

RENEWABLE ENERGY ALERT

DEPARTMENT OF ENERGY RELEASES LOAN GUARANTEE SOLICITATION FOR ENERGY EFFICIENCY, RENEWABLE ENERGY AND ADVANCED TRANSMISSION AND DISTRIBUTION TECHNOLOGIES

The Department of Energy (DOE), under its Innovative Technology Loan Guarantee Program, released a solicitation announcement that provides support for projects employing innovative energy efficiency, renewable energy and advanced transmission and distribution technologies. The Innovative Technology Loan Guarantee Program was established under Title XVII of the Energy Policy Act of 2005 to facilitate commercialization of new and improved renewable energy and energy efficiency technologies that are not considered commercial technologies (the "Section 1703 program"). The Innovative Technology Loan Guarantee Program was subsequently expanded under the American Recovery and Reinvestment Act of 2009 (the "Recovery Act program") to provide additional financing support for the rapid deployment of renewable energy, electric transmission and leading-edge biofuel projects; projects supported under the Recovery Act must commence construction by September 30, 2011.

The current solicitation addresses projects and technologies supported under both the original Section 1703 program and the expanded Recovery Act program. The DOE seeks both manufacturing projects that result in long reductions in manufacturing and product costs and stand-alone projects. DOE has \$8.5 billion in loan guarantee authority under the current solicitation and will make available up to \$2.5 billion to pay the credit subsidy costs of loan guarantees qualifying under the Recovery Act program. The solicitation will remain open until the aggregate \$8.5 billion in loan guarantee authority is fully obligated; however, the program is competitive, and DOE urges early application for priority of review for a first mover's advantage.

ELIGIBILITY FOR RECOVERY ACT LOAN GUARANTEE REQUIRES THAT PROJECTS COMMENCE CONSTRUCTION BY SEPTEMBER 30, 2011

Eligible technologies under the Recovery Act program are renewable energy systems, electric power transmission systems and leading-edge biofuels projects. Projects must be located in the United States, employ a new or significantly improved technology and be reasonably likely at the time of application to commence construction on or before September 30, 2011.

The solicitation is specifically designed to support those projects that are most assured of commencing construction and having a loan guarantee issued no later than September 30, 2011. The DOE interprets this to mean that, before that date, the borrower has obtained necessary licenses, permits and local and national clearances; completed preconstruction design and prototype testing; engaged contractors; and ordered equipment and supplies so that physical construction may commence. In the event that a project is unable to commence construction by September 30, 2011, or fails to meet a requirement set forth in the Recovery Act, the project may be allowed to proceed under the Section 1703 program; the applicant, however, must pay the associated credit subsidy cost. Projects supported under the Recovery Act program are subject to additional requirements, including Davis-Bacon Act wage requirements, Recovery Act reporting requirements and Buy American provisions.

SOLICITATION INCLUDES PROJECTS UNDER THE EXISTING INNOVATIVE TECHNOLOGY PROGRAM

The DOE is also soliciting projects under the original Section 1703 program; however, in contrast to its treatment of programs funded under Recovery Act criteria, the DOE will not cover the credit subsidy costs for the Section 1703 loan guarantees. Eligibility under the Section 1703 program requires that projects be located in the United States and employ a new or significantly improved technology that is not a commercial technology. As defined in the applicable regulations, a commercial technology is a technology in general use in the commercial marketplace in the United States at the time a term sheet is issued by DOE.

The categories of technologies considered eligible for loan guarantees under the Section 1703 program is broader than those funded under the Recovery Act. Additional technologies include alternative fuel vehicles, energy efficiency technologies and applications and hydrogen and fuel cells. Projects that are at the pilot stage or that have not completed a full-scale demonstration project are ineligible under the current solicitation.

SOLICITATION PROCESS HAS TWO APPLICATION PHASES; THE FIRST PART I DEADLINE IS SEPTEMBER 14, 2009

The application process is divided into two parts, a Part I and a more detailed Part II. The first Part I deadline is September 14, 2009; the second Part I deadline is August 24, 2010. The second application phase has a Part I closing deadline of August 24, 2010.

The Part I submission provides the DOE with a summary-level description of the project, project eligibility, financing strategy and progression to-date with critical path schedules, including licensing and regulatory permits. The Part I submission must be prepared in accordance with the Energy Policy Act 2005, the Innovative Technology Loan Guarantee program regulations and, if applicable, the Recovery Act. Application fees vary by the total loan guarantee amount sought; 25 percent of that amount is due at the time of the Part I application.

The Part II submission provides the DOE with more detailed information to facilitate an extensive diligence review. The remainder of the application fee is due at the time of the Part II submission. A key factor in Part II reviews is whether the project sponsors or applicants provide a reasonable prospect of repayment of the principal and interest of the guaranteed obligation and other project debt.

DOE expects that the information requested under the solicitation and the documentation produced as a result of negotiations will conform in scope, quality and detail with that typically requested in an arm's-length, commercially negotiated project or financing on the same scale. DOE expects to analyze projects on a limited recourse project financing basis and will not assume any pre-construction risks.

The application process is expected to be competitive, and DOE expects that applications will be reviewed as they are received. DOE estimates there will be seven rounds of review for Part I and Part II submissions and encourages applicants to submit information early. Additional fee payments are due upon the execution of the term sheet and at closing.

CONTACT INFORMATION

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