

PAYMENTS FOR SPECIFIED ENERGY PROPERTY IN LIEU OF TAX CREDITS

INDEPENDENT ACCOUNTANT REQUIREMENTS

BEGUN CONSTRUCTION APPLICATIONS

Under Section 1603 of the American Recovery and Reinvestment Act of 2009 (Section 1603), the United States Department of the Treasury (Treasury) makes payments to eligible persons who place in service specified energy property and apply for such payments. The purpose of the payment is to reimburse eligible applicants for a portion of the costs of such property.

For property not placed in service in 2009, 2010, or 2011 but for which construction began in 2009, 2010 or 2011, applications for payment must be submitted after construction commences but before October 1, 2012. There are two ways to show that construction has begun. One way is to meet a 5% safe harbor. An applicant meets the 5% safe harbor if the applicant pays or incurs 5.00% or more of the costs included in the eligible basis of the specified energy property before the end of 2011. To satisfy the 5% safe harbor applicants must demonstrate that costs paid or incurred before the end of 2011 are equal to or greater than 5% of the actual total eligible basis of the specified energy property.

For projects relying on the 5% safe harbor with an estimated eligible cost basis of \$1 million or more, applicants must submit a report with the application from an independent accountant by October 1, 2012 on the eligible costs of the specified energy property paid or incurred by December 31, 2011. This report may be in the form of an Agreed-Upon Procedures (AUP) report prepared by an independent accountant in accordance with AT Section 201, "Agreed-Upon Procedure Engagements," or an examination report on the schedule of eligible costs paid or incurred by December 31, 2011 in accordance with AT Section 101, "Attest Engagements" (Statements on Standards for Attestation Engagements 10, as amended) of the AICPA.

The accountant is advised to consult Treasury's frequently asked questions and answers document about the 1603 program prior to commencing the engagement.

<http://www.treasury.gov/initiatives/recovery/Pages/1603.aspx>

Attachment A has the procedures and illustrative report to be performed by the independent accountant.

Instructions to the Agreed Upon Procedures

1. Request from management of the applicant the following:
 - a. A copy of the applicant's Federal Income Tax Return for the most recently completed year or other evidence setting forth the tax method (e.g. cash or accrual basis) used by the applicant.

[Note – The applicant's method of accounting for Federal Income Tax purposes is important because the term "paid or incurred" generally means paid or incurred within the meaning of Treas. Regs. §1.461-1(a)(1) and (2). That is, costs are taken into account when cash-method taxpayers "pay" them and when accrual-method taxpayers "incur" them. A cost is generally "incurred" for tax purposes when 1) the fact of the liability is fixed, 2) the amount of the liability is determinable with reasonable accuracy, and 3) the economic performance test (see Treas. Regs. §1.461-4) has been met with respect to such cost. Although the specific reference to the §461(h) economic performance rules was deleted in the revised Program Guidance, the economic performance rules continue to apply in determining whether costs have been incurred.]

- b. An estimate of the applicant's total expected eligible cost basis of the specified energy project.
 - c. A detailed schedule setting forth those costs from b. above that are actually paid or incurred by December 31, 2011.

[Note – This schedule should be prepared consistent with the method of accounting used by the applicant for Federal Income Tax purposes, see Note above.]

2. If the accountant becomes aware of any exceptions that would result in a change in the amount of eligible costs of the specified energy property that has been paid or incurred by December 31, 2011, request management to investigate, and if applicable, correct such exceptions to the accountant's satisfaction.
3. Obtain a representation letter from management regarding the information obtained and verbal representations made throughout the engagement.

ATTACHMENT A

[Agreed Upon Procedures report for entities with an estimated eligible cost basis of \$1 million or more and who elect the 5% safe harbor rules]

[CPA LETTERHEAD]

INDEPENDENT ACCOUNTANTS' REPORT ON APPLYING AGREED UPON PROCEDURES

To (Applicant Name) and United States Department of the Treasury

We have performed the procedures enumerated below, which were agreed to by [insert applicant name] and the United States Department of the Treasury solely to assist you in evaluating whether 5% or more of the total eligible costs of the specified energy property relating to [identify asset] of [applicant name] have been [paid][incurred] by December 31, 2011 and are in accordance with the general rules for determining the basis of property for federal income tax purposes, as further described in Section V of the Program Guidance for Payments for Specified Energy Property in Lieu of Tax Credits under the American Recovery and Reinvestment Act of 2009.

The management of [the applicant name] is responsible for the schedule of eligible costs of the specified energy property and for determining that those costs have been [paid][incurred] by December 31, 2011. This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of those parties specified in this report. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

[Include paragraphs to enumerate the procedures performed (or reference thereto) and related findings]

We were not engaged to, and did not conduct an examination, the objective of which would be the expression of an opinion on the schedule of eligible costs. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters may have come to our attention that would have been reported to you.

This report is intended solely for the information and use of (applicant name) and the United States Department of the Treasury, and is not intended to be and should not be used by anyone other than these specified parties.

CPA Firm Signature

City, State

Date

Independent Accountant's Report on Agreed Upon Procedures and Results

Agreed Upon Procedures ("AUP") to be performed by the Independent Accountant

1. Inquire of management as to the tax method (i.e. cash or accrual basis) applied by the applicant in their most recent Federal Income Tax Return.

Example Finding: Management stated that the [applicant name]'s Federal Income Tax Return was prepared on the accrual basis.

2. Inquire of management as to whether the detailed schedule of eligible costs paid or incurred by December 31, 2011 has been prepared on the basis of accounting (i.e., cash or accrual basis) consistent with the applicant's Federal Income Tax method of accounting.

Example Finding: Management stated that the detailed schedule of eligible costs was prepared on an accrual basis consistent with [applicant name]'s Federal Income Tax method of accounting.

3. Compare management's stated basis of accounting to the basis indicated on the applicant's most recent Federal Income Tax Return.

Example Finding: We compared management's stated basis of accounting, the accrual method, to the basis indicated on [applicant name]'s most recent Federal Income Tax Return and noted that they are consistent.

4. Sum the detailed schedule of eligible costs paid or incurred by December 31, 2011 and compare the summed amount to the total on the detailed schedule.

Example Finding: We summed the individual cost amounts on the detailed schedule of eligible costs incurred by December 31, 2011 and found that the summed amount agreed to the total on the detailed schedule.

5. From the detailed schedule of eligible costs paid or incurred by December 31, 2011, select the largest individual items until the total of sample selections equals or exceeds 5% of the amount of the applicant's estimate of total expected eligible cost basis of the Specified Energy Property and list those items in an attachment.

Example Finding: From [applicant name]'s detailed schedule of eligible costs paid or incurred by December 31, 2011 included in Appendix A, we selected the largest individual items until the total of sample selections equaled or exceeded 5% of the amount of [applicant name]'s estimate of total expected eligible cost basis of the

Specified Energy Property of \$xxx,xxx,xxx and listed those items selected in Appendix B.

6. For those selected items listed in the attachment perform the following procedures:
 - a. Compare the listed cost amount and the date such cost was incurred or paid to supporting documents such as purchase orders, paid checks, vendors' invoices, purchase contracts, lease agreements, etc.
 - i. For constructed property and construction in progress, compare the listed cost amount and the date such cost was incurred or paid to appropriate supporting documents such as contracts, work orders, job status reports, etc.

Example Finding: We compared the listed cost amount of the selected cost items listed in Appendix B to the vendor invoices and the date such costs were paid [or incurred] and found that the amounts and dates were in agreement.

- ii. If the entity is relying on the exception to the 5% safe harbor, compare the nature of the selected cost item to the executed binding written contract, and compare the listed cost amount and the date such cost was incurred or paid to a written statement of the amount of eligible costs that such other parties have paid or incurred by December 31, 2011 on behalf of the applicant, as obtained from such other parties signed under penalty of perjury.

Example Finding: We compared the nature of the selected cost items listed in Appendix B to the executed binding contract dated Month xx, 200x between [applicant name] and JKL Co and found that the nature of the costs incurred by JKL Co were contemplated in the contract. We compared the listed cost amounts and the listed dates that such costs were incurred to a signed written statement from JKL Co. of the amount of eligible costs that JKL Co. had incurred by December 31, 2011 on behalf of [applicant name] and found that the listed cost amounts and listed dates such costs were incurred agreed to the signed written statement from JKL Co.

- b. Compare the nature of the selected cost item to the description of permitted costs in the general rules for determining the basis of property for federal income tax purposes, as further described in Section V of the Program Guidance for Payments for Specified Energy Property in Lieu of Tax Credits under the American Recovery and Reinvestment Act of 2009.

Example Finding: We compared the nature of the selected cost items to the description in the general rules for determining the basis of property for federal income tax purposes, as further described in Section V of the Program Guidance for Payments for Specified Energy Property in Lieu of Tax Credits under the American Recovery and Reinvestment

Act of 2009 and found that the nature of the selected cost items were listed as eligible costs.

Example Appendix A

DETAILED SCHEDULE OF ELIGIBLE COSTS INCURRED BY DECEMBER 31, 2011

<u>Vendor</u>	<u>Description</u>	<u>Date Incurred</u>	<u>Eligible Cost</u>
ABC Co.	Environmental Study	Feb-April 2011	\$ 500,000
DEF Co.	Title Survey and Turbine siting	June 2010	\$ 500,000
GHI Co.	Turbine foundations	June-Dec 2011	\$2,000,000
JKL Co.	Turbine Supply Agreement:		
	JKL Design Costs incurred	Jan-Dec 2011	\$2,500,000
	JKL Parts Costs incurred	Dec 2011	<u>\$3,000,000</u>
TOTAL ELIGIBLE COSTS INCURRED BY DECEMBER 31, 2011			<u>\$8,500,000</u>
<u>TOTAL EXPECTED ELIGIBLE COSTS</u>			<u>\$100,000,000</u>

Example Appendix B

SELECTED ELIGIBLE COST ITEMS

<u>Vendor</u>	<u>Description</u>	<u>Date Incurred</u>	<u>Eligible Cost</u>
JKL Co.	Turbine Supply Agreement:		
	JKL Design Costs incurred	Jan-Dec 2011	\$2,500,000
	JKL Parts Costs incurred	Dec 2011	<u>\$3,000,000</u>
			<u>\$5,500,000</u>