



Green Strategies Bulletin



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Loan Guarantees For Commercial Renewable Energy Generation Projects Announced

On October 7, 2009, the U.S. Department of Energy (DOE) announced a long awaited new public-private risk-sharing loan guarantee program referred to as the Financial Institution Partnership Program (FIPP). The DOE simultaneously announced its first solicitation (Solicitation) under the FIPP for loan guarantees for commercial renewable energy generation projects (Commercial Generation Projects) and committed \$750 million in funds to pay the credit subsidy costs of Commercial Generation Project borrowers (Commercial Project Borrowers) under Section 1705 (Section 1705) of the American Recovery and Reinvestment Act of 2009 (ARRA) for the “rapid deployment” of these projects. The DOE estimates that up to \$8 billion in Commercial Generation Project financing can be accomplished under the Solicitation.

Consistent with the rapid deployment requirements of Section 1705, Commercial Generation Projects under the Solicitation must commence construction no later than September 30, 2011, in order to receive a loan guarantee. Commercial Generation Projects under the Solicitation include wind, closed-loop biomass, open-loop biomass, geothermal, landfill gas, trash-to-energy, hydropower and solar facilities.

Importantly, the Solicitation indicated that DOE anticipates it will issue an additional FIPP solici-

tation in the future for commercial renewable manufacturing projects that also are eligible for loan guarantees under Section 1705.

Under the FIPP, Commercial Project Borrowers are not permitted to apply directly to the DOE for loan guarantees. Rather, under the FIPP, the DOE relies on qualified financial institutions (Lender-Applicants) to undertake risk analysis and actually structure loans eligible for a 1705 loan guarantee. Qualified financial institutions may apply individually or on behalf of a group of financial institutions.

Under the FIPP, Lender-Applicants will be required to certify that the loan transactions they structure would receive internal credit approval using standard internal credit underwriting policies as if the Lender-Applicant were not participating in the FIPP. Credit underwriting considerations include analysis of the project legal structure, project risks, collateral and project sponsor experience amongst other items.

Under the Solicitation, the DOE’s guarantee percentage of the guaranteed obligation (Guaranteed Obligation) is limited to no more than 80 percent of the maximum aggregate principal amount of, and interest on, the Guaranteed Obligation. As part of the FIPP, the Lender-Applicant and other participating financial institutions are required to

share *pari passu* with the DOE in the risk associated with Commercial Generation Project 1705 guaranteed loans.

A Guaranteed Obligation under the FIPP is expected to be “traditional” senior secured debt, structured in accordance with customary market terms applicable to high-quality, limited or non-recourse, long-term, energy project finance transactions and not modified to accommodate tax-oriented investment structures. The project must be expected to have, whether structured on a project finance or a corporate finance basis, a credit rating from a nationally recognized rating agency of at least “BB” from Standard & Poor’s or Fitch or “Ba2” from Moody’s, without the benefit of any DOE guarantee or any other credit support that would not be available to DOE.

Applications under the Solicitation will be submitted in two parts. Part I applications may be submitted at any time. Following feedback from DOE, Lender-Applicants will self-select to decide whether to proceed with a Part II application. The Part II application,

which will detail the project eligibility, the policy considerations required by ARRA and the financing plan, may be filed in any of 10 rounds, commencing on November 23, 2009, and ending on January 6, 2011. Applicants are to be evaluated competitively against all other applicants in the same round.

As with other ARRA grants and guarantees, Buy American provisions may apply to public buildings and public works, and Davis-Bacon prevailing wage requirements will apply to all labor used for the project. The Solicitation is available at <http://www.lgprogram.energy.gov/>.

If you have questions about the procedures or application process for the loan guarantees or need assistance in completing an application, please contact Raymond C. Headen at rheaden@bricker.com/216.523.5471, David Rogers at drogers@bricker.com/614.227.2367 or Emmett Kelly at ekelly@bricker.com/614.227.2308.

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