

**Responses to Questions and Answers
Biofuels Production Facilities Solicitation (PON-11-601)**

February 8, 2012

ADMINISTRATION/PROCESS

- 1. It shows that the due date for the AB 118 Evaluation, Measurement, and Verification RFP is February 9 which seems rather soon compared to PON-11-601 whose deadline to submit proposals is 2 weeks later on February 21.***

February 9th was not identified as a key date in this solicitation. This solicitation was posted January 11, 2012 and all applications are due to the Energy Commission on February 23, 2012 by 3:00 pm. The new application due date will be posted in Addendum 2, which I estimated to be posted to the Commission Website by 2/10/12.

- 2. Can you clarify the issue of "confidential information"? For production facilities with confidential information (i.e. trade secrets, intellectual property (IP), etc.), is this information required to be disclosed in the application process? If no confidential information is to be included, what level of vagueness is acceptable?***

All proposals submitted will be accessible to the public after the Notice of Proposed Awards (NOPA) is posted. Including confidential information in a proposal is grounds for rejection of the application. Applicants must provide enough information that the reviewers are confident in what the proposal is stating, but proprietary information such as a detailed description of the technology may be omitted.

- 3. If we begin construction now and complete 50% of the work by May, if we are approved for the grant in May, would we be able to apply the remaining 50% of the costs towards the grant?***

Project costs expended prior to the NOPA are not eligible to count towards a grant agreement. Project costs incurred after the release of the NOPA (pre-execution) are eligible to count as match and are spent at the applicant's own risk. These costs must be consistent with the grant terms and conditions and applicable federal cost principles. Applicants can incur reimbursable costs only after the agreement is executed.

- 4. According to the solicitation, all work must be completed by March 31, 2016. In the instance that a respondent is proposing a project for feedstock trials, it would be helpful to have another 6-9 months of work time beyond March 31, so that the results of another feedstock growing cycle can be included in the final findings. Is there any flexibility with respect to the date of March 31, 2016?**

No. Grant agreement end dates are determined by liquidation dates of our funding. Applicants should provide a timeline that demonstrates the project would be completed by March 31, 2016.

- 5. Our technology produces both gasoline substitutes and diesel substitutes. It can be configured to produce only gasoline substitutes, only diesel substitutes, or both gasoline and diesel substitutes. The form in Attachment A requires the applicant check only one box for the primary fuel being produced. How should I fill out Attachment A? Should I submit two applications to ensure our application is reviewed by both the committee assigned to evaluate gasoline substitute applications and the committee assigned to evaluate diesel substitute applications?**

No, it is not necessary to submit two separate applications; however, the applicant will need to select only one box on the cover page. Consider which fuel will be the primary fuel produced for purposes of the grant agreement and with grant funding. Proposals will undergo a technical review that will be competent to evaluate all relevant pathways. The narrative and responses to relevant scoring criteria should include a discussion on the technology's ability to produce multiple fuels.

- 6. Do appendices count towards the 30 page limit?**

No, appendices do not count towards the 30-page limit.

- 7. The first round of scoring that will fund up to \$20 million projects looks at both a passing score and they must have CEQA started by May 1, 2012 – is this correct?**

No. To be proposed for funding under the Round 1, the proposal will have to have a passing score that is high enough to be eligible for funding and commit to submitting completed CEQA compliance documentation to the Energy Commission by May 1, 2012.

- 8. Will the unfunded projects from the first round of scoring and any first-round project that fails to timely submit CEQA documentation see a reduction in the CEQA score for having not completed their permit requirements by the deadline?**

A project's score will not change; however, proposing an unrealistic timeline for completing CEQA may result in a lower original score under the "Project Readiness" criterion. All projects (Round 2 and those bumped from Round 1) must submit CEQA documentation by March 15, 2013.

- 9. Many of the questions raised during the conference involved complicated issues. With the answers not being available until Friday February 3, little time will remain between then and the proposal due date to consider the information and determine how such may affect proposals. Given that, will CEC consider an extension of the February 21 proposal due date?**

The answers do not change any application requirements of the solicitation. In addendum 2, estimated to post by 2/10/12, the applications are now scheduled for receipt on February 23, 2012 by 3:00 pm.

- 10. The solicitation covers three development stages: Stage 1: Early Technology Development, Stage 2: Pilot and Demonstration Facilities, and Stage 3: Commercial Facilities. Will the CEC attempt to allocate an equal amount of funding to each type of project? Are any of the development stages encouraged or discouraged in any way?**

Funding will be allocated to the highest scoring projects. All stages are equally eligible to receive funding. One stage is not favored or scored over another stage.

- 11. Suppose an applicant who is awarded funding decides not to pursue its project. Will this awarded money that now will be unallocated be available for the applicant who is wait-listed with the next highest score?**

Yes. If an applicant with a proposed award chooses not to accept the award, we will move down the list of the Notice of Proposed Award (NOPA) to the next eligible project, provided the appropriated funds are still available for use.

12. The Proposal Submission Requirements on page 8 of the Solicitation says the proposal may be mailed or hand delivered to the California Energy Commission. Are express package delivery services such as UPS or FedEx also acceptable to use for proposal submission?

Yes, these are acceptable methods for application submission. However, proposals are still marked with the time and date of receipt, and if the delivery company fails to deliver the application by the due date and time, the application will be rejected.

13. In Section 11 (Confidential Information), should we assume that the entire application will be available to the public? Will these be available via some searchable website? If this has been the case for past CEC solicitations, we would like to know how to access prior applications.

All proposals will remain confidential during the application review process, but will be accessible to the public after the NOPA is posted. Past proposals are publicly available and can be requested through the Grants and Loans Office at the Energy Commission.

14. Can you direct me to the document that talks about limitations on overhead or indirect charges for the PON-11-601?

Overhead and Indirect charges are discussed in the Budget Forms and Instructions document (Attachment F). In addition, applicants will be scored in part on their average loaded rates (ALR), which take into account fringe benefits, indirect overhead, and general and administrative overhead. See Attachment B (Scoring Criteria), pages 4-5 for details. Finally, Attachment M (Invoicing Instructions for Cost Reimbursement Agreements) discusses reimbursement for indirect charges.

15. Can the same Principle Investigator submit multiple distinct and separate proposals?

Yes, as long as each proposal complies with the proposal requirements and is for a distinct and separate project.

16. If a proposal scores above 70% and is CEQA compliant but is not funded, will it be considered in Round 2?

Yes, a passing but unfunded application from the first NOPA will be merged into the second round NOPA with its original score to be considered for funding.

17. Are grant funds paid in lump sum or paid per invoice?

Grant funds are paid per invoice, in arrears, on a cost-reimbursement basis.

18. If we are awarded any portion of this grant, what will the disbursement schedule be?

Commission grant funds are disbursed on a cost-reimbursement basis after receipt and approval of invoices, progress reports, and products due.

19. Is there a limit to the number of proposals that may be submitted?

No. There is no limit to the number of proposals that may be submitted, but if multiple proposals are submitted by the same applicant, the proposals must be for distinct and separate projects and must adhere to all proposal requirements.

20. Is there a California Business Enterprise (CBE) requirement for this solicitation?

No. There is no CBE requirement for this solicitation.

FUNDING/MATCH

21. Can you provide clarification on how the 50% non-state match funding is applied?

The 50% minimum non-state match funding requirement is the balance of the project cost beyond the Energy Commission's match share. For example, if a \$2 million dollar project is being proposed, the applicant may request up to \$1 million of CEC funding and will need to provide \$1 million in match share funding as cash or cash and in-kind contributions.

22. Can the cash match contribution be from debt / traditional bank loans?

Yes, cash match can be from debt or loans and documentation must be provided.

23. Are there debt/equity (capital structure) requirements/covenants related to the grant?

No.

24. One of our collaborators is a Professor at the University of Nevada. Can the University of Nevada be reimbursed as a key subcontractor? If yes, is there a limit on the fraction of state funding they can receive?

The subcontractor will be eligible for reimbursement and there is no limit to the fraction of state funding they can receive. However, project construction and operations must occur in California. In addition, scoring criteria are applied to maximize economic and environmental benefits in California. Projects with work being performed outside of California may not score as competitively as projects that perform work in California. Please refer to scoring criteria #6 (Project Budget and Cost Effectiveness) and #8 (Economic Benefits) (Attachment B, pages 4-5).

25. The bottom of page 2 of the Solicitation says: "Project construction and operations work must occur in California with the exception of any work performed at federal facilities such as the US Department of Energy's National Laboratories and Technology Centers and US Department of Agriculture's Research Centers." We may wish to include some short-term equipment trials and catalyst tests at vendor locations outside of California in our proposal. The purpose of these trials is to ensure that the correct equipment and catalysts are installed in our California facility. Would costs for these trials be allowed under this grant?

Yes, short-term equipment trials and catalyst tests are not part of project constructions or operations and may occur out-of-state. However, please see response to Question #24 for how this may impact scoring.

26. Can appropriate California State University labs and facilities be used to meet part of the non-state match funding requirement?

Yes, assets of the CSU may be counted towards match share funding in proportion to their specific and direct contributions to the project. Applicant must provide a description or rationale for how the value of this match share is calculated.

27. Can land and existing facilities (buildings), owned by the University of California, be counted toward the 50% non-state match share requirements as outlined in Section 10 of the solicitation?

Yes, assets of the University of California may be counted towards match share funding in proportion to their specific and direct contributions to the project. Applicant must provide a description or rationale for how the value of this match share is calculated.

28. Regarding the matching of funds, can the aggregate value of a currently operational biofuel plant be considered?

Public and private property including land, equipment, facilities (e.g. laboratory space) and most property can counted towards match share in proportion to their direct use for the proposed project. The value of the match share contribution is based on documented fair market values, book values, or rental values and is depreciated or amortized over the term of the project and based on its value to the project, using standard accounting principles. The applicant must demonstrate the value of the real property, labor, and materials to be used as match share funding in direct proportion to the proposed project.

29. In considering equipment (on hand) that is being used for the project and for match, is the match value of the equipment based on market value or by how much we paid for it?

Please see response to Question #28.

30. Can we structure collaborations with a university partner as a sub-award where we pay a lump sum upfront to the University for them to manage or only subcontract where we pay bills for service as they bill us?

The Commission, at its sole discretion, may advance funds to a public entity or to a private entity for pass through to a public entity. The public entity receiving advance funding, however, must be under a binding sub-agreement with the private entity, and advancing funds is based on a finding of compelling need and subject to the terms and conditions of the Commission's grant agreement. If the university is a California public entity such as the University of California or the California State University, then the Commission may advance of funds if there is a compelling need. When funds are advanced, funds are advanced quarterly for work to be performed during that quarter. See Attachment K (Terms and Conditions), page 13, for additional requirements and limitations on advanced funds.

The Commission cannot advance funds to private universities.

The grantee may subcontract on a "purchase order" basis for services that are considered "non-discretionary," such as testing. (See federal Office of Management and Budget (OMB) Circular A-133 for the definition of a "vendor".) However, for discretionary activities, the grantee must use a subcontract, including the flow-down provisions required in the grant agreement, to obtain

those services. Universities are typically involved in conducting research, preparing reports, or providing technical or consultant support, which are discretionary activities. In this case, the university must be under a binding subcontract - not just a purchase order - with the grantee to receive reimbursement for work performed.

31. At what specific time does the match funding have to be lined up and documented? Does a statement by the funding entity suffice that the funds will be available if the grant is awarded?

Current language in the solicitation requires that all match share funding must be committed and in place at the time the application is submitted to the Commission. Note however, that the Commission will be issuing an addendum that will clarify that match share funding will need to be in place prior to execution of the agreement rather than at the time of application. A statement with supporting letter(s) from match share participants is sufficient to be included at the time of application.

32. If there are more high scoring applicants in one funding allocation category, can the CEC allocate the additional \$30M as needed or does it need to be allocated by a specific percentage similar to the allocation used in the PON?

The additional \$30 million dollars that may be added to the solicitation would be based on the funding allocations described in the FY 2012-2013 Investment Plan Update for the Alternative and Renewable Fuel and Vehicle Technology Program, and would be conditional upon the approved allocations and appropriation of funding in the FY 2012-13 Budget Act.

33. If an applicant has funding from another funding agency, can funding spent on this project in advance of the award be used as a match? If yes, can expenditures of said funds in advance of award be used as match? Can any expenditure on the project incurred prior to award be used as match?

Please see response to Question #3. Note that if the other funding agency is a state agency, those funds could not be counted as "non-state" match funding.

34. Please advise reason for the in-kind funds required for each of the different stages:

**Stage 1 has a minimum funds required of \$500,000,
Stage 2 has a minimum funds required of \$500,000,
Stage 3 has a minimum funds required of \$500,000.**

**Stage 1 minimum \$500,000 represents 1/3 of the total funding of that stage,
Stage 2 minimum \$500,000 represents 1/10 of the total funding of that stage,
Stage 3 minimum \$500,000 represents 1/12 of the total funding of that stage.**

Stage 1 appears to be a little disproportionate to the other two Stages.

The minimum funding amount that may be requested for all stages is identified as \$500,000. The match requirement for all stages is a minimum of 50%.

35. If we have recently invested \$5 million to build a pilot plant, and for the proposed project we plan to operate the pilot plant to demonstrate our technology to support the scale-up to build plants in California, what portion of the \$5 million spent prior to project initiation could be counted in the company's match?

Please see response to Question #28.

36. The application manual states that "proposals must disclose the source and provide verification and documentation for the matching funds". Can examples be provided for the type of documentation required?

Verification and documentation for matching funds may be in the form of a letter of intent or commitment from the applicable project partner or lending institution.

37. Is there a list of unacceptable in-kind contributions that would constitute the matching funds?

There is currently not a comprehensive list of non-eligible in-kind contributions.

38. Are Federal funds eligible as a source of cost share?

Yes, federal funds are eligible as match share funding in direct proportion to the proposed project.

39. Is a grant from Federal Department of Energy qualified as non-state match?

Yes, please see response to Question #38.

40. Can the grant proposers donate extra hours and count it as part of the match?

Yes, applicants may count as match share funding the value of in-kind contributions used directly on the project. Applicant must describe the value and methodology used to determine match share amount.

41. Are we allowed to use profits from the project as our match? In addition to profits, are we allowed to count unrecovered cost share to make the match?

Profits are not eligible as a reimbursable item, but profit applied as cash and reinvested in the project may count as match. Unrecovered cost share (e.g., charging the Commission a lower indirect overhead rate and making up the difference between budgeted and actual costs with match share) is allowed to be counted as match share.

42. We have a 15% indirect cost agreement with the state. If we don't charge this to CEC, can we count it as match?

It is not clear from the question if the Energy Commission is subject to this indirect cost agreement. As such, no response can be provided.

43. Can we charge "use allowances" for land and vehicles as part of the match?

Use allowance may be used as match share to the extent the amount calculated is in direct proportion to the proposed project, and consistent with applicable federal cost principles incorporated by reference into the agreement.

44. Is a certified appraisal required for land cost justification as non-state match?

A certified appraisal is not required to determine real property value used in match share funding, but is an acceptable method. Other options also include uncertified appraisals and comparisons of similar properties.

45. Is Intellectual Property developed wholly within the State of California and fundamental to the project eligible as match?

No, intellectual property is not eligible as match share funding.

- 46. Regarding the statement that intellectual property can't be counted as a contribution to match: does that include license fees? That is, if the project is receiving a license fee for intellectual property at no cost that otherwise would have cost a certain fee, can that fee that would otherwise have had to be paid count as match?**

License fees are not eligible to count as match.

- 47. Can feedstock being collected during the project be counted as in-kind match?**

The value of the feedstock and the feedstock collection can be used as match share as long as proper documentation determining the value is provided.

- 48. Can a bond be posted for the amount of required match as opposed to disclosing source of match funding?**

Yes. Applicant must certify and provide documentation of a bond if a bond was committed in the proposal prior to the execution of an agreement that match funding is available to the project.

ELIGIBLE PROJECTS

- 49. Does operating a grease recycling/rendering plant for feedstock preparation for biodiesel constitute a biofuel production facility under this solicitation?**

If the proposed project can demonstrate that it could lower the carbon intensity for an eligible fuel at an existing biorefinery and that it has a lower greenhouse gas potential than referenced in the LCFS pathways for soy biodiesel, then it would be an eligible project. The applicant should also document that a feedstock procurement agreement with the biorefinery exists as well.

- 50. Are biosolids from wastewater treatment facilities and animal waste from feedlot operations considered "waste-based biomass" and therefore eligible feedstocks for diesel substitute production under this grant solicitation?**

Yes. Biosolids from wastewater treatment facilities and animal waste from feedlot operations are considered waste-based biomass and are eligible feedstocks to the extent they are used to produce a biofuel for transportation use.

51. Would a proposal for the implementation of an advanced integrated waste management system that incorporates a highly efficient fuel conversion process and a recently patented gas capture technology to produce and capture methane for use in vehicles, be eligible?

Based on the limited information provided, it appears that the proposed project may be eligible based on the Eligible Projects Section (Section 6) of the solicitation. Please refer to that section.

52. If a biotechnology company, not a biorefinery company plans to apply, is it necessary to include in the proposal a plan to build a biofuels production facility? If so, would the company be eligible to apply if there is no plan to build a biofuels production facility themselves, but will rely on an industry partner/customer to do so?

It is not necessary for the applicant to plan to build a biofuel production facility themselves. However, in order to score well in the evaluation process, the applicant should demonstrate how the technology will be commercially viable in the transportation market. Please refer to scoring criteria #2 and #3 (Technology Development and Market Development) (Attachment B, page 3).

53. Are technologies that improve specific process components acceptable? For example, would engineering enzymes to more efficiently break down biomass into simple sugars or improving specific enzymes in biosynthetic pathways to convert sugars into precursors for renewable fuels be eligible?

Based on the limited information provided, it appears that the proposed project may be eligible based on the Eligible Projects Section (Section 6) of the solicitation. In general, process improvements are eligible. Please see response to Question #52.

54. Biodiesel Producers need Blending Infrastructure to make B20 a commercially viable fuel. This is not directly related to production, but is essential for implementing alternative fuels to market; is this something that the Grant will cover? If not, are there up-coming grant solicitations that would be a better match for this type of request?

Infrastructure is not eligible for funding under this solicitation. Funding for infrastructure will be issued under a separate solicitation that is expected to be released soon.

55. Does a commercial scale plant have to be part of a pre-existing pilot / demonstration plant? Can proposals for a commercial scale plant include a test size unit as part of the project?

No, a commercial scale plant does not have to be part of an existing pilot facility. Yes, it is acceptable to propose a test size unit as part of a commercial application.

56. Under the description of "Eligible Fuels," the PON states that the biofuels are eligible "if produced for transportation purpose." Question: What showing is required that the biofuels will be used for transportation purposes? For example, assume biomethane is being produced from eligible feedstocks, upgraded to transportation quality and injected into the pipeline. One or more CNG fueling stations draw from the same pipeline. Would this be sufficient to demonstrate production for transportation purposes?

This would not be sufficient unless there is a direct, documented connection to the transportation user. An example of sufficient documentation would include an off-take agreement with a transportation fuel provider committing to purchasing the quantity of fuel that is expected to be produced from the project. Scoring Criteria ask that the applicant identify strategic marketing partners and customers (Attachment B, page 2).

57. Our goal is an economical process to convert algae oil into liquid drop-in transportation fuels, including biodiesel and (renewable hydrocarbon) diesel. Our crude renewable diesel should pass the diesel ASTM either without or with minimal refining. However, if it won't, the intention is to pass it on to a conventional refinery for conversion into gas, diesel etc., as a partial replacement for crude oil growing to up to 100% over time. Part of the project would be working with one or more refineries to establish such a corporation. Would such a project be responsive to PON-11-601? If not, assuming the California Energy Commission has a general interest in a combination of these technologies to make gas/diesel substitutes, what parts of such a project should we focus on?

Marketing agreements with fossil fuel refiners are eligible as part of your demonstration of the commercial viability of your biofuel.

58. Can proof of anaerobic digestion of co-products be used as a basis to reduce carbon intensity of fuel produced at an existing biodiesel production facility? Is there any restriction as to the location of the digester, i.e., must it be in California?

Yes, the digestion of co-products can be used as a basis to reduce the carbon intensity of fuel produced at an existing facility if documented in the life cycle analysis.

Yes, the digester must be located in California to be considered as part of the project.

59. Does syngas qualify as a fuel for this solicitation?

Syngas may be eligible if there is a demonstrated transportation use.

60. The PON lists diesel, gas and biomethane categories. Would gasification of residual biomass that produces syngas qualify in the biomethane category?

Yes, if there is a demonstrated transportation use.

61. Our agency has identified multiple project sites and a list of eligible technology partners for these sites. We are moving forward with a broad-based analysis and feasibility assessment of these multiple projects. Under this solicitation, would an endeavor like this be eligible as a "Stage 1: Early Technology Development" proposal? All projects would be processing the biogenic fraction of the MSW waste stream.

The applicant is responsible for identifying which stage is most applicable to their project, based on the descriptions stated in the application manual.

62. Is jet fuel an acceptable fuel product? If so, should it be classified as a Diesel Substitute?

No. Jet fuels are not eligible under this solicitation.

63. Is aviation fuel an acceptable fuel product? If so, should it be classified as a Gasoline Substitute?

No. Aviation fuels are not eligible under this solicitation.

64. If applying under Stage 2: Pilot and Demonstration Facilities, does the project need to show both the ability to produce biomethane and distribute the gas to end users, or is proving production of biomethane enough?

The project must clearly demonstrate how the fuel will be used in the transportation sector.

65. If part of a project is already under construction, with a technology that produces a gas that could be upgraded to biomethane for use in transportation, could the grant funding be used to convert a facility/technology to process the biomethane for use as a transportation fuel?

Yes, the funding can be used to convert a facility/technology to produce any eligible biofuel, including biomethane.

66. If a project has the pre-engineering and design work completed, permitting has been started, but the applicant has not completed the facility modifications, is this project considered Stage 2 or Stage 3? Is Stage 3 defined by intent to operate commercially? Is there a minimum scale (e.g., annual gallons) to qualify as commercial?

There are no production thresholds for the determination of project stage. The applicant is responsible for identifying which stage is most applicable to their project, based on the descriptions stated in the application manual.

67. Does this grant solicitation include biofuels that are CNG derived from biomethane that can be used by light-duty trucks? (i.e. not liquid biofuels)?

Yes.

68. Is splash blending an eligible activity under this solicitation?

No. Splash blending is not an eligible activity under this solicitation.

69. In the application under bullet point 6 it states that "Project construction and operations work must occur in California with the exception of any work performed at federal facilities...". What work exactly does this mean? Are stage 1 & 2 projects able to do work outside of CA? Can matching funds be used for work outside of CA?

Other work (such as equipment testing or lab work) may be performed outside of California. However, the scoring criteria are designed to maximize economic and environmental benefits in California. Projects with work being performed outside of California may not score as competitively as projects performing work in California.

ELIGIBLE APPLICANTS

70. Does the applicant have to be registered to conduct business in California or have a business presence in California at the time of application, or can it wait until award notice to establish the business presence?

The applicant can wait for the proposed notice of award to establish a business presence in California, but should identify its intent to do so in the application. To be eligible, applicants must have a business presence in California at the time the agreement is executed. All private entities are required to register and be in good standing with the California Secretary of State to enter into an agreement with the Energy Commission.

71. Can Non-profits apply?

Non-profit businesses, non-profit vehicle and technology entities, and non-profit education institutions may apply.

SCORING CRITERIA

72. Under the scoring rubric for point number 6 "Project Budget and Cost-effectiveness" and in particular for the second bullet point: How does this apply for small R&D companies or phase 1 & 2 projects where the revenue stream from the project may be small or nonexistent? Is it expected that phase 1 and 2 projects take a significant hit on these potential 80 points in this category?

All projects will be scored on the ability of the applicant to demonstrate to the Energy Commission that funds from any source are and will be available to pay for the proposed project activities regardless of the project stage.

73. Please expand on the definition of "positive cash flow over the life of the project" and what is intended by the "life of the project".

Cash flow is an accounting of all cash inflows a business receives from both its ongoing operations and external sources, as well as all cash outflows that pay for business activities and investments. The applicant must demonstrate that

positive cash flow exists for the duration of the project, which means during the term of the agreement with the Energy Commission.

74. To what extent does a Stage 1 project have to demonstrate in the response that its technology will generate a lower GHG potential than the LCFS pathways for corn ethanol or soy biodiesel? In other words, would it be adequate for a respondent to have done some form of initial calculations based on GREET or similar assessment (but not completed a detailed, third-party, comprehensive assessment)?

Initial calculations are sufficient for a Stage 1 proposal. GHG potential will be subject to a Technical Review, so the initial calculations should include as much information about basis of your calculations as you can provide (e.g., assumptions used in your calculations, relevant technologies or feedstocks with similar characteristics which already have certified LCFS pathways, and/or other supporting technical information that is available). Typically GREET is the default method for determining carbon intensity values.

75. Regarding GHG emissions, we request additional clarification on how applicants should address GHG emissions and the overall GHG footprint of the proposed project. Specifically, to what extent are applicants expected to evaluate the overall GHG footprint of their proposed project (e.g. through a life cycle analysis using a tool such as CalEEMod)? This question is especially relevant for Stage 1 proposals evaluating new feedstocks for which life-cycle estimates are largely unknown. An alternative interpretation for evaluating GHG emissions is CEQA's statutory requirement for publicly-funded projects. Such an assessment could trigger further environmental review prior to funding. Which of these concerns should applicants address?

GREET is the default model used for determining carbon intensity values. The ARB website provides carbon intensity values for all generic alternative fuel pathways and specific producer certified pathways. If an approved LCFS pathway is not available, the applicant should comply with the Air Resources Board's 2A or 2B methods discussed on the LCFS website. Other methods for determining the carbon intensity of a project are acceptable; however, the applicant must identify all assumptions and data that went into the calculation.

76. For feedstock assessment, can we say no substantial impact on local health impacts?

Please review the scoring scale. Applications will be scored on the completeness of their response and their ability to document or substantiate their assertions.

77. The scoring criteria included in attachment B of the solicitation materials appear to be focused on proposed activities that qualify as "projects" as described in Section 13 of the Application Manual ("an action requiring a discretionary approval (such as a permit) from a local, regional, or state agency that has the potential to cause a direct physical change or a reasonably foreseeable indirect change in the environment"). Which of these scoring criteria will be used for proposed Stage I efforts that do not meet this definition of a "project" such as pre-engineering, design studies, and feasibility study reports?

"Project" is used in two different ways in the solicitation: "project" as the proposed activity for grant funding and "project" as defined in CEQA. All scoring criteria apply to projects (proposed activities) proposed in all three stages of commercialization. Responses to scoring criteria should be framed in terms of both the proposed project activities, as well as the long-run commercialization of the technology.

78. Attachment G requires that we submit demographic information to determine if the project will have negative health impacts on "at-risk" individuals in the project community which assumes that the project is located in a low-income community. On the other hand, question 8 of Attachment B asks how the project will benefit economically distressed areas, and asks for the same demographic information (i.e. in question 8 on Attachment B, the project looks good if it is located in a low-income community). Can you clarify the priorities with respect to demographic data in Attachment G and question 8 of Attachment B?

The economic benefits section of Attachment B and demographic section of Attachment G request similar information be stated. Attachment G requires the information be stated independently of other sections of the document for reference purposes. The information requested in attachment B should be put in the context of how those demographics relate to the overall economic benefits of the project.

79. If an existing plant is using the default carbon intensity (CI) 11.76 for biodiesel produced from waste oils where cooking is not required, can grant funds be used to increase production at the facility with the installation of cogeneration (combined heat and power) to reduce the carbon intensity of the fuel? In other words, is a used cooking oil production plant capped at 11.76 as the CI or are we able to use grant funds to reduce our CI from the default?

As stated on page 2 of the application package, "Funding will be available for new, low carbon biofuel production facilities, or for projects that lower the

carbon intensity of fuels produced at existing biorefineries. Projects must demonstrate lower GHG potential than referenced in the LCFS pathways on the California Air Resources Board (ARB) website for corn ethanol or soy biodiesel.” In this case, the grant-funded facility improvements would have to decrease the CI value of the fuel currently being produced while also having an overall CI value lower than that of soy biodiesel.

80. Regarding the ALR, can you please clarify that the labor hours we must include in the budget are only related to the project - I am not required to list all the labor I currently have operating our plant prior to the project?

Only the labor information relating to the proposed project are required. This would also include any labor being counted as match funding.

81. Regarding sustainability, can you confirm that we don't have to use a listed sustainability certification contractor?

Yes. The contractors listed in section 3101.5 (b)(3)(A) of Title 20 of the California Code of Regulations were shown for reference and are not a mandatory selection list. You may use another contractor or certification method as long as it complies with all requirements of this section and is documented.

82. For Section 9 on Sustainability, must we use the GREET method to determine greenhouse gas emissions of the project, or are other methodologies valid such as the RSB or GHGenius?

Approved LCFS pathways are the preferred method for documenting greenhouse gas emission reductions associated with a project. GREET is the standard method used to calculate LCFS pathways. If an approved LCFS pathway is not available, the applicant should comply with the Air Resources Board’s 2A or 2B methods discussed on the LCFS website. Other methods for determining the carbon intensity of a project are acceptable; however, the applicant must identify all assumptions that went into the calculation.

83. Is it more favorable to the grant applicant if we are in the process of pursuing a certification in sustainability? Or can we receive maximum points simply by description of how the project will promote sustainable production of fuels?

A thorough explanation of the project’s sustainability certification may qualify it for the maximum points. Precertification of a project isn’t required but will be considered strong supporting information towards a higher score under this section.

84. From the Scoring Criteria, #6 [Project Budget and Cost-Effectiveness], I don't see a budget sheet for the second bullet: provide a cash-flow projection for your business over the duration of the grant-funded project. Will you be providing a format?

No. There will not be an attachment specifically stating how this information must be conveyed. Applicants may use their own format to provide cash flow projection information.

85. There are many biodiesel blends on the market, ranging from B5 to B100. Same for ethanol. When you score the cost-effectiveness of a proposed project, do you calculate the dollars per gallon produced based on the 100% or the blend?

When quantifying fuel output, the proposal should focus on gallons produced not necessarily the blends. The cost-effectiveness scoring criteria are not designed to determine a dollar to fuel ratio that projects could be directly compared by. It is primarily to show an effective use of funds for the given project. This cost information would, however, factor into the commercial competitiveness criteria of the end product.

86. Is third party verification needed to demonstrate the economic benefits to disadvantaged areas, or is the information provided by the applicant sufficient?

Third party verification is not necessary; the Energy Commission may accept the information provided by the applicant.

87. To keep labor costs to a minimum, is it better to hire workers on a contract basis?

It is in the applicant's discretion on how they choose to compile their project team. Note that overhead to manage subcontractors will factor into ALR and subcontractor labor costs will be included in ALR. Note also that the qualifications and experience of the project team will be scored in Scoring Criterion #1.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

88. We would appreciate receiving confirmation that a project can be considered under phase 1 if CEQA review by another agency has been completed - even though the CEC itself may require supplementary CEQA information for its own discretionary action in approving the grant.

Yes, a project may be considered under Round 1 if it has completed CEQA documentation from another agency for the same project. However, applicants must provide additional CEQA information to the Commission upon request by May 1, 2012. Projects that fail to timely submit CEQA information will be moved to the Round 2 NOPA.

89. On page 9 of the PON it states that, "All CEQA documents must be submitted by May 1, 2012." In the Scoring Criteria, page 1 of 7, it states, "that CEQA must be completed on or before May 1, 2012." Can you reconcile these statements?

To clarify, applications for Round 1 scoring must commit and provide CEQA documentation to the Commission BY MAY 1, 2012. Applications for Round 2 scoring must provide CEQA documentation AFTER MAY 1, 2012. However, all CEQA compliance documents must be submitted for Commission review NO LATER THAN MARCH 15, 2013.

90. If the CEC acts as the Lead Agency, what are the typical costs that the applicant can expect? Can these costs be used as part of the applicant's match contribution?

CEQA costs are determined on a case-by-case basis and depend on the level of CEQA review necessary (exemption, initial study, negative declaration, mitigated negative declaration, or environmental impact report (EIR)). Costs associated with CEQA compliance, if incurred after the NOPA, may count towards the applicant's required match share.

91. If the grant proposal is to conduct a feasibility study (Stage 1) of a commercial-scale facility, would the applicant still need to submit CEQA-related information on the contemplated facility?

The Applicant must submit CEQA-related information for the project, here, the feasibility study. All projects are subject to CEQA compliance review. If the lead agency determines the proposed project is "not a project" under CEQA, the applicant should provide a letter to that effect. Regardless, the applicant must provide some level of documentation to the Energy Commission on the appropriate CEQA review, or that no review is required. Feasibility and planning studies that do not commit the applicant or agency to further actions and that will not have environmental impacts are typically exempt under CEQA.

92. We are a stage one feedstock project, and anticipate either not qualifying as a "project "under CEQA guidelines or becoming exempt. However, we intend to propose feedstock feasibility studies in multiple counties. Therefore, do we need to receive notices of exemptions from multiple separate CEQA compliance agencies (i.e. one from each county that we are operating in), or will one Lead Agency suffice?

All projects are subject to CEQA compliance review. If the project occurs at multiple locations, the applicant may need to provide notices of exemption from each lead agency in the county in which it is operating.

93. If applying as a Stage 2: Pilot and Demonstration Facility do the potential CEQA exemptions as a R&D facility that would limit the requirements under that section of the grant?

Please see response to Question #91.

94. When the PON refers to CEQA compliance documents to be submitted by a certain date, are we talking about a draft document which had been or would be submit to the clearinghouse or the Notice of Determination?

For a letter stating that the project is "not a project" under CEQA, no particular type of document is required. For exempt projects, a Notice of Exemption or a letter from the lead agency explaining that the project is exempt is sufficient. For a negative declaration, mitigated negative declaration, or EIR, the Notice of Determination and the underlying approved document, including the state clearinghouse number, must be submitted.

95. Can CEQA compliance studies be funded in Stage 1 as part of a feasibility study for a commercial facility being planned but not funded with CEC grant funds?

No, the costs of studies to comply with CEQA, even for a later-staged project, are ineligible to be funded with Energy Commission funds. However, such studies may be funded with match share.

96. If a multi-stage proposal is submitted and there is CEQA compliance for stage one, but not for stage 2, will the CEC fund stage 1 and make stage 2 conditional on obtaining CEQA compliance?

No. Multi-stage proposals are not permitted under this solicitation. The applicant is responsible for identifying which stage is most applicable to their project, based on the descriptions stated in the application manual. CEQA compliance

documentation must be submitted for a proposed project in its entirety. A project cannot go to a Commission Business Meeting until CEQA is fully complied with.

97. *If a Stage 3 project has not yet secured a site, but some of the potential sites already have CEQA approval, how would the project score under project readiness?*

Project Readiness scoring criterion is one of nine criteria used to evaluate projects. The Project Readiness criterion is structured to benefit projects that are ready for immediate implementation. Projects that have secured or have control of a site may receive higher scores.

LOW CARBON FUEL STANDARD SECTION 3103

98. *There was significant discussion of "Section 3103" issues and how such may affect projects. We are contemplating a municipal solid waste-based project with a private developer that would produce fuel for immediate use in the developer's own fleet. Will the types of "Section 3103" issued raised affect this type of project or should we not be overly concerned?*

The issue would affect such a project only if the applicant intends to claim credits through LCFS or any program under AB32. Credits claimed during the agreement term will be subject to the credit discount requirement found in Attachment N if those credits are sold during the term of the agreement or for a period of three years thereafter.

99. *Will the December 2011 U.S. District Court ruling regarding California's low carbon fuel program affect funding under this solicitation?*

No, the recent court ruling regarding the Low Carbon Fuel Standard does not affect the availability of grant funds.

100. *If an applicant requests funding for a pilot scale project, and a year or two later decides to scale up to commercial scale where they opt into the LCFS, would they be affected by the credit discounting process discussed in Attachment N?*

If an applicant is requesting funds for a pilot scale project and decides to scale up to commercial production after the term of the agreement or outside the scope of the agreement, and is not receiving Commission funds for the scaled-up facility, the credit discounting process would not apply. The credit discounting process described in Attachment N only applies to credits generated by the

grant-funded project during the term of the agreement. Please also see response to Question #98.

MISCELLANEOUS

101. Certain elements of a complete U.S. Department of Agriculture Farm Services Agency's Biomass Crop Assistance Program (BCAP) submission could be completed via a Stage 1 project (e.g., environmental assessment, economic feasibility). Could we incorporate aspects of a BCAP proposal as deliverables in a Stage 1 project, to the extent that they are germane to, but not the sole reason for, the Stage 1 project?

Yes. Aspects of the BCAP proposal can be included if the proposed activities comply with the requirements and eligibility of the solicitation. You can only include deliverables from the BCAP proposal to the extent that Energy Commission funds are going to partially fund these deliverables.

102. Given that the focus of this solicitation is on the development of new, low carbon biofuel production facilities, or for projects that lower the carbon intensity of fuels produced at existing biorefineries, are early technology development projects a lower priority?

There is no priority between Stage I, Stage II and Stage III projects.

103. Will a list of workshop attendees be made available to the public?

Yes, the sign-in list from the Workshop is located under workshop documents with the solicitation files.

104. Is it necessary to provide full rate information (base rate, fringe benefits, overhead, G&A) for all contractors, subcontractors, and consultants hired to perform the various proposed tasks; or is rate disclosure information required only for direct employees and employees of project partners?

Yes. Full rate information must be provided for all job classifications charged to this agreement.

105. Will the grant require an annual audit of the grant recipient by a certified third party?

Recipients are strongly encouraged to conduct annual audits in accordance with the single audit concept. In addition, applicants should plan on an audit during

the term of the agreement. Please review Attachment K (Terms and Conditions), section 18(c) and OMB Circular A-133 for additional requirements related to audits.

106. Can a foreign-based (Mexico) expert be hired as a sub contractor consultant?

Yes, as long as the applicant complies with all applicable federal laws and treaties.

107. It seems like other vendors are proposing projects that have not selected a site yet. I will have a site within 2 months. May I submit that site assuming that I am successful?

If the site has not yet been determined, the applicant should describe the current status of site selection.

108. You said feedstock suppliers would not typically be a project partner. What about contractor/engineers/insurance/legal? Or are you referring to some other kind of partner? Maybe an example would help?

Project partners are participants in the project who are not receiving Energy Commission or match funds, but who are integral to the success of the project. See Attachment C, Instructions for the Scope of Work, for the definitions of "Key Partners." It is up to the applicant to determine who they want to identify as a key partner to the project.

109. If a project produces about 500k gallons per year of biodiesel feed from restaurant grease, how much maximum grant are we looking at and how can this amount be increased?

The applicant will need to look at the descriptions and potential activities identified under the Types of Projects starting on page 3 of the application manual and decide which stage is the best fit for the proposed project. The maximum funding available will be based on the Project Stage identified by the applicant. The maximum amounts identified in the solicitation cannot be increased.

110. Are additional studies and materials preferred in support of the project proposal?

Additional studies may be provided if they are important to the project and provide support to the applicant's response to the scoring criteria. The

supplemental material should not be considered the applicant's response to the scoring criteria.

COMMENTS REGARDING FUNDING RESTRICTION PROCESS

The following comments were received regarding the Funding Restriction process identified in the Application Manual, section 14, and Attachment N.. Staff has acknowledged these comments and will take them under consideration.

Comment 1:

On behalf of the lowest carbon ethanol producers today in the nation and in California, we would like to address Attachment N of this Solicitation, which is a requirement that restricts the use of funds from this solicitation for obligated parties, including producers that opt in to a required program, like the LCFS. This language is based on section 3103 of CEC regulations. We believe that the application of the CEC regulation section in this solicitation over reaches and is not consistent with ab118 language.

118 Language specifically states in chapter 44271 C :

"(c) For the purposes of both of the programs created by this chapter, eligible projects do not include those required to be undertaken pursuant to state or federal law or district rules or regulations."

The prospective projects under this solicitation are not required.

Section B of Attachment N specifically states that the regulations applied for those companies that "opt in" to a program like the LCFS. This would have the unintended consequence of reducing the price of the credit that we can sell to refiners and in fact give them the benefit that the regulation is trying to restrict.

We believe that application of this regulation for this solicitation is inconsistent, and in fact contradictory, with AB 118 policy, the LCFS, Governor's jobs goals and the states overall objectives to increase biofuel production at the highest levels in California. We urge the CEC to immediately and retroactively reconsider the 3103 language and in any future solicitation regarding low carbon biofuels in California.

Comment 2:

The production of biofuels at a commercial scale is economically challenging, particularly when producing biomethane that must compete against the wholesale price of fossil natural gas which is currently less than \$2.50/MMBTU - a 10-year low. Most industry experts agree that this low price is likely to be with us for many years to come due to the availability of North American natural gas. WM does not know of any

technology that produces commercial scale biomethane or renewable natural gas for anything close to this price - usually around at least 2-3 times this price.

While the AB 118 grant program is essential to make low carbon biofuels commercially available, access to other funding sources -- such as the state's low carbon fuel standard (LCFS) and the federal Renewable Fuel Standard (RFS2) -- are absolutely essential to make the economics work. Without access to these supplementary revenue sources it is virtually impossible to make these projects work at a commercial scale. If the CEC continues to impose funding restrictions in the manner that appears to be outlined in the solicitation, no commercial scale projects will ever be developed if it restricts access to supplementary funding provided by the LCFS and RFS2. The AB 118 program will be relegated to only provide funding for small scale RD&D and pilot scale projects - NOT commercial scale alternative fuel projects.

Unfortunately, the subject solicitation appears to contain language that would appear to limit access to the LCFS and potentially to the RFS2. We urge you to reconsider this provision as we believe it is contrary to the intent and specific language of AB 118. The language of the solicitation states that if the party:

" . . . is an obligated party or has opted in . . . to a credit generating program such as the LCFS or AB 32 initiatives (Note: although not specifically mentioned, does this restriction also apply to the federal RFS2?), and plans to claim credits generated by the proposed project, then the applicant will be required to agree to discount the value of those credits at the point of transfer in proportion to the funding received".

Newly including this "opted-in" language is totally inconsistent with direction previously given to project applicants and is not consistent with state law. H&SC Section 44271 (c) is the statutory basis, authority and reference for Section 3103 of the AB 118 Regulations:

44271 (c) For the purposes of both of the programs created by this chapter, eligible projects do not include those required to be undertaken pursuant to state or federal law or district rules or regulations.

Section 3103 cites the following as the authority and reference for the regulation as follows:

NOTE: Authority cited: Section 44271(c), 44242(a) Health and Safety Code. Reference: Section 44271(c), Health and Safety Code.

The interpretation of Title 12 Section 3103 has heretofore always been that it only is applicable to those projects that are "required to be undertaken" pursuant to federal or state law. We have had **numerous discussions with CEC AB 118 staff and the guidance heretofore has always been the same**: the funding restrictions only apply to those that are required to be undertaken in order to comply with federal or state law -

not those that are voluntarily undertaken to generate and sell low carbon credits (i.e., LCFS or RFS2).

Projects that are voluntarily implemented - even with AB 118 funding -- to voluntarily provide fuels for the LCFS or RFS2 have never before been subject to this CEC AB 118 Funding Restriction. Under the LCFS, the only parties that are required to comply with the LCFS are those parties that produce or provide transportation fuel in California that has a higher carbon intensity than the goal of the LCFS. This typically means those parties that produce gasoline and diesel. Parties such as our company are not required by the LCFS to be obligated parties because we do not produce fuels such as gasoline or diesel. We only produce low carbon fuels from biogenic sources that are well below the carbon intensity required to be met by the LCFS.

Unfortunately, according to the CARB LCFS regulations, the only way a voluntary producer of a low carbon fuel can participate in the LCFS is by "opting in" as a "regulated party". This is simply terminology used by CARB, but in no way means we are in any way required by CARB to produce a low carbon fuel. We are only "opting in" as a convenient way for CARB to allow for the transaction of LCFS credits under the LCFS program. CARB has specifically clarified in their proposed regulatory amendments to the LCFS that parties that voluntarily opt-in are free to opt-out at any time and still produce low carbon fuel for use in California - provided they are not subject to a compliance obligation under the LCFS. The CEC needs to recognize this distinction.

Attached is the amended "opt-in" and "opt-out" regulation that is currently being finalized by CARB and is expected to go into effect in the very near future. We urge you to pay particular attention to CARB Title 17 Sections 95480.1 - 95480.3 that specifically discusses the voluntary opting-in and opting-out of parties that are not otherwise obligated to comply with the LCFS. The intent of these provisions is simply to provide a mechanism for persons producing low-carbon fuels to market those LCFS credits to other parties that are required to comply with the LCFS.

Even though not specifically mentioned in the subject CEC solicitation, we are concerned that the funding restriction may also apply to the federal RFS2 as it is also a program that can generate saleable fuel credits. Without the supplementary funding through programs such as the RFS2 and the LCFS, given the low cost of competing fossil natural gas, commercial scale biomethane projects will be virtually impossible to finance - even with substantial AB 118 grants.

Our company strongly requests that the CEC not impose this funding restriction on parties that are voluntarily opting-in to the LCFS or RFS2 for purposes of generating and transacting LCFS or RFS2 credits. The funding restriction, consistent with the language of AB 118 should only be on parties that are required to comply with the LCFS (H&SC 44271(c)).