

Client Alert

July 2013

DOE Announces New Loan Guarantee Program for “Advanced Fossil Energy Technology”

In connection with the Climate Action Plan announced by the Obama administration this summer, the Department of Energy released on July 2, 2013, a draft loan guarantee solicitation (the Draft Solicitation) for advanced fossil fuel energy projects and facilities. The Draft Solicitation describes a new loan guarantee program (the Program) authorized under Section 1703 of the Energy Policy Act of 2005. Under the Program, the Department of Energy would provide up to \$8 billion in loan guarantee authority for facilities that employ “advanced fossil energy technology” in one of the following four categories of qualifying technology areas set forth in Section 1703: “Advanced Resource Development,” “Carbon Capture,” “Low-Carbon Power Systems” and “Efficiency Improvements.” The Program would include facilities for both electrical and nonelectrical fossil energy use, so long as “the technology [is] concerned with the production, consumption, or transportation of energy.” “Fossil fuels” is defined broadly to include “without limitation, coal, natural gas, oil, shale gas, oil gas, coal bed methane, methane hydrates, and others.”

Eligible Projects

The Draft Solicitation includes the following illustrative list of eligible projects, based on the four “advanced fossil energy technology” areas:

1. Advanced Resource Development:
 - (a) Novel oil and gas drilling, stimulation and completion technologies, including dry fracking, that avoid, reduce or sequester air pollutants or anthropogenic emission of greenhouse gases;
 - (b) Use of associated gas production to reduce flaring;
 - (c) Coal-bed methane recovery to reduce the emissions into the atmosphere of methane associated with coal mining;
 - (d) Underground coal gasification;
 - (e) Methane emissions capture from energy production, transmission or distribution;
2. Carbon Capture:
 - (a) CO₂ capture from synthesis gases in fuel reforming or gasification processes;
 - (b) CO₂ capture from flue gases in traditional coal or natural gas electricity generation;
 - (c) CO₂ capture from effluent streams of industrial processing facilities;

3. Low-Carbon Power Systems:
 - (a) Coal or natural gas oxycombustion;
 - (b) Chemical looping processes;
 - (c) Hydrogen turbines;
 - (d) Synthesis gas, natural gas or hydrogen-based fuel cells;
4. Efficiency Improvements:
 - (a) Combined heat and power;
 - (b) Waste heat recovery on industrial facilities;
 - (c) High-efficiency distributed fossil power systems.

Each project must also (i) “avoid, reduce, or sequester air pollutants or anthropogenic emission of greenhouse gases” and (ii) “employ New or Significantly Improved Technology as compared to Commercial Technology in service in the United States at the time the [term sheet for the loan guaranty] is issued.”

Applications

The application fee is \$1 million, to be paid in two installments over the course of the application process (25 percent at the time the Part I application is submitted and 75 percent at the time the Part II application is submitted). Other fees and expenses — including, among other things, 100 percent of the “Credit Subsidy Cost” (*i.e.*, the net present value of the estimated payments to and from the government in the event of a default, as the same is adjusted for the probability of default and anticipated recovery amounts) — become payable for a facility that receives a conditional commitment for a loan guarantee and at the execution of the final loan guarantee agreement.

The Draft Solicitation will be open for public comment for 60 days. The Department of Energy will finalize the solicitation and begin reviewing applications following the comment period. The Department of Energy is required to complete a NEPA analysis on a proposed project before it makes a decision to award a loan guarantee.

The Draft Solicitation can be accessed here: <https://lpo.energy.gov/wp-content/uploads/2013/07/Draft-Advanced-Fossil-Solicitation.02.07.13.pdf>

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