

**SCOTTMADDEN**  
Management Consultants

ascendant  
partners, Inc.

**IB** HUSCHBLACKWELL  
SANDERS LLP

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# Stimulus Funding Assistance For Bioenergy Companies

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Providing Assistance in Applying for Federal Loan Guarantee Opportunities

February 2010

# Federal Loan Guarantee Opportunities Are Available *NOW*

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## **Biomass and Biofuels Loan Guarantee opportunities are available from the Department of Energy (DOE)**

- ◆ On December 15, 2009, Vice President Biden stated a DOE Loan Guarantee Program goal of “19 pilot, demonstration, and commercial scale [advanced biofuel] refineries by 2012”
- ◆ On Dec. 16, the House of Representatives voted to restore \$2 billion to an alternative loan guarantee program that was borrowed to fund the “*cash for clunkers*” program – the Senate is expected to follow suit
- ◆ The Renewables Fuel Association is continuing to lobby the Federal Government to ease biofuels requirements for Loan Guarantees
- ◆ In August, 2009, the Obama administration announced that \$1.7 billion in American Recovery and Investment Act (ARRA) funds would be made available for purposes of the USDA Rural Development's Business and Industry Guaranteed Loan Program
- ◆ There are two DOE loan guarantee funding opportunities currently open (until 2011) of which biomass and biofuels projects can take advantage.
- ◆ There are biofuels loan guarantee opportunities likely to be announced by USDA via section 3 of the Farm Bill (Public Law No. 110-234), which are continuations of an existing loan guarantee program

## **ScottMadden and Ascendant Partners have joined forces to provide the experience and qualifications needed to assist in successfully preparing a Loan Guarantee application for biomass and biofuels projects**

- ◆ We have deep backgrounds in energy, renewables and biofuels
- ◆ We have deep backgrounds and current experience in utilities, food and agribusiness as well as renewable fuel businesses
- ◆ We have “cracked the code” on the federal loan guarantee and grant application and management processes
- ◆ We are certified by DOE to review loan guarantee submissions – we know what “good” is
- ◆ We have assisted companies in submitting loan guarantee applications, advanced energy tax credits, and other production and investment tax credit applications

# Introduction – DOE

	FOA-140	FOA-166	USDA
<b>Types of Projects</b>	<p>DOE will consider as the following list of “Biomass” projects potentially employing New or Significantly Improved Technologies as “Eligible projects”):</p> <ul style="list-style-type: none"> <li>•Bioenergy projects as described in Section 932(d) of the Energy Policy Act of 2005 <ul style="list-style-type: none"> <li>- Commercialization of Advanced Design Bio-Refineries for Multi-Feedstock Processing into Biofuels</li> </ul> </li> <li>• Biofuels production, distribution and infrastructure</li> <li>• Municipal solid waste (“MSW”) to ethanol projects or syngas</li> <li>• Biomass to syngas projects including but not limited to fossil fuel repowering projects</li> <li>• Biomass to diesel projects (excluding fatty acid methyl ester projects)</li> <li>• Bio-oil derived fuel projects</li> <li>• Biosolids to diesel, ethanol or electricity production</li> </ul>	<p><b>Commercial Technology Renewable Energy Generation Projects under Section 1705(a)(1) of Title XVII and not for manufacturing, transmission or leading edge biofuels projects:</b></p> <ul style="list-style-type: none"> <li>•Wind facility</li> <li>•Closed-loop biomass facility</li> <li>•Open-loop biomass facility</li> <li>•Geothermal facility</li> <li>•Landfill gas facility</li> <li>•Trash-to-energy facility</li> <li>•Hydropower facility, including incremental hydropower</li> <li>•Solar facility</li> </ul>	<p><b>Loan guarantees of up to \$250 million, for Projects located in a rural area and be for either:</b></p> <ul style="list-style-type: none"> <li>•The development and construction of commercial-scale biorefineries using eligible technology</li> <li>•The retrofitting of existing facilities, including, but not limited to, wood products facilities and sugar mills, with eligible technology.</li> <li>•Eligible technology is defined as either: <ul style="list-style-type: none"> <li>- A technology that is being adopted in a viable commercial-scale operation of a biorefinery that produces an advanced biofuel</li> <li>- A technology not described in the previous paragraph that has been demonstrated to have technical and economic potential for commercial application in a biorefinery that produces an advanced biofuel</li> </ul> </li> </ul>
<b>Loan Size Range</b>	<ul style="list-style-type: none"> <li>• 80% of project</li> <li>• Projects listed in three tiers: \$0-\$150MM, \$150MM - \$500MM, and greater than \$500MM</li> </ul>	<ul style="list-style-type: none"> <li>• 80% of project</li> <li>• No minimum size; no maximum size but over \$100MM requires additional technical/underwriting assistance</li> </ul>	<ul style="list-style-type: none"> <li>• 80% of project if &lt; \$80MM</li> <li>• 70% of project if &gt; \$80MM</li> <li>• Loan guarantees and grants of up to \$250MM</li> </ul>

# Introduction – DOE

	FOA-140	FOA-166	USDA
<b>Application Due Dates</b>	<p>Seven Rounds (two parts to each round) – three rounds are over</p> <ul style="list-style-type: none"> <li>• Round 4 – Part I: February 18, 2010 Part II: May 14, 2010</li> <li>• Round 5 – Part I: April 22, 2010 Part II: July 19, 2010</li> <li>• Round 6 – Part I: June 24, 2010 Part II: September 17, 2010</li> <li>• Round 7 – Part I: August 24, 2010 Part II: December 31, 2010</li> </ul>	<p>Ten Rounds (two parts to each round) – three rounds are over</p> <ul style="list-style-type: none"> <li>• Part I for rounds 4 – 10 is open submission</li> <li>• Round 4 – Part II: April 8, 2010</li> <li>• Round 5 – Part II: May 24, 2010</li> <li>• Round 6 – Part II: July 8, 2010</li> <li>• Round 7 – Part II: August 23, 2010</li> <li>• Round 8 – Part II: October 7, 2010</li> <li>• Round 9 – Part II: November 22, 2010</li> <li>• Round 10 – Part II: January 6, 2011</li> </ul>	<ul style="list-style-type: none"> <li>• Currently Closed</li> <li>• Loan guarantees are based upon mandatory funding of \$75 million and \$245 million allotted for fiscal years 2009 and 2010, respectively. The Farm Bill mandates that funding for loan guarantees be available through fiscal year 2012</li> <li>• It is expected that there will again be another application deadline for loan guarantees, likely to commence in Spring 2010</li> </ul>
<b>Cost Summaries</b>	<ul style="list-style-type: none"> <li>• Loan Guarantee applications fees for Part I and Part II</li> <li>• Facility Fees when Loan is Approved</li> <li>• DOE Maintenance Fees during lie of the loan</li> <li>• Costs for Part I and Part II assistance</li> <li>• Potential NEPA Fees for environmental study on Part II of application - \$100,000</li> <li>• Project Credit Rating Assessment by S&amp;P - \$100,000</li> <li>• DOE due diligence fees after Part II</li> <li>• Project costs</li> <li>• Costs to lending institutions for financing</li> <li>• Legal fees</li> </ul>	<p>Loan Guarantee applications fees for Part I and Part II</p> <ul style="list-style-type: none"> <li>• Facility Fees when Loan is Approved</li> <li>• DOE Maintenance Fees during lie of the loan</li> <li>• Costs for Part I and Part II assistance</li> <li>• Potential NEPA Fees for environmental study on Part II of application - \$100,000</li> <li>• Bank Fees (“eligible lender fees”)</li> <li>• DOE due diligence fees after Part II</li> <li>• Project costs</li> <li>• Costs to lending institutions for financing</li> <li>• Legal fees</li> </ul>	<ul style="list-style-type: none"> <li>• For any loan, a guarantee fee will be paid to the Agency by the lender at the time the Loan Note Guarantee is requested, and is nonrefundable.</li> <li>• Annual loan renewal fee on the on the unpaid principal balance of the loan</li> <li>• Project costs</li> <li>• Costs to lending institutions for financing</li> <li>• Legal fees</li> </ul>
<b>Rating Required</b>	Project Credit rating required – required rating not specified	At least equal to “BB” from Standard & Poor’s or Fitch or “Ba2” from Moody’s	The project must meet the financial metric criteria calculated from pro forma statements of borrower financial statements of a typical operating year after the project is completed and stabilized

# Loan Guarantee Fee Structure (FOA-140)

## Application Fee (Part I Fee)

Loan Guarantee Amount	Total application fee amount	25% of application fee due with Part I submission	75% of application fee due with Part II submission
\$0- \$150,000,000	\$75,000	\$18,750	\$56,250
Above \$150,000,000- \$500,000,000	\$100,000	\$25,000	\$75,000
Above \$500,000,000	\$125,000	\$31,250	\$93,750

## Facility Fee (Part II Fee)

Loan Guarantee Amount	Total Fee Amount
\$0- \$150,000,000	1% of the guaranteed amount
Above \$150,000,000- \$500,000,000	\$375,000 + 0.75% of the guaranteed amount
Above \$500,000,000	\$1,625,000 + 0.50% of the guaranteed amount

## Maintenance Fee (Third Fee)

The maintenance fee (or Third Fee) is payable to cover DOE's administrative expenses in servicing and monitoring the Loan Guarantee Agreement during the construction, startup, commissioning and operational phases of a project. The amount of such fee is expected to be in the range of \$50,000 to \$100,000 per year

# Loan Guarantee Fee Structure (FOA-166)

## Application Fee (Part I Fee)

Who Pays	Total application fee amount	25% of application fee due with Part I submission	75% of application fee due with Part II submission
Lender-Applicant	\$50,000	\$12,500	\$37,500

## Facility Fee (Part II Fee)

Fees	When Paid
Lender-Applicant pays 20% of the facility fee, which is ½ of one percent of the guaranteed amount	When a Term sheet is approved by the Credit Review Board
Lender-Applicant pays 80% of the facility fee, which is ½ of one percent of the guaranteed amount	Due at Closing

## Maintenance Fee (Third Fee)

- ◆ The maintenance fee (or Third Fee) is payable to cover DOE's administrative expenses in servicing and monitoring the Loan Guarantee Agreement during the construction, startup, commissioning and operational phases of a project. The amount of such fee is expected to be in the range of \$10,000 to \$25,000 per year
- ◆ Paid by the borrower annually

# Loan Guarantee Fee Structure (USDA)

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## Guarantee Fee

- ◆ For any loan, the guarantee fee will be paid to the Agency by the lender at the time the Loan Note Guarantee is requested, and is nonrefundable
  - The guarantee fee will be calculated by multiplying the outstanding principal balance by the percentage of the loan that is guaranteed under this program by the guarantee fee
- ◆ The guarantee fee rate shall be determined as follows:
  - Two percent for guarantees on loans greater than 75 percent of total project cost
  - One and one-half percent for guarantees on loans of greater than 65 percent but less than or equal to 75 percent of total project cost
  - One percent for guarantees on loans of 65 percent or less of total project cost
- ◆ The guarantee fee may be passed on to the borrower

## Annual Renewal Fee

- ◆ The annual renewal fee will be calculated on the unpaid principal balance as of close of business on December 31 of each year
- ◆ Payments not received by April 1 are considered delinquent and, at the Agency's discretion, may result in cancellation of the guarantee to the lender
- ◆ The annual renewal fee will be calculated by multiplying the outstanding principal balance by the percentage of the loan that is guaranteed under this program by the annual renewal fee rate shown below. The renewal fee rate shall be as follows:
  - ◆ One hundred basis points (1 percent) for guarantees on loans that were originally greater than 75 percent of total project costs
  - ◆ Seventy five basis points (0.75 percent) for guarantees on loans that were originally greater than 65 percent but less than or equal to 75 percent of total project costs
  - ◆ Fifty basis points (0.50 percent) for guarantees on loans that were originally for 65 percent or less of total project costs

# Program Overviews – DOE

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- ◆ Two new Funding Opportunity Announcements (FOAs) were issued by the DOE in 2009 for Loan Guarantees in 2009
  - FOA-0000140 is the Federal Loan Guarantee Program for projects that employ innovative energy efficiency, or renewable energy and encompass manufacturing plants that support renewable energy or stand-alone renewable energy projects
    - There are seven rounds of applications with Part I submissions due beginning September 14, 2009, and ending August 24, 2010; Part II due dates range from November 13, 2009, to December 2010
    - Projects should be likely to commence construction by September 2011
  - FOA-0000166 is limited only to generation projects using “Commercial Technology,” which is technology in use in three or more commercial projects similar to the proposed project for at least two years
    - There are seven rounds of applications with open submission dates for Part 1, beginning in November 2009; Part II due dates range from November 23, 2009, to January 6, 2011
    - Projects should be likely to commence construction by September 2011
- ◆ Loan guarantees to be issued under Section 1703 of Title XVII of the Energy Policy Act of 2005, 22 U.S.C. 16511-16514 (Title XVII) – this is the original Loan Guarantee Program, which has awarded several projects and is evaluating a large slate of backlog projects
- ◆ ARRA amended EAct Title XVII by adding Section 1705 to appropriate \$6 billion for the cost of guarantees under the new Section 1705
- ◆ Eligible Projects under Title XVII
  - Located in the U.S.
  - Qualifies broadly as either a Section 1703 project or a Section 1705 project
  - Complies with the final regulations
  - Qualifies specifically as a technology described in at least one solicitation issued by DOE
- ◆ Borrower in the Loan Guarantee Program must pay the cost for Section 1703 Project Credit Subsidy Costs, whereas Congress has made a \$6 billion appropriation to pay for the cost of Section 1705 project Credit Subsidy Costs

# Program Overviews – DOE (Cont'd)

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- ◆ Section 1703 projects
  - Avoid, reduce, or sequester air pollutants or anthropogenic emissions of greenhouse gases
  - Employ new or significantly improved technologies for production, consumption, or transportation of energy; and either recently developed, learned, or discovered; or a meaningful and important improvement in productivity or value
  - Are not a commercial technology – one that is being piloted
  - Are not in “general use” in the U.S. (not installed or used in three or more commercial projects in operation for at least five years in the same general application as the proposed project)
- ◆ Only two categories of bioenergy projects that commence construction no later than September 30, 2011, are eligible under Section 1705 and may have their Credit Subsidy Costs covered by appropriated funds under the Recovery Act:
  - Renewable energy systems, including incremental hydropower, that generate electricity or thermal energy and facilities that manufacture related components (“Renewable Energy Systems Projects”)
  - Leading edge biofuel projects that will use technologies performing at the pilot or demonstration scale that the Secretary determines are likely to become commercial technologies and will produce transportation fuels that substantially reduce life-cycle greenhouse gas emissions compared to other transportation fuels (“Leading Edge Biofuels Projects”)
- ◆ FOA-140 describes the process for eligibility and application of both Section 1703 and 1705 projects
- ◆ FOA-166 only describes Section 1705 eligible projects

# Program Overview – USDA

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In June 2008, the U.S. Department of Agriculture (USDA) created a new program through which it offered loan guarantees and grants of up to \$250 million and \$150 million, respectively, for the development of commercial scale biorefineries producing “advanced biofuels,” meaning fuel derived from renewable biomass such as cellulosic ethanol or butanol

This program, known as the Biorefinery Assistance Program, was approved under Section 9003 of the Food, Conservation and Energy Act of 2008 (the Farm Bill, Public Law No. 110-234)

The initiative provides guarantees to qualified applicants who plan to develop, construct or retrofit viable commercial-scale biorefineries producing advanced biofuels using “first of a kind” technology, in a rural area

Commercial-scale biorefineries generally process roughly 700 tons or more of non-food feedstock per day, with an output of approximately 15-30 million gallons a year of biofuels

A rural area is defined under the notice of funds availability as an area of a state not in a city or town that has a population of 50,000 or more inhabitants, according to the latest census numbers

During the previous two application periods ending December 31, 2008 and April 30, 2009, the USDA received about seventeen applications, five during the first application and twelve during the second application period

To date, only two loan guarantees have been approved, five are currently being reviewed and ten were rejected (due to incomplete applications, failure to find a lender, or ineligibility)

Of the seventeen applications received, eight requested loans of less than \$50 million, four requested loans between \$50 million and \$100 million, and five requested loans of over \$100 million. It is estimated that of the five applications currently under review, only two or three will be accepted

The guaranteed loan portion of the Program will likely continue, at least into the next fiscal year. These guarantees are based upon mandatory funding of \$75 million and \$245 million allotted for fiscal years 2009 and 2010, respectively. The Farm Bill mandates that funding for loan guarantees be available through fiscal year 2012

It is expected that there will again be another application deadline for loan guarantees, likely to commence in Spring 2010

# Program Overview – USDA (Cont'd)

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The application process is extensive and complex. Applicants must complete a written application form and provide information including, but not limited to:

- ◆ Background information
- ◆ A feasibility study
- ◆ An economic analysis
- ◆ A business plan
- ◆ A technical assessment
- ◆ Environmental information
- ◆ Lender analysis
- ◆ Financing and loan information

Once the application is submitted, the USDA performs its own due diligence, prepares a project evaluation report and makes a recommendation to the National Office Executive Loan (NOEL) committee as whether to issue a “conditional commitment” to the lender

An applicant’s eligibility for loan guarantees or grants are based on the following factors:

- ◆ Technical and economic feasibility based on a study of the project conducted by an independent third party
- ◆ Potential market for the fuel
- ◆ Level of financial participation by the applicant
- ◆ Whether applicant is using new feedstock, and whether applicant will work with producer associations or cooperatives
- ◆ Whether the proposed process will positively impact resource conservation, public health, and the environment and if the project has the potential for rural economic development
- ◆ Whether the proposed location for the biorefinery has other similar facilities
- ◆ If the project is replicable and scalable for commercial use

The applicant will also need to pass a technical review from the USDA / DOE and an environmental review pursuant to the National Environmental Policy Act (NEPA). Each proposal is determined on a case-by-case basis to determine the level of review

# ScottMadden Qualifications

## Why ScottMadden

- ◆ We are recognized leader in energy and clean tech sectors
- ◆ We have unique experience in carbon, renewables, environmental, and energy
- ◆ We have analyzed markets, evaluated technologies, and developed strategies for electric supply, carbon, renewable technologies, and environmental compliance
- ◆ We have hands-on experience in every area of DOE funding mechanisms – we have “cracked the code” and have rapidly deployable processes that work
- ◆ We have developed detailed methodologies for each of the DOE funding mechanisms and are a qualified supplier to the DOE for loan guarantee evaluation – we can rapidly break down any FOA
- ◆ We have all the templates needed for application filing – no guesswork
- ◆ We understand, and have experience with, all the application components
- ◆ We have proven workplans which we can quickly adapt to your situation and help you hit the ground running
- ◆ We have extensive experience in large project management

## Our scope of services in the Energy and Renewables area includes:

- |                            |                                 |                               |
|----------------------------|---------------------------------|-------------------------------|
| ◆ Generation               | ◆ Fuel Cells                    | ◆ Stimulus Funding Management |
| ◆ Transmission             | ◆ Gasification plants           | ◆ Smart Grid management       |
| ◆ Electric Delivery        | ◆ Biofuels and Biodiesel plants | ◆ Environmental Management    |
| ◆ Gas Delivery             | ◆ Energy Storage                | ◆ Green Supply Chain          |
| ◆ Power Markets            | ◆ Biomass Generation            | ◆ Sustainability Management   |
| ◆ Large Project Management | ◆ Wind Generation               | ◆ Nanotechnology              |
| ◆ Regulatory Management    | ◆ Solar                         |                               |

# Ascendant Partners Qualifications

## Why Ascendant Partners

- ◆ Ascendant Partners is the leading provider of professional consulting, credit risk management and capital solutions dedicated to serving clients in the food, agribusiness, and renewable energy industries
- ◆ In the past 3 years Ascendant Partners has been engaged to complete over 150 renewable energy projects to help clients conduct comprehensive feasibility studies, complete actionable business plans and raise the capital required to fund development
- ◆ Our experience covers the following areas:
  - Biofuels --- 1st Stage/ Corn-to-Ethanol
    - Greenfield/ Brownfield
    - Integrated Platforms
    - Fractionation & Corn Oil Extraction
  - Biofuels --- 2nd Stage/ Advanced Biofuels
    - Feedstock Diversification
    - Biobutanol
  - Cellulosic Ethanol
    - Technology Assessments
    - Feedstock Analysis
    - Platform Integration
  - Biodiesel, Biojet Fuel & Renewable Diesel
  - Biomass to Energy
    - Anaerobic Digestion
    - Gasification
    - Densification
      - Residential
      - Commercial/ Industrial
    - Cogeneration/ CHP
  - Biomass Supply Chain Management
  - Feedstock Origination
    - Wood & Wood Waste
    - Ag Residues, Energy Crops
    - Food Waste
    - MSW
  - Wind
  - Distributed Energy
  - Solar
  - Stimulus Funding Management
  - Loan Guarantee Oversight
  - Supply Chain Management

## Our scope of services in the Renewable Energy Industry includes:

- ◆ Market Assessments
- ◆ Feasibility Studies
- ◆ Business Plans
- ◆ Project Development
- ◆ Private Placement Memos
- ◆ Supply Chain Analysis
- ◆ Technology Reviews
- ◆ Operational Improvement
- ◆ Mergers & Acquisitions
- ◆ Investment Due Diligence
- ◆ Marketing Plans
- ◆ Government Applications
  - DOE, BCAP, USDA
- ◆ Turn Around & Workouts
- ◆ Life Cycle Analysis
- ◆ Capital Raise
  - Sr Debt, Loan Guarantees
  - Sub Debt
  - Equity
- ◆ Refinance/ Recapitalization
- ◆ Credit & Portfolio Reviews

# Husch Blackwell Sanders Qualifications

## Why Husch Blackwell Sanders

- ◆ We are a recognized leader in the energy industry representing clients across the energy spectrum, including wind, solar, biofuels, biomass, power, natural gas and coal, and providing a full range of commercial, regulatory and litigation services.
- ◆ We have represented wind and solar developers in over 1,500 megawatts under development; biofuel developers in 1 billion gallons in annual production; and 1 million MMBtu in biomass and landfill gas production.
- ◆ We have a dedicated regulatory energy team in Washington, DC, including the former FERC Chairman and DOE and regulatory agency staff members.
- ◆ We have a strategic alliance with HELP, a national trade organization including transmission-dependent wind and solar energy firms.
- ◆ We have extensive knowledge of tax credits, including Recover Zone Economic Development Bonds, Production Tax Credits, Investment Tax Credits and Section 1603 Cash Grants.
- ◆ We have decades of energy project finance experience on behalf of developers, operators, purchasers, sellers, lenders and guarantors and can provide sound project due diligence and structuring to enhance ability to qualify for federal programs.

## Our scope of services in the Renewable Energy Industry includes:

- |                                                                             |                                         |                                                    |
|-----------------------------------------------------------------------------|-----------------------------------------|----------------------------------------------------|
| ◆ Project Structuring, Development & Ownership Arrangements                 | ◆ Tax Credits & Incentives              | ◆ Intellectual Property                            |
| ◆ Financing & Capital Markets – private equity, public equity & debt, REITS | ◆ Acquisitions, Sales & Joint Ventures  | ◆ Litigation & Dispute Resolution                  |
| ◆ Tax & Tax Structures                                                      | ◆ Environmental Compliance & Permitting | ◆ Specialized Construction & Design Practice Group |
|                                                                             | ◆ Power Purchase & Access Agreements    | ◆ Regulatory & Legislative Representation          |
|                                                                             | ◆ Operation & Maintenance Agreements    |                                                    |
|                                                                             | ◆ Intellectual Property                 |                                                    |