



August 4, 2009

Renewable Energy

Department of Energy Issues Two Loan Guarantee Solicitation Announcements

On June 29, 2009, the Department of Energy issued two loan guarantee solicitation announcements. [Solicitation Number DE-FOA-0000132](#) addressed federal loan guarantees for electric power transmission infrastructure and [Solicitation Number DE-FOA-0000140](#) addressed federal loan guarantees for projects that employ innovative energy efficiency, renewable energy, and advanced transmission and distribution technologies. The two new loan guarantee solicitations are being funded partly through the American Recovery and Reinvestment Act of 2009 (the "Stimulus Act") and partly through 2009 appropriations.

Background: The Stimulus Act expanded the existing Department of Energy ("DOE") loan guarantee program under Title XVII of the Energy Policy Act of 2005 (the "EPAAct"). Initially, Title XVII of the EPAAct, pursuant to Section 1703, applied only to projects that employ new or significantly improved technologies and did not apply to any projects that implement technology that is in general commercial use in the U.S. The Stimulus Act's addition of Section 1705 does not affect Section 1703 and provides additional funding for three categories of projects that commence construction not later than September 30, 2011:

- (1) renewable energy systems, including incremental hydropower, that generate electricity or thermal energy, and facilities that manufacture related components;
- (2) electric power transmission systems, including upgrading and reconditioning projects; and
- (3) 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.

DE-FOA-0000132: Electric Power Transmission Infrastructure Projects

Solicitation # 132 addresses a subset of the projects identified in Section 1705(a)(2). An Eligible Project under Solicitation #132 must be for electric power transmission infrastructure investment which cannot be financed from private sources on standard commercial terms and it must meet at least one of the following criteria:

- The project involves new or upgraded lines of at least 100 miles of 500 kV or higher or 150 miles of 345 kV;
- The project has at least 30 miles of transmission cable under water;
- The project has a high voltage direct current (DC) component;
- The project is a major interregional connector;

- The project is designated as a National Interest Electric Transmission Corridor by DOE under the EPA Act;
- The project is associated with offshore generation, such as open ocean wave energy, ocean thermal, or offshore wind;
- The project mitigates a substantial reliability risk for a major population center; or
- A set of improvements to an integrated system within a State or region that together aggregate to meet the criteria in the first bullet above.

The DOE states that it anticipates issuing additional solicitations in the future that will afford an opportunity for the submission of additional loan guarantee applications in support of electric power transmission systems projects that do not meet the criteria set forth in Solicitation #132.

Solicitation #132 requires projects to commence construction by September 30, 2011. This means that the borrower has received all necessary licenses, permits and local and national environmental clearances necessary to proceed; has completed all pre-construction design and prototype testing; has engaged all required contractors and ordered all necessary essential equipment and supplies so that physical construction of such project has commenced or may commence on or before September 30, 2011. Further, new construction projects must commence construction, existing but postponed or interrupted construction projects must resume construction or proceed to commercial operation, and projects involving upgrades, improvements or enhancements to an existing commercial operation must commence such activity to initiate any such upgrade, improvement or enhancement, in each case, on or before September 30, 2011.

Under Title XVII, Section 1702, the DOE's guarantee may not be subordinate to another financing. The DOE states that one of its roles will be to analyze the proposed collateral and that Title XVII requires that the rights of the Secretary "shall be superior to the rights of any other person with respect to the property".

Other specific requirements of the application procedure are set forth in Solicitation #132. Parts I of all submissions are due on September 16, 2009, with a staggered Part II timeline, the first one being due on October 26, 2009.

DE-FOA-0000140: Projects that Employ Innovative Energy Efficiency, Renewable Energy, and Advanced Transmission and Distribution Technologies

An eligible participant under Solicitation # 140 includes any applicant seeking a loan guarantee under Section 1703 of Title XVII. An eligible project must employ a new or significantly improved technology that is **NOT** a commercial technology. A commercial technology means a technology in general use in the commercial marketplace in the U.S. at the time the term sheet is issued by DOE. A technology is in general use if it has been installed in and is being used in three or more commercial projects in the U.S. in the same general application as in the proposed project, and has been in operation in each such commercial project for a period of at least five years by the time the term sheet is issued. Such five-year period starts on the in service date of a given project or facility employing that technology.

Solicitation #140 provides for the payment of credit subsidy costs for those projects that also fit into one of three categories of Section 1705(a) (a renewable energy systems project, electric power transmission systems project, or leading edge biofuels project), in each case located in the U.S. and reasonably likely, at the time of the submission of the Part I submission, to commence construction on

or before September 30, 2011. Solicitation #140 makes available \$2.5 billion to pay these credit subsidy costs.

As with Solicitation #132, the DOE states that one of its roles in post-selection will be to analyze the proposed collateral and that Title VII requires that the rights of the Secretary "shall be superior to the rights of any other person with respect to the property". Other specific requirements of the application procedure are set forth in Solicitation #140. Part I applications are due between September 14, 2009 and August 24, 2010, and Part II applications are due between November 13, 2009 and December 31, 2010.

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