

# Notices

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This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

[Docket No. APHIS-2006-0172]

#### Interstate Movement of Garbage from Hawaii; Availability of an Environmental Assessment and Finding of No Significant Impact

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Notice.

**SUMMARY:** We are advising the public that an environmental assessment and finding of no significant impact have been prepared by the Animal and Plant Health Inspection Service relative to a request to allow the interstate movement of garbage from Hawaii to a landfill in the State of Washington. The environmental assessment documents our review and analysis of the environmental impacts associated with, and alternatives to, the movement of palletized or containerized baled municipal solid waste to three existing ports on the Columbia River via barge and the transfer and transportation of the waste via truck or rail to the landfill. Based on its finding of no significant impact, the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

**FOR FURTHER INFORMATION CONTACT:** Mr. David B. Lamb, Import Specialist, Regulatory Coordination and Compliance, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737-1231; (301) 734-0627.

#### SUPPLEMENTARY INFORMATION:

##### Background

The importation and interstate movement of garbage is regulated by the Animal and Plant Health Inspection Service (APHIS) under 7 CFR 330.400 and 9 CFR 94.5 (referred to below as the

regulations) in order to protect against the introduction into and dissemination within the United States of plant and animal pests and diseases.

On January 19, 2010, we published in the **Federal Register** (75 FR 2845-2846, Docket No. APHIS-2006-0172) a notice<sup>1</sup> in which we announced the availability, for public review and comment, of an environmental assessment documenting our review and analysis of the environmental impacts associated with, and alternatives to, the movement of palletized or containerized baled municipal solid waste to three existing ports on the Columbia River via barge and the transfer and transportation of the waste via truck or rail to the landfill.

We solicited comments on the environmental assessment for 30 days ending on February 18, 2010. We received 37 comments by that date. The commenters raised several issues, including the potential for invasive species/pest introductions, impacts on air and water quality, impacts on fish and wildlife habitat, impacts on existing infrastructure (highway, rail, and barge), increased traffic at associated ports, and the adequacy of the environmental assessment's analysis of cumulative effects.

Our analysis of the comments received and our responses to the issues raised in the comments are contained in a response to comments document that may be viewed on the Regulations.gov Web page (see footnote 1) or obtained from the person listed under **FOR FURTHER INFORMATION CONTACT**. The response to comments document, along with copies of the environmental assessment and finding of no significant impact, is also available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect copies are requested to call ahead on (202) 690-2817 to facilitate entry into the reading room.

The environmental assessment and finding of no significant impact have been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C.

4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500-1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Done in Washington, DC, this 20<sup>th</sup> day of May 2010.

**Kevin Shea**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 2010-12828 Filed 5-26-10; 7:27 am]

**BILLING CODE 3410-34-S**

## DEPARTMENT OF AGRICULTURE

### Rural Business-Cooperative Service

#### Notice of Funding Availability (NOFA) for Energy Audits and Renewable Energy Development Assistance Under the Rural Energy for America Program

**AGENCY:** Rural Business-Cooperative Service, USDA.

**ACTION:** Notice.

**SUMMARY:** The Rural Energy for America Program, formerly section 9006 under the 2002 Farm Bill, is composed of several types of grants and guaranteed loan programs. These are: Guaranteed loans and grants for the development/construction of renewable energy systems and for energy efficiency improvement projects; grants for conducting energy audits; grants for conducting renewable energy development assistance; and grants for conducting renewable energy feasibility studies.

The Agency is implementing the Rural Energy for America Program (REAP) for Fiscal Year 2010 through the publication of three REAP notices:

- Renewable energy system and energy efficiency improvement grants and guaranteed loans;
- Energy audit and renewable energy development assistance grants; and
- Renewable energy feasibility study grants.

This REAP notice announces the availability of \$2.4 million for fiscal year (FY) 2010 to units of State, tribal, or local government; instrumentalities of a State, tribal, or local government; land-grant colleges and universities and other institutions of higher education, including 1994 Land Grant Colleges

<sup>1</sup> To view the environmental assessment, the comments we received and our responses to the comments, and the finding of no significant impact, go to (<http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2006-0172>).

(Tribal Colleges), 1890 Land Grant Colleges, and Historically Black Universities; rural electric cooperatives; and public power entities for the provision of energy audits and renewable energy development assistance to agricultural producers and rural small businesses. This funding will be available in the form of grants. Funds that are not awarded will convert to the REAP pool.

Lastly, the Agency intends to publish a proposed rule that will revise the current program, in large part to conform with the requirements set out by the 2008 Farm Bill, at 7 CFR 4280, subpart B to include renewable energy feasibility study grants, and that will add a new subpart C to address energy audit and renewable energy development assistance grants. Together, these two subparts will represent the Rural Energy for America Program as authorized under section 9007 of the Farm Security and Rural Investment Act of 2002 as amended by section 9001 of the Food, Energy, and Conservation Act of 2008. The Agency anticipates publishing final regulations to operate the Rural Energy for America Program in fiscal year 2011.

**DATES:** Applications for grants must be submitted on paper or electronically no later than 4:30 p.m., local time July 26, 2010. Neither complete nor incomplete applications received after this date and time will be considered for funding in FY 2010, regardless of the postmark on the application.

**ADDRESSES:** Application materials may be obtained by contacting one of Rural Development's Energy Coordinators or by downloading through <http://www.grants.gov>.

Submit electronic applications at <http://www.grants.gov>, following the instructions found on this Web site. To use Grants.gov, an applicant 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 online at <http://fedgov.dnb.com/webform>. Submit completed paper applications to the Rural Development State Office in the State in which the applicant's principal office is located.

#### Rural Development Energy Coordinators

**Note:** Telephone numbers listed are not toll-free.

#### Alabama

Quinton Harris, USDA Rural Development, Sterling Centre, Suite 601, 4121 Carmichael Road, Montgomery, AL 36106-3683,

(334) 279-3623,  
[Quinton.Harris@al.usda.gov](mailto:Quinton.Harris@al.usda.gov)

#### Alaska

Chad Stovall, USDA Rural Development, 800 West Evergreen, Suite 201, Palmer, AK 99645-6539, (907) 761-7718,  
[chad.stovall@ak.usda.gov](mailto:chad.stovall@ak.usda.gov)

#### American Samoa (See Hawaii)

#### Arizona

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#### Arkansas

Tim Smith, USDA Rural Development, 700 West Capitol Avenue, Room 3416, Little Rock, AR 72201-3225, (501) 301-3280, [Tim.Smith@ar.usda.gov](mailto:Tim.Smith@ar.usda.gov)

#### California

Philip Brown, USDA Rural Development, 430 G Street, #4169, Davis, CA 95616, (530) 792-5811, [Phil.brown@ca.usda.gov](mailto:Phil.brown@ca.usda.gov)

#### Colorado

April Dahlager, USDA Rural Development, 655 Parfet Street, Room E-100, Lakewood, CO 80215, (720) 544-2909, [april.dahlager@co.usda.gov](mailto:april.dahlager@co.usda.gov)

#### Commonwealth of the Northern Marianas Islands—CNMI (See Hawaii)

#### Connecticut (see Massachusetts)

#### Delaware/Maryland

Bruce Weaver, USDA Rural Development, 1221 College Park Drive, Suite 200, Dover, DE 19904, (302) 857-3626,  
[Bruce.Weaver@de.usda.gov](mailto:Bruce.Weaver@de.usda.gov)

#### Federated States of Micronesia (See Hawaii)

#### Florida/Virgin Islands

Joe Mueller, USDA Rural Development, 4440 NW. 25th Place, Gainesville, FL 32606, (352) 338-3482,  
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#### Georgia

J. Craig Scroggs, USDA Rural Development, 111 E. Spring St., Suite B, Monroe, GA 30655, Phone 770-267-1413 ext. 113,  
[craig.scroggs@ga.usda.gov](mailto:craig.scroggs@ga.usda.gov)

#### Guam (See Hawaii)

Hawaii/Guam/Republic of Palau/  
Federated States of Micronesia/Republic of the Marshall Islands/American Samoa/Commonwealth of the Northern Marianas Islands—CNMI

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311, 154 Waiianuenue Avenue, Hilo, HI 96720, (808) 933-8313,  
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#### Idaho

Brian Buch, USDA Rural Development, 9173 W. Barnes Drive, Suite A1, Boise, ID 83709, (208) 378-5623,  
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#### Indiana

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#### Iowa

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#### Kansas

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#### Kentucky

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#### Louisiana

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#### Maine

John F. Sheehan, USDA Rural Development, 967 Illinois Avenue, Suite 4, P.O. Box 405, Bangor, ME 04402-0405, (207) 990-9168,  
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#### Maryland (see Delaware)

#### Massachusetts/Rhode Island/Connecticut

Charles W. Dubuc, USDA Rural Development, 451 West Street, Suite 2, Amherst, MA 01002, (401) 826-0842 x 306,  
[Charles.Dubuc@ma.usda.gov](mailto:Charles.Dubuc@ma.usda.gov)

#### Michigan

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#### Minnesota

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1400 West Main Street, Albert Lea,  
MN 56007, (507) 373-7960 Ext. 120,  
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#### Mississippi

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#### Missouri

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601 Business Loop 70 West, Parkade  
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#### Montana

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Bozeman, MT 59771, (406) 585-2540,  
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#### Nebraska

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#### Nevada

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NV 89703, (775) 887-1222,  
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#### New Hampshire (See Vermont)

#### New Jersey

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NJ 08054, (856) 787-7752,  
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#### New Mexico

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#### New York

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#### North Carolina

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#### North Dakota

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#### Oklahoma

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#### Oregon

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#### Pennsylvania

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#### Puerto Rico

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251, [Luis.Garcia@pr.usda.gov](mailto:Luis.Garcia@pr.usda.gov)

#### Republic of Palau (See Hawaii)

#### Republic of the Marshall Islands (See Hawaii)

#### Rhode Island (see Massachusetts)

#### South Carolina

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29201, (803) 253-3150,  
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#### South Dakota

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#### Tennessee

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Nashville, TN 37203-1084, (615) 783-  
1350, [will.dodson@tn.usda.gov](mailto:will.dodson@tn.usda.gov)

#### Texas

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102, 101 South Main Street, Temple,  
TX 76501, (254) 742-9756,  
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#### Utah

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Salt Lake City, UT 84138, (801) 524-  
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#### Vermont/New Hampshire

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Floor, Montpelier, VT 05602, 802-  
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#### Virginia

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#### Virgin Islands (see Florida)

#### Washington

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#### West Virginia

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Dick Cheney Federal Building, 100  
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6719, [Jon.Crabtree@wy.usda.gov](mailto:Jon.Crabtree@wy.usda.gov)

**FOR FURTHER INFORMATION CONTACT:** For information about this Notice, please contact the Energy Branch, USDA Rural Development, STOP 3225, Room 6870, 1400 Independence Avenue, SW., Washington, DC 20250-3225. Telephone: (202) 720-1400.

For assistance on energy audit and renewable energy development assistance grants, please contact the applicable Rural Development Energy Coordinator, as provided in the **ADDRESSES** section of this Notice.

**SUPPLEMENTARY INFORMATION:****Paperwork Reduction Act**

In accordance with the Paperwork Reduction Act of 1995, the information collection requirements associated with energy audit and renewable energy development assistance grants, as covered in this REAP notice, has been approved by the Office of Management and Budget (OMB) under OMB Control Number 0570-0059.

The information collection requirements associated with renewable energy system and energy efficiency improvement grants and guaranteed loans and with renewable energy feasibility study grants, which will be addressed in their respective REAP notices, have also been approved by OMB under OMB Control Number 0570-0050 and OMB Control Number 0570-0061, respectively. When the Agency publishes the proposed rule for REAP, it will consolidate the information collection requirements associated with this REAP notice and the other two REAP notices into a single information collection package for OMB approval.

**Overview Information**

*Federal Agency Name.* Rural Business-Cooperative Service.

*Funding Opportunity Title.* Energy Audit and Renewable Energy Development Assistance under the Rural Energy for America Program.

*Announcement Type.* Initial announcement.

*Catalog of Federal Domestic Assistance (CFDA) Number.* These activities under the Rural Energy for America Program are listed in the Catalog of Federal Domestic Assistance under Number 10.868.

*Dates.* Applications must be completed and received in the appropriate United States Department of Agriculture (USDA) State Rural Development Office no later than 4:30 p.m. local time July 26, 2010, in order to be considered for funding in FY 2010. Applications received after 4:30 p.m. local time July 26, 2010, regardless of the application's postmark, will not be considered for funding in FY 2010.

*Availability of Notice.* This Notice is available on the USDA Rural Development Web site at <http://www.rurdev.usda.gov/rbs/busp/REAPEA.htm>.

**I. Funding Opportunity Description**

*A. Purpose.* This Notice is issued pursuant to section 9001 of the Food, Conservation, and Energy Act of 2008 (2008 Farm Bill) (Pub. L. 110-246), which amends Title IX of the Farm

Security and Rural Investment Act of 2002 (FSRIA) and establishes the Rural Energy for America Program under section 9007 thereof. The 2008 Farm Bill requires the Secretary of Agriculture to create a program to make grants to units of State, tribal, or local government; land-grant colleges or universities or other institutions of higher education, including 1994 Land Grant Colleges (Tribal Colleges), 1890 Land Grant Colleges, and Historically Black Universities; rural electric cooperatives or public power entities; and instrumentalities of a State, tribal, or local government, to assist agricultural producers and rural small businesses by conducting energy audits and providing recommendations and information on renewable energy development assistance and improving energy efficiency. These projects (energy audits and renewable energy development assistance) are designed to help agricultural producers and rural small businesses reduce energy costs and consumption and help meet the nation's critical energy needs. The 2008 Farm Bill mandates that the recipient of a grant that conducts an energy audit for an agricultural producer or a rural small business require the agricultural producer or rural small business to pay at least 25 percent of the cost of the energy audit, which shall be retained by the eligible entity for the cost of the audit.

*B. Statutory Authority.* These activities (energy audits and renewable energy development assistance) are found in the Rural Energy for America Program, which is authorized under Title IX, Section 9001, of the Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246).

*C. Definition of Terms.* The following definitions are applicable to this Notice.

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

*Agricultural producer.* 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 percent or greater of their gross income is derived from the operations.

*Departmental regulations.* The regulations of the Department of Agriculture's Office of the Chief Financial Officer (or successor office) as codified in 7 CFR parts 3000 through 3099, including but not necessarily limited to 7 CFR parts 3015 through 3019, 7 CFR part 3021, and 7 CFR part

3052, and successor regulations to these parts.

*Energy audit.* An audit conducted by a certified energy manager or professional engineer that focuses on potential capital-intensive projects and involves detailed gathering of field data and engineering analysis. The audit will provide detailed project costs and savings information with a high level of confidence sufficient for major capital investment decisions.

*Hydroelectric energy.* Electrical energy created by use of 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.

*Hydropower.* Energy created by hydroelectric or ocean energy.

*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.

*Ocean energy.* Energy created by use of various types of moving water including, but not limited to, tidal, wave, current, and thermal changes.

*Post-application.* The period of time after the Agency has received a complete application. A complete application is an application that contains all parts necessary for the Agency to determine applicant and project eligibility, to score the application, and to conduct the technical evaluation.

*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 is 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 possessing the knowledge, expertise, and experience to perform in an efficient, effective, and authoritative manner the specific task required.

*Rated power.* The amount of energy that can be created at any given time.

*Renewable biomass.*

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

(A) 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;

(B) would not otherwise be used for higher-value products; and

(C) 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

(ii) 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:

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

(B) 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 and yard waste.

*Renewable energy.* Energy derived from:

(i) a wind, solar, renewable biomass, ocean (including tidal, wave, current, and thermal), geothermal or hydroelectric source; or

(ii) hydrogen derived from renewable biomass or water using wind, solar, ocean (including tidal, wave, current, and thermal), geothermal or hydroelectric energy sources.

*Renewable Energy Development Assistance.* 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 technical assistance.* Assistance provided to agricultural producers and rural small businesses on how to use renewable energy technologies and resources in their operations.

*Renewable energy site assessment.* A report provided to an agricultural producer or rural small business providing recommendations and information regarding the use of renewable energy technologies in its operations. The report shall be prepared by a qualified consultant and evaluate a

specific site or geographic area for potential use of one or more renewable energy technologies. Typically, the report will evaluate a potential renewable energy project with an estimated total cost of construction of less than \$200,000. The evaluation shall be based on existing data, which may include data regarding existing and/or proposed structures, commercially available technologies, feed-stocks, and other renewable energy resources. The report will consider factors such as the site and the potential uses of renewable energy technology at the site. The report will not include information about any residential dwelling(s).

*Rural.* Any area other than a city or town that has a population of greater than 50,000 inhabitants and the urbanized area contiguous and adjacent to such a city or town according to the latest decennial census of the United States.

*Small business.* An entity considered a small business in accordance with the U.S. Small Business Administration's (SBA) small business size standards found in Title 13 CFR part 121. A private 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 on a cost-of-service basis without support from public funds or subsidy from the Government authority establishing the district, provided such utilities meet SBA's definition of small business. These entities must operate independently of direct Government control. With the exception of the entities described above, all other non-profit entities are excluded.

*Small hydropower.* A hydropower project for which the rated power of the system is 30 megawatts or less.

*State.* Any of the 50 states of the United States, the Commonwealth of Puerto Rico, the District of Columbia, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Federated States of Micronesia, or the Republic of the Marshall Islands.

## II. Funding Information

*A. Available Funds.* The amount of grant funds available for energy audits and renewable energy development assistance in FY 2010 is \$2.4 million.

Based on the quality of the applications received under this REAP notice, the Agency reserves the right, at its discretion, to move funds from this

Notice to fund applications received under the other two REAP notices. Conversely, the Agency may, at its discretion, move money for the other two REAP notices to fund applications received under this REAP notice if the quality and number of applicants merits it. The Agency's ability to move funds is subject to the limitation contained in section 9007(c)(3)(B) of the Farm Security and Rural Investment Act of 2002, which limits funding for feasibility studies to not exceed more than 10 percent of the funds made available to carry out the total amount made available under the renewable energy system and energy efficiency improvements REAP notice and the feasibility study REAP notice.

*B. Number of Grants.* The number of grants will depend on the number of eligible applicants participating in conducting energy audits and providing renewable energy development assistance.

*C. Range of Amounts of Each Grant.* To ensure applications for energy audits and renewable energy development assistance will allow the maximum number of States to benefit from these projects under the Rural Energy for America Program, grants awarded to a single applicant will be limited to no more than \$100,000 under this Notice.

*D. Type of Instrument.* Grant.

## III. Eligibility Information

Eligibility requirements for energy audit and renewable energy development assistance grants under the Rural Energy for America Program are:

*A. Applicant eligibility.* To be eligible for an energy audit grant or a renewable energy development assistance grant under the Rural Energy for America Program, the applicant must meet each of the criteria, as applicable, set forth in paragraphs (1) through (4) in this section. The Agency will determine an applicant's eligibility.

(1) *Type of applicant.* The applicant must be one of the following:

- (i) A unit of State, tribal, or local government;
- (ii) A land-grant college or university or other institution of higher education;
- (iii) A rural electric cooperative;
- (iv) A public power entity; or
- (v) An instrumentality of a State, tribal, or local government.

(2) *Citizenship.* The applicant must meet the requirements in paragraphs (2)(i) or (ii), as applicable, of this section.

(i) If the applicant is an individual, the applicant must be a citizen or national of the United States (U.S.), the Republic of Palau, the Federated States of Micronesia, the Republic of the

Marshall Islands, or American Samoa, or must reside in the U.S. after legal admittance for permanent residence.

(ii) If the applicant is an entity other than an individual, the applicant must be at least 51 percent owned by persons who are either citizens or nationals of the U.S., the Republic of Palau, the Federated States of Micronesia, the Republic of the Marshall Islands, or American Samoa, or legally admitted permanent residents residing in the U.S. This paragraph is not applicable if the entity is owned solely by members of an immediate family. In such instance, if at least one of the immediate family members is a citizen or national, as defined in paragraph (2)(i) of this section, then the entity is eligible.

(3) *Capacity to perform.* The applicant must have sufficient capacity to perform the energy audit or renewable energy development assistance activities proposed in the application to ensure success. The Agency will make this assessment based on the information provided in the application.

(4) *Legal authority and responsibility.* Each applicant must have, or obtain, the legal authority necessary to carry out the purpose of the grant.

(5) *Ineligible applicants.* Consistent with Departmental regulations, an applicant is ineligible if it is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs. 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.

#### B. *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) below and shall also comply with paragraph (3) and, if applicable, paragraph (4).

(1) Grant funds may be used to conduct and promote energy audits that meet the requirements of the energy audit as defined in this Notice. Energy audits must:

(i) Include a narrative description of the facility or process being audited; its energy system(s) and usage; its activity profile; and the price per unit of energy (electricity, natural gas, propane, fuel oil, renewable energy, etc.) paid by the customer over the previous 12 months from the date of the audit. Any energy

conversion data should be based on use and source.

(ii) List specific information regarding all potential energy-saving opportunities and the associated cost.

(iii) Discuss the possible interactions of the potential improvements with existing energy systems.

(A) Estimate the annual energy and energy costs savings expected from each possible improvement recommended for the potential project.

(B) Estimate all direct and attendant indirect costs of each improvement.

(C) Rank potential improvement measures by cost-effectiveness.

(iv) Provide a narrative summary of the potential improvement and its ability to provide needed benefits, including a discussion of nonenergy benefits such as project reliability and durability.

(A) Provide preliminary specifications for critical components.

(B) Provide preliminary drawings of project layout, including any related structural changes.

(C) Document baseline data compared to projected consumption, together with any explanatory notes. When appropriate, show before-and-after data in terms of consumption per unit of production, time or area. Include at least 1 year's bills for those energy sources/fuel types affected by this project. Also submit utility rate schedules, if appropriate.

(D) Identify significant changes in future related operations and maintenance costs, including person-hours.

(E) Describe explicitly how outcomes will be measured annually.

(2) Grant funds may be used to conduct and promote renewable energy development assistance 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.

(3) Energy audit assistance and renewable energy development assistance can be provided only to facilities located in rural areas.

(4) For the purposes of this Notice, only small hydropower projects are eligible for energy audits and renewable energy development assistance. Per consultation with the U.S. Department of Energy, the Agency is defining small hydropower as having a rated power of 30 megawatts or less, which includes hydropower projects commonly referred to as "micro-hydropower" and "mini-hydropower."

## IV. Application and Submission Information

### A. *Address To Request Application*

Applicants may obtain applications from the applicable Rural Development Energy Coordinators, as provided in the Addresses section of this Notice. Applicants planning to apply electronically must visit <http://www.grants.gov> and follow the instructions.

### B. *Content and Form of Submission*

Applicants must submit an original and one copy of the application to the Rural Development State Office in the State in which the applicant's principal office is located. Applicants must submit complete applications, consisting of the following elements, in order to be considered:

(1) Form SF-424, Application for Federal Assistance;  
 (2) Form SF-424A, Budget Information—Non-Construction Programs;  
 (3) Form SF-424B, Assurances—Non-Construction Programs;

(4) If an entity, copies of applicant's organizational documents showing the applicant's legal existence and authority to perform the activities under the grant;

(5) A proposed scope of work, including a description of the proposed project, details of the proposed activities to be accomplished and timeframes for completion of each task, the number of months duration of the project, 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 which includes, at a minimum, the following items:

(i) An Executive Summary;  
 (ii) The plan and schedule for implementation;  
 (iii) The anticipated number of agricultural producers and/or rural small businesses to be served;  
 (iv) An itemized budget—compute total cost per rural small business or agricultural producer served—matching funds should be clearly identified as cash;

(v) The geographic scope of the proposed project;

(vi) Applicant experience as follows:

(A) If applying for a Renewable Energy Development Assistance grant, the applicant's experience in completing similar renewable energy development assistance 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

assessments the applicant has completed and the number of years the applicant has been performing those services; and

(C) For all applicants, the amount of experience in administering energy audit, renewable energy development assistance, or similar activities using State or Federal support;

(vii) Applicant's resources, including personnel, finances, and technology, to complete what is proposed. If submitting in multiple states, resources must be sufficient to complete all projects;

(viii) Leveraging and commitment of other sources of funding being brought to the project (in addition to the required 25 percent contribution from the agricultural producer or rural small business for the cost of an energy audit). Leveraged funds should be clearly identified as cash and by source. Written documentation/confirmation from the party committing a specific amount of leveraged funds is required;

(ix) Outreach activities/marketing efforts specific to conducting energy audit and renewable energy development assistance including:

- (A) Project title;
- (B) Goals of the project;
- (C) Identified need;
- (D) Target audience;
- (E) Timeline and type of activities/action plan; and
- (F) Marketing strategies;
- (x) Method and rationale used to select the areas and businesses that will receive the service;
- (xi) Brief description of how the work will be performed, including whether organizational staff, consultants, or contractors will be used;

(6) The most recent financial audit (not more than 18 months old) of the entity, or subdivision thereof, that will be performing the proposed work. If such an audit is not available, the latest financial information that shows the financial capacity of the entity, or subdivision thereof, to perform the proposed work. Such information may include, but is not limited to, the most recent year-end balance sheet, income statement, and other appropriate data that identify the entity's resources;

(7) A Dunn and Bradstreet Data Universal Numbering System (DUNS) number; and

(8) Intergovernmental review comments from the State Single Point of Contact, or evidence that the State has elected not to review the project under Executive Order 12372.

#### C. Submission Dates, Times, and Addresses

Complete applications must be received in the appropriate USDA Rural

Development State Office no later than 4:30 p.m. local time July 26, 2010 to be considered for funding in FY 2010.

Neither incomplete applications nor complete applications received after this date and time will be considered, regardless of the postmark on the application.

Applicants may submit their applications either to the Rural Development Energy Coordinator in the State in which the applicant's principal office is located or via <http://www.grants.gov>. A list of Rural Development Energy Coordinators is provided in the Addresses section of this Notice.

#### D. Intergovernmental Review

The Rural Energy for America Program is subject to the provisions of the Executive Order 12372, which requires intergovernmental consultation with State and local officials.

#### E. Funding limitations

Grant funds awarded for energy audit and renewable energy development assistance projects may be used only to pay eligible project costs, as described in paragraph (1) below. Grant funds awarded for energy audits and renewable energy development assistance projects are prohibited from being used to pay costs associated with the items listed in paragraph (2) below.

(1) *Eligible project costs.* Eligible project costs are those 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 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 percent of the grant, which include but are not limited to:

- (A) Utilities;
- (B) Office space;
- (C) Operation expenses of office and other project-related equipment (e.g., computers, cameras, printers, copiers, scanners); and
- (D) Expenses for outreach and marketing of the energy audit and renewable energy development assistance activities, including associated travel expenses.

(2) *Ineligible grant purposes.* Grant funds may not be used to:

- (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 for assistance to any private business enterprise which does not meet the requirements of paragraph III.A(2) of this Notice; and

(vii) Pay any judgment or debt owed to the United States.

(3) *Funding limitations.* The following funding limitations apply.

(i) *Maximum grant amount.* The maximum aggregate amount of grants awarded to any one recipient under this Notice cannot exceed \$100,000.

(ii) *Energy audits.* 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 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 recipient as a contribution towards the cost of the energy audit.

#### V. Grant Provisions

This section identifies the process and procedures the Agency will use to process and select applications, award grants, and administer grants.

##### A. Processing and Scoring Applications

(1) *Application review.* Upon receipt of an application, the Agency will conduct a review to determine if the applicant and project are eligible. The Agency will notify the applicant in writing of the Agency's findings. If the Agency has determined that either the applicant or project is ineligible, it will include in the notification the reason(s) for its determination(s).

(2) *Incomplete applications.* Incomplete applications will be rejected. Applicants will be informed of the elements that made the application incomplete. If a resubmitted application is received by the applicable application deadline, the Agency will reconsider the application.

(3) *Subsequent ineligibility determinations.* If at any time an application is determined to be ineligible, the Agency will notify the applicant in writing of its determination, and processing of the application will cease.

(4) *Application withdrawal.* During the period between the submission of an application and the execution of documents, 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 so notifies the Agency, the selection will be rescinded or the application withdrawn.

(5) *Application deadline.* Each complete and eligible application received by the applicable Rural Development State office by 4:30 p.m. local time July 26, 2010 will be scored. Any application received by the applicable Rural Development State office after 4:30 p.m. local time will not be considered.

(6) *Scoring.* The Agency will score each application using the following criteria, with a maximum score of 100 points possible.

(i) *Project proposal (maximum score of 10 points).* The applicant will be scored based on its in-house ability to conduct audits versus using third party auditing organizations as illustrated in the application.

(A) If the applicant proposes to use at least 51 percent of the awarded funding to employ internal, qualified auditors and/or renewable energy specialists for program implementation, up to 10 points will be awarded as follows:

(1) If the percentage is between 51 percent and 75 percent, 5 points will be awarded.

(2) If the percentage is more than 75 percent, 10 points will be awarded.

(B) If the applicant proposes to use less than 51 percent of the awarded funding to employ internal, qualified auditors and/or renewable energy specialists for program implementation, zero points will be awarded.

(ii) *Use of Grant Funds for Administrative Expenses (maximum score of 10 points).* Grantees selected to participate may use up to 5 percent of their award for administrative expenses.

(A) If the applicant proposes to use none of the grant funds for Administrative Expenses, 10 points will be awarded.

(B) If the applicant proposes to use a portion (up to 5 percent) of the grant funds for Administrative Expenses, zero points will be awarded.

(iii) *Applicant's organizational experience in completing proposed activity (maximum score of 15 points).* The applicant will be scored on the experience of the organization in meeting the benchmarks below. This means that an organization must have been in business and provided services as noted in the scoring requirements. An organization's experience must be documented with references and resumes. Points will be awarded as follows:

(A) More than 3 years of experience, 15 points will be awarded.

(B) At least 2 years and up to and including 3 years of experience, 10 points will be awarded.

(C) At least 1 year but less than 2 years of experience, 5 points will be awarded.

(D) Less than 1 year of experience, zero points will be awarded.

(iv) *Geographic scope of project in relation to identified need (maximum score of 10 points).*

(A) If the applicant's proposed or existing rural service area is State-wide or includes all or parts of multiple states, and the marketing and outreach plan has identified needs throughout that service area, 10 points will be awarded.

(B) If the applicant's proposed or existing rural service area consists of multiple counties in a single State and the marketing and outreach plan has identified needs throughout that service area, 7.5 points will be awarded.

(C) If the applicant's rural service area consists of a single county or municipality and the marketing and outreach plan has identified needs throughout that service area, 5 points will be awarded.

(v) *Number of agricultural producers/rural small businesses to be served (maximum score of 15 points).*

(A) If the applicant plans to provide audits to ultimate recipients with average audit costs of \$1,000 or less, 15 points will be awarded.

(B) If the applicant plans to provide audits to ultimate recipients with average audit costs over \$1,000 but less than \$1,500, 10 points will be awarded.

(C) If the applicant plans to provide audits to ultimate recipients with average audit costs of at least \$1,500 but less than \$2,000, 5 points will be awarded.

(vi) *Potential of project to produce energy savings and its attending environmental benefits (maximum score of 25 points).* Applicants can be awarded points under both paragraphs (vi)(A) and (B).

(A) If the applicant has an existing program that can demonstrate the achievement of energy savings with the agricultural producers and/or rural small businesses it has served, 13 points will be awarded.

(B) If the applicant provides evidence that it has received awards in recognition of its renewable energy, energy savings, or energy-based technical assistance, up to 12 points will be awarded based on number of awards and rigorosity of the competition for each award.

(vii) *Marketing and outreach plan (maximum score of 10 points).* If the applicant includes in the application a marketing and outreach plan and provides a satisfactory discussion of each of the following criteria, two points for each of the following will be awarded:

(A) The goals of the project;  
(B) Identified need;  
(C) Target beneficiaries;  
(D) Timeline and action plan; and  
(E) Marketing strategies and supporting data for strategies.

(viii) *Level and commitment of other funds for the project (not including the 25 percent required contribution from ultimate recipients for the cost of an energy audit) (maximum score of 5 points).*

(A) If the applicant proposes to leverage grant funding with 50 percent or more in non-State and non-federal government matching funds for the subject grant, and has a written commitment for those funds, 5 points will be awarded.

(B) If the applicant proposes to leverage grant funding with less than 50 percent but more than 20 percent in non-State and non-federal government matching funds for the subject grant, and has a written commitment for those funds, 2 points will be awarded.

(C) If the applicant proposes less than 20 percent in non-State and non-federal government matching funds, zero points will be awarded.

#### B. Award Process

Applications will be scored by the State Offices and submitted to the National Office for review.

(1) *Submission to National Office.* To ensure the equitable geographic distribution of funds, the two highest scoring applications from each State, based on the scoring criteria established under paragraph V.A(6), will be submitted to National Office to compete for funding.

(2) *Ranking of applications.* All applications submitted to the National Office will be ranked. All applications that are ranked will be considered for selection for funding.

(3) *Selection of applications for funding.*

(i) Using the ranking created under paragraph B(2) 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.

(ii) If after the majority of applications have been funded, insufficient funds remain to fund the next highest scoring application, the Agency may elect to

fund a lower scoring application. Before this occurs, the Administrator, as applicable, will provide the applicant of the higher scoring application the opportunity to reduce the amount of its grant request to the amount of funds available. If the applicant agrees to lower its grant request, it must certify that the purposes of the project can be met, and the Administrator must determine the project is financially feasible at the lower amount.

(iii) The Agency will notify, in writing, applicants whose applications have been selected for funding.

(4) *Disposition of ranked applications not funded.* Based on the availability of funding, a ranked application may not be funded in the fiscal year in which it was submitted. Such ranked applications will not be carried forward into the next fiscal year and the Agency will notify the applicant in writing.

(5) *Intergovernmental review.* If State or local governments raise objections to a proposed project under the intergovernmental review process that are not resolved within 90 days of the Agency's selection of the application, the Agency will rescind the selection and will provide the applicant with a written notice to that effect. The Agency, in its sole discretion, may extend the 90-day period if it appears resolution is imminent.

#### C. Actions Prior To Grant Closing

(1) *Changes in project cost or scope.* If there is a significant reduction in project cost or changes in project scope, then the applicant's funding needs, eligibility, and scoring, as applicable, will be reassessed. Decreases in Agency funds will be based on revised project costs and other selection factors; however, other factors, including Agency regulations used at the time of grant approval, will remain the same. Obligated grant funds not needed to complete the project will be de-obligated.

(2) *Evidence of and disbursement of other funds.* Applicants expecting funds from other sources for use in completing projects being partially financed with Agency funds must have these funds from other such sources prior to grant closing. Agency funds will not be expended in advance of funds committed to the project from other sources without prior Agency approval.

#### D. Letter of Conditions and Grant Agreement

(1) *Letter of conditions.* The Agency will notify the approved applicant in writing, setting out the conditions under which the grant will be made. The notice will include those matters

necessary to ensure that the proposed grant is completed in accordance with the terms of the scope of work and budget, that grant funds are expended for authorized purposes, and that the applicable requirements prescribed in the relevant Departmental regulations are complied with. The Letter of Conditions will be sent to the applicant.

(2) *Applicant's intent to meet conditions.* Upon reviewing the conditions and requirements in the letter of conditions, the applicant must complete, sign, and return Form RD 1942-46, "Letter of Intent to Meet Conditions," to the Agency; 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.

(3) *Grant agreement, forms, and certifications.* Prior to grant approval, the applicant must complete, sign, and return a grant agreement (published at the end of this Notice). In addition, the following forms, which will be attached to the letter of conditions referenced in paragraph V.D(1) of this Notice, and certifications must be submitted prior to grant approval:

(A) Form RD 1942-46;

(B) Form AD-1047, "Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions";

(C) Form AD-1048, "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions," including certification from any person or entity that the applicant does business with as a result of this government assistance that they are not debarred or suspended from government assistance;

(D) Form AD-1049, "Certification Regarding Drug-Free Workplace Requirements (Grants) Alternative I—For Grantees Other Than Individuals";

(E) Form SF-LLL, "Disclosure Form to Report Lobbying" or Exhibit A-1 of RD Instruction 1940-Q, "Certification for Contracts, Grants, and Loans"; and

(F) Form RD 400-4, "Assurance Agreement."

(4) *Grant approval.* Form RD 1940-1 must be signed by the applicant.

(i) The applicant will be sent a copy of the executed Form RD 1940-1, the approved scope of work, and a grant agreement (published at the end of this Notice). The grant will be considered closed on the obligation date.

(ii) The grantee must abide by all requirements contained in the Grant Agreement, this Notice, and any other applicable Federal statutes or

regulations. Failure to follow these requirements may result in termination of the grant and adoption of other available remedies.

#### E. Fund Disbursement

The Agency will determine, based on the applicable Departmental regulations, whether disbursement of a grant will be by advance or reimbursement. A SF-270, "Request for Advance or Reimbursement," must be completed by the grantee and submitted to the Agency no more often than monthly to request either advance or reimbursement of funds. Upon receipt of a properly completed SF-270, the funds will be requested through the field office terminal system. Ordinarily, payment will be made within 30 days after receipt of a proper request for advance or reimbursement.

#### F. Use of Remaining Funds

Funds remaining after all costs incident to the basic project have been paid or provided for are to be handled as specified in this section.

(1) Remaining funds are not to include grantee contributions.

(2) Remaining funds may be used based on prior approval by the Agency for eligible grant purposes, provided:

- (i) the use will not result in major changes to the project;
- (ii) the purpose of the grant remains the same; and
- (iii) the project remains within its original scope.

(3) Grant funds not expended within 24 months from date of the grant agreement will be cancelled by the Agency. Prior to the actual cancellation, the Agency will notify the grantee, in writing, of the Agency's intent to cancel the remaining funds.

#### G. Monitoring and Reporting Project Performance

(1) *Monitoring of projects.* 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. Grantees shall constantly monitor performance to ensure that time schedules are being met, projected work by time periods is being accomplished, financial resources are appropriately expended by contractors (if applicable), and any other performance objectives identified in the scope of work are being achieved. 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 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 provides recourse or a defense to the Grantee should the Grantee conduct unapproved activities, engage in unethical conduct, engage in activities that are or give the appearance of a conflict of interest, or expend funds for unapproved purposes.

(2) *Federal financial reports.* A SF-425, "Federal Financial Report," and a final performance report will be required of all grantees 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.

(3) *Performance reports.* Grantees must submit to the Agency, in writing, semiannual performance reports and a final performance report, once all project activities are completed. Grantees are to submit an original of each report to the Agency.

(i) *Semiannual performance reports.* Project performance reports shall include, but not be limited to, the following:

(A) A comparison of actual accomplishments to the objectives established for that period (e.g., the number of audits performed, number of recipients of renewable energy development assistance);

(B) A list of recipients, each recipient's location, and each recipient's North American Industry Classification System code;

(C) 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;

(D) Percentage of financial resources expended on contractors; and

(E) Objectives and timetable established for the next reporting period.

(ii) *Final performance report.* A final performance report will be required with the final Federal Financial Report within 90 days after project completion. In addition to the information required under paragraph (3)(i) above, the final performance report must contain the information specified in paragraphs

(3)(ii)(A) and (3)(ii)(B) below, as applicable, of this section.

(A) For energy audit projects, the final performance report must provide complete information regarding:

(1) the number of audits conducted,

(2) a list of recipients (agricultural producers and rural small businesses) with each recipient's North American Industry Classification System code,

(3) the location of each recipient,

(4) the cost of each audit,

(5) the expected energy saved for each audit conducted if the audit is implemented, and

(6) the percentage of financial resources expended on contractors.

(B) For renewable energy development assistance projects, the final performance report must provide complete information regarding:

(1) a list of recipients with each recipient's North American Industry Classification System code,

(2) the location of each recipient,

(3) the expected renewable energy that would be generated if the projects were implemented, and

(4) the percentage of financial resources expended on contractors.

(4) *Final status report.* One year after submittal of the final semiannual performance report, the Grantee will provide the Agency a final status report on the number of projects that are proceeding with one or all of the Grantee's recommendations, including the amount of energy saved and the amount of renewable energy generated, as applicable.

(5) *Other reports.* The Agency may request any additional project and/or performance data for the project for which grant funds have been received.

#### *H. Financial Management System and Records*

(1) The grantee will provide for Financial Management Systems that will include:

(i) Accurate, current, and complete disclosure of the financial result 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 shall contain information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income.

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

(2) 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 shall be retained beyond the 3-year period if audit findings have not been resolved or if directed by the United States. Microfilm copies may be substituted in lieu of original records. The Agency and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the grantee which are pertinent to the specific grant for the purpose of making audit, examination, excerpts, and transcripts.

#### *I. Audit Requirements*

Grantees must provide an annual audit in accordance with 7 CFR part 3052.

#### *J. Grant Servicing*

Grants will be serviced in accordance with Departmental regulations and 7 CFR part 1951, subparts E and O. Grantees will permit periodic inspection of the project operations by a representative of the Agency.

#### *K. Programmatic Changes*

The Grantee shall obtain prior Agency approval for any change to the scope or objectives of the approved project. Failure to obtain prior approval of changes to the scope of work or budget may result in suspension, termination, and recovery of grant funds.

#### *L. Transfer of Obligations*

Subject to Agency approval, an obligation of funds established for a grantee may be transferred to a different (substituted) grantee provided:

(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 need, purpose(s), and scope of the project for which the Agency funds will be used remain substantially unchanged.

#### *M. Grant Close out and Related Activities*

In addition to the requirements specified in the Departmental regulations, failure to submit satisfactory reports on time under the provisions of Section V.G., Monitoring and Reporting Project Performance, may result in the suspension or termination of a grant. The provisions of this section apply to grants and sub-grants.

## VI. Administration Information

### A. Notice of Eligibility

If an applicant is determined by the Agency to be eligible for participation, the Agency will notify the applicant in writing. If an applicant is determined by the Agency to be ineligible, the Agency will notify the applicant, in writing, as to the reason(s) the applicant was rejected. Such applicant will have review and appeal rights as specified in this Section.

### B. Administrative and National Policy Requirements

(1) *Review and appeal rights.* A person may seek a review of an Agency decision under this Notice from the appropriate Agency official that oversees the program in question and appeal to the National Appeals Division in accordance with 7 CFR part 11.

(2) *Notification of unfavorable decisions.* If at any time prior to grant approval it is decided that favorable action will not be taken on an application, the State Director will notify the applicant in writing of the decision and of the reasons why the request was not favorably considered. The notification will inform applicant of its rights to an informal review, mediation, and appeal of the decision in accordance with 7 CFR part 11.

### C. Exception Authority

Except as specified in paragraphs (1) through (3) below, the Administrator may make exceptions to any requirement or provision of this Notice, if such exception is in the best interests of the Federal Government and is otherwise not in conflict with applicable laws.

(1) *Applicant eligibility.* No exception to applicant eligibility can be made.

(2) *Project eligibility.* No exception to project eligibility can be made.

(3) *Rural area definition.* No exception to the definition of rural area can be made.

### D. Member or Delegate Clause

No member of or delegate to Congress shall receive any share or part of this grant or any benefit that may arise therefrom; 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.

### E. Environmental Review

All grants made under this subpart are subject to the requirements of 7 CFR part 1940, subpart G. Applications for financial assistance for planning purposes or management and feasibility

studies are categorically excluded from the environmental review process by 7 CFR 1940.310(e)(1).

### F. Other USDA Regulations

Energy audit and renewable energy development assistance projects funded under this Notice are subject to the provisions of the Departmental regulations, as applicable, which are incorporated by reference herein.

## VII. Agency Contacts

*Notice Contact.* For information about this Notice, please contact the Energy Branch, USDA Rural Development, STOP 3225, Room 6870, 1400 Independence Avenue, SW., Washington, DC 20250-3225. Telephone: (202) 720-1400.

For assistance on energy audit and renewable energy development assistance grants, please contact the applicable Rural Development Energy Coordinator, as provided in the Addresses section of this Notice.

## VIII. Non-Discrimination Statement

USDA prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW., Washington, DC 20250-9410 or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). "USDA is an equal opportunity provider and employer."

## IX. Civil Rights Compliance Requirements

All grants made under this Notice are subject to title VI of the Civil Rights Act of 1964, 7 CFR part 1901, subpart E, and Section 504 of the Rehabilitation Act of 1973.

Dated: May 19, 2010.

### Judith A. Canales,

*Administrator, Rural Business-Cooperative Service.*

## Energy Audit and Renewable Energy Development Assistance Grant Agreement

This Grant Agreement (Agreement) is a contract for receipt of grant funds of

\$ \_\_\_\_\_, under the Rural Energy for America program, Title IX, Section 9001 of the Food, Conservation, and Energy Act of 2008 (Pub.L. 110-234), between

\_\_\_\_\_, (Grantee) and the United States of America acting through Rural Development, Department of Agriculture (Grantor). All references herein to "Project" refer to an energy audit project and/or renewable energy development assistance project identified in the scope of work submitted with the application. Should actual project costs be lower than projected in the scope of work, the final amount of the grant may be adjusted.

### A. Assurance Agreement

Grantee assures Grantor that Grantee is in compliance with and will comply in the course of the Agreement with all applicable laws, regulations, Executive Orders, and other generally applicable requirements, including those contained in the Departmental regulations as codified in 7 CFR parts 3000 through 3099, including but not necessarily limited to 7 CFR parts 3015 through 3019, 7 CFR part 3021, and 7 CFR part 3052, and successor regulations to these parts, which are incorporated into this agreement by reference, any applicable Notices published in the **Federal Register**, and such other statutory provisions as are specifically contained herein.

Grantee and Grantor agree to all of the terms and provisions of any policy or regulations promulgated under Title IX, Section 9001 of the Food, Conservation, and Energy Act of 2008. Any application submitted by Grantee for this grant, including any attachments or amendments, is incorporated and included as part of this Agreement. Any changes to these documents or this Agreement must be approved in writing by Grantor.

Grantor may suspend and/or terminate the grant in whole, or in part, at any time before the date of completion, whenever it is determined that Grantee has failed to comply with the conditions of this Agreement.

### B. Use of Grant Funds

Grantee will use grant funds and leveraged funds only for the purposes and tasks included in the application and budget approved by Grantor. The approved Budget and approved use of funds are further described in the Grantor Letter of Conditions and amendments or supplements thereto. Any uses not provided for in the approved budget must be approved in writing by Grantor.

### C. Civil Rights Compliance

Grantee will comply with Executive Order 12898, Title VI of the Civil Rights Act of 1964, and Section 504 of the Rehabilitation Act of 1973. This shall include collection and maintenance of data on the race, sex, disability, and national origin of Grantee's membership/ownership and employees. These data must be available to Grantor in its conduct of Civil Rights Compliance Reviews, which will be conducted prior to grant closing and 3 years later, unless the final disbursement of grant funds has occurred prior to that date.

#### D. Financial Management Systems

1. Grantee will provide a Financial Management System in accordance with Departmental regulations as codified in 7 CFR parts 3000 through 3099, including but not necessarily limited to 7 CFR parts 3015 through 3019, 7 CFR part 3021, and 7 CFR part 3052, and successor regulations to these parts, including but not limited to:

(i) Records that identify adequately the source and application of funds for grant-supported activities. Those records shall contain information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income;

(ii) Effective control over and accountability for all funds, property, and other assets. Grantees shall adequately safeguard all such assets and ensure that they are used solely for authorized purposes;

(iii) Accounting records prepared in accordance with generally accepted accounting principles (GAAP) and supported by source documentation; and

(iv) Grantee tracking of fund usage and records that show matching funds and grant funds are used proportionally. Grantee will provide verifiable documentation regarding matching funds usage, i.e., bank statements or copies of funding obligations from the matching source.

2. 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 shall be retained beyond the 3-year period if audit findings have not been resolved or if directed by the United States. Grantor and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of Grantee which are pertinent to the grant for the purpose of making audits, examinations, excerpts, and transcripts.

#### E. Procurement

Grantee will comply with the applicable procurement requirements of 7 CFR part 3015 regarding standards of conduct, open and free competition, access to contractor records, and equal employment opportunity requirements.

#### F. Reporting

1. Grantee will after grant approval through project completion:

(i) Provide periodic reports as required by Grantor. A federal financial report and a project performance report will be required on a semiannual basis (due 30 working days after end of the semiannual period). For the purposes of this grant, semiannual periods end on June 30 and December 31. The federal financial report must show how grant funds and leveraged funds have been used to date and project the funds needed and their purposes for the next quarter. Grantee shall constantly monitor performance to ensure that time schedules are being met and projected goals by time periods are being accomplished. The project performance reports shall include the following:

(A) *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 audits performed, number of recipients of renewable energy development assistance);

(2) A list of recipients, each recipient's location, and each recipient's North American Industry Classification System code;

(3) Problems, delays, or adverse conditions, if any, which have affected or will 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) Percentage of financial resources expended on contractors; and

(5) Objectives and timetable established for the next reporting period.

(B) *Final performance report.* A final performance report will be required with the final federal financial Report.

(1) For energy audit projects, the final performance report must provide the information required in a semiannual performance report; complete information regarding the number of audits conducted; a list of recipients with each recipient's North American Industry Classification System code; the location of each recipient; the cost of each audit; the expected energy saved for each audit conducted if the audit is implemented; the number of jobs created and saved for an agricultural producer or rural small business, as applicable, as a result of the grant; and the percentage of financial resources expended on contractors.

(2) For renewable energy development assistance projects, the final performance report must provide the information required in a semiannual performance report; a list of recipients with each recipient's North American Industry Classification System code; the location of each recipient; the expected renewable energy that would be generated if the projects were implemented; and the percentage of financial resources expended on contractors.

(ii) For the year(s) in which grant funds are received, Grantee will provide an annual financial statement to Grantor.

2. Grantee will, after project completion:

(i) Allow Grantor access to the records and performance information obtained under the scope of the project; and

(ii) One year after submittal of the final semiannual performance report, Grantee will provide Grantor a final status report on the number of projects that are proceeding with one or all of Grantee's recommendations, including the amount of energy saved and the amount of renewable energy generated, as applicable.

#### G. Grant Disbursement

Unless required by funding partners to be provided on a pro rata basis with other funding sources, grant funds will be disbursed after all other funding sources have been expended.

1. Requests for reimbursement may be submitted monthly or more frequently if authorized to do so by Grantor. Ordinarily, payment will be made within 30 days after receipt of a proper request for reimbursement.

2. Grantee shall 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. Payment shall be made by electronic funds transfer.

4. Standard Form 270, "Request for Advance or Reimbursement," or other format prescribed by Grantor shall be used to request Grant reimbursements.

#### H. Use of Remaining Grant Funds

Grant funds not expended within 24 months from date of this agreement will be cancelled by Grantor. Prior to the actual cancellation, Grantor will notify Grantee, in writing, of Grantor's intent to cancel the remaining funds.

IN WITNESS WHEREOF, Grantee has this day authorized and caused this Agreement to be signed in its name and its corporate seal to be hereunto affixed and attested by its duly authorized officer(s), and Grantor has caused this Agreement to be duly executed in its behalf by

GRANTOR:

[SEAL]

Name:

Title:

UNITED STATES OF AMERICA  
DEPARTMENT OF AGRICULTURE RURAL  
DEVELOPMENT

Date

GRANTEE:

[SEAL]

Name:

Title:

Date

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## DEPARTMENT OF AGRICULTURE

### Forest Service

#### Northern New Mexico Resource Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

**SUMMARY:** The Northern New Mexico Resource Advisory Committee will meet in Albuquerque, New Mexico. The committee is meeting as authorized under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 110-343) and in compliance with the Federal Advisory Committee Act (5 U.S.C. Appendix 2 §§ 1-15, October 6, 1972, as amended 1976, 1980 and 1982). The purpose is to hold the first meeting of the newly formed committee.