

Supporting Statement  
Repowering Assistance Program - Section 9004  
0570-0058

**A. Justification**

**1. Explain the circumstances that make the collection of information necessary.**

The Repowering Assistance Program, authorized under Section 9004 of the Food, Conservation, and Energy Act of 2008 (2008 Farm Bill). The purpose of this program is to provide financial incentives to biorefineries in existence on the date of the enactment of the 2008 Farm Bill, to replace the use of fossil fuels used to produce heat or power at their facilities by installing new systems that use renewable biomass, or to produce new energy from renewable biomass.

The Agency may make payments under this program to any biorefinery that meets the requirements of the Notice of Funding Availability (NOFA) for a period determined by the Agency. The Agency will determine the amount of payments to be made to a biorefinery under this program with consideration given to:

- (1) the quantity of fossil fuel a renewable biomass system is replacing; and
- (2) the percentage reduction in fossil fuel used by the biorefinery that will result from the installation of the renewable biomass system; and
- (3) the cost and cost-effectiveness of the renewable biomass system.

The 2008 Farm Bill authorized \$35 million mandatory funding for this program for fiscal year 2009 to remain available until expended. On June 12<sup>th</sup> 2009 the Agency issued a Notice of Funds Availability (NOFA) that authorized \$20 million of the mandatory funding authorized for the program. However, there are remaining funds not requested under the previous NOFA that remain authorized to make payments to eligible biorefineries to encourage the use of renewable biomass as a replacement fuel source for fossil fuels used to provide process heat or power in the operation of these eligible biorefineries. The Agency is announcing a one-time application window for the remaining fiscal year 2009 funds under the criteria established in the prior NOFA. The maximum payment an applicant may receive will be 25 percent of project costs or \$5 million, whichever is less. The total number of payments made each year under the program will vary and

be based on the number of eligible participating applicants and availability of funds.

**2. Explain how, by whom, and for what purpose the information is to be used.**

Information gathered under this collection will be used to determine the eligibility of biorefineries to participate in the program. To be eligible for program payments, an applicant must submit a complete application for consideration of payment. Payments will be made based on ranking of applicants in relation to project cost, cost-effectiveness, availability of renewable biomass and the reduction of fossil fuel usage resulting from the installation of a renewable biomass system. Applicants are required to provide relevant data to allow for technical analysis of their existing facilities to demonstrate significant replacement of fossil fuel by renewable biomass with reasonable costs and maximum efficiencies.

**REPORTING REQUIREMENTS - NO FORMS**

Feasibility Study. The applicant must submit an independent feasibility study by a qualified consultant demonstrating that the renewable biomass system of the biorefinery is feasible, taking into account the economic, technical and environmental aspects of the system. The study must include the following:

- (i) executive summary.
  - (A) introduction/project overview (brief general overview of project location, size, etc.)
- (ii) economic feasibility determination.
  - (A) information regarding project site.
  - (B) availability of trained or trainable labor.
  - (C) availability of infrastructure and rail and road service to the site.
- (iii) technical feasibility determination.
  - (A) report must be based upon verifiable data and contain sufficient information and analysis so that a determination may be made on the technical feasibility of achieving the levels of energy production that are projected in the statements.
  - (B) report must also identify and estimate project operation and development costs and specify the level of accuracy of these estimates and the assumptions on which these estimates have been based. The project engineer or architect is considered an independent party provided neither any principal of the firm nor any individual of the firm who participates in the technical feasibility report has a financial interest in the project. If no other individual or firm with the expertise necessary to make

such a determination is reasonably available to perform the function, the applicant will need to request Agency assistance.

(iv) financial feasibility determination.

(A) reliability of the financial projections and assumptions on which the project is based including all sources of project capital, both private and public, such as Federal funds.

(B) projected balance sheets and costs associated with project operations.

(C) cash flow projections for the life of the project.

(D) adequacy of raw materials and supplies.

(E) sensitivity analysis, including feedstock and energy costs, product/co-product prices.

(F) risks related to the project.

(G) continuity, maintenance and availability of other records and adequacy of management.

(v) management feasibility determination.

(vi) recommendations for implementation.

(vii) environmental aspects of the system.

(viii) feedstock.

(A) feedstock source management.

(B) estimates of feedstock volumes and costs.

(C) collection, pre-treatment, transportation, and storage.

(D) impacts on existing manufacturing plants or other facilities that use similar feedstock.

(ix) feasibility/plans of project to work with producer associations or cooperatives including estimated amount of annual feedstock.

Request for Appeal. This requirement provides a mechanism for applicants to obtain review and additional consideration of Rural Development business programs decisions denying participation in the program or payments under the program.

#### **REPORTING REQUIREMENTS - FORMS APPROVED WITH THIS DOCKET**

Applicants will be required to submit the following forms that have been developed for and available from USDA's Rural Development program offices:

Form RD 9004-1, "Repowering Assistance Program - Application". Applicants are required to submit this form, and any attachments that may be necessary as a result of space limitations of the forms, in order to apply for participation in this Program. This form requires the applicant to provide relevant data to allow for technical analysis of their existing facilities to demonstrate significant replacement of fossil fuel by renewable biomass with

reasonable costs and maximum efficiencies. The Agency is requiring this form in order to ensure that only eligible biorefineries participate in this Program.

Form RD 9004-2, "Repowering Assistance Program - Agreement". This form constitutes the agreement between the Agency and the eligible biorefinery. This form lays out the terms and conditions associated with participation in this Program. This form is required because it provides the basis under which the Agency will make payments to participating biorefineries.

Form RD 9004-3, "Repowering Assistance Program - Payment Request". This is the form that participating Biorefineries submit when requesting either the advance payment or the semi-annual payments. Information to be provided includes the amount of the request and documentation of the amount of energy produced by the renewable biomass system.

RD Instruction 1940-Q, Exhibit A-1, "Restriction on Lobbying (if over \$100,000)". This form specifies that an applicant requesting funding in excess of \$100,000 agrees to certain restrictions on lobbying.

RD 400-1, "Equal Opportunity Agreement". Applicants are required to agree that they will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin.

RD 400-4, "Assurance Agreement". All applicants and recipients are required to complete this form to comply with Civil Rights Acts and laws.

Form RD 1940-20, "Request for Environmental Information". This form is required of applicants to assess the potential cumulative impacts of the project as well as any environmental concerns or problems that are associated with the project that can be identified at the earliest planning stages.

AD-1047, "Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transactions" or other written documentation. This form certifies that the applicant is not presently debarred, suspended, or voluntarily excluded from covered transactions by any Federal department or agency.

AD-1048, "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered

Transactions" or other written documentation. This form certifies that lower tier participants are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any Federal department or agency.

#### **REPORTING REQUIREMENTS - FORMS APPROVED UNDER OTHER OMB NUMBERS**

SF-LLL, "Disclosure of Lobbying Activities". All applicants are required to complete this form, regardless of their involvement in lobbying activities.

#### **REPORTING REQUIREMENTS - UPON REQUEST**

Assistance payment recipients are also required (under Section VI.A.3.) to keep records of information that verify compliance with program objectives. Payment recipients are also required (under Section VI.A.4.) to provide documentation, as requested by the Agency, regarding the net production of usable energy at the biorefinery during the relevant payment period.

**3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Also describe any consideration of using information technology to reduce burden.**

The Agency strongly encourages applicants to submit as much material as possible electronically, which would allow the Agency to retrieve the applications electronically. Further, applicants who receive funding will be encouraged, but not required, to submit any subsequent reports that may be required electronically. However, the Agency will not totally require submission by electronic methods because some applicants may not have the technological expertise for electronic submission or may not have the equipment necessary for high technological information gathering. The Agency will prepare an application guide to help reduce the effort associated with preparing applications, which could be posted on the Agency's Web site along with all forms for the applicant to print off.

**4. Describe efforts to identify duplication.**

The Agency has developed forms for this program based on the specific needs of the program. The information being collected is not believed to duplicate that collected by any other Agencies. However, if similar information is found to be

available from another Federal agency, every effort is made to utilize that information as is or in an appropriately modified form for this program.

**5. If the collection of information affects small businesses or other small entities, describe the methods used to minimize the burden.**

The information collection required for this initiative places little or nominal burden on small entities beyond that performed in normal business practice. The Agency is using industry-standardized data elements and documents, supplementing them with Government-wide forms that are familiar to many applicants.

**6. Describe the consequences to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.**

The information collected under this program is the minimum necessary to conform to the requirements of the program regulations established by law. Information is collected when needed and cannot be collected less frequently and still meet the requirements of the program. Failure to collect proper information could result in improper determinations of eligibility or improper use of funds.

**7. Explain any special circumstances that would cause the collection of information to be conducted in a manner:**

- a. Requiring respondents to report information to the Agency more often than quarterly. There are no information collection requirements that require specific reporting on more than a quarterly basis.
- b. Requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it. There are no specific information collection requirements that require less than 30 days response from the applicant.
- c. Requiring respondents to submit more than an original and two copies of any document. There are no information requirements that require more than an original and two copies.
- d. Requiring respondents to retain records for more than 3

years. Payment recipients are only required to retain records for three years from each payment date.

- e. Not using statistical sampling. There are no such requirements.
- f. Requiring use of statistical data classification that has not be reviewed and approved by Office of Management and Budget (OMB). No such requirements exist.
- g. Requiring a pledge of confidentiality that is not supported by authority in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use. There are no such requirements.
- h. Requiring respondents to submit proprietary trade secrets or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permissible by law. There are no such requirements.

**8. Comments on Agency's notice in the Federal Register and efforts to consult with persons outside the Agency to obtain their views on the availability of data, frequency of collection, the clarity of the instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.**

A 60-day notice for comment was embedded in the Notice of Funds Availability (NOFA), which was published in the Federal Register on June 12, 2009, [74 FR 28009].

The Agency requested an emergency processing request due to the direction of the President's May 5, 2009, "Biofuels and Rural Economic Development" memorandum. This memorandum requests that the Secretary of Agriculture take steps to the extent permitted by law to ". . . develop a comprehensive approach to accelerating the investment in and production of American biofuels . . ." and for ". . . expedited funding to encourage biorefineries to replace the use of fossil fuels in plant operations by installing new biomass energy systems or producing new energy from renewable biomass; . . ."

The Agency has relied on the experience obtained on the Bioenergy Program and believes that the requirements for implementing the payment program contained in the NOFA are efficient and clear to encourage participation from all eligible biorefineries.

**9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.**

No payments or gifts will be provided to respondents, including no remuneration of contractors or grantees.

**10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or Agency policy.**

No assurance of confidentiality is provided to respondents for the information required. When necessary, the Agency will process any and all requests for release of records and information in accordance with the Privacy Act of 1974. However, in some instances, the information collected under the provisions of this program is not considered to be of a confidential nature. For example, organizations, such as not-for-profit entities and public bodies from which information is collected, are ordinarily required to make their activities available for public scrutiny.

**11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior or attitudes, religious beliefs, and other matters that are commonly considered private.**

The information collected does not contain any questions of a sensitive nature such as sexual behavior, religious beliefs, or other matters commonly considered private.

**12. Provide estimates of the hour burden of the collection of information.**

See attached spreadsheet for burden breakout.

The average 3-year cost per hour was estimated to be \$60.00. Based on these data, the estimated annual cost of burden to respondents is \$130,992.

**13. Provide an estimate for the total annual cost burden to the respondents or recordkeeping resulting from the collection of information.**

There are no capital and start-up costs or operations and

maintenance costs associated with this collection.

**14. Provide estimates of annualized cost to the Federal Government.**

The estimated wage of federal employees compiling the information is \$41.00 per hour. Administrative costs include the cost of promulgating the regulations, publication in the Federal Register, and development of forms, etc. The cost to the Government is estimated to be \$32,144. The breakdown of cost to the Government by activity is as follows:

Activity	Total
Acknowledge and review applications	\$2,624
Evaluate and score applications	\$5,248
Inform applicants of selection results	\$656
Legal document preparation	\$2,624
Review payment requests and issue payments	\$2,624
Monitoring and review of records	\$5,248
Administration	\$13,120
Total	0

**15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I.**

This is a new program. An emergency submission estimated a total of 10 respondents. Only 8 applications were received, thereby, resulting in a decrease in the estimated number of responses and estimated number of burden hours from 2,017 to 1,662.

**16. For collection of information whose results will be published, outline plans for tabulation and publication.**

The Agency has no plans to publish information collected under the provisions of this program.

**17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.**

No approval is being sought.

**18. Explain each exception to the certification statement in identified in item 19 of OMB 83-I.**

There are no exceptions.

**19. How is this information collection related to the Service Center Initiative (SCI)? Will the information collection be part of the one stop shopping concept?**

The SCI calls for changes to improve services to the United States Department of Agriculture (USDA) customers. One aspect is providing one stop service for greater customer convenience in accessing USDA programs, including access to required forms.