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## **DEPARTMENT OF ENERGY LOAN GUARANTEES FOR INNOVATIVE RENEWABLE ENERGY PROJECTS**

The "Stimulus" legislation enacted by Congress in February, 2009 authorized up to \$8,500,000,000 in loan guarantees for renewable energy projects that use "innovative" energy efficiency and renewable energy technologies. The U.S. Department of Energy ("DOE") issued substantial formal guidance on the application process for this loan guarantee program on July 29, 2009. The highlights are as follows:

- Program designed to support commercial use of innovative technologies not generally in use in the U.S. at the time of the guarantee. Technology that has been installed for the same general purpose in at least three commercial projects in the U.S. and that has been in operation at those projects for at least 5 years at the time of application generally would not qualify.
- Eligible projects must be located in the U.S. and can be either "stand-alone" projects (such as wind farms or bio-refineries), or industrial manufacturing facilities for components or equipment.
- There are up to seven rounds of guarantee funding to be processed between September 14, 2009 and August 24, 2010. Each round requires separate preliminary and final applications to be submitted, generally two or three months apart. The preliminary applications for the seven rounds will be due on September 14, 2009; October 22, 2009; December 23, 2009; February 18, 2010; April 22, 2010; June 24, 2010; and August 24, 2010, respectively.
- Applications will be competitively evaluated against all other submissions filed in the same round. Early round applicants will receive priority of review. Later round applicants will be at risk that the statutory authorized cap on guarantee funding will already have been allocated.
- For eligibility, loans must be for no more than 80% of total project cost and borrower must provide evidence of substantial equity investment in the project and full availability of all other funding necessary to construct the facility. The project must commence construction by September 30, 2011 and have all licenses and permits in place and have all contractors hired and supplies ordered or delivered so that construction can begin by that time.
- Application fees for the program are assessed on a sliding scale, rang-

ing from \$75,000 for loan guarantees under \$150,000,000, up to a maximum of \$125,000. Twenty Five (25%) percent of this fee is due at time of the preliminary "Part I" application and the 75% balance is due at the final "Part II" submission.

- Applications will be reviewed based on a number of factors, including the innovative nature and viability of the technology, reduction in greenhouse gases, timing for completion of the project, U.S. jobs creation or retention and availability of all other funds necessary to construct and complete the facility. DOE decisions on loan approval will generally be granted within two months of submission of the Part II application, although there is no required time frame for DOE review.
- Approved loans will be provided by the Federal Financing Bank and guaranteed by DOE. Loans will generally be full recourse during construction, although alternative financing structures will be considered if the goals of the program are achieved. The loan must be repaid pro rata over the term.
- A Facility Fee of 1% for loan guarantees up to \$150,000,000 (with a corresponding sliding scale for larger loans) will be charged and will be payable 20% at the execution of the terms sheet and 80% at loan guarantee closing.
- Ongoing loan Maintenance Fees of generally \$50,000 to \$100,000 per year will also be due over the term of the loan.
- Although there is no minimum loan amount mandated, the DOE generally recommends that applicants requesting loans below \$25,000,000 carefully review the economic efficiency of the program for their purpose because of the fee structure.

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