

LOAN GUARANTEE SOLICITATION ANNOUNCEMENT



**U.S. Department of Energy
Loan Guarantee Program**

FEDERAL LOAN GUARANTEES FOR PROJECTS THAT EMPLOY INNOVATIVE ENERGY EFFICIENCY, RENEWABLE ENERGY, AND ADVANCED TRANSMISSION AND DISTRIBUTION TECHNOLOGIES

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***See Section III.F for multiple due dates regarding Part I and Part II submissions**

TABLE OF CONTENTS

I.	Solicitation Description.....	3
II.	Eligibility Information.....	6
III.	Overview of Application Process.....	12
IV.	Application Review Process and Review Criteria.....	15
V.	Post-Selection: Project Due Diligence, Underwriting and Negotiations.....	19
VI.	Closing	23
VII.	Fees, Credit Subsidy Cost Payment and Extraordinary Costs	23
VIII.	Application Submission Requirements.....	25
IX.	Additional Information.....	26

ATTACHMENTS

A1.	Requirements for Part I Application Submission.....	29
A2.	Requirements for Part II Application Submission.....	43
B.	National Environmental Policy Act (NEPA) Guidance.....	57
C.	Schedule of Fees.....	62
D.	Loan Guarantee Application Form.....	64
E.	Examples of Eligible Projects.....	70
F.	Letter of Commitment.....	74
G.	Communication Instructions.....	76
H.	29 CFR 5.5(a) Davis Bacon Contract Provisions	79

Full Announcement

Loan Guarantee Solicitation for Innovative Energy Efficiency, Renewable Energy and Advanced Transmission and Distribution Technologies

I. Solicitation Description

A. Purpose of Solicitation

This solicitation announcement (“Solicitation”) invites the submission of applications for loan guarantees under Title XVII of the Energy Policy Act of 2005, 22 U.S.C. 16511-16514 (“Title XVII”), from the United States Department of Energy (“DOE” or the “Department”) in support of debt financing for projects in the United States that employ energy efficiency, renewable energy, and advanced transmission and distribution technologies that constitute New or Significantly Improved Technologies (as defined in Section 609.2 of the implementing regulations set forth in Part 609 under chapter II of title 10 of the Code of Federal Regulations (the “Final Regulations”). Loan guarantees issued under Section 1703 of Title XVII are intended to facilitate accelerated commercialization of energy efficiency, renewable energy and advanced transmission and distribution technologies. This Solicitation is issued in accordance with the terms and conditions of Title XVII and the Final Regulations. All applicants are encouraged to review and become familiar with the requirements of Title XVII and the Final Regulations, the provisions of which govern this Solicitation; copies of these authorities may be found at <http://www.lgprogram.energy.gov/>.

Title XVII was amended by Section 406 of the American Recovery and Reinvestment Act of 2009, P.L. 111-5 (the “Recovery Act”), to create Section 1705 authorizing a new program for rapid deployment of renewable energy and electric power transmission projects (the “Section 1705 Program”). Section 1705 of Title XVII is authorized by the Recovery Act notwithstanding Section 1703 of Title XVII. The primary purposes of the Recovery Act are job preservation and job creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization. The Section 1705 Program is designed to address the current economic conditions of the nation, in part, through rapid deployment of renewable energy and transmission projects. 1705 Eligible Projects (as defined in Section II.E below) that are selected for loan guarantees issued under Section 1705 of Title XVII will be required to comply with the Final Regulations, as well as all the requirements of Title XVII, including the provisions of Sections 1703 and 1705, and all applicable provisions of the Recovery Act.

All capitalized terms defined herein shall have the meanings ascribed to them in this Solicitation, and all capitalized terms used but not defined herein shall have the meanings ascribed to them under the Final Regulations. Neither a procurement action under title 48 of the Code of Federal Regulations (CFR) nor a financial assistance award under Part 600 of title 10 of the CFR is contemplated by this Solicitation.

DOE will make up to eight billion five hundred million dollars (\$8,500,000,000) in loan guarantee authority available under Title XVII in this Solicitation. This amount is made available under the Omnibus Appropriations Act, 2009, P.L. No. 111-8, as amended by Section 408 of the Supplemental Appropriations Act, 2009, P.L. No. 111-32 (the “FY09 Appropriations Act”), until committed in accordance with the levels of loan guarantee authority set forth in the joint explanatory statement accompanying the FY 2009 Appropriations Act. Despite the Parts I and II submission due dates set forth in Section III.F below, this Solicitation shall remain open until the aggregate \$8.5 billion in loan guarantee authority is fully obligated, subject to prior notice by DOE on or around the last Part II submission due date set forth below as to whether it will close the Solicitation or announce additional due dates for Parts I and II submissions.

In addition, the Recovery Act provides that five billion nine hundred sixty five million dollars (\$5,965,000,000) in appropriated funds be made available until expended to pay the Credit Subsidy Costs (as defined in Section VII.B below) of loan guarantees issued in accordance with Section 1705 of Title XVII for certain renewable energy systems, electric power transmission systems and leading edge biofuels projects that commence construction no later than September 30, 2011. Subject to the availability of funds, the Credit Subsidy Cost for such renewable energy systems projects, electric power transmission systems projects or leading edge biofuels projects proposed under this Solicitation may be covered by funds made available under the Recovery Act if such project satisfies all of the requirements of Title XVII, including Sections 1703 and 1705, this Solicitation and the Final Regulations, as well as all applicable requirements of the Recovery Act (“1705 Eligible Projects”). A description of the compliance requirements for a proposed project to constitute a 1705 Eligible Project is more fully set forth in Section II.E below.

Of the five billion nine hundred sixty five million dollars (\$5,965,000,000) made available under the Recovery Act, DOE will make available up to two billion five hundred million dollars (\$2,500,000,000) under this Solicitation to pay the Credit Subsidy Costs of loan guarantees made for 1705 Eligible Projects, of which up to five hundred million dollars (\$500,000,000) is set aside to pay for the Credit Subsidy Cost for Leading Edge Biofuels Projects (as defined in Section II.E below), consistent with Section 1705(d) of Title XVII. Under Section 1705(d) of Title XVII, the authority to enter into guarantees for 1705 Eligible Projects expires on September 30, 2011. It is possible that the full loan guarantee process will not be completed with respect to a 1705 Eligible Project prior to the expiration of the authority under Section 1705 to enter into guarantees. This Solicitation is specifically designed to support those 1705 Eligible Projects that are the most assured of commencing construction, and hence having a loan guarantee issued, no later than September 30, 2011, consistent with the requirement in Section 1705(a) of Title XVII. In the event a 1705 Eligible Project is reasonably likely not to commence construction on or prior to September 30, 2011, or fails to meet some other requirement of Section 1705 of the Recovery Act, the project may still be able to proceed with the loan guarantee process under Section 1703 of Title XVII if the applicant pays the project’s Credit Subsidy Cost in accordance with Section 1702(b)(2) of Title XVII.

B. Background of Loan Guarantee Program

Section 1703 of Title XVII authorizes the Secretary of Energy (“Secretary”) to make loan guarantees only for projects that “avoid, reduce or sequester air pollutants or anthropogenic emissions of greenhouse gases; and employ new or significantly improved technologies as compared to commercial technologies in service in the United States at the time the guarantee is issued.” A principal goal of Section 1703 of Title XVII is to encourage early commercial use in the United States of New or Significantly Improved Technologies in energy projects that avoid, reduce, or sequester air pollutants or anthropogenic emissions of greenhouse gases. DOE believes that accelerated commercial use of such technologies will help address the pressing issues of climate change, yield environmental benefits, sustain economic growth, and produce a more stable and secure energy supply and economy. A more complete description of DOE’s loan guarantee program may be found at <http://www.lgprogram.energy.gov>.

Only three categories of projects that commence construction no later than September 30, 2011 are eligible under Section 1705 of Title XVII and may have their Credit Subsidy Costs covered by appropriated funds under the Recovery Act: (1) “renewable energy systems, including incremental hydropower, that generate electricity or thermal energy and facilities that manufacture related components” (“Renewable Energy Systems Projects”), (2) “electric power transmission systems projects, including upgrading and reconductoring projects (“Electric Power Transmission Systems 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” (“Leading Edge Biofuels Projects”). Appropriated funds under the Recovery Act are only available under this Solicitation to cover the Credit Subsidy Cost of 1705 Eligible Projects. A description of Renewable Energy Systems Projects, Electric Power Transmission Systems Projects and Leading Edge Biofuels Projects is more fully set forth in Section II.E below.

Title XVII further requires that loan guarantees shall be based upon a determination that there is a reasonable prospect of repayment by the Borrower of the guaranteed portion of the Guaranteed Obligation and other project debt and that such guaranteed portion of the Guaranteed Obligation, together with amounts available to the Borrower from other sources, will be sufficient to carry out the project. Accordingly, DOE has developed an application process that involves a thorough analysis of the applicant’s ability to repay the guaranteed portion of the Guaranteed Obligation, meet statutory and policy goals established by Title XVII and the Final Regulations and satisfy DOE’s loan guarantee underwriting criteria.

The Office of Management and Budget (“OMB”) has issued its Updated Implementing Guidance for the Recovery Act (M-09-15), and Updated Implementing Guidance for the Reports on Use of Funds Pursuant to the Recovery Act (M-09-21) (collectively referred to herein as the “OMB Implementing Guidance”) and will be issuing additional guidance concerning the Recovery Act. Any applicant that seeks appropriated funds under the Recovery Act to cover its Credit Subsidy Cost for its proposed project must comply with, among other things, all applicable requirements of the Recovery Act, as shall be provided in any Loan Guarantee Agreement entered into between the applicant and DOE. Applicants should consult the DOE website, <http://www.energy.gov>, the OMB website <http://www.whitehouse.gov/omb>, and the Recovery Act website, <http://www.recovery.gov>, regularly to keep abreast of guidance and information as it evolves.

C. Finance Considerations for Applications

Loan guarantees issued under Section 1703 of Title XVII must satisfy specific finance requirements as set forth in the Final Regulations, particularly Section 609.10(d)(3) through (10) and (13) thereof, which must be addressed by the applicant in responding to this Solicitation. For example, as required by Section 609.10(d)(3) of the Final Regulations, the face value of the debt guaranteed by DOE under Title XVII is limited to no more than eighty percent (80%) of total Project Costs, and, consistent with Sections 609.2 and 609.10(d)(5) of the Final Regulations, the Borrower and other principals involved in the project must have made or will make a significant Equity (defined by the Final Regulations as cash) investment in the project. For additional information relating to the requirements and policy considerations of the Department’s loan guarantee program under Section 1703 of Title XVII, please refer to the Final Regulations and the preamble published in connection therewith. See 72 Fed. Reg. 60,116 (2007). 1705 Eligible Projects that are selected for loan guarantees issued under Section 1705 of Title XVII will also be required to comply with the finance requirements set forth in the Final Regulations and as discussed above.

DOE expects that the information requested under this Solicitation, and the documentation produced as a result of negotiations, will conform substantially in scope, quality and detail with the information typically requested and documentation typically produced during the course of an arm’s length, commercially negotiated project or commercial financing of this scale. DOE is mandated by Title XVII to ensure that projects financed have a reasonable prospect of repayment by the borrower of the principal and interest on the Guaranteed Obligations and other project debt and that the guaranteed portion of the Guaranteed Obligation, together with amounts available to the applicant from other sources, will be sufficient to carry out the project. DOE expects to analyze projects primarily on a limited recourse project financing basis. Under such an approach, DOE will not assume any pre-construction risks. DOE is prepared to consider a variety of financing structures as presented by applicants as long as the proposed structure provides DOE with a reasonable prospect of repayment by the borrower of the principal and interest on the Guaranteed Obligations and other project debt and that

the guaranteed portion of the Guaranteed Obligation, together with amounts available to the applicant from other sources, will be sufficient to carry out the project and otherwise satisfies Title XVII, including Section 1703, the Final Regulations and the Solicitation and, if a 1705 Eligible Project, also Section 1705 and the Recovery Act. Loan guarantee structures that fall outside the classic limited recourse project finance approach, such as corporate financings, but that meet the above criteria and assist both DOE and the applicant in efficiently meeting the objectives of Title XVII and, if applicable, the Recovery Act, are encouraged.

II. Eligibility Information

Before seeking a loan guarantee, applicants are strongly encouraged to verify that their proposed projects are not eliminated by any of the threshold determinations set forth in Section 609.7(a) of the Final Regulations. Solely with respect to projects proposed as 1705 Eligible Projects, such projects will be denied if:

(1) The project proposed as a 1705 Eligible Project will not commence construction on or before September 30, 2011 (as defined in Section II.E below).

(2) The project will not create or retain jobs in the United States (See Attachment A1.C4 and C5).

The threshold determinations set forth in Section 609.7(a) of the Final Regulations, together with those set forth above with respect to projects proposed as 1705 Eligible Projects, shall hereinafter be referred to as “Threshold Determinations.” Moreover, no loan guarantees may be issued under Section 1703 of Title XVII for a project where funds, personnel, or property (tangible or intangible) of any Federal agency, instrumentality, personnel or affiliated entity are expected to be used (directly or indirectly) through acquisitions, contracts, demonstrations, exchanges, grants, incentives, leases, procurements, sales, other transaction authority, or other arrangements, to support the project or to obtain goods or services from the project. This restriction, however, shall not be interpreted as precluding the use of the loan guarantee authority under the FY 2009 Appropriations Act for commitments to guarantee loans for projects as a result of such projects benefiting from (a) otherwise allowable Federal income tax benefits; (b) being located on Federal land pursuant to a lease or right-of-way agreement for which all consideration for all uses is (i) paid exclusively in cash, (ii) deposited in the Treasury as offsetting receipts, and (iii) equal to the fair market value as determined by the head of the relevant Federal agency; (c) Federal insurance programs, including Price-Anderson; (d) for electric generation projects, use of transmission facilities owned or operated by a Federal Power Marketing Administration or the Tennessee Valley Authority that have been authorized, approved, and financed independent of the project receiving the guarantee, or (e) grants or cooperative agreements, to the extent that obligations of such grants or cooperative agreements have been recorded in accordance with section 1501(a)(5) of title 31, United States Code, on or before May 1, 2009. The Director of OMB is required to certify in advance in writing that any loan guarantee and project issued pursuant to the authority under the FY 2009 Appropriations Act comply with this restriction. The foregoing restriction and certification requirement under the FY 2009 Appropriations Act do not apply to loan guarantees issued under Section 1705 of Title XVII under this Solicitation for which appropriated funds under the Recovery Act are expected to cover the Credit Subsidy Cost thereof.

In addition, applicants must assure that all of the eligibility requirements listed below are met:

A. Eligible Applicants

An eligible applicant under this Solicitation includes any Applicant (as defined in Section 609.2 of the Final Regulations) seeking a loan guarantee under Section 1703 of Title XVII for an Eligible Project under this Solicitation.

B. Eligible Lenders

An eligible lender under this Solicitation shall satisfy the meaning set forth under the term “Eligible Lender” in Section 609.2 of the Final Regulations and meets the requirements set forth in Section 609.11 of the Final Regulations.

C. Project Costs

Project costs under this Solicitation shall have the meaning ascribed to the term “Project Costs” in Section 609.2 of the Final Regulations, and as specifically set forth in Section 609.12 of the Final Regulations.

D. Eligible Project

In accordance with the definition set forth in Section 609.2 of the Final Regulations, an “Eligible Project” is a project located in the United States that employs a New or Significantly Improved Technology that is **NOT** a Commercial Technology. Foreign ownership or sponsorship of the project is permissible so long as the project is located in one of the fifty (50) states, the District of Columbia or a U.S. territory. Pursuant to Section 609.2 of the Final Regulations, a Commercial Technology means a technology in general use in the commercial marketplace in the United States 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 United States 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. In addition, Eligible Projects must meet all requirements of Title XVII (22 U.S.C. 16513), including Section 1703, the Final Regulations and the requirements of this Solicitation.

This Solicitation focuses on projects ready for commercial deployment in the proximate future that (1) avoid, reduce, or sequester air pollutants or anthropogenic emissions of greenhouse gases; (2) employ New or Significantly Improved Technologies as compared to Commercial Technologies in service in the United States at the time a Term Sheet is issued in respect of such project; and (3) provide a reasonable prospect of repayment of the principal and interest of the guaranteed portion of the Guaranteed Obligation and other project debt, which, when combined with the amounts available to the Borrower from other sources, will be sufficient to carry out the project. The examples of the project categories listed in Section 1703(b) of Title XVII are intended to be illustrative and are not to be construed as limiting or exclusive. Attachment E sets forth an illustrative list of project types and technology categories potentially constituting New or Significantly Improved Technologies. Applicants are encouraged to submit project proposals under Section 1703 of Title XVII that are responsive to a particular category even if the project type or technology category is not specifically listed in Attachment E. Applicants are also advised that the project types and technology categories set forth in Attachment E do not constitute projects presumed to employ New or Significantly Improved Technologies. Submission of an application supporting a project that fits within one or more of the illustrative project types and/or technology categories set forth in Attachment E neither assures that an applicant will be selected to enter into negotiations with DOE nor assures that such applicant will be issued a Loan Guarantee Agreement.

E. 1705 Eligible Projects

A 1705 Eligible Project is an Eligible Project under this Solicitation that constitutes a Renewable Energy Systems Project, Electric Power Transmission Systems Project, or Leading Edge Biofuels Project, in each case, located in the United States that (i) employs a New or Significantly Improved Technology, (ii) is reasonably likely, at the time of the submission of the Part I submission, to

commence construction on or before September 30, 2011 and (iii) meets all requirements of Title XVII, including Sections 1703 and 1705, of this Solicitation and of the Final Regulations, as well as meets all applicable requirements of the Recovery Act.

For a biofuels project to constitute a 1705 Eligible Project that is a Leading Edge Biofuels Project, it must be designed to produce transportation fuels from biomass and similar sources that substantially reduce life-cycle greenhouse gas emissions compared to other transportation fuels. Moreover, the technology utilized in Leading Edge Biofuels Projects as performing at the pilot or demonstration scale must be a New or Significantly Improved Technology that the Secretary, or his designee(s), determines is likely to become a commercial technology in order for the project to satisfy Title XVII's Section 1702(d) "reasonable prospect of repayment" requirement.

In determining whether a Leading Edge Biofuels Project substantially reduces life-cycle greenhouse gas emissions compared to other transportation fuels, DOE will consider the project's emissions reduction/gallon of gasoline or diesel equivalent replaced, and greenhouse gas reductions/\$ loan value and total project costs. In addition, in determining overall significance of the project, DOE will evaluate the scalability of the technology to a regional and national level.

For purposes of the definition of "1705 Eligible Project," the term "commence construction on or before September 30, 2011" means that the Borrower of such project 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. 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. A 1705 Eligible Project's failure to commence construction on or before September 30, 2011 will adversely impact the availability of appropriated funds under the Recovery Act to cover the Credit Subsidy Cost for the project. In the event a 1705 Eligible Project is reasonably likely not to commence construction on or prior to September 30, 2011, the project may still proceed with the loan guarantee process under Section 1703 of Title XVII if the applicant pays the project's Credit Subsidy Cost in accordance with Section 1702(b)(2) of Title XVII.

To facilitate 1705 Eligible Projects' compliance with the September 30, 2011 deadline, DOE shall require as a closing condition to the Conditional Commitment and Loan Guarantee Agreement that the applicant agree to commence any new construction, resume construction or proceed to commercial operation, or commence such activity to initiate any upgrade, improvement or enhancement within 30 days of initial disbursement under a Loan Guarantee Agreement issued pursuant to Section 1705 but in no event later than September 30, 2011. If such commencement of construction does not occur, or is not reasonably likely to occur, on or before September 30, 2011, DOE (a) may terminate (i) the Loan Guarantee Agreement, or (ii) any Conditional Commitment, if a Loan Guarantee Agreement has not been entered into by September 30, 2011, in each of (a)(i) and (ii), without any further obligations to the applicant, or (b) may offer the option to the applicant to pay the Credit Subsidy Cost for its project at the closing.

Moreover, all Eligible Projects under this Solicitation that constitute 1705 Eligible Projects must also satisfy all requirements of the Recovery Act, including the following requirements:

1. **Davis Bacon Requirements:** Section 1705(c) of Title XVII requires that a recipient of support under Section 1705 provide the Secretary of Energy with reasonable assurance that all laborers and mechanics employed in the performance of a project for which assistance is

provided, including those employed by contractors and subcontractors, will be paid wages at rates not less than those prevailing on similar work in the locality of the project, as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly referred to as the “Davis Bacon Act”). With respect to the labor standards specified in this section, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267, 5 U.S.C. App.) and section 3145 of title 40 United States Code. See <http://www.dol.gov/esa/whd/contracts/dbra.htm>. Failure to provide such reasonable assurances in respect of a project will adversely impact the availability of appropriated funds under the Recovery Act to cover the Credit Subsidy Cost for that project. The applicant will be required in the Loan Guarantee Agreement to make representations and warranties, certifications, covenant to, and satisfy conditions precedent to closing and to each disbursement that, in each case, relate to its compliance with the Davis Bacon Act and all applicable Davis Bacon Act regulations, including all requirements set forth in 29 CFR 5.5(a). The applicant will be required to insert the contract clauses in 29 CFR 5.5(a) in all contracts, subcontracts and other agreements with entities employing laborers and mechanics in the performance of the project for which Recovery Act funds are used to pay the Credit Subsidy Cost and is responsible for such compliance by any such contractor, subcontractor and other entity. Copies of these authorities may be found at http://www.dol.gov/dol/allcfr/Title_29/Part_5/Subpart_A.htm, and a copy of 29 CFR 5.5(a) is attached hereto in Attachment H.

2. **Recovery Act Reporting Requirements:** Section 1512 of the Recovery Act requires extensive reporting from the prime recipients of Federal funding. Such recipient is required to report to DOE information relating to, among other things, numbers of jobs created and retained by the project, ten (10) days after the end of each calendar quarter. While OMB has issued interim guidance on these requirements at 2 CFR §176.40 to §176.50, the Government has not fully developed the implementing instructions of the Recovery Act. Successful applicants will be required to comply with all applicable requirements of the Recovery Act, the OMB Implementing Guidance and all requirements of Title XVII (including Sections 1703 and 1705), this Solicitation, and the Final Regulations, as such requirements shall be provided for in any Loan Guarantee Agreement entered into between the applicant and DOE. Applicants should consult the DOE website, www.energy.gov, the OMB website, <http://www.whitehouse.gov/omb/>, and the Recovery Act website, www.recovery.gov, regularly to keep abreast of guidance and information as it evolves.

All reporting is expected to be posted on www.recovery.gov. Agency-wide and program-specific plans are expected also to be posted on the agency’s dedicated page for Recovery Act activities on the Recovery.gov website.

3. **Buy American:** Section 1605 of the Recovery Act prohibits the use of funds appropriated or otherwise made available by the Recovery Act for any project for the construction, alteration, maintenance, or repair of a **public** building or **public** work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States. The law requires that this prohibition be applied in a manner consistent with U.S. obligations under international agreements, and it provides for waiver under certain enumerated circumstances. OMB has issued interim guidance on these requirements at 2 CFR §176.60 to §176.70. Applicants must comply with all requirements of the Recovery Act, including this provision, and the OMB Implementing Guidance. If Section 1605 of the Recovery Act is applicable to a 1705 Eligible Project, any Loan Guarantee Agreement entered into between the applicant and DOE will require compliance with this provision. Applicants should consult the DOE website, www.energy.gov, the OMB website <http://www.whitehouse.gov/omb/>, and the Recovery website, www.recovery.gov, regularly to keep abreast of guidance and information as it evolves.

In submitting their Part I and Part II submissions, Applicants should not presume their projects constitute 1705 Eligible Projects but should prepare their business plans, and financial models, in accordance with the instructions in Attachments A1 and A2 using, on the one hand, the presumption that the Credit Subsidy Cost will be paid by the applicant or the Project Sponsor and, on the other hand, that Recovery Act funds will cover the Credit Subsidy Cost in which case their financial model and business plans should take into account the cost of compliance with the Davis Bacon requirements of Section 1705(c) of Title XVII and, if applicable, the Buy American requirements. See Attachment H for additional information on Davis Bacon contract provisions

F. Commercialization Readiness

Pursuant to Sections I.C and II.D of this Solicitation, DOE expects to receive applications for projects clearly demonstrating that the project is ready to proceed to commercialization. Projects that are currently at the pilot stage or which have not completed a full-scale demonstration project, including the capture of appropriate data as to output, processes and costs, should not apply for a loan guarantee under this Solicitation. As more fully set forth in the detailed instructions of Attachment A1, applicants must provide in their applications a minimum of 6 months operating and performance data, including 1,000 to 2,000 hours of operation data, obtained from their demonstration project. The demonstrated yield and throughput results must be supportive of the project's pro forma assumptions for the proposed commercial facility.

In addition, applicants must show in their applications that a site has been selected for the named project and that the applicant possesses control of the site, for example, through current ownership, through an option to purchase the land or through a lease agreement.

G. Technology Categories

DOE will consider as Eligible Projects those projects derived from the list of technology categories identified below and which fall within one of the two distinct project types described in Section II.H below. Attachment E provides an illustrative list of technologies potentially constituting New or Significantly Improved Technologies that fall within each of these technology categories.

- Category 1: Alternative Fuel Vehicles
- Category 2: Biomass
- Category 3: Efficient Electricity Transmission, Distribution and Storage
- Category 4: Energy Efficient Building Technologies and Applications
- Category 5: Geothermal
- Category 6: Hydrogen and Fuel Cell Technologies
- Category 7: Energy Efficiency Projects
- Category 8: Solar
- Category 9: Wind and Hydropower

Please note that the technology categories for 1705 Eligible Projects are limited to Renewable Energy Systems Projects, Electric Power Transmission Systems Projects and Leading Edge Biofuels Projects. Accordingly, Eligible Projects under Categories 1, 4, 6 and 7 above generally do not constitute 1705 Eligible Projects for which the Credit Subsidy Costs may be paid for out of funds appropriated under the Recovery Act to pay for the costs of loan guarantee issued under the Section 1705 Program.

H. Project Types

DOE is actively promoting projects that fall within the following two general but distinct project types: (1) manufacturing projects and (2) stand-alone projects. Attachment E sets forth illustrative lists of each

of these project types. The applicant is requested to specify which, if any, of the two project types and technology categories most accurately represents its project:

1) Manufacturing Projects

This project type category envisions facilities that utilize New or Significantly Improved Technologies in manufacturing which meet the minimum criteria and eligibility set forth in Title XVII, the Final Regulations, this Solicitation, and, if a 1705 Eligible Project, the Recovery Act, and which, in each case, results in long-term reductions in manufacturing and product costs, higher factory throughput and improved product performance compared to the manufacturing technologies in place at the time the Term Sheet is issued. In this project type, the manufactured product or manufacturing technology employed must represent a New or Significantly Improved Technology.

2) Stand-alone Projects

This project type category is focused on renewable energy projects that produce energy from renewable resources, produce fuels from renewable sources, utilize energy efficiency technologies, build advanced efficient electricity transmission and distribution systems, build advanced efficient renewable fuel delivery systems, build energy storage projects, or deploy energy efficient building technologies within a single project. DOE encourages applicants to propose technologies that constitute New or Significantly Improved Technologies that can be scaled to provide gigawatts of renewable energy electricity generation, widespread deployment and utilization of energy efficiency technologies, and the development of long-range electricity transmission and advanced efficient renewable fuel transportation systems connecting remote production locations with load and population centers.

The primary goals and objectives desired of each of the above project types (in no priority order) are to achieve:

- a) the greatest impact in avoiding, reducing or sequestering air pollutants or anthropogenic emissions of greenhouse gases
- b) the lowest cost of delivered energy based on the costs of the full supply chain (basic elements of production to final consumption), including minimizing needs for new infrastructure
- c) the greatest impact on reducing reliance on insecure sources of energy
- d) the greatest impact on reducing infrastructure vulnerabilities
- e) the fastest time to project completion
- f) the extent to which the proposed technology employed constitutes a New or Significantly Improved Technology
- g) the most competitive or efficient use of the loan guarantee issued under Title XVII
- h) the readiness of the New or Significantly Improved Technology to be employed commercially, replicated and available for further commercial use in the United States
- i) the greatest use of a New or Significantly Improved Technology(ies) that constitute(s) an important improvement(s) in technology, as compared to Commercial Technologies in service in the U.S. at the time the Term Sheet is issued and as compared to technologies proposed in other applications submitted in response to this Solicitation.
- j) the greatest extent by which the DOE loan guarantee facilitates the proceeding of the project.

III. Overview of Application Process

A. Objectives

This Solicitation requires applicants to submit timely information in sufficient detail to support a thorough analysis of the project's compliance with the objectives and requirements established by Title XVII, applicable portions of the Recovery Act, the Final Regulations and this Solicitation, as well as the rigorous underwriting criteria appropriate for projects of this scale. Applicants must satisfy the "Finance Considerations for Applications" set forth in Section I.C. above, including demonstrating that there is a reasonable prospect of repaying the principal and interest on the guaranteed portion of the Guaranteed Obligation and other project debt which will be incurred.

B. General Schedule

The application is divided into two parts, namely a Part I and a more detailed Part II. A fully completed Part I submission, together with a substantially complete Part II submission, prepared in accordance with Section 609.6 of the Final Regulations, all requirements of Title XVII (including Section 1703 and, if a 1705 Eligible Project, Section 1705), the Recovery Act (if a 1705 Eligible Project), and other requirements of this Solicitation, shall constitute a substantially complete application under this Solicitation (an "Application"). The Part I submission is expected to provide DOE with a summary level description of the project, project eligibility, financing strategy and progression to date in critical path schedules. These schedules include items such as licensing or regulatory permits and approvals, site preparation and long lead procurements, and provide DOE with the basis for determining the overall eligibility of the project. The Part II submission consists of the items required by Section 609.6 of the Final Regulations that were not due in the Part I submission, as well as other requested items of information expected to facilitate DOE's due diligence review. Detailed instructions for the contents of the Parts I and II submissions are set forth in Attachments A1 and A2, respectively. Instructions for the format requirements of Parts I and II submissions are set forth below in Section VIII, "Application Submission Requirements." A complete Part I submission must be received by the DOE not later than 11:59pm Eastern Time ("ET") on any of the due dates for the rounds of review for Part I submissions as set forth in Section III.F below. Payment for the initial 25% application fee must be paid contemporaneously with the applicant's Part I submission in accordance with the instructions in Attachment C. None of the application fee is refundable. See Attachment G for details on communication procedures.

Subject to the availability of loan guarantee authority, and as set forth in Section III.F below, there will be seven (7) rounds of reviews for Parts I and II submissions. All Part II submissions filed with DOE during any such round of review shall be competitively evaluated against all such filings submitted during that round, subject to DOE's right to defer, in its sole discretion, consideration of an application submitted in such round to a subsequent round of review because the application is incomplete. The Part II information may be filed at any time (subject to the Part II submission due dates set forth in Section III.F below) after DOE's notification to the applicant that its Part I submission is complete and that the project has been determined to be an Eligible Project and, if applicable, a 1705 Eligible Project under this Solicitation. Accordingly, Part II submissions may be filed no later than 11:59pm Eastern Time ("ET") on any of the due dates set forth in Section III.F below for rounds of Part II submissions but in no event later than 11:59pm ET on December 31, 2010, the due date for the final round of Part II submissions. The remaining 75% of the application fee must be paid contemporaneously with the applicant's filing of its Part II submission in accordance with the instructions in Attachment C. None of the application fee is refundable.

C. Multiple Applications

A Project Sponsor may only submit one application for one project employing a particular technology. In other words, consistent with Section 609.3(a) of the Final Regulations, a Project Sponsor may not submit an application for multiple projects using the same technology. However, a Project Sponsor may submit a separate application for each different technology or different project type (i.e., manufacturing, stand alone) it wishes to submit to DOE for consideration.

D. Competitive Review Process

In order to encourage submissions of substantially complete applications as early as possible after the date of this Solicitation, Part I and Part II submissions will be systematically reviewed on a continuous basis as soon as they are received. Applicants applying in earlier rounds of reviews will enjoy a first mover's advantage in terms of order of priority of review. Complete applications must contain the information items listed in Section 609.6 of the Final Regulations and as required by this Solicitation in Attachments A1 and A2. DOE will competitively evaluate against each other all Part II submissions filed with DOE during any given round of review as specified in Section III.F below. However, DOE reserves the right to include any incomplete Part II submission received during one round of Part II submissions in the competitive evaluation of applications received during a subsequent round of Part II submissions, affording the applicant the time to complete its Part II submission. As more fully described in Section III.G below, selection of projects for due diligence review will be made after the closing of each round of Part II review.

E. Self-Selection

DOE's assessments of the Part I applications will provide applicants information to assist in their making a self-selection decision as to whether to proceed with the cost and effort of completing a full application, including Part II. The overall objective of this process is to identify and accelerate the review of strong projects and, in the case of 1705 Eligible Projects, strong projects with substantial progress or likelihood to commence construction by September 30, 2011, which is, in each case, well documented in the Part I submission. The Part II submission may be filed at any time (subject to the Part II submission due dates set forth in Section III.F below) after DOE's notification to the applicant that its Part I submission is complete and that the project has been determined to be an Eligible Project and, if applicable, a 1705 Eligible Project under this Solicitation.

If an applicant decides to proceed with a Part II submission, the applicant must update the information provided in its Part I submission and make a substantially complete Part II submission not later than 11:59pm ET on any of the due dates set forth in Section III.F below for rounds of Part II reviews but in no event later than 11:59pm ET on December 31, 2010, the due date for the final round of Part II submissions.

F. Part I and Part II Submission Schedule

Complete Part I and Part II submissions must be received by DOE no later than 11:59 PM Eastern Time ("ET") based on the schedule outlined below. Each corresponding Part I and Part II submission due date shall be considered a round. In accordance with the instructions in Attachment C, payment for the initial 25% application fee must be paid contemporaneously with the applicant's Part I submission, and the remaining 75% of the application fee must be paid contemporaneously with the applicant's Part II submission. None of the application fee is refundable.

The following table summarizes the application schedule for Part I and Part II submissions. The Part II information may be filed at any time (subject to the Part II submission due dates set forth below) after DOE's notification to the applicant that its Part I submission is complete and that the project has been

determined to be an Eligible Project and, if applicable, a 1705 Eligible Project under this Solicitation. Any Part II submission must update the Part I submission, as appropriate.

Table 1: Part I and Part II Submission Due Dates

Round	Part I Submission Due	Part II Submission Due Date
1	September 14, 2009	November 13, 2009
2	October 22, 2009	January 15, 2010
3	December 23, 2009	March 12, 2010
4	February 18, 2010	May 14, 2010
5	April 22, 2010	July 19, 2010
6	June 24, 2010	September 17, 2010
7	August 24, 2010	December 31, 2010

In the event any of the above due dates falls on a Saturday, Sunday or federal holiday, then such due date shall be deemed to be the next following business day. Applicants are advised to make proper arrangements to assure that Treasury receives applicable fees with corresponding submissions by the dates specified above. See Attachment G for details on communication procedures.

G. Initial Selection to Begin Due Diligence, Underwriting and Negotiation

DOE will evaluate substantially completed applications, including each of the Part I and Part II submissions, based upon the factors summarized in Section IV.B below and will make decisions as to whether to begin due diligence on projects competitively evaluated during a given round of Part II review after the closing of such round. At any time following the due date for any particular round of Part II submissions, DOE may approve, for purposes of proceeding to due diligence, underwriting and negotiation, the selection of applicants meeting the objectives of Title XVII and, if a 1705 Eligible Project, of the Recovery Act, as well as the underwriting criteria for this Solicitation. DOE shall endeavor, but is not required, to review the Part II submissions filed during a given round and make a recommendation for or against selection for due diligence review within two months from the closing date of such round of review. Each applicant selected for due diligence will receive written notice from DOE of its intent to proceed with due diligence and underwriting with respect to such applicant's project.

H. Communications

DOE may require that each written submission be followed with an oral presentation by the applicant (e.g., by teleconference or face-to-face meeting) to discuss and clarify the submission and agree on next steps. Moreover, DOE may request additional information to clarify information submitted by applicants. Such requests by DOE for additional information, documentation, or briefings do not signify that a project has been approved for a loan guarantee.

I. Non-Selection and Future Consideration

Pursuant to Section 609.7(d) of the Final Regulations, applicants with whom DOE decides not to proceed with further negotiations, based on a Part I and/or Part II submission, will be informed in writing of the reason for DOE's decision not to proceed with the application. Such determination by DOE shall be final and non-appealable, with respect to any given round of review, but will not prejudice the applicant from applying under a future solicitation under which it is eligible to apply or resubmitting new and updated Parts I and II, and paying an application fee in respect of such resubmissions, if the submission due dates have not expired under this Solicitation.

IV. Application Review Process and Review Criteria

A. Part I Submission Evaluation

Upon receipt of a Part I application, DOE will conduct a review of the application for purposes of (i) ascertaining its responsiveness with respect to the Threshold Determinations set forth in Section II above and completeness of information supplied in accordance with the instructions in Attachment A1 and the requirements of this Solicitation, (ii) assessing technical readiness for near-term commercial application, (iii) determining whether the proposed technology is deemed to constitute a New or Significantly Improved Technology that avoids, reduces or sequesters anthropogenic emissions of greenhouse gases or air pollutants based on the review criteria set forth in Attachment A1.B2 and A1.B3, and (iv) if applicable and requested by the applicant, determining whether the project may qualify as a 1705 Eligible Project.

In addition to the Threshold Determinations, Part I submissions will be preliminarily reviewed based on the mandatory factors outlined below and will require continued validation during the applicable Part II review and during any due diligence phase:

- a. The project must employ New or Significantly Improved Technologies, as compared to Commercial Technologies in service in the U.S. at the time the Term Sheet is issued (as such capitalized terms are defined in Section 609.2 of the Final Regulations).
- b. The project must, at a minimum, employ in the United States at the time the Term Sheet is issued a New or Significantly Improved Technology that avoids, reduces or sequesters anthropogenic emissions of greenhouse gases or air pollutants.
- c. Solely with respect to projects for which applicants seek to qualify as a 1705 Eligible Project, the applicant shall have provided evidence sufficient to demonstrate that application for all permits, licenses and approvals necessary to enable the project to commence construction by September 30, 2011 have been, or will timely be, submitted to appropriate federal, state and local authorities.
- d. The project site is identified.

DOE will notify in writing applicants with responsive Part I submissions for projects employing a technology deemed to constitute a New or Significantly Improved Technology of its intention to proceed with further evaluation, subject to validation of the technology during a round of Part II review, and payment to DOE of the balance (75%) of the application fee submitted in accordance with the instructions set forth in Attachment C. DOE will also provide in this notice an indication as to whether the proposed project may constitute a 1705 Eligible Project. Applicants with Part I submissions denied further review will receive a written notification pursuant to Section 609.7(d) of the Final Regulations informing the applicant of the reasons for such determination and that no further consideration will be given to its application as submitted. Such determination by DOE shall be final and non-appealable.

B. Part II Submission Evaluation

Upon receipt by DOE of a Part II submission after DOE notifies the applicant regarding its Part I submission, DOE will conduct an evaluation of the Part I submissions, together with substantially complete Part II submissions, based on the evaluation criteria, in accordance with their respective weightings, in each case, set forth below. DOE will make decisions as to whether to begin due diligence on projects competitively evaluated during a given round of Part II reviews after the closing of such round. At any time following the due date for any particular round of Part II submissions, DOE may approve for purposes of proceeding to due diligence, underwriting and negotiations, the selection

of applicants meeting the requirements of Title XVII and, if a 1705 Eligible Project, the requirements of the Recovery Act, as well as the underwriting criteria for this Solicitation. During this period of review, communications from the applicant to DOE are generally not permitted with respect to an application, except in instances when the applicant is required to respond to DOE's written notification to such applicant.

A mandatory criterion which DOE will use during each round of Part II reviews in determining which Project Sponsors/applicants will proceed to the negotiation stage is whether the project provides a reasonable prospect of repayment of the principal and interest by the applicant on the guaranteed portion of the Guaranteed Obligation and other project debt, which, when combined with amounts available to the applicant from other sources, will be sufficient to carry out the project.

If this mandatory requirement is not validated in any given round of Part II reviews, such application will not receive further consideration. Consistent with the factors in Section 609.7 of the Final Regulations, DOE shall consider the following factors in determining to make guarantees to proposed projects under this Solicitation:

1) Specific Weighting Criteria

Specific weighting criteria, as noted in Table 2 below, will be applied during the Part II review of any project.

Table 2: Review Criteria

Factors	Detail	Weighting
<u>Technical</u>	Technical Relevance and Merit	15.0%
	Applicant Capabilities, Technical Approach and Work Plan	20.0%
	Environmental Benefits	15.0%
<u>Financial</u>	Creditworthiness	30.0%
	Construction Factors	10.0%
	Legal and Regulatory Factors	10.0%
Total		100.0%

a. Technical Review Criteria

Technical Relevance and Merit

Based on the criteria set forth in Section B-3 of Attachment A1, DOE will consider the extent to which the project will (i) employ New or Significantly Improved Technologies as compared to Commercial Technologies in service in the U.S. at the time the Term Sheet is issued, (ii) consistent with Section 609.7(b)(3) of the Final Regulations, employ a New or Significantly Improved Technology that constitutes an important improvement in technology, as compared to Commercial Technologies in service in the U.S. at the time the Term Sheet is issued and as compared to technologies proposed in other applications submitted in response to this Solicitation and (iii) advance other Title XVII objectives.

Applicant Capabilities, Technical Approach and Work Plan

DOE will evaluate the clarity and technical strength of the approach to achieve the project's objectives, including, but not limited to, (1) the potential for replicability of commercial use of the technology in the United States, (2) the potential for future long-lasting commercial success of the project and the technology, (3) technical readiness for near-term commercial application, (4) risk and mitigation plan(s) associated with bringing the technology to fruition, (5) timeframe required to achieve results contemplated in the application, and (6) solely with respect to projects proposed as 1705 Eligible Projects, the project's ability to commence construction on or before September 30, 2011 based on factors, including (i) the extent to which all required contractors have been engaged, (ii) the readiness for delivery of major components and

equipment, (iii) the extent to which all pre-construction design and prototype testing has been completed, (iv) the extent to which definitive interconnection agreements (if applicable) have been finalized and executed, (v) the creditworthiness of the buyer under any transmission service agreement, if applicable, or other offtake agreement, (vi) the likelihood and nature of rate base treatment, if applicable, and (vii) the extent to which all necessary land rights and state and local permits, as well as the environmental clearances necessary to proceed, have been obtained or approved. Note that DOE may require additional information to clarify, supplement or explain these descriptions.

In addition, this review will evaluate the project's construction plan, overall construction risk associated with the contingencies for equipment supply, selected prime mover equipment, order of operations, mobilization schedules, delivery timelines, performance milestones, equipment integration scale-up challenges, acceptance/commissioning factors and other relevant considerations.

Environmental Benefits

DOE will evaluate to what measurable extent the project avoids, reduces or sequesters air pollutants and/or anthropogenic emissions of greenhouse gases, as well as the life-cycle and sustainability of the primary technology and project facility.

Additional Technical Policy Criteria

DOE will also consider technological diversity as a non-weighted technical criterion. More specifically, DOE will consider whether the project provides for portfolio diversity, as well as contributes to a balance across differing technical areas. Those Eligible Projects that support the generation of power from renewable energy sources will receive special consideration.

b. Financial Review Criteria

Creditworthiness of the Project

DOE must consider the proposed project's capacity to provide a reasonable prospect of repayment (e.g., economic viability, cash flow sufficiency to service the debt obligations over the life of the loan guarantee, etc.) of the principal and interest of the guaranteed portion of the Guaranteed Obligation and other project debt, which, when combined with amounts available to the applicant from other sources, will be sufficient to carry out the project. DOE will consider Project Sponsor experience and financial capability, the scope and timing of equity commitments, the Project Sponsor's ability to pay in full transaction costs arising out of the project (e.g., fees and expenses for DOE's independent consultants and outside counsel as they are presented for payment on a periodic basis as discussed in Section IV.C of this Solicitation) on a timely basis, and credibility of the business and financial plans, as well as overriding market factors that could significantly influence the success of the project. Specifically, market risk will be evaluated, taking into account the resiliency of the project against market uncertainty. Demonstration of long-term supply feedstock and production off-take arrangements, including power purchase agreements where available and appropriate, will be significantly weighted. In accordance with Section 609.7(a) of the Final Regulations, greater weight will be given to applications that rely upon a smaller guarantee percentage, all else being equal.

Construction Factors

DOE will evaluate the project's construction cost, financial integrity of the general contractor (and any related liquidated damages and guarantees), as well as any cost overrun reserve facilities. In evaluating the risk of cost overruns in any given project, DOE will be required to undertake an analysis of, among other things, whether the guaranteed portion of the Guaranteed Obligation, together with amounts available to the applicant from other sources, will be

sufficient to carry out the project. In addition, DOE will evaluate the technology's component manufacturers.

Legal and Regulatory Issues

DOE will evaluate the project's capacity to mitigate risk from potential legal and regulatory issues that could jeopardize the success of the project. Areas of review will include intervenor, permitting and public acceptance risks.

Additional Financial Policy Criterion

DOE will also consider, each as a non-weighted financial criterion, the best use of the loan guarantee (e.g., demonstrates the most efficient and competitive uses of the loan guarantee) and the extent to which private financing on standard commercial terms is available to the project.

c. Additional Review Factors

Other than the mandatory criteria, none of the above list of evaluation factors are considered mandatory requirements but are rather evaluated as factors in this Section IV.B. DOE's intention is to fund through this Solicitation the combination of projects that together best meets the criteria in Title XVII, Section 609.7 of the Final Regulations, and in the case of 1705 Eligible Projects, the Recovery Act. Proposed projects eliminated by any of the Threshold Determinations in Section 609.7(a) of the Final Regulations and Section II above will not receive any further consideration.

d. Review Factors for Electric Power Transmission System Projects Only

Consistent with the objectives and terms of the Recovery Act, including Section 1705(b) of Title XVII, DOE shall consider the following factors in determining to make guarantees to 1705 Eligible Projects that are Electric Power Transmission System Projects:

- (a) The viability of the project without guarantees (whether from DOE or otherwise)
- (b) The availability of other Federal and State incentives (e.g., incentives other than the DOE loan guarantee)
- (c) The importance of the project in meeting reliability needs (e.g., the reliability needs of the national or local electric grid)
- (d) The effect of the project in meeting the environment (including climate change) and energy goals of the nation, a State or region of the United States (e.g., such goals of the State and/or region in which the project is located)

None of the above list of evaluation factors is considered a mandatory requirement but is rather evaluated as a factor in any 1705 Eligible Project, along with the other criteria described above in this Solicitation and as set forth in Section 609.7(b) of the Final Regulations.

C. Independent Consultants and Outside Counsel to DOE:

DOE expects to use independent consultants and financial and technical DOE staff in the review of Part I and Part II submissions to determine which projects will be selected for due diligence. The application fees submitted by the applicant will cover internal DOE costs associated with these reviews.

DOE expects to use independent consultants and outside legal counsel in all aspects of the loan guarantee process, including but not limited to, due diligence, underwriting, negotiation, documentation and operations. Applicants are advised that the applicant shall be responsible for paying the fees and expenses of DOE's independent consultants and outside legal counsel in connection with applicant's project under all circumstances.

At any time following the date on which the initial portion of the application fee is due (see Section V below), DOE may determine, at its sole discretion, to engage independent consultants or outside counsel with respect to an application. Upon making such determination, DOE shall proceed in evaluating and the processing of an application only upon a Project Sponsor's entering into a payment agreement regarding each consultant or outside counsel engaged by DOE to provide services to DOE on the applicant's project. Such payment agreements are subject to review and approval by DOE and shall be executed by a Project Sponsor of acceptable creditworthiness prior to any work being performed by the consultant or outside counsel.

In the event that a Project Sponsor fails to comply with the provisions of such payment agreement, DOE may stop work on the application and/or reject an application. The payment agreements shall require that the responsible Project Sponsor or Borrower make periodic payments for the fees and expenses of DOE's independent consultants and outside counsel during the loan guarantee process, including prior to a financial closing (if any).

DOE's independent consultants and outside counsel shall submit to the responsible Project Sponsor or Borrower periodic invoices for services rendered to DOE with respect to applicant's project. Prior to submission of any invoice to a responsible Project Sponsor or Borrower, the independent consultant or outside counsel shall have submitted the invoice to DOE for purposes of determining the reasonableness of the fees and expenses so invoiced and for redacting any privileged attorney-client information. Responsible Project Sponsors and Borrowers shall acknowledge and make payment for all fees and expenses represented by such invoices upon their periodic presentation thereof, including prior to or at closing (if any).

Applicants are advised that such services shall be rendered for the benefit of DOE in connection with an applicant's project and that DOE is the client of such independent consultants and outside counsel. Each applicant, Borrower and its responsible Project Sponsor must specifically disclaim any inference of confidential, fiduciary or other client relationship (including an attorney-client relationship) between such applicant, Borrower or its responsible Project Sponsor and such independent consultant or outside counsel as a result of this arrangement and shall not interfere with DOE's relationship (including any attorney-client relationship) with such independent consultants or outside counsel, including DOE's ability to terminate.

V. Post-Selection: Project Due Diligence, Underwriting and Negotiations

The project due diligence, underwriting and negotiation phase of the loan guarantee process will involve DOE's detailed examination of the project, including reviews of the applicant's technical information, business and financial plans, and proposed organizational structure and staffing. DOE's due diligence will be conducted during this phase but cannot conclude until all application materials have been received in final form and have been properly evaluated. To the extent aspects of the project have changed from the information provided in the Part I and Part II submissions, DOE's analysis and conclusions regarding the project may change. Likewise, if a material change occurs following Credit Review Board ("CRB") approval of a Term Sheet (as discussed below), the applicant must submit to DOE updated project information reflecting the modifications, which may in turn require resubmission to, and reconsideration by, the CRB. As such, to the greatest extent possible, applicants should endeavor to capture all material information in the initial submission of any required item in support of its application in order to avoid slowing down the decision-making process due to the need to resubmit updated material information.

As discussed more fully above in Section IV.C of this Solicitation, in the course of DOE's due diligence review and negotiations with an applicant, DOE may utilize the services of independent engineering, technical, financial and marketing consultants and outside counsel. The applicant shall be responsible

for paying the fees and expenses of DOE's independent consultants and outside legal counsel in connection with applicant's project under all circumstances.

As part of its comprehensive project underwriting process, DOE will undertake the following steps:

A. Evaluate Financing Plan

1. This involves a thorough review of the sources and uses of funds as proposed by the applicant. Aspects of the review will involve but is not be limited to:
 - Analysis of the adequacy, leverage and timing of the proposed sources of funding (with equity funded either in advance of, or concurrently with, debt during the construction period);
 - Review of the terms and rights of the various funding sources and degree of commitment;
 - Determination of compliance with requirements of Title XVII, the Final Regulations, this Solicitation and, with respect to 1705 Eligible Projects, of the Recovery Act; and
 - Assessment of the adequacy of proposed contingency and reserve funding.

B. Assess Financial Viability

Based on the financing plans submitted with the application and updates, and projections for future financial performance, DOE will assess the financial viability of the project with specific emphasis on the borrower's expected ability to repay the guaranteed portion of the Guaranteed Obligation and other project debt. An important consideration in the financial viability assessment will be an evaluation of the assumptions underlying projected revenues and expenses and the likelihood that assumed technical performance will be achieved.

In accordance with Section 609.6(b)(21) of the Final Regulations, for projects where the estimated total Project Costs exceeds \$25 million, the applicant must provide a preliminary credit assessment for the project, if the project is proposed as a project finance structure, or the borrower's most recent corporate credit rating if the project is proposed as a corporate finance structure, in each case, without giving effect to the DOE loan guarantee, and from a nationally recognized rating agency. The preliminary assessment or the corporate credit rating shall examine, as applicable, the project as structured, or the borrower, but, in each case, in the absence of a loan guarantee from DOE, and shall identify any material assumptions utilized by the rating agency in its analysis. For projects where the estimated total Project Costs is \$25 million or less, in the sole discretion of the Department, DOE may require such an assessment or corporate credit rating as well.

C. Determine Technical Efficacy

This evaluation will commence with a thorough review of the applicant's engineering report (described in Attachment A2), including consideration of factors such as environmental impact, infrastructure requirements and, if an Electric Power Transmission Project, environmental (including climate change) and energy goals. DOE may utilize its internal technical resources as well as independent third-party advice in reviewing the project's technical efficacy. DOE encourages each applicant to be as comprehensive as possible in obtaining the advice and services of its engineers. Determination of the technical merit of the project will be influenced by the quality of the applicant's engineering report, including the professional credentials of the consultant, scope of the undertaking, and strength of the opinions provided. In addition to the technical merits in terms of the engineering and construction plan, solely with respect to Electric Power Transmission Systems Projects, there will be an assessment of the ability of the project to enhance regional reliability goals, as well as to facilitate the meeting of environmental (including climate change) and energy goals of the nation or affected State or region.

D. Review Project Legal Structure

As part of its due diligence work, DOE will review the project's legal structure. This will involve analysis of draft and final legal agreements among project participants, including equity owners, financing sources, engineering and construction contractors, operation and maintenance contractors, equipment suppliers, host communities, and any other counter-parties of interest. Additionally, a legal review will include an analysis of the intellectual property rights of participants in the project to ensure that the project can use all of the proposed technology to be employed in the project.

E. Evaluate Project Risks

As part of its review, DOE will identify, assess and estimate the impact of risks associated with the project. Based on the outcome of the technical, financial and legal reviews, the analysis will determine the types and magnitude of the risks associated with the project, proper risk allocation among the parties, and the extent to which risks have been mitigated.

F. Perform Financial Model Review and Stress-Testing

Modeling is a critical tool in assessing the project's expected financial performance and ability to service debt. DOE will verify the applicant's calculations, which, if the applicant is seeking to qualify its project as a 1705 Eligible Project, must, pursuant to Section 1705(c) of Title XVII, take into account the cost of complying with the Davis Bacon Act and all applicable Davis Bacon Act regulations pursuant to Section 1705(c) of Title XVII and must, if applicable, also take into account the Buy American provision under Section 1605 of the Recovery Act. Applicants in submitting their Part I and Part II submissions should not presume their projects constitute 1705 Eligible Projects but should prepare their business plans, and financial models, using, on the one hand, the presumption that the Credit Subsidy Cost will be paid by the applicant or the Project Sponsor and, on the other hand, that Recovery Act funds will cover the Credit Subsidy Cost in which case their financial model and business plans should take into account the cost of compliance with the Davis Bacon requirements of Section 1705(c) of Title XVII and, if applicable, the Buy American provision under Section 1605 of the Recovery Act. See Attachment H for additional information on Davis Bacon contract provisions. The modeling must quantify the impacts of risks by stress-testing the model to understand how changes in model assumptions can affect the project's capacity to make full and timely repayments of the loan. This will be accomplished through the utilization of the corporate or project financial model submitted as part of the application and through a financial model developed by DOE.

G. Assess Strengths and Weakness of Project Sponsors

This step of the process will examine the Project Sponsors' investment to date and capability to implement the project as proposed from both financial and managerial perspectives. Specific considerations include, but are not limited to:

- The Project Sponsors' track record in project development and in the specific technology proposed in the application;
- The Project Sponsors' financial strength and resources;
- The strategic value of the project to the Project Sponsors; and
- The experience and expertise of the management team, particularly as it relates to operation of the proposed project.

H. Analyze Proposed Collateral

Title XVII requires that, with respect to any property acquired pursuant to a guarantee or related agreements, the rights of the Secretary shall be superior to the rights of any other person with respect to the property. The value of the collateral will be examined in detail, particularly under default scenarios. This evaluation will be based on, among other things, the nature of the collateral pledged, appraiser reports submitted by the applicant, and expected cash availability under a default scenario. Eligible Lenders or other Holders, other than the Federal Financing Bank, may, during this analysis, initiate discussions with DOE on a plan of liquidation of the assets expected to be pledged to secure the Guaranteed Obligation. Any agreement by DOE with respect to sharing the proceeds following any liquidation shall be documented in a written agreement among DOE, the Borrower and such other collateral holders and shall be subject to the approval of the Secretary at or prior to the closing.

I. Analyze Environmental Impact

The applicant must provide enough information to enable DOE to determine the level of NEPA review that would be required if the applicant were selected to begin negotiations with DOE. In cases where an Environmental Impact Statement (“EIS”) is required, with respect to an application, DOE will prepare an EIS, or, as appropriate, adopt an EIS prepared by other federal agencies for the corresponding project and issue a record of decision (“ROD”) stating what the decision is and identifying alternatives considered. The ROD will also state whether all practicable means to avoid or minimize environmental harm from the alternative selected have been adopted. The process under the National Environmental Policy Act (“NEPA”) and the list of environmental data that should be included in the application are found in Attachment B.

J. Issuance of Term Sheet

Upon the execution of a Term Sheet as described in Section 609.8 of the Final Regulations, the applicant must pay to DOE twenty percent (20%) of the non-refundable facility fee (or Second Fee) as set forth in Attachment C for its application to be considered further. (The balance, or eighty percent (80%), of the facility fee (Second Fee) will be due and payable at the closing of the Loan Guarantee Agreement). If a project recommended by the CRB for approval subsequently undergoes a material change, a revised CRB review package will have to be re-submitted to the CRB for review and decision.

Pursuant to Section 609.7(d) of the Final Regulations, applicants with whom DOE decides not to proceed further with the issuance of a Term Sheet will be informed in writing of the reason for DOE’s decision not to proceed with the application. Such determination by DOE shall be final and non-appealable but will not prejudice the applicant in any future solicitation under which it is eligible to apply or resubmitting new and updated Parts I and II, and paying an application fee in respect of such resubmissions, if the submission due dates have not expired under this Solicitation.

K. Conditional Commitment

In accordance with Section 609.8 of the Final Regulations, a Conditional Commitment, if entered into by an applicant and DOE, will be conditionally binding and will include, among others, the following terms:

- Material change qualifiers;
- A series of conditions precedent to the closing of the loan guarantee transaction;
- Expiration dates; and
- Termination provisions for failure to pay fees according to DOE’s schedule.

The Secretary may terminate a Conditional Commitment for any reason at any time prior to the closing of a Loan Guarantee Agreement, as described in Section 609.2 of the Final Regulations. The Secretary may not delegate the authority to terminate a Conditional Commitment.

VI. Closing

At or prior to the financial closing and execution of the Loan Guarantee Agreement with respect to an Eligible Project that is not a 1705 Eligible Project, DOE shall receive from the applicant and/or the Project Sponsor the non-refundable Credit Subsidy Cost in full and deposit such payment into the Treasury, and the applicant shall pay the non-refundable maintenance fee (or Third Fee) in accordance with Attachment C and Section VII.A below. With respect to 1705 Eligible Projects, DOE will pay, subject to the availability of funds, the Credit Subsidy Cost for a loan guarantee issued under Section 1705 for a 1705 Eligible Project under this Solicitation provided that the project satisfies all of the applicable requirements of Title XVII, including Section 1705, and of the Recovery Act, the Final Regulations and this Solicitation, and the applicant shall pay the non-refundable maintenance fee (or Third Fee) in accordance with Attachment C and Section VII.A below.

The general closing process and requirements are described in Section 609.9 of the Final Regulations. Without limitation, the applicant will be required to deliver to DOE no later than 30 days prior to the closing a final credit rating for the project, if project financed, or, if corporate financed, a letter confirming that the most recent corporate credit rating of the Project Sponsor has been reconfirmed or, as appropriate, updated, in each case, from a nationally recognized credit rating agency, without giving effect to the DOE loan guarantee. DOE will consider this information in its final calculation of the Credit Subsidy Cost.

VII. Fees, Credit Subsidy Cost Payment and Extraordinary Costs

A. Fees

Section 1702(h) of Title XVII requires DOE to “charge and collect fees ... sufficient to cover applicable administrative expenses” of the loan guarantee program but affords DOE discretion with respect to how to impose such fees. The Final Regulations specify the stages of the loan guarantee process at which applicants must pay to DOE Administrative Costs of Issuing a Loan Guarantee. Section 609.10(c) of the Final Regulations also provide that “no funds obtained from the Federal Government, or from a loan or other instrument guaranteed by the Federal Government, may be used to pay ... administrative fees, or other fees charged by or paid to DOE relating to the Title XVII program or any loan guarantee there under.” A fee schedule for this particular Solicitation is presented in Attachment C. These fees are non-refundable and will be due in full as specified below:

- **Application Fee:** A portion (25%) of the application fee must be submitted with the application at the time of the Part I submission. The remainder (75%) of the application fee must be submitted with the application at the time of the Part II submission. This fee recovers costs associated with DOE’s administrative costs incurred in connection with the pre-selection evaluation of an application.
- **Facility Fee:** The facility fee (or Second Fee) as set forth in Attachment C is due as follows: (i) 20% of the Facility Fee is due upon the execution by the applicant of the Term Sheet approved by the CRB and (ii) 80% of the facility fee is due upon the closing date of the Loan Guarantee Agreement.
- **Maintenance 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 and shall be either (i) payable each year in advance, commencing upon the closing date of the Loan Guarantee Agreement, in the amount specified in the Loan Guarantee Agreement, or (ii) if provided for in the Loan Guarantee Agreement, payable as an one-time fee at the closing in a lump sum amount equal to the aggregate sum of such annual fees specified in the Loan Guarantee Agreement for the entire term of the loan guarantee, discounted to net present value.

B. Loan Guarantee Credit Subsidy Cost

Section 1702(b) of Title XVII provides that DOE must receive either an appropriation for the Credit Subsidy Cost of a loan guarantee or, in lieu of an appropriation, a cash payment of such cost directly from the applicant. The Credit Subsidy Cost is the net present value of the estimated cost to the U.S. government of the loan guarantee as determined under the applicable provisions of the Federal Credit Reform Act of 1990, as amended (“FCRA”). Applicants are advised that appropriations are not available to cover the Credit Subsidy Costs associated with the potential loan guarantees issued under this Solicitation for Eligible Projects that are not 1705 Eligible Projects. Therefore, other than with respect to 1705 Eligible Projects, DOE anticipates that the project(s) approved pursuant to this Solicitation will require the Project Sponsor or applicant to pay the non-refundable Credit Subsidy Cost directly and in full at or before the closing. DOE will deposit into the Treasury such payment received. In cases where the applicant will be required to pay the Credit Subsidy Cost, DOE is committed to making every effort to provide a preliminary estimate of the Credit Subsidy Cost for the desired loan guarantee no later than at the issuance of a Term Sheet to the Project Sponsor or applicant, consistent with 72 Fed. Reg. at 60,129. The final Credit Subsidy Cost determination can only be made at the time of the Loan Guarantee Agreement and may differ from the preliminary estimate of the Credit Subsidy Cost, depending on project-specific and other relevant factors including final structure, the terms and conditions of the debt supported by the Title XVII guarantee and risk characteristics of the project. In accordance with Section 609.10(c) of the Final Regulations, the applicant may not finance this payment of the Credit Subsidy Cost through funds obtained from the federal government or through a loan made or guaranteed by the federal government, unless otherwise explicitly authorized by an act of Congress. Similarly, the FY 2009 Appropriations Act also provides that proceeds from loan or other debt obligations that are guaranteed by the Federal Government may not be used to pay the Credit Subsidy Cost collected by DOE pursuant to Section 1702(b)(2) of Title XVII. In accordance with FCRA, DOE will consult with, and obtain the approval of, OMB for DOE’s calculation of the Credit Subsidy Cost of each loan guarantee prior to entering into any Loan Guarantee Agreement. DOE will also consult with the Secretary of the Treasury on the terms and conditions of the Loan Guarantee Agreement.

Subject to the availability of funds, the Credit Subsidy Cost for a 1705 Eligible Project under this Solicitation may be covered by funds made available under the Recovery Act if such project satisfies all of the requirements of Title XVII, including Sections 1703 and 1705, of this Solicitation and of the Final Regulations, as well as all applicable requirements of the Recovery Act. Applicants in submitting their Part I and Part II submissions should not presume their projects constitute 1705 Eligible Projects but should prepare their business plans, and financial models, in accordance with the instructions in Attachments A1 and A2 using, on the one hand, the presumption that the Credit Subsidy Cost will be paid by the applicant or the Project Sponsor and, on the other hand, that Recovery Act funds will cover the Credit Subsidy Cost in which case their financial model and business plans should take into account the cost of compliance with the Davis Bacon requirements of Section 1705(c) of Title XVII and, if applicable, the Buy American provision of Section 1605 of the Recovery Act. See Attachment H for additional information on Davis Bacon contract provisions.

C. Extraordinary Costs and Expenses

In accordance with Section 1702(h) of Title XVII, the Loan Guarantee Agreement shall also provide that in the event that a project experiences technical, financial, legal or other events which require DOE

to incur time or expenses beyond standard monitoring (e.g., engineering failure or financial workouts), the Borrower shall be liable in full for the payment of such additional internal administrative costs and of related fees and expenses of independent consultants and outside counsels.

VIII. Application Submission Requirements

A. Electronic Format of Applications

Applicants must submit their applications, including a completed DOE application form – OMB No. 1910-5134 (Attachment D), electronically using FedConnect. Instructions on how to register in FedConnect, submit an application, and other related topics may be found at: www.fedconnect.net. The applicant must also submit two hard copies of their application along with a completed DOE application form – OMB No. 1910-5134 (Attachment D). Twenty-five percent (25%) of the application fee must be submitted at the time of the Part I submission and wired to Treasury (See Section IV of Attachment C). Applicants must submit their applications in accordance with the instructions contained herein and in Attachments A1 and A2.

Information regarding how to submit via FedConnect may be found at www.fedconnect.net. Further, it is the responsibility of the applicant, prior to the due date and time, to verify successful transmission. The submission completion time of the entire proposal at the FedConnect portal will constitute the time of delivery to the U.S. government point of entry.

While the Part I and Part II submissions through FedConnect shall serve as the official version sent to DOE, applicants are also required to send their Part I and Part II submissions on a compact disc or USB stick to the Loan Guarantee Program Office (“LGPO”) at the address listed in Attachment G, Section 2, which should arrive by express mail at DOE no later than two (2) business days after the applicable due date by which applicant filed its Part I and Part II submissions by FedConnect.

B. Registrations

In submitting applications through FedConnect, applicants must complete the following:

- Obtain a Dun and Bradstreet Data Universal Numbering System (“DUNS”) number,
- Obtain a North American Industry Classification (“NAIC”) number,
- Register with the Central Contract Registration (“CCR”), and
- Register with FedConnect.

Applicants are highly encouraged to allow at least 21 days to complete the steps above. Contact the FedConnect support team at support@fedconnect.net to verify successful registration. Instructions for registering with CCR and FedConnect are found in Attachment G. If you have questions regarding the operation of FedConnect, please contact the FedConnect support team at support@fedconnect.net.

C. Detailed Preparation Instructions

Documents supporting and forming a part of applications must be typed, single-spaced, and must adhere to a format consisting of standard 8.5” x 11” paper with 1” margins (top, bottom, left and right) with font not smaller than Times New Roman 11 point, with exceptions for charts, graphics and similar material. Official applications and supporting documentation must be submitted electronically through the FedConnect site at www.fedconnect.net.

D. Changes

Notwithstanding the requirement for the applicant to submit comprehensive information to complete an application, DOE recognizes that certain elements of the project's development may not be fully developed until a later time. Regardless, the information submitted should include the applicant's best estimate of the timing of completion of these outstanding items, recognizing that final terms and conditions cannot be presented to the CRB until all project elements have been finalized and DOE has completed its underwriting and due diligence review.

IX. Additional Information

A. Government Right to Reject or Negotiate

DOE reserves the right, without qualification, to reject any or all applications received in response to this Solicitation and to select any application, in whole or in part, as a basis for negotiation.

B. Commitment of Public Funds

DOE shall not be bound by oral representations made during the pre-application stage, application stage or during any negotiations. No binding commitment, agreement, obligation, or right of any kind may be assumed or enforced by any applicant against DOE other than in accordance with an executed Loan Guarantee Agreement, as executed by the appropriate DOE authorizing official.

C. Restrictions on Disclosure and Use of Information

Title XVII authorizes the collection of this information. The primary use of this information is by DOE in its review of applications for loan guarantees under Title XVII. Additional disclosures of this information may be made as required by law. Where the information provided is a social security number, the provision of the information is voluntary but failure to disclose may result in disapproval of the application.

All information collected will be handled in accordance with the Freedom of Information Act (5 U.S.C. 552) and all applicable laws.

Patentable ideas, trade secrets, proprietary, or confidential commercial or financial information, disclosure of which may harm the applicant, should be included in an application only when such information is necessary to convey an understanding of the proposed project. The use and disclosure of such data may be restricted, provided the applicant specifically identifies and marks such data in accordance with the following provisions:

1.) Applicant discloses in the DOE application form that (be sure to specify the application Sections containing proprietary data in the legend as it appears in the DOE application form):

"Sections ____ of this Application contain data which have been submitted in confidence and contain trade secrets or proprietary information, and such data shall be used or disclosed only for evaluation purposes; provided that, if this applicant is issued a loan guarantee under Title XVII of the Energy Policy Act of 2005 as a result of or in connection with the submission of this Application, DOE shall have the right to use or disclose the data herein, other than such data that have been properly reasserted as being trade secret or proprietary in the loan guarantee agreement. This restriction does not limit the Government's right to use or disclose data obtained without restriction from any source, including the applicant."

2.) Applicant includes the following legend on the first or cover page of each document or electronic file submitted as part of the application that contains such data (be sure to specify the page numbers from such document or electronic file that contains the proprietary data):

“The data contained in pages _____ of this document or electronic file which hereby forms a part of the Application have been submitted in confidence and contain trade secrets or proprietary information, and such data shall be used or disclosed only for evaluation purposes; provided that, if this applicant is issued a loan guarantee under Title XVII of the Energy Policy Act of 2005 as a result of or in connection with the submission of this Application, DOE shall have the right to use or disclose the data herein, other than such data that have been properly reasserted as being trade secret or proprietary in the loan guarantee agreement. This restriction does not limit the Government’s right to use or disclose data obtained without restriction from any source, including the applicant.”

3.) Applicant includes the following legend on each page of a document or electronic file containing such data (a) as a header on the page or (b) to specifically identify and mark each line or paragraph on the page containing such data:

“The following contains proprietary information that (name of applicant) requests not be released to persons outside the Government, except for purposes of review and evaluation.”

D. References

This Solicitation was developed pursuant to the following statutes and regulations, which can be found at <http://www.lgprogram.energy.gov>:

- a) Energy Policy Act of 2005
Public Law 109-58 (August 8, 2005)
Title XVII Incentives for Innovative Technologies
22 USC 16511- 16514 (August 8, 2005)
- b) 10 CFR Part 609 Loan Guarantees for Projects That Employ Innovative Technologies
(October 20, 2007)
- c) Omnibus Appropriations Act, 2009, P.L. No. 111-8, Division C, Title III, as amended by
Section 408 of the Supplemental Appropriations Act, 2009, P.L. No. 111-32
- d) American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5:
Division A, Title IV. Department of Energy Programs, “Title 17 – Innovative Technology
Loan Guarantee Program”

Section 406. Renewable Energy and Electric Transmission Loan Guarantee Program
(amends Title XVII to create a “Temporary Program for Rapid Deployment of Renewable
Energy and Electric Power Transmission Projects” under new Section 1705)

Section 1512. Reports on Use of Funds

Section 1605. Buy American
- e) The Office of Management and Budget’s (OMB) Updated Implementing Guidance for the
Recovery Act. See M-09-15 (April 3, 2009) located at
http://www.whitehouse.gov/omb/assets/memoranda_fy2009/m09-15.pdf

- f) OMB's Updated Implementing Guidance for the Recovery Act. See M-09-21 (June 22, 2009) located at http://www.whitehouse.gov/omb/assets/memoranda_fy2009/m09-21.pdf
- g) 29 CFR Parts 1, 3, and 5- Contract provisions and related matters under the Davis Bacon Act located at http://www.dol.gov/dol/allcfr/Title_29/Chapter_I.htm
- h) U.S. Department of Labor Wage and Hour Division, Davis Bacon and Related Acts located at <http://www.dol.gov/esa/whd/contracts/dbra.htm>
- i) Selecting Davis Bacon Act Wage Decisions located at <http://www.wdol.gov/dba.aspx#0>
- j) The Recovery Act website at <http://www.recovery.gov>

Attachment A1

**Requirements for
Part I Application Submission**

Application Instructions Attachment A1

UNITED STATES DEPARTMENT OF ENERGY Title XVII Loan Guarantee Program

PART I APPLICATION INSTRUCTIONS

Background: These instructions set forth the information to be submitted under the requirements of Title XVII of the Energy Policy Act of 2005, as amended (Title XVII), and the Recovery Act for an application to receive a loan guarantee from the United States Department of Energy (“DOE”). Section 1703 of Title XVII authorizes the Secretary of Energy (“Secretary”) to issue loan guarantees only for projects that avoid, reduce, or sequester air pollutants or anthropogenic emissions of greenhouse gases and that employ new or significantly improved technologies as compared to commercial technologies in service in the United States at the time the guarantee is issued. Section 1705 of Title XVII authorizes the Secretary of Energy (“Secretary”) to issue loan guarantees only for certain categories of projects that commence construction no later than September 30, 2011. DOE will use the information submitted by applicants to evaluate and select projects for a loan guarantee issued under Sections 1703 and 1705 of Title XVII. Applicants may be asked to provide additional information during the review and negotiation process. If there are material changes to the project after either of the original Parts I and II submissions are filed with DOE, the applicant must promptly provide DOE with written notice of such change but in no event later than three (3) business days after such change and shall provide DOE with any updated information no later than ten (10) business days after such notice.

Application Fee: A portion (25%) of a non-refundable application fee must be paid contemporaneously with the Part I submission to DOE via Treasury in accordance with the fee schedule set forth in Attachment C. The remaining balance (75%) of the application fee must be received contemporaneously by DOE, with a completed Part II submission. No funds for the payment of these fees shall be obtained from the federal government or from a loan or other instrument guaranteed by the federal government.

Format: Applicant must provide all requested information in the following format:

1. The application is divided into two parts:
 - A. Part I – Executive Summary/Initial Information/Overview
 - B. Part II – Due Diligence Information Requirements
2. Each part is organized into six identical sections. The Part I submission is expected to provide less detail than the Part II submission. The data in Part II builds on the information submitted in Part I.
3. Each data element in each section is named and numbered using the following format:

Project Short Name/Part Number/Section/Data Number/Name
Example: Project XXX /II/D/1/1/Environmental Benefits (for this example see page II-C-11).
4. Each data change or correction requires a complete new data entry instead of handwritten markups. The changed information in the new entry must be underlined or otherwise identified and the new entry dated.
5. Part I and Part II together represent the complete application.

Part I Submissions: Part I submissions shall be prepared in accordance with Section 609.6 of the Final Regulations and the instructions in Attachment A-1 and must be accompanied by the following submittals:

- A. Initial portion (25%) of the application fee, none of which is refundable, and payable with the submission of Part I as set forth in Attachment C and as required by Section 609.6(b)(2) of the Final Regulations.
- B. DOE application form as set forth in Attachment D and as required by Section 609.6(b)(1) of the Final Regulations that is fully completed and signed and submitted no later than 11:59 PM (ET) on the due date for the particular round of Part I reviews as set forth in Section III.F above but in no event later than August 24, 2010. Submissions should include an electronic version of DOE Application Form – OMB No. 1910-5134 (Attachment D) through FedConnect and two signed paper copies to be submitted to the address contained on the form. Applicants are encouraged to submit the application form as soon as practical after receipt of the solicitation. Other supporting documentation can be submitted through FedConnect at a later date as long as all required information for Part I and Part II is submitted when due.
- C. A letter of commitment from applicant, signed by an authorized representative, in the form of Attachment F stating that the applicant intends to pursue with DOE a loan guarantee under Title XVII to close and submit a Part II submission no later than 11:59pm ET on the due date for the particular round of Part II reviews in which the applicant wishes its project to receive DOE consideration and a date by which the applicant expects that it will be able to close a loan guarantee with DOE.
- D. While the Part I submission through FedConnect shall serve as the official version sent to DOE, applicants are also required to send their Part I submissions on compact disc or USB stick to the Loan Guarantee Program Office at the address listed in Attachment G, Section 2, which should arrive by express mail at DOE no later than two (2) business days after the applicable due date by which the applicant filed its Part I submission.

Part II Submissions: Part II submissions shall be prepared in accordance with Section 609.6 of the Final Regulations and the instructions in this Attachment A2 and include the remaining portion of the application fee as set forth in Attachment C (75%) payable when the Part II submission is provided to DOE no later than 11:59 PM on the due date for the particular round of Part II reviews in which the applicant wishes its project to receive DOE consideration.

While the Part II submission through FedConnect shall serve as the official version sent to DOE, applicants are also required to send its Part II submission on a compact disc or USB stick to the Loan Guarantee Program Office (“LGPO”) at the address listed in Attachment G, Section 2, which should arrive by express mail at DOE no later than two (2) business days after the applicable due date by which the applicant filed its Part II submission.

Electronic Format: The application must be submitted in electronic form and should be submitted in the following file formats: Microsoft Word, Excel, Power Point or Adobe PDF. Please do not encrypt, compress or zip files.

Registrations: In submitting applications through FedConnect, applicants must complete the following:

- Obtain a Dun and Bradstreet Data Universal Numbering System (“DUNS”) number,
- Obtain a North American Industry Classification (“NAIC”) number,
- Register with the Central Contract Registration (“CCR”), and
- Register with FedConnect.

Applicants are highly encouraged to allow at least 21 days to complete the steps above. Contact the FedConnect support team by email at support@fedconnect.net to verify successful registration. Instructions for registering with CCR and FedConnect are found in Attachment G. If you have questions regarding the operation of FedConnect, please contact the FedConnect support team by email at support@fedconnect.net.

Warning: It is a crime to knowingly make false statements to a federal agency. Penalties upon conviction can include a fine and imprisonment. For details, see 18 U.S.C. 1001. Misrepresentation of material facts may also be the basis for denial of an application for a loan guarantee by DOE.

Table of Contents Part I

Section A: Application Information	I-A-1
1. Project Name	
2. Evidence of Authority	
3. Applicant Validation Statement	
4. Eligible Lender/Holder Statement	
5. Equity Commitment Letters	
6. Project Participants	
7. Applicant Point of Contact Information	
Section B: Project Description	I-B-1
1. Executive Summary	
2. Technology Description	
3. Project Eligibility	
4. Intellectual Property	
5. Organization	
6. Prior Experience	
7. Sponsor's Capabilities	
8. Project Location	
9. Project Time Lines	
10. List and Status of Licenses/Permits/Approvals	
11. Summarized Total Project Cost	
12. Loan Guarantee Impact	
Section C: Technical Information	II-C-1
1. Major Project Plans	
2. Potential Reliability Impacts	
3. Potential Environmental Impacts	
Section D: Business Plan	I-D-1
1. Summary Business Plan	
2. Potential Project Off take	
3. Other Assistance as Source of Funds	
Section E: Financial Plan	I-E-1
1. Background and Legal Structure	
2. Legal Authority	
3. Summary Forecasted Project Financial Statements	
Section F: Application Certifications	I-F-1
1. Lobbying, Debarment and Related Certifications and Assurances	

Section A: Application Information -- Part I

1. **Project Name:** Assign a short project name for purposes of identification.
2. **Evidence of Authority:** Submit evidence that the signatory of the application has authority to bind the Project Sponsor to the commitments and representations made in the application and attests as to the accuracy of the information provided both written and oral in the application process and that binds the Project Sponsors and the Applicant.
3. **Applicant Validation Statement:** Provide a written statement that based on the project information provided by the applicant for DOE issuance of a loan guarantee, the applicant hereby attests that there is a reasonable prospect that the guaranteed portion of the Guaranteed Obligation and other project debt will be repaid on time and in full (including interest) from project revenue according to the terms proposed in the application, as required by Section 609.6(b)(28) of the Final Regulations.
4. **Eligible Lender / Holder Statement:** Provide a written affirmation from an officer of an Eligible Lender or other older Holders expressing commitment to provide or interest in providing the required debt financing necessary to construct and fully commission the project.
5. **Equity Commitment Letters:** Provide a copy of the equity commitment letters from each project investor and a description of the sources of equity.
6. **Project Participants:** List the parties involved with the project, their function and contact information, including the name of contact person (first, middle and last), position/title, phone number, fax number, e-mail address, street address, city, state, 9-digit zip code.
7. **Applicant Point of Contact Information:** Provide the mailing address of the applicant and phone, fax and e-mail address of the project point of contact for DOE.

Section B: Project Description – Part I

1. **Executive Summary:** Provide a one to two page summary description of the nature, scope and technology of the proposed project, including the purpose, design features, key metrics or capacity (e.g. MW capacity, gallons per year (GPY) produced) and estimated total capital cost. Provide a top level description of the site location, facility and construction plans, total project costs, loan guarantee request, corporate financial performance of the project sponsor(s) for the last 24 months (revenues, capitalization, EBITDA, cash on hand, etc), employees at time of application, job creation as a result of project implementation, ownership and credit assessment rating with recovery (if already available at time of Part I submission). Include your target date to close a loan guarantee to commence site preparation, begin operation and, if applicable, establish grid connection. Describe any potential legal or regulatory risks to the project.
2. **Technology Description:** Note that to qualify for a loan guarantee the technology must have been successfully demonstrated both at the pilot and demonstration scale and be ready for commercialization.
 - a. Provide a description of the new technology to be employed in the project and its commercial applications and feasibility and discuss why it is not now in general use
 - b. Provide a report detailing the technology's pilot plant and demonstration plant experience (including hours of experimentation or run-time) including its successes and failures during the pilot and demonstration phases. Include a comprehensive project plan that will guide the design, engineering and construction of the commercial project. As a minimum, the project plan must include validated pilot plant and/or demonstration data that forms the basis for this design. Applicants must provide in their applications a minimum of 6 months operating and performance data including 1,000 to 2,000 hours of operation data obtained from their demonstration project. The demonstrated yield and throughput results must be supportive of the project's pro forma assumptions for the proposed commercial facility.
 - c. Provide actual demonstration plant technical results such as operating efficiency, yield, etc., such that a technical reviewer could assess the results.
 - d. Provide supporting information (e.g., process flow diagrams, equipment descriptions).

Also describe the applicant's rights to such technologies, including the status and expiration date of all licensing agreements required for the project.

3. **Project Eligibility:** To the extent not otherwise addressed in other Sections of this Attachment A1, provide a detailed explanation of how and to what extent the proposed Eligible Project will meet all requirements of Title XVII and, as applicable, the FY 2009 Appropriations Act. For consideration as a 1705 Eligible Project provide a detailed explanation of how and to what extent the proposed project will meet all applicable requirements of Title XVII, including Section 1705, and of the Recovery Act. Applicants must quantify in tons the amount of anthropogenic greenhouse gas emissions and air pollutants the project will avoid, reduce or sequester compared to conventional technologies on the U.S. marketplace today.

Among other things, DOE will specifically evaluate the extent to which the project will employ New or Significantly Improved Technologies as compared to Commercial Technologies in service in the U.S. at the time the Term Sheet is issued. Please refer to the descriptions below in preparing your technology description and explaining why the technology proposed meets the definition of "New or Significantly Improved Technology"

New or Significantly Improved Technology: New or Significantly Improved Technology means under Section 609.2 of the Final Regulations a technology concerned with the production, consumption or transportation of energy and that is not a Commercial Technology (as defined in Section 609.2 of the Final Regulations), and that has either only recently been developed, discovered or learned; or involves or constitutes one or more meaningful and important improvements in productivity or value, in comparison to Commercial Technologies in use in the United States at the time the Term Sheet is issued.

- a. Define the extent to which the project will employ New or Significantly Improved Technologies as compared to Commercial Technologies in service in the U.S. at the time the Term Sheet is issued.
- b. Describe if your technology involves one or more significant improvements in productivity or value when compared to Commercial Technologies in use in the United States.

Commercial Technology: Under Section 609.2 of the Final Regulations, Commercial Technology means a technology in general use in the commercial marketplace in the United States 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 United States 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. The five year period shall be measured, for each project, starting on the in service date of the project or facility employing that particular technology. For purposes of the term Commercial Technology, commercial projects include projects that have been the recipients of a loan guarantee from DOE under the Final Regulations.

- c. Describe if your technology is in general use in the commercial marketplace in the United States.
- d. Define if your technology has been installed in and is being used in three or more commercial projects in the United States 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.

For applicants seeking consideration for their proposed projects as 1705 Eligible Projects please include:

An explanation of the likelihood that the project will commence construction on or before September 30, 2011, including a description of (i) the extent to which all required contractors are engaged, (ii) the readiness for delivery of major components and equipment, (iii) the extent to which all pre-construction design and prototype testing has been completed, (iv) the extent to which definitive interconnection agreements (if applicable) have been finalized and executed, (v) the creditworthiness of the buyer under any transmission service agreements, if applicable, or other offtake agreements (if any), (vi) the likelihood and nature of rate base treatment, if applicable, and (vii) the extent to which all necessary land rights and state and local permits, as well as environmental clearances necessary to proceed, have been obtained or approved. Note that DOE may require additional information to clarify, supplement or explain these descriptions.

Emissions Reductions: A lifecycle emission analysis will be conducted on each project to determine which projects offer the greatest avoidance and reduction of anthropogenic emissions of greenhouse gases and air pollutants. The applicant is required to fill out the Energy Benefits and Emissions Spreadsheet. The spreadsheet is downloadable from the loan guarantee program's homepage (<http://www.lgprogram.energy.gov>) under Quick Links. The purpose of this data request form is to compile specific data that will be used to conduct an evaluation of greenhouse gas emissions and other air pollutants, specifically NO_x, and SO₂ as well as the avoided emissions, associated with the implementation of each project. In reviewing applications, DOE is applying a standardized evaluation methodology employing a comprehensive lifecycle inventory approach. In order to ensure that all applicants submit the data necessary for the review, the relevant worksheets in the Excel Spreadsheet

should be completed to the extent possible in the format provided, even if these data have already been provided in the application documents.

With respect to analyzing avoided greenhouse gases, this review includes not only carbon dioxide (CO₂), but other greenhouse gases (e.g., methane, N₂O). For instance, such emissions may be associated with direct fuel combustion and upstream emissions associated with fuel procurement. In the case of emissions related to electric power, a region-specific time-matched marginal approach to emissions analysis will be used. Solely with respect to Leading Edge Biofuels Projects, provide the project's emissions reduction/gallon of gasoline or diesel equivalent replaced, and greenhouse gas reductions/\$ loan value and total project costs, as well as an explanation of the scalability of the project's technology to a regional and national level.

4. **Intellectual Property:**

- a. Provide a description and list of the owners or controllers of the intellectual property incorporated in and utilized by such technologies.
- b. Describe the applicant's rights to such technologies, including the status and expiration date of all licensing agreements required for the project.
- c. Provide a list the manufacturer(s) and licensee(s), if any, authorized to make the technology available in the United States, the potential for replication of commercial use of the technology in the United States, and whether and how the technology is or will be made available in the United States for further commercial use.

5. **Organization:** Provide a current organizational chart showing the applicant's structure, relationship to any subsidiaries or affiliates, and to the project. Advise if there are any proposed changes to the current organizational structure. List the full names (including middle name or initial), home address (including zip code), date of birth and taxpayer identification/social security number of key staff to be involved with the project. DOE will use this information for background check purposes and, with respect to certain key staff providing credit support to the project, for credit history verification purposes. DOE may request additional documentation as part of the project evaluation process.

6. **Prior Experience:** Describe the applicant's and Project Sponsors' capabilities and prior experience as it relates to carrying out (including designing, engineering and constructing, and/or manufacturing) projects similar to the one being proposed. Include the applicant's track record of completing projects on time and on budget, and operational results.

7. **Sponsor's Capabilities:** Provide a top-level description of the Project Sponsor's capabilities, financial strengths and investment both in the project to date and as anticipated during the operational phase of the project (e.g. continuing financial support). Detail the project's strategic significance to the Project Sponsor.

8. **Project Location:** Identify the location and the rationale for the site location. Explain whether applicant possess control of the site, for example, through current ownership, through an option to purchase the land or thru a lease agreement.

9. **Project Time Lines:** Provide a time line of the estimated start and completion dates of each major phase or key milestone of the project from construction through start of operations, and commercial operation date. Include early site preparation start, date commencing operation and first grid connection. Indicate current progress on time lines.

10. **List and Status of Licenses/Permits/Approvals:** The applicant shall provide a list of all federal, state and local licenses, permits and approvals required to site, construct, implement and operate the project, including environmental authorizations or reviews necessary to commence construction and

operation. For approvals already received, provide the filing and approval dates and parties involved; for those not yet received, provide the filing date, steps to be taken to obtain them, and expected date(s) they will be obtained.

11. **Summarized Total Project Costs:** Provide a high-level estimated total cost of the project and an estimated breakdown by cost category and purpose, which in the aggregate exceeds no more than 3 pages.
12. **Loan Guarantee Impact:** Provide an explanation of what estimated impact the loan guarantee will have on the interest rate, debt term and overall financial debt structure of the project, as well as a description of the viability of the project without such DOE loan guarantee.

Section C: Technical Information – Part I

1. **Major Project Plans:** Provide a description, status and associated costs of key project plans, including:
 - a. Construction Plan, including Right-of-Way Acquisition (if any remains to be done)
 - b. Operations & Maintenance Plan
2. **Potential Reliability Impacts:** Solely with respect to 1705 Eligible Projects that are Electric Power Transmission Systems Projects, provide a summary of the reliability impacts to be achieved with the completion of the project and demonstrate how those impacts will be achieved and the importance of those impacts in meeting the reliability needs of the national or local electric grid.
3. **Potential Environmental Impacts:** Provide an outline of potential environmental impacts of the project and how impacts will be mitigated. Details on required environmental information are contained in Attachment B, NEPA Guidance. Solely with respect to 1705 Eligible Projects that are Electric Power Transmission Systems Projects, provide a description substantiating the effect of the project in meeting the environmental (including climate change) and energy goals of the nation, a State or region of the United States in which the project is involved or located or of the two or more States of the United States that the project exists between or connects.

Section D: Business Plan

1. **Summary Business Plan:** Provide a top level review of the following elements of your business plan:
 - a. Financing Plan, including timing and amount of expected equity and debt funding
 - b. Market Analysis
 - c. Management Planning
 - d. Operational Risks and Mitigation Strategies
2. **Potential Project Off-take:** Provide your forecast for plant capacity. Describe and provide copies (whether entered into or proposed) of any potential off-take or other revenue generating agreements that will provide a primary source of revenues for the project including repayment of debt obligations.
3. **Other Assistance as Source of Funds:** Provide a list of other Federal and non-Federal governmental (including State) incentives or other assistance on which the project relies, including grants, tax credits, or other loan guarantees to support the financing, construction and operation of the project.

For applicants seeking consideration for their proposed projects as 1705 Eligible Projects, please include

4. **Types of Jobs Created/Retained:** Provide a brief description of the types of jobs expected to be created or retained in the United States as a result of the 1705 Eligible Project. For purposes of Section 1512 of the Recovery Act, “jobs expected to be created” means those new positions reasonably expected to be created and filled, or previously existing unfilled positions that are reasonably expected to be filled, as a result of Recovery Act funding, and “jobs or positions expected to be retained” means those previously existing filled positions that are reasonably expected to be retained as a result of Recovery Act funding. Such descriptions may also rely on job titles, broader labor categories, or the borrowers’ existing practice for describing jobs as long as the terms used are widely understood and explain the general nature of the work. Note that a job cannot be reported as both created and retained.
5. **Estimated Number of Jobs Created/Retained:** An estimate of the number of jobs expected to be created and retained in the United States as a result of the 1705 Eligible Project. At a minimum, this estimate shall include any new positions reasonably expected to be created and any existing filled positions that are reasonably expected to be retained to support or carry out Recovery Act projects or activities managed directly by the borrower, and if known, by sub-recipients. The number shall be expressed as “full-time equivalent” (FTE), calculated cumulatively as all hours worked divided by the total number of hours in a full-time schedule, as defined by the borrower. For instance, two full-time employees and one part-time employee working half days would be reported as 2.5 FTE in each calendar quarter. Because FTE is calculated based on aggregate hours worked, temporary or part-time labor is not overstated. Applicants are encouraged to include information in their narrative used to calculate the FTE figure.

Section E: Financial Plan

1. **Background and Legal Structure:** Describe the applicant's history, ownership, and legal structure (e.g., corporation or partnership) and the relationship between the applicant and the Borrower. Include a copy of the statutory authority under which the entity was created.
2. **Legal Authority:** Describe the legal authority of the applicant to carry out the proposed project activities (e.g., issuing debt, charging fees). Provide supporting documentation.
3. **Summary Forecasted Project Financial Statements:** Provide summary-level forecast financial statements at the project level (or at the corporate level if this is to be a corporate credit) for the term of the guaranteed portion of the proposed Guaranteed Obligation.

Section F: Application Certifications

1. **Certifications and Assurances:** In submitting an application for a loan guarantee under Title XVII, applicants must provide certain certifications and assurances contained in the form entitled “U.S. Department of Energy Loan Guarantee Certifications and Assurances.” It may be downloaded from the DOE website: http://www.management.energy.gov/business_doe/business_forms.htm. DOE may require that applicants provide additional certifications or supporting documentation as part of the project evaluation process.

Attachment A2

Requirements for Part II Application Submission

**Application Instructions
Attachment A2**

**UNITED STATES DEPARTMENT OF ENERGY
Title XVII Loan Guarantee Program**

PART II APPLICATION INSTRUCTIONS

Background These instructions set forth the information to be submitted under the requirements of Title XVII of the Energy Policy Act of 2005, as amended (Title XVII), and, solely with respect to 1705 Eligible Projects, the Recovery Act for an application to receive a loan guarantee from the United States Department of Energy (“DOE”). Section 1703 of Title XVII authorizes the Secretary of Energy (“Secretary”) to issue loan guarantees only for projects that avoid, reduce, or sequester air pollutants or anthropogenic emissions of greenhouse gases and that employ new or significantly improved technologies as compared to commercial technologies in service in the United States at the time the guarantee is issued. Section 1705 of Title XVII authorizes the Secretary of Energy (“Secretary”) to issue loan guarantees only for certain categories of projects that commence construction no later than September 30, 2011. DOE will use the information submitted by applicants to evaluate and select projects for a loan guarantee issued under Sections 1703 and 1705 of Title XVII. Applicants may be asked to provide additional information during the review and negotiation process. If there are material changes to the project after either of the original Parts I and II application submissions are filed with DOE, the applicant must promptly provide DOE with written notice of such change but in no event later than three (3) business days after such change and shall provide DOE with any updated information no later than ten (10) business days after such notice

Application Fee A non-refundable application fee (75%) is payable upon the submission of Part II of the submission. No funds for the payment of these fees shall be obtained from the federal government or from a loan or other instrument guaranteed by the federal government.

Format Applicant must provide all requested information in the following format:

1. The application is divided into two parts:
 - A. Part I – Executive Summary/Initial Information/Overview
 - B. Part II – Due Diligence Information Requirements
2. Each part is organized into six identical sections. The Part I submission is expected to provide less detail than the Part II submission. The data in Part II builds on the information submitted in Part I.
3. Each data element in each section is named and numbered using the following format:

Project Short Name/Part Number/Section/Data Number/Name
Example: Project XXX /II /C / 11 / Environmental Benefits (for this example see page II-C-11).
4. Each data change or correction requires a complete new data entry instead of handwritten mark ups. The changed information in the New Entry must be underlined or otherwise identified and the New Entry dated.
5. Parts I and Part II together represent the completed application.

Part I Submissions: Part I submissions shall be prepared in accordance with Section 609.6 of the Final Regulations and the instructions in Attachment A-1 and must be accompanied by the following submittals:

- A. Initial portion (25%) of the application fee, none of which is refundable, payable with the submission of Part I as set forth in Attachment C and as required by Section 609.6(b)(2) of the Final Regulations.

- B. A DOE application form as appears in Attachment D and as required by Section 609.6(b)(1) of the Final Regulations that is fully completed and signed and submitted no later than 11:59 PM ET on the due date for the particular round of Part I reviews as set forth in Section III.F above but in no event later than August 24, 2010. Submissions should include an electronic version of DOE Application Form – OMB No. 1910-5134 (Attachment D) through FedConnect and two signed paper copies to be submitted to the address contained on the form. Applicants are encouraged to submit the application form as soon as practical after receipt of the solicitation. Other supporting documentation can be submitted through FedConnect at a later date as long as all required information for Part I and Part II is submitted when due.
- C. A letter of commitment from applicant, signed by an authorized representative, in the form of Attachment F stating that the applicant intends to pursue with DOE a loan guarantee under Title XVII to close and submit a Part II submission no later than 11:59pm ET on the due date for the particular round of Part II reviews in which the applicant wishes its project to receive DOE consideration and a date by which the applicant expects that it will be able to close a loan guarantee with DOE.
- D. While the Part I submission through FedConnect shall serve as the official version sent to DOE, applicants are also required to send its Part I submission on a compact disc or USB stick to the Loan Guarantee Program Office (“LGPO”) at the address listed in Attachment G, Section 2, which should arrive by express mail at DOE no later than two (2) business days after the applicable due date by which the applicant filed its Part I submission.

Part II Submissions: Part II submissions shall be prepared in accordance with Section 609.6 of the Final Regulations and the instructions in this Attachment A2 and include the remaining portion of the application fee as set forth in Attachment C (75%) payable when the Part II submission is provided to DOE no later than 11:59 PM on the due date for the particular round of Part II reviews in which the applicant wishes its project to receive DOE consideration.

While the Part II submission through FedConnect shall serve as the official version sent to DOE, applicants are also required to send its Part II submission on a compact disc or USB stick to the Loan Guarantee Program Office (“LGPO”) at the address listed in Attachment G, Section 2, which should arrive by express mail at DOE no later than two (2) business days after the applicable due date by which the applicant filed its Part II submission.

Electronic Format: The application must be submitted in electronic form in the following Microsoft Office formats: Word, Excel, Adobe PDF or PowerPoint. Please do not encrypt, compress or zip the files. Applications and supporting documentation must be submitted electronically through the FedConnect site at www.fedconnect.net (See Attachment G).

Applicants are also required to submit its Part I and Part II submissions to the LGPO on Compact Disc or USB stick by express mail at the address listed in Attachment G, Section 2, which should arrive at DOE, for Part I’s, no later than August 24, 2010 and for Part II’s, on the applicable due date by which applicant submitted its Part II by FedConnect.

Registrations: In submitting applications through FedConnect, applicants must complete the following:

- Obtain a Dun and Bradstreet Data Universal Numbering System (“DUNS”) number,
- Obtain a North American Industry Classification (“NAIC”) number,
- Register with the Central Contract Registry (“CCR”), and
- Register with FedConnect).

Applicants are highly encouraged to allow at least 21 days to complete the above listed steps. Contact the FedConnect support team by email at support@fedconnect.net to verify successful registration. Instructions for registering with CCR and FedConnect are found in Attachment G. If you have questions regarding the operation of FedConnect, please contact the FedConnect support team by email at support@fedconnect.net.

Warning: It is a crime to knowingly make false statements to a federal agency. Penalties upon conviction can include a fine and imprisonment. For details, see 18 U.S.C. 1001. Misrepresentation of material facts may also be the basis for denial of an application for a loan guarantee by the U.S. Department of Energy.

Table of Contents Part II

Section A: Application	II-A-1
1. Changes/Additions to Part I Submission	
2. List of Requirements	
3. Project Summary Abstract	
Section B: Project Description.....	II-B-1
1. Detailed Total Cost	
2. Project Sponsor's Capabilities	
3. State and Local Support	
4. Legal Opinions/Material Reports	
Section C: Technical Information.....	II-C-1
1. Key Contracts and Agreements	
2. Engineering and Construction Plans	
3. Key Materiel Components	
4. Productions Costs	
5. Project Plan	
6. Operating and Maintenance Plans	
7. Decommissioning Plan	
8. Permits and Approvals	
9. Engineer's Report	
10. Environmental Report	
11. Environmental Benefits	
Section D: Business Plan	II-D-1
1. Financial Analysis	
2. Market Analysis	
3. Contractual Arrangements	
4. Management Plan	
5. Operational Risks and Mitigation Strategies	
6. Progress Reports	
Section E: Financial Plan.....	II-E-1
1. Sources of Funds	
2. Letter(s) of Intent	
3. Financial Statements	
4. Financial Model	
5. Credit History	
6. Litigation and/or Conflicts	
7. Closing Checklist	
8. Information on Other Borrowed Funds	
9. Collateral	
10. Preliminary Credit Assessment	
11. Eligible Lender or Holder Statement	
Section F: Certifications.....	II-F-1
1. Lobbying, Debarment and Related Certifications and Assurances	

Application: Section A – Part II

1. **Changes/Additions to Part I Submission:** Provide a detailed description of all material amendments, modifications, and additions to the information provided in Part I of the application, including any changes in the proposed project's financing structure or other terms, the rationale for such changes and the expected impact on the project.
2. **List of Requirements:** Pursuant to Section 609.6(b)(27) of the Final Regulations, provide a list of all requirements contained in Part 609 under chapter II of title 10 of the Code of Federal Regulations and under this Solicitation and where in the application these requirements are addressed.
3. **Project Summary/Abstract File:** The project summary/abstract must contain a summary of the proposed activity suitable for dissemination to the public. It should be a self-contained document that identifies the name of the applicant, the project director/principal investigator(s), the project title, the objectives of the project, a description of the project, including methods to be employed, the potential impact of the project (i.e., benefits, outcomes, jobs created or retained if a 1705 Eligible Project), and major participants (for collaborative projects). This document must not include any proprietary or sensitive business information as DOE may make it available to the public. The project summary must not exceed 1 page when printed using standard 8.5" by 11" paper with 1" margins (top, bottom, left and right) with font not smaller than 11 point. Save this information in a file named "Project Name Summary.pdf."

Project Description: Section B – Part II

1. **Detailed Total Project Costs:** Provide a detailed estimate of total Project Costs including a breakdown by cost category, year of expenditure and basis for amounts and include a description of the methodology and assumptions used to make such estimate. Also indicate whether these costs are firm or subject to change. Distinguish between program eligible and non-eligible costs as determined for the loan guarantee program in Section 609.12 of the Final Regulations. Cost categories should include: labor, overhead, subcontracts, materials/supplies, equipment, general & administrative, indirect costs, and total costs.
2. **Project Sponsor's Capabilities:** Describe the Project Sponsors' capabilities, financial strengths and investment both in the project to date and as anticipated during the operational phase of the project (e.g. continuing financial support). Detail the project's strategic significance to the Project Sponsors.
3. **State and Local Support:** Describe the status of potential and actual forms, amounts and conditions of state and local support for the project. Provide timelines for such assistance.
4. **Legal Opinions/Material Reports:** Provide a copy of all legal opinions, and other material reports, analyses and reviews concerning the project.

Technical Information: Section C – Part II

1. **Key Contracts and Agreements:** Provide a top level description, schedule and current status of all critical path contracts and agreements, whether entered into or proposed, relevant to the investment, design, engineering, financing, construction, startup commissioning, shakedown, operation and maintenance of the project, including:
 - Engineering Procurement Construction (EPC) Contract
 - Long Lead Procurements
 - Public Utility Commission (“PUC”) Agreements or Decisions
 - Transmission Service Agreements or Other Offtake Agreements
 - Operations and Maintenance (O&M) Contracts
2. **Engineering and Construction Plans:** List the engineering and design contractor(s), construction contractor(s), and equipment supplier(s) to be involved in the project, their major activity and cost milestones, and performance guarantees (e.g., bonds, liquidated damages provisions and equipment warranties to be provided). Provide their experience and qualifications as they relate to the proposed project. Include construction schedules for the project.
3. **Key Material Components:** Describe the key material components in the success of the project and describe any risk in availability (e.g., water, construction materials, site access, power evacuation infrastructure and fuel or raw material supply).
4. **Production Costs:** Include an estimate of production costs of the product(s) and, if appropriate, compare such costs to that required to produce the same product(s) from petrochemical sources. Provide production cost estimates for this first commercial plant and the estimated cost of the Nth plant or facility.
5. **Project Plan:** Include a comprehensive project plan that will guide the design, engineering and construction of the commercial project. As a minimum, the project plan must include:
 - a. Description of prior successful technical projects of this scale by the applicant or associated Project Sponsors including an identification of vendors and partners involved.
 - b. Written descriptions of each step of the proposed process.
 - c. Full material and energy balances using industry standard software.
 - d. Plans to close and converge all recycle loops, both in a printout and in working versions of any simulations or plans.
 - e. Description of the selection process for an engineering, procurement, and construction (“EPC”) firm, if used for the project.
 - f. Description of the capabilities of internal resources, if used for the project.
 - g. Equipment requirements.
 - h. A schedule or Project Work Plan. The schedule should include time periods for design, procurement, construction, and start-up and shake-down, as well as development of environmental and land-use agreements, obtaining permits and licenses, and obtaining financing.
 - i. Minimum design specifications in which process flow diagrams are coupled to preliminary cost estimates (internally or from an EPC contractor)

- j. Planned project management tools, including Gantt charts, resource based scheduling, or other methods to assess progress and track progress. These would include methods to assess actual cost and schedule versus planned cost and schedule, etc.
 - k. Plans for staffing, including identification of costs and resources required to design, engineer and construct the proposed facility. This could involve proposals from third party operators.
 - l. Justification for the schedule for completing the proposed project based on the applicant's professional evaluation or that of their EPC firms, if such are employed.
 - m. Technology Risks and Mitigation Strategies. In addition to identifying existing operational data, describe the identified technology risks and your associated mitigation strategies. Include scale up risks (including scale-up factors from the largest demonstration to date), materials of construction, performance risks, etc., and the potential impacts of such risks.
 - n. Contingency planning to address cost overruns and schedule slippage.
6. **Operating and Maintenance Plans:** Describe the plans for operating and maintaining the project, including the proposed providers, their expected staffing requirements, parts inventory, major maintenance schedules, estimated annual downtime, and any performance guarantees and related liquidated damaged provisions.
 7. **Decommissioning Plan:** If applicable to project, provide a detailed description of the project decommissioning and deconstruction plan, the anticipated costs, and arrangements to ensure the necessary funding will be available when needed.
 8. **Permits and Approvals:** The applicant shall provide an updated and complete list of federal, state and local permits and approvals required to site, construct, implement and operate the project, including environmental authorizations or reviews necessary to commence construction. For approvals already received, provide the filing and approval dates and parties involved; for those not yet received, provide the filing date, steps to be taken to obtain them, and expected date(s) they will be obtained.
 9. **Engineer's Report:** Include as an attachment the applicant's engineering report prepared by an engineer with experience in the industry and familiarity with similar projects. The report should comprehensively evaluate the project plan, project's siting and permitting, engineering and design, contractual requirements and arrangements, environmental compliance, testing and commissioning, and operations and maintenance.
 10. **Environmental Report:** The National Environmental Policy Act ("NEPA") requires all federal agencies to consider the potential impacts of their proposed actions. Discuss in detail expected timelines for project regulatory approvals, current NEPA status and state and local reviews, existing or anticipated legislation/regulation or litigation that could impact the project, current administrative or court proceedings, and the status of any appeals. The resulting Environmental Report ("ER") will not be point scored but used to assist DOE in determining the appropriate level of NEPA review and to facilitate DOE's preparation of any required EA or EIS.

The application must provide sufficient information to enable DOE to determine the level of NEPA review/approval that will be required for loan guarantee consideration (i.e., whether an environmental assessment ("EA") or an environmental impact statement ("EIS") is required). DOE will consider any environmental review and assessment of the project prepared by another federal agency in connection with the project. If DOE determines that either an EA or an EIS, other than that produced by another federal agency in respect of a given project, is necessary, the applicant will hire an independent environmental consulting firm, satisfactory to DOE, with specific expertise in preparing the type of assessment to prepare a report evaluating the potential environmental impacts of the project. Detailed information on required environmental information can be found in Attachment B. To the extent that it

satisfies DOE's NEPA requirements, required environmental information may be extracted, as appropriate, from an applicant's environmental report submitted in support of another federal license or permit application.

The environmental report specified in Section 609.6(b)(23) of the Final Regulations, together with additional environmental information that DOE may request of the applicant or that DOE develops during the course of its review of the environmental report, will be used by DOE for NEPA compliance purposes. The Report should contain data and analysis reasonably available to the applicant. Attachment B of the Solicitation addresses factual information that should be included in the environmental report, as appropriate. The environmental report will not be point scored but will be used to determine the appropriate level of NEPA review, and to facilitate DOE's preparation of any required EA or EIS.

11. Environmental Benefits

The overall projected environmental benefits will be evaluated in terms of the project's ability to avoid, reduce, or sequester air pollutants or anthropogenic emissions of greenhouse gases. The proposed domestic environmental benefits of the project shall be compared to existing technologies or systems employing similar technologies.

Specific considerations for this criterion are:

- a. The capacity of the project to avoid, reduce or sequester air pollutants or anthropogenic emissions of greenhouse gases;
- b. Potential environmental impacts of the project and mitigation plans;
- c. National Environmental Policy Act ("NEPA") considerations (e.g., status of any planned, ongoing or completed NEPA reviews);
- d. Life-cycle air pollution or greenhouse gas reduction benefits associated with wide-scale deployment of the technology (ies) underlying the project;

A lifecycle emission analysis will also be conducted on each project to determine which projects offer the greatest avoidance and reduction of anthropogenic emissions of greenhouse gases and air pollutants as set forth in Part I, Section B.3 (Emissions Reductions). The applicant is required to fill out the Lifecycle Emissions Data Worksheet downloadable from the loan guarantee program website at <http://www.lgprogram.energy.gov> under "Quick Links".

Business Plan: Section D – Part II

The applicant shall provide a business plan demonstrating its expertise, financial strength and management capability to undertake and operate the project as proposed. The business plan shall also present a detailed analysis of the construction and performance-related risks associated with the project (e.g., cost escalation or overruns, obtaining approvals and litigation) and safeguards/risk mitigation strategies (e.g., fixed price contracts, liquidated damages, warranties or other incentive/disincentive arrangements) to be employed, as well as a comprehensive project implementation plan for integrating and monitoring the various phases of the project. Taken together, the components of the business plan shall provide analyses demonstrating that, at the time of the application, there is reasonable prospect that the applicant will be able to repay the guaranteed portion of the Guaranteed Obligation and other project debt (including interest) according to their terms, and a complete description of the operational and financial assumptions and methodologies on which this demonstration is based. The conclusions of the business plan shall include a statement from the applicant that it believes there is a reasonable prospect that the guaranteed portion of the Guaranteed Obligation and other project debt will be fully paid from project revenue according to the terms proposed in the application.

1. **Financial Analysis:** Provide a detailed description of the overall financial plan for the proposed project, including quarterly sources and uses of funding, equity and debt statement for the construction period, prepared in accordance with U.S. GAAP, showing the timing and amount of expected equity and debt funding by institution, as well as a full set of financial projections (income statements, balance sheets and cash flow statements) prepared according to U.S. GAAP for the tenor of the proposed guaranteed portion of the Guaranteed Obligation. List the major assumptions in a separate worksheet of the model. Calculate at a minimum the current, leverage and debt service coverage ratios of the parties associated with the project based on the expected tenor of the guaranteed portion of the Guaranteed Obligation. Discuss the principal factors that could impair the project's ability to meet its debt service obligations.
2. **Market Analysis:** Include an analysis of the market for each transmission service to be provided by the project. Also discuss the prevailing economic and demographic trends in the target market, justification for revenue projections (price and volume), and potential competitors/substitutes. Provide evidence that a market exists for the services to be provided. If drafts or executed copies are not available, describe any sales arrangements (e.g., off-take agreements, transmission service agreements) that exist or are contemplated, including summaries of their key terms and conditions and executed letters of intent, as applicable. Discuss whether the facility will be a rate base facility and any provisions in federal, state or other law regarding the cost recovery, rate treatment or other financial matters with respect to the facility. DOE will conduct its own market analysis of the project.
3. **Contractual Arrangements:** Provide a copy of all material agreements (whether entered into or proposed) for the design, construction, start-up and operation of the project (e.g., engineering, raw material supply, commissioning and maintenance).
4. **Management Plan:** Provide an organizational chart showing the staff and positions expected to operate the project, their qualifications and track record. Describe the plan for operating the project.
5. **Operational Risks and Mitigation Strategies:** Based on the business plan information above, prepare an analysis showing the Strengths, Weaknesses, Opportunities and Threats for successful operation of the project (e.g., price declines, scarcity of raw materials, dependence on a particular technology supplier) and mitigation strategies.
6. **Progress Reports:** The applicant shall provide project progress reports to DOE or its agent(s) during the construction and start-up phases on a monthly basis (the first such report to be submitted within 30 calendar days of notification of CRB approval of the issuance of the Term Sheet), comparing actual timing, cost and financing against the original budget and previous month. Each report shall explain the

reason(s) for any significant variance(s) during the quarter and likely impact on the project going forward. During the operational phase of the project, the applicant shall provide financial statements, prepared in accordance with U.S. GAAP, to DOE on a quarterly basis (consisting of an income statement, balance sheet and cash flow statement), with certification by the applicant that the statements are true and correct. At all times, from receipt by DOE of an application, until the guaranteed portion of the Guaranteed Obligation is fully re-paid, the applicant will be obligated to inform DOE expeditiously (but in no event later than three (3) business days business days after discovery) of any condition having, or potentially having, a material adverse effect on either the project or the ability of the parties to carry out their obligations. DOE reserves the right to require submission of additional information as it deems necessary.

Financial Plan: Section E – Part II

1. **Sources of Funds:** List all proposed sources of funding by provider, aggregate amount and type. Include a schedule showing the expected amount and timing of disbursements.
2. **Letter(s) of Intent:** For financing other than from the Federal Financing Bank (FFB), provide an executed letter of intent from the applicant's debt and equity financing sources, which include the terms and the conditions precedent to funding. Submission of financing documents, and acceptance of terms and conditions by DOE, will be a condition precedent for closing of a loan guarantee transaction.
3. **Financial Statements:** Provide audited financial statements of applicant and parties providing applicant's financial backing, along with associated notes, for the past three years (or during the full time in operation, if less), prepared in U.S. GAAP by an independent certified public accountant firm acceptable to DOE. Include the applicant's quarterly or interim financial statements and associated notes for the current fiscal year of applicant and parties providing applicant's financial backing, together with business and financial interests of controlling or commonly controlled organizations or persons, including parent, subsidiary and other affiliated corporations or partners of the applicant, supported by a letter from the appropriate company financial official certifying their correctness.
4. **Financial Model:** Include a financial model (Microsoft Excel), with pro-forma financial statements that takes into account the range of revenue, operating cost and credit assumptions considered. The model must include detailed assumptions for the proposed term of the guaranteed portion of the Guaranteed Obligation, including income statements, balance sheets, and cash flows and debt service coverage ratios, which will allow DOE to utilize the model for a wide range of sensitivity analysis. The model shall separately take into account, if proposing a 1705 Eligible Project, the cost of complying with the Davis Bacon Act and all applicable Davis Bacon Act regulations as such compliance is required by Section 1705(c) of Title XVII and, if applicable, the Buy American provisions of Section 1605 of the Recovery Act.
5. **Credit History:** Include a credit history of the applicant and any party owning or controlling, by itself and/or through individuals in common or affiliated business entities, a five percent or greater interest in the project or the applicant. Provide their full names (including middle name or initial), home or business address as appropriate (including zip code), date of birth and taxpayer identification/social security number. DOE will use such information to verify the credit history of such applicant and party. DOE may also request additional documentation as part of the project evaluation process.
6. **Litigation and/or Conflicts:** Disclose any current, threatened, or pending litigation involving the applicant or, to the applicant's knowledge, any other relevant party, related to permitting, public involvement, environmental issues, construction defects, securities fraud, conflict of interest, failure to perform under a local, state or Federal contract, or other charges which may reflect on the applicant's financial position or ability to complete the project.
7. **Closing Checklist:** Provide a copy of the financial closing checklist for all sources of financing, to the extent available.
8. **Information on Other Borrowed Funds:** Provide information on the other types of expected borrowing financing the project, including type(s) of credit instrument(s) to be issued, security to be pledged for such borrowing, its priority with respect to the security pledged to the loan guarantee program instrument, and details of structuring.
9. **Collateral:** Describe and value all assets associated, or to be associated, with the project and any other assets that will serve as collateral for the Guaranteed Obligations. Valuations must be supported by independent, third-party appraisals for existing assets, and/or adequate cost substantiation for assets to

be constructed for the purpose of the project, and in all cases acceptable to DOE. An appraisal of real property must be performed by a licensed or certified appraiser consistent with the Uniform Standards of Professional Appraisal Practice promulgated by the Appraisal Standards Board of the Appraisal Foundation. Provide information on the useful life of all physical assets, including a depreciation schedule (in accordance with Generally Accepted Accounting Principles in the United States (U.S. GAAP)), associated, or to be associated, with or to serve as collateral.

10. **Preliminary Credit Assessment:** If the project is proposed on a corporate financing basis, supply the Borrower's most recent corporate credit rating from a nationally recognized rating agency. If a project finance structure is proposed and the estimated total Project Costs exceed \$25 million, provide a preliminary credit assessment for the project (without giving effect to the DOE loan guarantee) from a nationally recognized rating agency where the estimated total Project Costs exceeds \$25 million. For projects where the estimated total cost is \$25 million or less, in the sole discretion of the Department, DOE may require such a corporate credit rating or such a preliminary credit assessment as well. The preliminary credit assessment shall examine the project as structured but in the absence of a loan guarantee from DOE and shall identify any material assumptions utilized by the rating agency in its analysis. DOE will require no later than 30 days prior to closing, and as a condition of financial close, (i) a corporate credit rating reconfirmed as not having been placed under review or downgraded or, as appropriate, updated, in each case, by a nationally recognized rating agency, or (ii) a final credit rating of the project, as required by Section 609.9(f) of the Final Regulations, in each case, without giving effect to the DOE loan guarantee. In those projects in which an Eligible Lender, other than the Federal Financial Bank, participates in a Guaranteed Obligation, the Eligible Lender (or the lead participant if a syndicated transaction) shall present to DOE at the time of Application its internal risk rating on the project without benefit of a Federal guarantee and provide an equivalency of that internal risk rating to the rating scales of any of the nationally recognized rating agencies.
11. **Eligible Lender or Holder Statement:** If funds are to be provided by lenders other than FFB, provide the name of each such lender, the amount, terms and conditions of their expected financing, documentation detailing their financial strength, experience with other federal programs, and any other information deemed material to the application. If such a lender intends to sell participations in the loan, include a plan of syndication giving the lender's approach and track record with similar transactions.

If such a lender contemplates a bond financing, include the lender's plan regarding size and timing of issuance, use of any registration with the U.S. Securities and Exchange Commission, key terms and conditions, and marketing strategy. Also provide the lender's qualifications and track record in undertaking similar size financings in the capital markets. Include with the application written affirmation from an officer of the Eligible Lender or other Holder: (i) describing its current involvement with DOE's and other federal agencies loan guarantee programs; and (ii) that it is in good standing with all such programs.

Certifications: Section F – Part II

1. **Lobbying, Debarment and Related Certifications and Assurances:** In submitting an application for a loan guarantee under Title XVII, applicants must provide certain certifications and assurances contained in the form entitled U.S. Department of Energy Loan Guarantee Certifications and Assurances. It may be downloaded from the DOE website:
http://www.management.energy.gov/business_doe/business_forms.htm

DOE may require that applicants provide additional certifications or supporting documentation as part of the project evaluation process.

Attachment B

National Environmental Policy Act (NEPA) Guidance

Overview

The National Environmental Policy Act of 1969 (“NEPA”) requires Federal agencies to consider the potential environmental impacts of their proposed actions.

Because loan guarantees are expected to be granted for commercial-scale projects, categorical exclusions from NEPA analysis are not expected to apply. If DOE invites a Project Sponsor to negotiate after the Formal Review is complete, DOE will evaluate each project to determine the appropriate level of NEPA review required (i.e., whether an EA or EIS should be prepared).

Selection of a NEPA Contractor

DOE may choose to use a third-party contract arrangement to assist DOE in the preparation of an EA or EIS. Under a third-party contract arrangement, the applicant will be required to pay the contractor cost of NEPA compliance. The environmental firm preparing the EA or EIS will work exclusively under the direction of DOE. DOE will be solely responsible for the contents of the EA or EIS. The applicant may propose an environmental firm to DOE, but DOE will make the ultimate selection. Information on firms that hold DOE-wide NEPA indefinite delivery/indefinite quantity contracts is available on the DOE NEPA website at <http://www.eh.doe.gov/nepa>, under “DOE-wide NEPA Contracting.”

The applicant will hire a firm to prepare the EA or EIS once a third-party agreement or memorandum of understanding (“MOU”) has been signed by DOE, the environmental firm, and the applicant. The firm DOE selects must sign a conflict of interest form indicating that it has no financial or other interest in the outcome of the project. DOE will not be involved in the fee and contractual negotiations between the applicant and the NEPA contractor.

NEPA Process and Preparation of an EIS

The following outlines the NEPA process at DOE following the decision to invite an applicant to negotiate. The first step involves determining the appropriate level of NEPA review for each project.

If DOE determines that an EIS is required, DOE will prepare the EIS, or, as appropriate, adopt an EIS prepared by another federal agency (e.g., U.S. Department of the Interior) for the corresponding project. If DOE needs to prepare an EIS, DOE will publish in the Federal Register a notice of intent (“NOI”) to prepare the EIS. The NOI states the purpose and need for agency action, opens a minimum 30-day scoping process, and provides preliminary information on the proposed EIS scope, including the alternative actions to be evaluated and the kinds of potential environmental impacts to be analyzed in the EIS. During the 30-day scoping process, DOE will hold one or more public meetings in the vicinity of the proposed project site. DOE officials will attend and run the meeting(s). The EIS preparation contractor may be called upon to facilitate the logistics of the meeting.

During the public scoping process DOE requests comments from the public on the scope of the EIS in regards to what alternatives should be evaluated and what potential environmental impacts should be analyzed. DOE then considers scoping comments and prepares a draft EIS (“DEIS”), which will, at a minimum, meet the requirements in the Council on Environmental Quality’s (“CEQ”) NEPA regulations at 40 CFR Parts 1500-1508 and DOE NEPA regulations at 10 CFR Part 1021.

The DEIS is distributed to members of Congress, other federal agencies, Indian tribes, state and local governments and organizations and individuals known to be potentially affected or have an interest in the project and is filed with the U.S. Environmental Protection Agency (EPA). EPA then publishes a notice of availability (“NOA”) in the Federal Register announcing the availability of the DEIS beginning a minimum 45-

day public comment period. DOE may publish its own NOA describing how the public may comment, including the location and schedule of one or more public hearings on the DEIS.

After receiving comments, a final EIS (“FEIS”) is prepared that includes public comments on the draft EIS and DOE responses describing how the comments were addressed in the FEIS. The same distribution process as the DEIS follows, including a filing with EPA. EPA issues a NOA in the Federal Register, and DOE may issue a record of decision (“ROD”) no sooner than 30 days after publication of the NOA. The ROD describes the agency’s decision regarding the proposed action and is published in the Federal Register.

Information to be Submitted to DOE in the Application

Under Section 609.6(b)(23) of the Final Regulations, an application must include a report containing an analysis of the potential environmental impacts of the project that will enable DOE to assess whether the project will comply with all applicable environmental requirements and will enable DOE to complete any necessary reviews under NEPA. Accordingly, each applicant should submit the following information to assist DOE in determining the appropriate level of NEPA review, and in preparing the EA or EIS.

1. Facilities – describe and, as appropriate, identify and quantify:
 - new facilities to be constructed, existing facilities to be modified, and materials and equipment to be used in construction;
 - size of the new and modified facilities and of the total project site (including support facilities needed, such as parking lots and treatment facilities, and associated land uses, such as agricultural production areas);
 - extent of necessary site clearing and excavation;
 - associated construction of transport infrastructure (e.g., access roads, railroad links, docks, pipelines, electrical transmission facilities) or waste treatment facilities; and
 - any existing facility that is part of, or related to, the proposed project.
2. Project Location – describe and, as appropriate, identify, quantify, or provide a map:
 - project site and location;
 - ownership of or jurisdiction over the land by Federal, state, regional, or local agency;
 - existing transportation corridors and infrastructure;
 - nearby land use and features (e.g., residences, industrial facilities, parks, surface water, soils, geology, hydrology);
 - areas with special designation both on the project location and nearby (e.g., National Forests, National Historic Properties, wetlands, floodplains, critical habitat for designated threatened or endangered species);
 - ambient air quality; and
 - near-by populations (including minority and low-income).
3. Proposed Project Construction and Operation –
 - (a) describe and, as appropriate, identify and quantify, project operations, including:
 - material resources to be used, including how they would be transported;
 - source(s) and rates of water consumption and adequacy of water supply sources;
 - materials produced, including how they would be transported;
 - onsite and offsite releases (air emissions, including carbon dioxide, odors; water effluents; and solid and other liquid waste streams), including rate and duration of such substances as criteria pollutants, greenhouse gases, and hazardous substances;
 - onsite and offsite waste treatment and disposal;
 - number of on-site workers; and
 - any mitigating measure(s) to be used or considered to be used to reduce environmental impacts.
 - (b) present an overall schematic process diagram that identifies all inputs and outputs; and

(c) identify a spectrum of scenarios that could result from process upsets, human error, and accidents/intentional destructive acts.

4. Project progression – provide information on:

- construction milestones;
- expected operating cycle and any aspects of the project that could result in impacts that vary over time (e.g., with time of day or season of the year); and
- expected project lifetime, including expansion of initial project at the proposed site and to other sites.

5. Status of other environmental and regulatory reviews, including permitting

- if the proposed project would require review or permitting by another Federal agency or by a state, regional, or local agency, identify the required reviews and permits and tell the status of each; and
- if an environmental impact review (e.g. NEPA documentation, agency consultations) has been prepared (or is in the process of being prepared or is anticipated) for the proposed project (by another federal agency or a state agency), provide a summary or copy of the review.

6. Alternative sites or operating parameters:

- identify any other sites considered for the proposed project, and state whether they remain options or give the reasons for not proposing them;
- identify any alternative operating parameters for the proposed project (e.g., materials to be used in constructing and operating the project, emissions controls or carbon sequestration) and state whether they remain options or give the reasons for not proposing them.
- identify other major project options, if any, relevant to environmental concerns

7. Post-operational requirements – to the extent possible:

- describe any reasonably foreseeable future requirements, including site close-out and site restoration; and
- describe any related decontamination and decommissioning activities, including associated waste streams.

8. Other actions in the project area:

- describe current or other possible future industrial or other facilities and activities (for example, coal-fired electrical plants or biomass facilities), including those by other companies, in the same geographic area(s).

DOE recommends that applicants also consider NEPA references on DOE's website at

http://www.gc.energy.gov/NEPA/selected_guidance_tools.htm-- "Recommendations for the Preparation of Environmental Assessments and Environmental Impact Statements," "Environmental Impact Statement Checklist," and the "Environmental Assessment Checklist". Applicants may also wish to refer to existing EAs and EISs published on DOE's LGPO and NEPA websites to understand the level of analysis that DOE will need to carry out in its NEPA review.

Attachment C

Schedule of Fees

**UNITED STATES
DEPARTMENT OF ENERGY**

**FEE SCHEDULE FOR LOAN GUARANTEE
Title XVII Loan Guarantee Program**

LOAN GUARANTEE FEE STRUCTURE:

Note: All fees appearing on this schedule are non-refundable.

Type of Fee Fee Amount

I. Application (First 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

II. Facility (Second 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

*Twenty percent (20%) of the Facility or Second Fee is due upon the execution of a Term Sheet approved by the CRB by the applicant, and the remaining eighty percent (80%) is due upon the closing of the Loan Guarantee Agreement.

III. Maintenance (Third Fee)

As set forth in Section VII.A of the Solicitation.

IV. Fee Payments

Fee payments will only be credited by wire transfers to the following address:

**U.S. Treasury Department
ABA No. 0210-3000-4 TREASNYC/CTR/BNF=D89000001
OBI=LGPO Solicitation for
PROJECTS THAT EMPLOY INNOVATIVE ENERGY EFFICIENCY, RENEWABLE
ENERGY, AND ADVANCED TRANSMISSION AND DISTRIBUTION TECHNOLOGIES**

Application Fee for (applicant name)

Attachment D

Loan Guarantee Application Form

U.S. Department of Energy Loan Guarantee Program for Projects that Employ Innovative Technologies

This form is for use by Applicants seeking a U.S. Department of Energy Loan Guarantee pursuant to Title XVII of the Energy Policy Act of 2005, Public Law 109-58 (22 USC 16511, et seq.) and is governed by 10 CFR Part 609. (Social Security numbers are requested for purposes of verifying whether the Applicant has any tax delinquent accounts with the IRS as required by OMB Policy Circular A-129.) After completing this form, please print two copies and send to the address below. It is highly recommended that all mail be sent via Express Mail. Full Applications should be uploaded using Fed Connect at www.fedconnect.net. For more information on the program, please visit our website at <http://www.lgprogram.energy.gov>.

Submit Completed Form to:
Director
U.S. DOE Loan Guarantee Program
1000 Independence Ave, SW
Washington, DC 20585-0121

If you need assistance or have
any questions please contact the
Loan Guarantee Program Office
by email at
lgprogram@hq.doe.gov

In reference to DOE Solicitation No. _____
Invitation No. (if applicable) _____

GENERAL INFORMATION

Organization Name		Federal Tax ID or Social Security No.
Contact Last Name	First Name	Position/Title
Phone Number		Fax Number
Address		
City	State	9 Digit Zip Code
Email	DUNS Number	NAIC Number
Project Location – City	State	9 Digit Zip Code

PROJECT SPONSORS (ASSET HOLDERS) WITH EQUITY OF 5 PERCENT OR MORE

Organization Name		Federal Tax ID or Social Security No.
Contact Last Name	First Name	Position/Title
Phone Number		Fax Number
Address		
City	State	9 Digit Zip Code

Organization Name		Federal Tax ID or Social Security No.
Contact Last Name	First Name	Position/Title
Phone Number		Fax Number
Address		
City	State	9 Digit Zip Code

Organization Name		Federal Tax ID or Social Security No.
Contact Last Name	First Name	Position/Title
Phone Number		Fax Number
Address		
City	State	9 Digit Zip Code

Organization Name		Federal Tax ID or Social Security No.
Contact Last Name	First Name	Position/Title
Phone Number		Fax Number
Address		

City	State	9 Digit Zip Code

Organization Name		Federal Tax ID or Social Security No.
Contact Last Name	First Name	Position/Title
Phone Number		Fax Number
Address		
City	State	9 Digit Zip Code

SUMMARY OF LOAN GUARANTEE REQUEST

Requested Period of Guarantee	yrs	Total Project Costs*	\$
Equity*	\$	Proposed Guaranteed Amount*	\$
Debt*	\$	Requested Loan Guarantee to Debt Instrument	%
Debt to Equity Ratio	:	Requested Loan Guarantee to Total Project Costs	%

* Please indicate dollars in millions

CATEGORY OF PROJECT

Category	Description	Check Box
1	Renewable Energy Systems	
2	Advanced Fossil Energy Technology (including coal gasification meeting the criteria in paragraph 1703 (d) of Title XVII	
3	Hydrogen fuel cell technology for residential, industrial or transportation Applications	
4	Advanced nuclear energy facilities	
5	Carbon capture and sequestration practices and technologies, including agricultural and forestry practices that store and sequester carbon	
6	Efficient electrical generation, transmission and distribution technologies	
7	Efficient end-use energy technologies	
8	Production facilities for fuel efficient vehicles including hybrid and advanced diesel vehicles	
9	Pollution control equipment	
10	Refineries, meaning facilities at which crude oil is refined into gasoline	

RESTRICTIONS ON DISCLOSURE AND USE OF INFORMATION

Title XVII of the Energy Policy Act of 2005 authorizes the collection of this information. The primary use of this information is by the Loan Guarantee Program Office of the Department of Energy in their review of applications for loan guarantees under Title XVII. Additional disclosures of this information may be made as required by law. Where the information provided is a social security number, the provision of the information is voluntary but failure to disclose may result in disapproval of the application.

All information collected will be handled in accordance with the Freedom of Information Act (5 U.S.C. 552) and all applicable laws.

Patentable ideas, trade secrets, proprietary, or confidential commercial or financial information, disclosure of which may harm the applicant, should be included in an Application only when such information is necessary to convey an understanding of the proposed project. The use and disclosure of such data may be restricted, provided the applicant specifically identifies and marks such data in accordance with the following provisions:

1. Applicant hereby discloses that (fill in the blank below in this Application Form with the specific Application Sections containing proprietary data):

“Sections ____ of this Application contain data which have been submitted in confidence and contain trade secrets or proprietary information, and such data shall be used or disclosed only for evaluation purposes; provided that, if this applicant is issued a loan guarantee under Title XVII of the Energy Policy Act of 2005 as a result of or in connection with the submission of this Application, DOE shall have the right to use or disclose the data herein, other than such data that have been properly reasserted as being trade secret or proprietary in the loan guarantee agreement. This restriction does not limit the Government’s right to use or disclose data obtained without restriction from any source, including the applicant.”

2. Include the following legend on the first or cover page of each document or electronic file submitted that contains such data (be sure to specify the page numbers from such document or electronic file that contains the proprietary data):

“The data contained in pages _____ of this document or electronic file which hereby forms a part of the Application have been submitted in confidence and contain trade secrets or proprietary information, and such data shall be used or disclosed only for evaluation purposes; provided that, if this applicant is issued a loan guarantee under Title XVII of the Energy Policy Act of 2005 as a result of or in connection with the submission of this Application, DOE shall have the right to use or disclose the data herein, other than such data that have been properly reasserted as being trade secret or proprietary in the loan guarantee agreement. This restriction does not limit the Government’s right to use or disclose data obtained without restriction from any source, including the applicant.”

3. Include the following legend on each page of a document or electronic file containing such data (a) as a header on the page or (b) to specifically identify and mark each line or paragraph on the page containing such data:

“The following contains proprietary information that (name of applicant) requests not be released to persons outside the Government, except for purposes of review and evaluation.”

BURDEN DISCLOSURE STATEMENT

This data is being collected to support Applications for loan guarantees from the Department of Energy under Title XVII of the Energy Policy Act of 2005 (22 USC 16511, *et seq.*). The data you supply will be used for the review of business and credit risks relating to projects which qualify for loan guarantees under Title XVII.

Public reporting burden for this collection of information is estimated to average 10.36 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of the Chief Information Officer, Records Management Division, IM-23, U.S. Department of Energy, 1000 Independence Ave SW, Washington, DC, 20585-1290; and to the Office of Management and Budget, OIRA, Washington, DC 20503.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

Submission of this data is required to obtain a guarantee of the repayment of principal and interest on loans relating to projects that qualify for such guarantees under Title XVII of the Energy Policy Act of 2005 (22 USC 16511, *et seq.*).

CERTIFICATION

The undersigned certifies that the data and information submitted and the representations made in this Application and any attachments to this Application are true and correct, to the best of the Applicant's knowledge and belief after due diligence, and that the Applicant has not omitted any material facts.

The undersigned further certifies to having full authority to bind the Applicant.

Applicant (Organization Name)

--

Name of Applicant's Authorized Officer (<i>will fulfill on-line certification</i>)
--

Title

--

Signature of authorized officer (<i>for paper copy only</i>)
--

Date

--

Attachment E

Examples of Eligible Projects

The following is provided for illustrative purposes only and is a non-exclusive list of projects potentially employing New or Significantly Improved Technologies that would generally fall within each of the respective project types described under the heading “Project Types” in Section II of the Solicitation. The project types set forth in this Attachment E do not constitute projects presumed to employ New or Significantly Improved Technologies. Submission of an application supporting a project that fits within one or more of the illustrative project types set forth below neither assures that an applicant will be selected to enter into negotiations with DOE nor assures that such applicant will be issued a Loan Guarantee Agreement.

Manufacturing Projects

- Energy Efficient Industrial Manufacturing
- Energy Efficient Building Equipment and Components Technologies
- Hybrid Vehicle Manufacturing Facilities
- Advanced Wind Turbine or Component Manufacturing Facilities
- Ocean Wave, Tidal, and River Current (e.g., hydrokinetic) Manufacturing Facilities
- Utility-Scale Energy Storage Device Manufacturing Facilities
- Battery Manufacturing Facilities
- Hydrogen and Fuel Cell Manufacturing Facilities
- Low-cost Carbon Fiber Manufacturing Facilities
- Plug-in Hybrid Manufacturing and Assembly Facilities
- Solar Technology Manufacturing Facilities
- High Temperature Geothermal Pump Manufacturing Facilities
- Advanced Geothermal Power Cycle Manufacturing Facilities
- Substation-Class Transformer Manufacturing Facilities
- Energy Efficient, High Capacity Transmission Cable/Conductor Manufacturing Facilities
- High Power, High Voltage Power Electronics (or Transmission-Class Solid-State Equipment) Manufacturing Facilities

Stand-Alone Projects

- Commercialization of Advanced Design Bio-Refineries for Multi-Feedstock Processing into Biofuels
- Geothermal Power Project Development in Known Geothermal Resource Areas
- Large-Scale Concentrated Solar Power (“CSP”) and Concentrated Photovoltaic (“CPV”) Projects
- Tidal Energy Project
- Wave Energy Project
- Advanced Hydropower Project
- Offshore Wind Project
- Industrial Energy Efficiency Projects
- Implementing Hydrogen Fuel Cells into a Project for Stationary and or Vehicular Applications
- Integration of an Energy Efficient Technology into a Commercial, Residential, or Industrial Facility or Building
- Advanced Hydropower Facility

TECHNOLOGY CATEGORIES

Applicants may submit applications for technologies not specifically listed below but which conform to the requirements set forth in Section 1703 of Title XVII, the Final Regulations and this Solicitation. The following list is provided for illustrative purposes only in order to familiarize the applicant with the types of technologies potentially constituting New or Significantly Improved Technologies that may fit within each defined category. The technology categories set forth in this Attachment E are not presumed to employ New or Significantly Improved Technologies. Submission of an application supporting a project that fits within one or more of the illustrative technology categories set forth below neither assures that an applicant will be selected to enter into negotiations with DOE nor assures that such applicant will be issued a Loan Guarantee Agreement.

Category 1 Alternative Fuel Vehicles

- 1) Battery manufacturing facilities
- 2) Plug-in hybrid manufacturing and assembly facilities
- 3) Advanced hybrid manufacturing facilities

Category 2 Biomass

- a) Bioenergy projects as described in Section 932(d) of the Energy Policy Act of 2005
- b) Biofuels production, distribution and infrastructure
- c) Municipal solid waste ("MSW") to ethanol projects or syngas (for the non-recyclable portion of MSW)
- d) Biomass to syngas projects including but not limited to fossil fuel repowering projects
- e) Biomass to diesel projects (excluding fatty acid methyl ester projects)
- f) Bio-oil derived fuel projects
- g) Biosolids to diesel, ethanol or electricity production

Category 3 Efficient Electricity Transmission, Distribution and Storage

- a) Smart grid technologies
- b) Solid-state devices for grid applications such as advanced converters, transformers, and fault current limiters
- c) Advanced utility-scale energy storage devices
- d) Advanced cables and conductors
- e) Advanced technologies that assist in the widespread deployment of intermittent renewable energy systems and which combine generation with storage facilities and demand side management

Category 4 Energy Efficient Building Technologies and Applications

- a) Improved building shell materials
- b) Cool roof materials
- c) Day-lighting technologies
- d) Lighting systems
- e) Advanced window technologies

Category 5 Geothermal

- a) Advanced exploration and drilling technologies
- b) Electricity production from hot wastewater from oil and gas wells
- c) Advanced power cycle technologies
- d) Hybrid cooling systems
- e) Enhanced air-cooled condensation systems
- f) High temperature and high pressure instrumentation and diagnostic tools
- g) Advanced geothermal power facilities

Category 6 Hydrogen and Fuel Cell Technologies

- a) Manufacturing for small scale fuel cell systems
- b) Utility scale hydrogen energy storage systems
- c) Combined heat and power fuel cells for buildings

Category 7 Energy Efficiency Projects

- a) Technologies which reduce energy consumption in industrial, commercial and institutional applications.
- b) Examples for industrial applications include the aluminum, chemicals, forest products, glass, metal casting, mining, petroleum refining and steel industries.
- c) Examples for commercial applications include large office buildings, big box retailers, shopping malls, apartment complexes and housing subdivisions.
- d) Examples for institutional applications include universities and hospitals.

Category 8 Solar

- a) Centralized solar electricity generation facilities or installations (concentrated solar power or photovoltaic)
- b) Solar technology manufacturing facilities (concentrated solar power or photovoltaic)
- c) Advanced solar thermal technologies, applications and manufacturing

Category 9 Wind and Hydropower

- a) Advanced wind power plant
- b) Wind or renewables specific transmission lines
- c) Turbine or component manufacturing
- d) Testing facilities for commercial wind turbine components
- e) Community wind power systems
- f) Hydropower technology devices in existing impoundments
- g) Ocean wave and ocean, tidal and river current (hydrokinetic) energy projects

NOTE: 1705 Eligible Projects do not include projects under Categories 1, 4, 6 and 7 above.

Attachment F

Letter of Commitment

Attachment F

Director, DOE LGPO

This is to confirm that it is our intent to seek a Loan Guarantee pursuant to your solicitation serial no. [INSERT NO.], dated July 29, 2009. This confirms we have met all mandatory requirements as specified in the Solicitation, including Attachments A1 to A2, of the Solicitation. Our Part I Application fee was wired as per your instructions on xx/xx/xx.

We intend to submit our complete Part II submission on the due date for the [first, second, or third, etc.] round of Part II reviews as set forth in Section III.F of the Solicitation. Based on the Application process as delineated in the Solicitation, we intend to be prepared to close with respect to the financing on or about xx/xx/xx.

Should we decide to withdraw from consideration for a loan guarantee at any time prior to or after any of the due dates for the three rounds of Part II reviews as set forth in Section III. F. of the Solicitation, we will notify DOE in writing of that decision.

Attachment G

Communication Instructions

Responses to this Solicitation

1. FEDCONNECT

Potential applicants that receive this solicitation through sources other than FedConnect should immediately register with FedConnect.

In order to register you will need:

- Your company's DUNS (including plus 4 digit extension if applicable).

(If you don't know your company's DUNS or if your company does not have a DUNS you can search for it or request one at <http://fedgov.dnb.com/webform/displayHomePage.do>)

- A Federal Contractor Central Registration ("CCR") account.

(If your company is not currently registered with CCR, please register at www.ccr.gov before continuing with your FedConnect registration.) In completing the CCR, utilize the "Grants" format unless you have reason to use any of the other formats.

- Other details on registering at FedConnect are available at the website – www.fedconnect.net

VERY IMPORTANT: Applicants are highly encouraged to obtain such numbers and complete such registrations as soon as possible and should allow at least 21 days to complete these processes. Contact the FedConnect support team at support@fedconnect.net to verify successful registration. If you have questions regarding the operation of FedConnect, please contact the FedConnect support team at support@fedconnect.net.

Important subsequent information may be posted concerning this solicitation that will only be available at FedConnect and/or the Program Website.

Applicants that intend to respond to this solicitation should pay careful attention to the instructions contained in Section V.3 of the Solicitation as well as the instructions in Attachment D. The form set forth in Attachment D, OMB No 1910-5134, must be completed, signed and submitted along with the Part I submission, no later than 11:59 PM ET on the due date for the particular round of Part I reviews in which the applicant wishes its project to receive DOE consideration but in no event later than August 24, 2010. Such form must be submitted both as hard copies (2) and electronically through FedConnect.

Applicants should provide a "short name" or other identifier that will allow for easy identification of the company or the project.

If an applicant needs to make substantive changes or additions to its application prior to the application submission deadline, the applicant must clearly identify and date the new version of the submission in its file name and upload it through the FedConnect website.

2. ALTERNATIVE COMMUNICATIONS

Prior to the Part I submission deadline of the due date for the particular round of Part I reviews in which the applicant wishes its project to receive DOE consideration but in no event later than August 24, 2010, potential applicants may seek clarification only in respect of registering with, or the operation of FedConnect. Accordingly, the preferred method of communication with DOE is through FedConnect. However, alternate communication channels in respect of registration with, or the operation of, FedConnect, include:

- Regular or express mail, including private carriers at

Director
U.S. DOE Loan Guarantee Program Office CF 1.3
1000 Independence Ave., SW
Washington, DC 20585-0121

- Telephone at: 202-586-8336

Additional information on the loan guarantee program may also be available at www.lgprogram.energy.gov.

3. SINGLE POINT OF CONTACT

Upon receipt of a completed Part II application submission and a decision by DOE to begin negotiations with an applicant, DOE will assign a single point of contact for individual questions and/or discussions on matters relevant to the application. This single point of contact will arrange for follow-up discussions. DOE may request that each submission to DOE be followed with an oral presentation to discuss and clarify the submission and agree on next steps. A teleconference instead of face-to-face meeting can suffice by mutual agreement.

Attachment H

29 CFR 5.5(a) Davis Bacon Contract Provisions

29 CFR 5.5(a) - Contract provisions and related matters

Section Number: 5.5

Section Name: Contract provisions and related matters.

(a) The Agency head shall cause or require the contracting officer to insert in full in any contract in excess of \$2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a public building or public work, or building or work financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in Sec. 5.1, the following clauses (or any modifications thereof to meet the particular needs of the agency, Provided, That such modifications are first approved by the Department of Labor):

(1) Minimum wages. (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in Sec. 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

- (2) The classification is utilized in the area by the construction industry; and
- (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) Withholding. The (write in name of Federal Agency or the loan or grant recipient) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records. (i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three

years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the (write in name of appropriate federal agency) if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to the (write in name of agency). The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the (write in name of appropriate federal agency) if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit them to the applicant, sponsor, or owner, as the case may be, for transmission to the (write in name of agency), the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the applicant, sponsor, or owner).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under Sec. 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under Sec. 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or

indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the (write the name of the agency) or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees--(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be

permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(5) Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the (write in the name of the Federal agency) may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility. (i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a

person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1). (iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.