contracting, and constructing renewable energy systems and energy efficiency improvement projects as applicable. For contracts of \$200,000 or less, the simple contract method, as specified in paragraph (e) of this section, may be used. Contracts greater than \$200,000 shall use the contract method specified in paragraph (g) of this section.

(a) *Technical services.* Applicants are responsible for providing the engineering, architectural, and environmental