

of their useful lives. The budget for and any unique concerns associated with the dismantling and disposal of project components and their wastes must also be described.

(8) *Business-level feasibility study for renewable energy systems.* For each application for a renewable energy system project, with total eligible project costs greater than \$200,000, a business-level feasibility study by an independent, qualified consultant will be required by the Agency for start-up businesses or existing businesses. An acceptable business-level feasibility study must conform to the requirements of an acceptable feasibility study as specified in Appendix E of this subpart.

**§ 4280.117 Evaluation of RES and EEI grant applications.**

(a) *General review.* The Agency will evaluate each RES and EEI application and make a determination as to whether the applicant is eligible, the proposed grant is for an eligible project, and the proposed grant complies with all applicable statutes and regulations.

(b) *Technical merit.* The Agency's determination of a project's technical merit will be based on the information provided by the applicant. 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 application. The Agency may use this evaluation and rating to determine the level of technical merit of the proposed project. Projects that the Agency determines are without technical merit shall be deemed ineligible.

(c) *Evaluation criteria.* Agency personnel will score each application based on the evaluation criteria specified in paragraphs (c)(1) through (c)(10) of this section.

(1) *Quantity of energy replaced, produced, or saved, and flexible fuel pumps.* Points may only be awarded for energy replacement, energy savings, or energy generation, or for flexible fuel pumps. Points will not be awarded for more than one category.

(i) *Energy replacement.* If the proposed renewable energy system is intended primarily for self-use by the agricul-

tural 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 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. The estimated quantities of energy must be converted to either British thermal units (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 by the installation of the energy efficiency improvements will be from 20 percent up to, but not including 30 percent, 5 points will be awarded; 30 percent up to, but not including 35 percent, 10 points will be awarded; or, 35 percent or greater, 15 points will be awarded. Energy savings will be determined by the projections in an energy assessment or audit. Projects with total eligible project costs of \$50,000 or less that opt to obtain a professional energy audit will be awarded an additional 5 points.

(iii) *Energy generation.* If the proposed renewable energy system is intended primarily for production of energy for sale, 10 points will be awarded.

(iv) *Flexible fuel pump(s).* (A) If the proposed project is for one or more flexible fuel pumps, points will be awarded based on the overall percentage of proposed flexible fuel pumps to the applicant's total retail pump inventory at the facility. The percentage of proposed flexible fuel pumps shall be calculated using the following equation.

$$\text{Equation: FFP\%} = (\text{FFP}x/\text{TP}) \times 100$$

where:

FFP% = Proposed flexible fuel pump(s), percentage.

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FFPx = Number of proposed flexible fuel pumps to be installed at applicant's facility.

TP = Number of proposed pumps to be installed plus the number of pumps installed and operating at the facility.

(B) If the proposed flexible fuel pump percentage calculated is 5 percent or below, 5 points will be awarded; above 5 percent and up to, but not including, 10 percent, 10 points will be awarded; or 10 percent and above, 15 points will be awarded.

(2) *Environmental benefits.* If the purpose of the proposed system contributes to the environmental goals and objectives of other Federal, State, or local programs, 10 points will be awarded. Points will only be awarded for this paragraph if the applicant is able to provide documentation from an appropriate authority supporting this claim.

(3) *Commercial availability.* If the proposed system or improvement is currently commercially available and replicable, 5 points will be awarded. If the proposed system or improvement is commercially available and replicable and is also provided with a 5-year or longer warranty providing the purchaser protection against system degradation or breakdown or component breakdown, 10 points will be awarded.

(4) *Technical merit score.* The Technical Merit of each project will be determined using the procedures specified in paragraphs (c)(4)(i) and (c)(4)(ii) of this section. The procedures specified in paragraph (c)(4)(i) will be used to score paragraphs (c)(4)(i)(A) through (c)(4)(i)(J) of this section. The final score awarded will be calculated using the procedures described in paragraph (c)(4)(ii) of this section.

(i) *Technical merit.* Each subparagraph has its own maximum possible score and will be scored according to the following criteria: If the description in the subparagraph has no significant weaknesses and exceeds the requirements of the subparagraph, 100 percent of the total possible score for the subparagraph will be awarded. If the description has one or more significant strengths and meets the requirements of the subparagraph, 80 percent of the total possible score will be awarded for the subparagraph. If the description meets the basic requirements of the

subparagraph, but also has several weaknesses, 60 percent of the points will be awarded. If the description is lacking in one or more critical aspects, key issues have not been addressed, but the description demonstrates some merit or strengths, 40 percent of the total possible score will be awarded. If the description has serious deficiencies, internal inconsistencies, or is missing information, 20 percent of the total possible score will be awarded. If the description has no merit in this area, 0 percent of the total possible score will be awarded. The total possible points for Technical Merit is 35 points.

(A) *Qualifications of the project team (maximum score of 10 points).* The applicant has described the project team service providers, their professional credentials, and relevant experience. The description supports that the project team service, equipment, and installation providers have the necessary professional credentials, licenses, certifications, or relevant experience to develop the proposed project.

(B) *Agreements and permits (maximum score of 5 points).* The applicant has described the necessary agreements and permits required for the project and the schedule for securing those agreements and permits.

(C) *Energy or resource assessment (maximum score of 10 points).* The applicant has described the quality and availability of a suitable renewable resource or an assessment of expected energy savings for the proposed system.

(D) *Design and engineering (maximum score of 30 points).* The applicant has described the design, engineering, and testing needed for the proposed project. The description supports that the system will be designed, engineered, and tested so as to meet its intended purpose, ensure public safety, and comply with applicable laws, regulations, agreements, permits, codes, and standards.

(E) *Project development schedule (maximum score of 5 points).* The applicant has described the development method, including the key project development activities and the proposed schedule for each activity. The description identifies each significant task, its beginning and end, and its relationship to the

time needed to initiate and carry the project through to successful completion. The description addresses grantee or borrower project development cash flow requirements.

(F) *Project economic assessment (maximum score of 20 points)*. The applicant has described the financial performance of the proposed project, including 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 (c)(4)(i)(A) through (c)(4)(i)(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) *Simple payback*. A maximum of 15 points will be awarded for either renewable energy systems or energy efficiency improvements; points will not be awarded for more than one category. In either case, points will be awarded based on the simple payback of the project.

(i) *Renewable energy systems, including flexible fuel pumps*. If the simple payback of the proposed project is:

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

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

(C) 15 years up to and including 20 years, 5 points will be awarded; or

(D) Longer than 20 years, no points will be awarded.

(ii) *Energy efficiency improvements.* If the simple payback of the proposed project is:

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

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

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

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

(10) *State Director and Administrator priorities and points.* 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 an under-represented technology or for flexible fuel pumps or if selecting the application would help achieve geographic diversity. In no case shall an application receive more than 10 points under this criterion.

#### § 4280.118 Insurance requirements.

Agency approved insurance coverage must be maintained for the life of the RES or EEI 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.

#### § 4280.119 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 services necessary for planning, designing, bidding, contracting, inspecting, and constructing their facilities. Serv-

ices may be provided by the applicant's "in-house" engineer or architect or through contract, subject to Agency concurrence. Engineers and architects must be licensed in the State where the facility is to be constructed.

(b) *Design policies.* Facilities funded by the Agency will meet the requirements of §1780.57(b), (c), (d), and (o) of this title. Final plans and specifications must be reviewed by the Agency and approved prior to the start of construction.

(c) *Owners accomplishing work.* In some instances, owners may wish to perform a part of the work themselves. For an owner to perform project development work, the owner must meet the experience requirements of §1780.67 of this title. For an owner to provide a portion of the work, with the remainder to be completed by a contractor, a clear understanding of the division of work must be established and delineated in the contract. In such cases, the contractor will be required to inspect the owner's work and accept it. Owners are not eligible for payment for their own work as it is not an eligible project cost. See §4280.115(c) of this subpart for further details on eligible project costs.

(d) *Equipment purchases.* Equipment purchases of less than \$200,000 will not require a performance and payment bond, unless required by the applicant, as long as the contract purchase is a lump sum payment and the manufacturer provides the required warranties on the equipment as outlined in paragraph (i) in the applicable section found in Appendices A, B, C, and D of this subpart. Payment shall be certified by copies of the Manufacturer's paid invoices and warranty documents.

(e) *Simple contract method.* The simple contract method may be used for small projects with a contract not greater than \$200,000. In smaller projects, Agency funds will typically be used to reimburse project costs upon completion of the work as a lump sum payment. Partial payments will be made in accordance with Form RD 4280-2 and Form RD 1924-6, "Construction Contract," or other Agency approved contract. All construction work will be performed under a written contract, as