

**Question & Answers**  
**Pilot-Scale and Commercial-Scale Advanced Biofuels Production Facilities**  
**PON-13-609**

February 21, 2014

**ADMINISTRATION/PROCESS**

- 1. *Is public information available yet about the project end date, and/or duration of the demonstration portion of the project?***

Projects funded under Round 1 will have a project end date no later than March 30, 2018, and projects funded under Round 2 will have a project end date no later than March 29, 2019.

- 2. *Do projects that complete in an earlier timeline score any better/receive any preference?***

Projects that complete in an earlier timeline do not receive preference; however, projects demonstrating higher overall readiness will score more competitively. Please refer to scoring criteria #4 (Project Readiness, PON pp. 33-34).

- 3. *For the first round of funding, will projects be considered within their own categories (i.e. diesel sub/gas sub/biomethane), or will they be lumped together?***

Projects of all fuel types will be competitively scored against one another. The Energy Commission will recommend awards under the Round 1 NOPA starting with the highest ranked project in each funding category that has demonstrated CEQA compliance by May 1, 2014.

- 4. *I have reviewed the referenced Program Opportunity Notice and have been unable to determine, is the number of applications per applicant limited to one?***

Applicants may submit multiple proposals, however, each proposal must be for a distinct, separate project and must be submitted separately adhering to all requirements contained in the solicitation (Eligibility Requirements, pp. 7-9).

- 5. *Can we apply under both “gas subs” and “diesel subs” on one application?***

Please choose one fuel type per application.

- 6. *Are grant funds made available at the start of a project, or would we be reimbursed throughout the course of the project?***

Grant funds are paid per invoice, in arrears, on a cost-reimbursement basis. Please bear in mind that no costs incurred prior to agreement execution will be reimbursed using grant funds. Costs incurred from the date of the Notice of Proposed Award (NOPA) may count towards applicant’s required match share.

**7. When can eligible expenses be incurred?**

Costs incurred prior to executing an agreement will not be reimbursed by the Energy Commission. Costs incurred from the date of the Notice of Proposed Award (NOPA) may count towards applicant's required match share.

**8. The disclosure of the financial records of private companies after three years is an unreasonable request that may cause entities that would otherwise partner with the California Energy Commission on biofuel production facilities important to California objectives to reconsider submission. Detailed financial records of the type being requested in this proposal constitute trade secrets. The provision to make these records public after three years is not in the public interest. We request that you eliminate the three year disclosure statement and allow such trade secrets to be considered proprietary and not subject to disclosure in perpetuity.**

Confidential information as provided by applicants in Attachment 13 will not be kept confidential in perpetuity. It will, however, be kept confidential for seven (7) years. Please refer to the Answer to Question #9, below.

**9. We appreciate that it is burden for the Energy Commission to keep the financial documents submitted as part of the Financial Plan confidential in perpetuity, but believe that 3 years is too short a period and may reveal information that will give our competitors an advantage. Can the Energy Commission increase the period after which these records become public record to seven years?**

Yes. Information properly contained in Attachment 13 will be kept confidential for seven (7) years, after which time the records will become public. Refer to Addendum 1. If at any time during the seven years the information in question is no longer proprietary or becomes publicly available (e.g., is released by the applicant), then the Energy Commission will not be obligated to keep such information confidential.

**10. Will the confidential financial documents submitted by clients whose proposals did NOT win an award still become public information after three years?**

Information in Attachment 13 that is submitted by applicants who are ultimately unsuccessful will be kept confidential for a period of seven (7) years, after which time the records will become public.

- 11. California Government Code section 6254.15 reads “Nothing in this chapter shall be construed to require the disclosure of records that are any of the following: corporate financial records, corporate proprietary information including trade secrets, and information relating to siting within the state furnished to a government agency by a private company for the purpose of permitting the agency to work with the company in retaining, locating, or expanding a facility within California.” (We respectfully request); will the Energy Commission please extend their current interpretation of confidentiality to include the trade secret and extremely sensitive data requested in the Marketing Plan section including marketing partners, customers and take-off agreements?**

The Energy Commission may use its discretion in applying the Public Records Act exemptions contained in Government Code section 6254.15. In addition to keeping confidential for seven years the financial information requested in PON section III(H)(4)(b)(3)(a) items (i) – (iv), information requested in PON section III(H)(4)(b)(2)(c) will be kept confidential for seven years. This information is limited to marketing partners, customers, and off-take agreements. Any information other than that specified in PON sections III(H)(4)(b)(3)(a) items (i) – (iv) and III(H)(4)(b)(2)(c) will be public following posting of the NOPA. If at any time during the seven years the information specified in PON sections III(H)(4)(b)(3)(a) items (i) – (iv) and III(H)(4)(b)(2)(c) is no longer proprietary or becomes publicly available (e.g., is released by the applicant), then the Energy Commission will not be obligated to keep such information confidential.

- 12. Will the confidential information in “non-awarded” applications be made public at a later date?**

Yes, please see page 18 of the solicitation and refer to Question #10, above. Information will become publicly available seven (7) years from the posting of the NOPA.

- 13. Can we refer to Attachment 13 in the narrative to keep the confidential information contained only there?**

Yes.

- 14. Regarding Section III (H)(4)(b)(3)(a), is it acceptable to simply reference the financial information for 2011, 2012, and 2013 in the body of the Business Plan section and submit the financial information as a separate attachment, perhaps Attachment 13? Or do the historical financial statements need to be embedded in the body of the Business Plan section of the project narrative?**

Yes, it is acceptable to reference the financial information requested in Section III (H)(4)(b)(3)(a) in the body of the Business Plan and submit the actual financial documentation in Attachment 13.

**15. Can other information go into Attachment 13 in order to make it confidential also?**

No. The Energy Commission does not warrant information, other than the financial information requested in Section III (H)(4)(b)(3)(a) and marketing partners, customers, and off take agreements as requested in Section III (H)(4)(b)(2)(c), will be kept confidential following the release of the Notice of Proposed Award. Applicants should not submit materials that are marked or otherwise delineated as confidential, except for financial information and marketing information described above. Any such material will be returned to the Applicant and not considered.

**16. Can you please confirm that the financial documentation, including but not limited to the balance sheet, cashflow statement, proforma statement, ownership composition, sources of funding and BEP calculation are NOT included in the 30 page limitation for the Project Narrative?**

Financial information separated and clearly identified as Attachment 13 does not count towards the 30 page limitation of the Project Narrative. Information on marketing partners, customers, and off take agreements separated and clearly identified as Attachment 13 also does not count towards the 30 page limit.

**17. Do we need a Resolution from the city council in order to apply?**

Public agencies that receive funding under this solicitation must provide an authorizing resolution approved by their government authority by execution of an agreement with the Energy Commission. A letter of intent from the government authority at the time of application is recommended.

**18. In the box stating “Estimated annual electricity generated (or rated capacity). Agreements?” on Page 4 of Attachment 1 (Application Form), what type of response is the Energy Commission looking for in terms of Agreements?**

“Agreements” has been removed from Attachment 1 (Application Form). Please refer to Addendum 1.

**19. On the Application Form, is the “subcontractors” section for actual subcontractors (i.e. building contractors) or for funding partners?**

The Application Form requests a listing of subcontractors, i.e. building contractors.

**20. Would any contracts in the parent company’s name (California Ethanol & Power, LLC; (CE&P) qualify as an applicant (CE&P Imperial Valley 1, LLC; (CE&P IV1)) contract given CE&P IV1 is a wholly owned subsidiary?**

A subsidiary may apply as the primary applicant, but all requirements for demonstrating the financial viability of the project still apply. Contracts are only valid if made in the applicant’s name and applicant must be registered and in good standing with the California Secretary of State at the time of execution of the agreement, should funding be awarded.

- 21. Does the Energy Commission have full title to equipment purchased with granted funds? Can you explain how this works including the “Title to equipment acquired by the Recipient with grant funds shall vest in the Recipient” outlined on page 10 of Attachment 09 General Terms & Conditions?**

No, the Energy Commission does not own or take ownership of equipment purchased with grant funds. Equipment purchased using approved grant funding is owned by, and becomes the responsibility of, the Recipient.

- 22. Proceeding under the assumption our project would be considered a Public Works Project should we receive Energy Commission Funding, would payment of Prevailing Wages apply to: Just our Agriculture Program outlined as the funded portion of our project or the entire facility project?**

All work pertaining to your project as described in the scope of work and budget must comply with prevailing wage requirements. Please contact the Department of Industrial Relations on prevailing wage requirements. Please refer to the Terms and Conditions (Attachment 9), Exhibit C, Section 27, entitled “Public Works – Payment of Prevailing Wages”.

- 23. Would prevailing wages need to be paid during the funding contract period or longer including indefinitely?**

Prevailing wages must be paid during the project term of the grant agreement. Please refer to the Terms and Conditions (Attachment 9). Please contact the Department of Industrial Relations if you have questions regarding ongoing obligations.

- 24. Regarding financial information submission: if a company is newly incorporated in California, but has been in existence outside the State or outside the US, we are assuming that financial information from the different locations (including outside the United States) must be submitted. Please confirm.**

Yes.

- 25. What is the deadline for an out of State or out of Country firm to incorporate itself in CA to be eligible to be the lead applicant? Should the company be incorporated before March 11, the date proposals are due? Or would it be acceptable for the company to be incorporated after the March 11 deadline but before beginning contract negotiations with the Energy Commission (assuming they are selected).**

A company does not have to be incorporated in California to be eligible to apply for funding, but it must be registered and in good standing with the California Secretary of State by contract execution. All construction and operations work must occur in California. Please refer to page 7 of the solicitation for details.

- 26. We would like to receive copies of winning proposals from previous solicitations that were similar in scope and target area. Please let us know how these copies can be obtained.**

Please contact Kevyn Piper at [Kevyn.Piper@energy.ca.gov](mailto:Kevyn.Piper@energy.ca.gov). Provide Mr. Piper the PON number, the Application # (found on the NOPA), and the name of the applicant (also found on the NOPA) and he will send you directly or provide you with a link where you will be able to download the information you seek.

- 27. Do you want a 1200 page CEQA document included in the application?**

Full CEQA information is not necessary. Please provide the final determination. You may send large CEQA documents via electronic media, if necessary for back-up material.

- 28. I am a bit confused on what documents need to be provided for CEQA compliance in this solicitation. Do we just need to fill out Attachment 7? What needs to be done for the application submission, and what needs to be done after?**

Applicants must fill out the Application Form (Attachment 1) and Attachment 7 to indicate the actual or estimated schedule for permitting and CEQA compliance. If applying for Round 1 funding, applicants must indicate and submit final CEQA documents by May 1, 2014. If applying for Round 2 funding, applicants will submit CEQA documents after May 1, 2014; however, projects recommended for funding must complete the CEQA process within 6 months of the release of the Notice of Proposed Awards (NOPA). The Energy Commission reserves the right to cancel proposed awards that do not meet this CEQA compliance deadline.

- 29. How do we determine if the Energy Commission will be the lead agency?**

Applicants must identify the CEQA lead agency and include documentation demonstrating that contact has been made with the local agency with jurisdiction over the project for purposes of complying with CEQA. If the Energy Commission is the only agency with discretionary approval over the proposed project, then the Applicant must identify the Energy Commission as the lead agency and the Energy Commission will then work with the applicant after the release of the NOPA to ensure CEQA compliance. Please see California Code of Regulations Title 14, sections 15050 – 15053 for additional guidance. Please consult with your legal representative, if you are unclear on the CEQA lead agency for your project.

- 30. If a proposal has a passing score in Round 1, but is not funded, will it have to compete against other proposals in Round 2?**

Yes. Round 1 scores will transfer to Round 2 and compete against Round 2 projects.

- 31. Does Attachment 13 for confidential information have a template?**

There is no template for Attachment 13. Applicants will clearly identify their confidential information, as specified in the solicitation, as Attachment 13.

- 32. How soon can an existing grantee apply for more money? How much progress is needed on an existing project before another award will be made?**

Existing grantees may apply to any open solicitation, provided they meet the requirements of said solicitation. The applicant with the existing project should demonstrate that the project is moving forward and a new project will be financially and operationally supported. A potential new project should not be delayed due to an existing project and vice versa.

- 33. If the applicant is a local government, could you please clarify expectations with respect to applicant's response to the solicitation Section III Application Format, Required Documents and Delivery, Section H.4.b.3.f, which indicates applications should "list any pending or filed litigation in which Applicant is a party, and explain the extent of Applicant's liability coverage, if any."**

Explain how the pending or filed litigation affects the applicant's ability to complete the project. Please list only litigation that pertains to this project's execution.

- 34. Does the Energy Commission really want a list of all pending and filed litigation to which the City is a party; or just anything which would potentially impact our project?**

Please see response to Question #33.

- 35. When you state that the Application Form must be "signed by an authorized representative of the Applicant's organization," do you mean that you require an original copy of the Application Form signed with a "wet" signature? Or will a scanned and printed copy of the document with the original "wet" signature suffice?**

The form submitted to the Energy Commission must be signed. Signature on documents sent to the Energy Commission may be made by inserting a scanned graphic signature, or by "Original Signed By," "/S/," or similar notation. Applicants must retain in their own files, until the termination of the Agreement, the same forms containing original signatures, and produce such documents at the Energy Commission's request.

## **FUNDING/MATCH**

- 36. Will there be more than \$24 million available?**

This is unknown at this time. The 2014-2015 Investment Plan Update for the Alternative and Renewable Fuel and Vehicle Technology Program has not yet been adopted.

- 37. Will a Stage 3 project asking for \$5 million be awarded in Round 1 even though the solicitation states "...at least \$4.027 million"?**

Yes, \$4.027 million is a minimum. The Energy Commission has the discretion to increase the amount of funds available under Round 1.

**38. Will the \$4.027 million be used in Round 1 if there are no passing proposals?**

The \$4.027 million must be used prior to its June 30, 2013 encumbrance deadline; however, if there are no passing proposals in Round 1, the Energy Commission will fund no proposals.

**39. Is there a minimum funding amount for Round 2?**

No.

**40. Do projects with greater than minimum cost share score any better?**

No.

**41. It looks like for this new grant that of the 50% match, half has to be cash. Is that true? The language is a bit confusing. Please clarify if we can use a bunch of expensive equipment as well as land donated from our partner as match.**

Any expense for which cash is spent will qualify towards cash cost share. Applicant must be able to document expenses through payroll records and/or other expense records, following accepted accounting practices. Provide supporting documents showing the value of the land and how the value will be prorated for the term of the project (e.g. comparable lease/rent value from similar properties in the area may be used as in-kind match share contributions). An agreement documenting site control with recipient and land owner is required. Please refer to pp. 11-12, Section II (F)(4) in the solicitation. For land and equipment to count towards cash cost share, costs must be incurred after the Energy Commission notifies the Applicant that its project has been recommended for an award through the release of a Notice of Proposed Awards (NOPA).

**42. Regarding the in-kind cost share ceiling (at 50% of total cost share): Please provide a detailed definition of in-kind costs. For ex., it appears that if a company performs engineering design work for the project and pays its own cash, this will count as in-kind cost share. If the company hires an outside engineering firm to perform this work, it will likely be considered as a cash contribution. If this is the case, this works against firms with in-house capabilities.**

Any expense for which cash is spent will qualify towards cash cost share. Applicant must be able to document expenses through payroll records and/or other expense records, following accepted accounting practices.

- 43. Can you please clarify how in-kind cost share contributions through land acquisition would be accounted for? Do we need to produce a purchase agreement or a lease?**

***If a public entity, such as the City allows us to locate the pilot plant in their property for a number of years for no cost or at a reduced cost, how can we account for the land value (since we do not own or are not legally leasing the property)? And what type of paperwork would be needed?***

Provide supporting documents showing the value of the land and how the value will be prorated for the term of the project (e.g. comparable lease/rent value from similar properties in the area may be used as in-kind match share contributions). An agreement documenting site control with recipient and land owner is required. Please refer to pp. 11-12, Section II (F)(4) in the solicitation.

- 44. Can you explain 50% match? Can you give a dollar amount example for the 50% match. For example, if requested funding level is \$1 million, what is the required match amount?**

The 50% match funding requirement is the balance of the project cost beyond the Energy Commission's funding amount. 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.

- 45. What if a match source changes after the application deadline?**

The Energy Commission will review match source changes on a case-by-case basis; match source changes (addition or reduction) are not encouraged but changes may be allowed after agreement execution if deemed necessary for project success. All match share expenditures must conform to the terms and conditions of this solicitation and the resulting grant agreements. See pp. 11-12 of the solicitation for Match Funding Requirements.

- 46. Why is the funding essentially limited to a single biomethane facility?**

At this time, there is \$6.0 million available to fund qualified, passing biomethane projects. The Energy Commission cannot commit any additional funds, as they are not yet available to this solicitation. This funding of \$6.0 million is not limited to funding only one commercial-scale facility. For example, two pilot-scale facilities may be funded. Additionally, two commercial-scale facilities or one pilot-scale and one commercial-scale facility may be funded with one of the awarded projects being recommended for partial funding. Applicants may request less than the established funding caps in the solicitation.

- 47. Since biomethane can displace diesel use, is there any overlap in the funding categories of "diesel subs" and "biomethane"?**

Diesel substitutes and biomethane are classified differently and will be evaluated as separate fuel types.

48. **Several participants in the Pre-Application Workshop voiced concern with the low amount of funding currently allocated for biomethane under this solicitation. During the Workshop, Commission staff explained that larger allocations were made for gasoline and diesel substitutes because of perceived benefit of their larger scale and greater cost-effectiveness. However, Budget and Economic Benefits already represent 70 out of the total 300 points in the scoring criteria, and if the intention is to award projects which are most cost-effective it is not necessary to segregate specific fuels. As demonstrated by the Energy Commission in the [2014-2015 Investment Plan Update for the Alternative and Renewable Fuel and Vehicle Technology Program \(ARFVTP\)](#) Staff Draft, Biomethane provides the greatest potential for reduction of greenhouse emissions among all biofuel options identified by the ARFVTP staff (88-115% reduction in GHG compared to diesel). Biomethane enjoys the support of industry, academia, and the environmental movement, as an efficient, highly effective and commercially-proven solution to California's global warming challenges.**

**Will the Energy Commission please increase the total amount of funding available for Biomethane projects to at least \$10 million?**

At this time, there is \$6.0 million available to fund qualified, passing biomethane projects. The Energy Commission cannot commit any additional funds, as they are not yet available to this solicitation.

49. **Is the Energy Commission aware that there are many valuable byproducts of anaerobic digestion (AD) biomethane production? For those byproducts that are used to supply the Diesel Substitute and Gasoline Substitutes funding categories, would the Energy Commission consider providing a portion of the funding from said allocations? This is of particular concern due to the fact that essentially only one (1) biomethane facility will be fully funding based on the existing allocations. For example, if an AD had 20% of the production going toward Diesel/Gasoline Substitutes, the \$4M could be funded from the Biomethane allocation and \$1M from the substitutes. This would keep the total funding limit at \$5M per project, while expanding the ability to fund more AD.**

Byproducts from AD biomethane production are eligible feedstocks for diesel substitutes and gasoline substitutes under this solicitation; however, the proposed project must adhere to all requirements contained in this solicitation. Proposed projects must produce biofuels for transportation use to be eligible for funding under each fuel category.

## **ELIGIBLE PROJECTS**

- 50. *Our potential project scope is to utilize the City's biomethane source produced from the anaerobic digestion of wastewater as vehicle fuel to power the City's fleet. Would the wastewater currently being treated or potentially the introduction of a high-strength waste stream in addition to the wastewater be considered an eligible feedstock to meet the solicitation requirements?***

Wastewater treatment plant waste streams and residues are eligible feedstocks; however, it is not clear what "high-strength waste stream" is. It is the applicant's responsibility to determine whether or not their particular proposed project is eligible for funding.

- 51. *The minimum size of projects is 50,000 gallons per year (gpy). Is it flexible?***

Please see Addendum 1 regarding revised minimum production requirements for Pilot and Demonstration Facilities. The minimum production thresholds are not flexible and proposed projects must meet these thresholds to be eligible under this solicitation.

- 52. *What is the definition of "pilot-scale"? What if the pilot is less than 50,000 gpy?***

Please see Addendum 1. "Pilot-scale" is defined as facilities that at a minimum produce 10,000 diesel gallon equivalents per year. If the pilot facility is producing less than 10,000 gpy, a Stage 1 solicitation will be coming out in the future for smaller projects with lower production limits.

- 53. *What is the definition of "commercial-scale"?***

"Commercial-scale" is defined as facilities that at a minimum produce 1.0 million diesel gallon equivalents per year for liquid fuels, or 400,000 diesel gallon equivalents per year for biomethane.

- 54. *Should we apply under Stage 1 or Stage 2 based on the volume or the fact that these are commercially viable facilities?***

Stage 1 and Stage 2 projects are defined by the volume of fuel produced. Please see Addendum 1. It is the applicant's responsibility to determine whether or not their proposed project is eligible for funding under either Stage.

- 55. *Can you please explain why the Commercial Facility category criteria has a lower gpy threshold for biomethane than liquid fuels (400k vs. 1 Million) but the Pilot and Demonstration Facility category does not?***

Please refer to Addendum 1.

56. ***In the solicitation, under Section II: Eligible Projects, it states that 400,000 gpy production of biomethane is required for commercial facilities. Is this an uncompressed volume of gas per year, or is this after compression to a certain degree?***

The solicitation has been amended (Addendum 1) to read that a “Minimum production of ...400,000 *diesel* gallon *equivalents* per year for biomethane, is required”. When converting to diesel gallon equivalents please use the table at the following link: <http://www.energyalmanac.ca.gov/transportation/gge.html>

57. ***In projects converting methane to compressed natural gas, would the units be gallons of CNG produced per year, or gallons of methane? For Stage 3, would this be one million gallons, or 400,000 gallons?***

Please convert biomethane production to diesel gallon equivalents. For Stage 3, 400,000 diesel gallon equivalents per year is required for biomethane. Please see Addendum 1.

58. ***Will you please clarify the definition of “waste-based biomass”? Does this include all biomass as defined in section 40106 (a) of the Public Resources Code? Does it apply to other forms of biomass, such as biosolids?***

Yes, this includes all biomass conversion as defined in section 40106 (a) of the Public Resources Code as well as other forms of biomass, such as biosolids. 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.

59. ***Does the biomass have to be separated from the non-biogenic organic waste, or will credit be given on a pro-rated basis for the biogenic fraction only?***

Biomass must be separated from the non-biogenic organic waste because only fuel produced from the biogenic fraction of the waste stream is eligible.

60. ***Would the non-biogenic fraction of organics in Municipal Solid Waste (MSW) be an eligible feedstock for diesel and gasoline substitute fuels?***

No.

61. ***Would the wastewater from a beef slaughter house be eligible?***

Yes, this is an eligible feedstock, assuming all state and federal regulations for the treatment of the wastewater from the facility are followed.

62. ***Will biomethane projects at public wastewater treatment plants be eligible for these funds?***

Yes.

**63. *If the end product was hydrogen gas, would that be an acceptable biofuel?***

For purposes of this solicitation, hydrogen is not an eligible fuel; however, hydrogen fuel may qualify under other Energy Commission solicitations. For information on active Energy Commission solicitations, please go to <http://www.energy.ca.gov/contracts/>.

**64. *Under PON-13-609 grant, would a CNG refueling station be considered under section B Eligible Projects, subsection 2, Gasoline Substitute?***

A project which solely installs a natural gas refueling station is not eligible for funding under this solicitation; however, a CNG refueling station may qualify as an eligible project cost. Scoring criteria are applied to determine the degree to which the proposed facility / project's budget is cost effective for the project's capacity (dollars per gallon equivalent). Projects with CNG refueling station project costs may not score as competitively. Please refer to scoring criteria #5 (Project Budget). Applicants are required to confirm their eligibility by reviewing the Eligibility Requirements in Section II of the solicitation.

**65. *Is MSW eligible for funding under AB118 if the pathway is pyrolysis to oil?***

Based on the limited information provided, a pyrolysis to oil pathway is eligible for funding only if an eligible transportation biofuel is being produced from the oil. The project must clearly demonstrate how the fuel will be used in the transportation sector.

**66. *While this would be the first anaerobic digestion project for our company, we likely won't be developing a new AD technology or process. Does this mean our proposed project would be classified as stage 3?***

Please refer to the minimum fuel production requirements to classify your project type. Requirements are listed in Addendum 1.

**67. *Regarding biomethane projects, do food waste, dairy manure, miscellaneous paper waste (plates and napkins, etc.) from restaurants, and miscellaneous agriculture waste qualify as eligible feedstocks?***

Yes.

**68. *In regards to section B, section 2, subpart: Biomethane, is landfill produced biomethane eligible for any award under this solicitation?***

Yes. Please see Addendum 1.

**69. Would waste water treatment plant produced biogas or biomethane be eligible under this solicitation?**

Yes. Waste water treatment plant produced biogas or biomethane is eligible to the extent it is used for transportation use.

**70. Can waste diverted from a landfill be used as a feedstock?**

Pre-landfill waste-based biomass sources including, but not limited to, agricultural residues, woody biomass and forest residues, animal manures, food waste, and MSW are eligible feedstocks. If using MSW as a feedstock, only the biogenic fraction of the waste stream is eligible.

**71. Will gasoline substitutes that have not been certified by ARB but have been shown in the past to meet EPA fuel standards be considered in this solicitation?**

Gasoline substitute fuel that has not been certified by the ARB is considered in this solicitation, if the applicant provides assumptions and calculations to substantiate claimed carbon intensity, and as long as the fuel produced is from an eligible feedstock as described in this solicitation. Carbon intensities must be calculated using a method that is compatible with the ARB's LCFS.

**72. For a Stage 2 project, can we propose a smaller first step to produce enough fuel for certification testing if this is part of a complete program to expand our facility to the 50,000 gpy demonstration size?**

All stages of the project must be included in the proposal to count towards the total minimum fuel production capacity per year requirement to be eligible. Additionally, the Energy Commission is planning a Stage 1 solicitation for smaller projects with lower production limits. Please refer to our website for more information:  
<http://www.energy.ca.gov/contracts/transportation.html>.

**73. We would prefer to demonstrate part of the technology in the pilot project instead of producing a final fuel grade product. The reason is that some portions of the technology are commercially mature (for ex., fuel refining) and do not need to be demonstrated in pilot scale. The scale of the project in terms of Tonnes Per Day of feed throughput meets the solicitation requirement, i.e., if final refined fuel were produced, it would meet the 50,000 gpy requirement. Please let us know if this is acceptable.**

*As a follow-up, we could do a slipstream of the syngas and produce a small quantity of sample fuel instead of converting all the syngas into refined fuel. This would result in a reduced quantity of fuel production – please let us know if this would be acceptable as an alternative to the above option.*

*Overall, we believe it would be much more beneficial to both the Energy Commission and the proponents to choose a different metric (for ex., Tonnes Per Day of feed throughput) as the qualifying criteria instead of the gpy of fuel produced. This will potentially allow a wider range and larger number of technologies to participate and will also save valuable dollars in project budgets that would be spent on piloting mature technology components. The other option*

***is to provide more than one qualifying criteria (ex., 'x' Tonnes Per Day of feed throughput or 'y' gpy of fuel production). We urge the Program leaders to consider this option seriously.***

All projects that are funded under this solicitation must meet the minimum fuel production volumes per year for either Stage 2 or 3 development stages, as discussed on page 9 of the PON. Partnership with a fuel producing facility is an eligible project. Additionally, the Energy Commission is planning a Stage 1 solicitation for smaller projects with lower production limits. Please refer to our website for more information: <http://www.energy.ca.gov/contracts/transportation.html>.

- 74. *In regards to meeting the thresholds requirements for minimum volumes of biomethane: For an existing conventional wastewater treatment facility that produces X amount of biomethane already, would the augmentation of that facility with algae biomass production to increase the total biomethane to above the declared thresholds (400,000 gallons) qualify? Or would only the contribution from the new algae biomass alone be considered for meeting the threshold (whether it is the stage 2 or stage 3 thresholds)?***

The resulting total fuel production for the facility will be used to determine minimum volumes of fuel production for eligibility. The precise answer will depend on the details of your proposal.

- 75. *Section II.B.2 of the solicitation (page 8) defines, for purposes of the solicitation, eligible biofuels, and within such definitions specifies eligible feedstocks for the biofuels. For all three biofuels identified, eligible feedstocks include waste-based biomass. Please confirm that the wood waste fraction of construction and demolition debris would qualify as an eligible feedstock for this solicitation.***

Yes, wood waste fraction of construction and demolition debris qualifies as an eligible feedstock for this solicitation.

- 76. *In regards to the vehicle fueling aspect of the project, does a gaseous product stream have to be piped directly to a vehicle fueling appliance?***

Gaseous product may be compressed and cleaned to be transported by any suitable means for use as a vehicle transportation fuel.

- 77. *Could a case be made to establish an interconnection to a gas utility and a contract written between the producer, utility, and purchaser to ensure delivery of an equivocal amount of gas for transportation usage, say a CNG fleet operator or the utility's own fleet?***

Yes, if there is a direct, documented connection to the transportation used, this is acceptable. 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 and specifying the volume of fuel type being displaced.

- 78. Can the produced biomethane simply be injected into the gas utility pipeline network? Not without a transportation customer.**

This would not be sufficient unless there is a direct, documented connection to the transportation user.

- 79. Does the product have to be used on-site?**

Please see response to Question #76.

- 80. If the process generates other renewable fuel products (like aviation fuel, fuel oil, etc.) besides the primary fuel substitute, can these other products be counted towards the gallon per year requirement? If so, please advise how to count these.**

Eligible biofuels production must be designated and produced for on-road vehicle use. Biofuels production for non-road uses (e.g. aviation or marine applications) are not eligible.

- 81. Will conversion of the cellulose portion of the corn plant, such as stover and the non-starch fiber portion of the corn kernel, to make cellulosic ethanol qualify under this solicitation?**

Ethanol derived from corn stover, leaves, cobs, or other nonedible portions of the corn is eligible for funding under this solicitation. However, ethanol derived from any other portions of the corn, including the corn kernel and its components, is not eligible for funding pursuant to Health and Safety Code section 44272.4, subdivision (b).

### **ELIGIBLE APPLICANTS**

- 82. For public-private partnerships, if the public entity provides the feedstock and pays the tip fee for it to be processed into biofuel while the private entity owns the facility, can the public entity submit the application or should it be the private company as stated on page 7 of the solicitation?**

From the limited information provided, either entity may be eligible to apply for funding. Applicants are required to confirm their eligibility by reviewing the Eligibility Requirements in Section II of the solicitation.

- 83. Are tribal entities eligible for application under this solicitation if the project will reside on tribal trust land?**

Yes.

## **SCORING CRITERIA**

- 84. I understand the need for the CEC to confirm the financial stability and experience of grant recipients, but the requirement for an audit may exclude qualified proponents. Solid private companies without audited financials will find it difficult, if not impossible, to comply with the mandatory audit requirements of PON-13-609 issued on January 14 and due by March 11 in the middle of tax season. A more reasonable requirement would be to have CPA Compiled GAAP Financials supported by tax filings. This would provide the information the CEC needs to gauge a proponent's financial stability. Is it possible to meet the audit requirements by providing CPA Compiled GAAP Financials supported by tax filings? If not, can the audit requirement be modified to include the alternative of providing CPA Compiled GAAP Financials supported by tax filings?**

Section III(H)(4)(b)(3)(a)(i) requests applicants to provide balance sheet and cashflow statement **as available** and to include years 2011, 2012, and 2013 **if applicable**. The goal is to establish credibility and viability of your enterprise. In order to score well in the evaluation process, the applicant should demonstrate the economic viability of the proposed project. Please refer to scoring criteria #2 (Business Plan, Financial Plan) (page 31).

- 85. If the proposing entity for PON-13-609 is a newly formed LLC that has no financial operating history to audit, and is composed of two privately held companies that have CPA Compiled GAAP Financials supported by tax filings, is providing these documents sufficient to meet the audit requirement? If not, can the audit requirement be modified to include the alternative of the majority Members in an LLC providing CPA Compiled GAAP Financials supported by tax filings?**

Please see response to Question #84.

- 86. CEC requests balance sheet and cashflow statements for 2011, 2012, and 2013, requiring each year to be audited and certified by a CPA. However, CEC allows financial statements for 2013 to simply be certified, but not necessarily audited.**

**Given the following: this is a new obligation by the CEC, many private companies, large and small, do not conduct audits of their financial statements on a regular basis, a formal certified audit will take longer than the period remaining in this solicitation.**

**It is requested that CEC allow certified financial statements for the years 2011, 2012 and 2013, instead of just 2013, as the obligation cannot be met in the remaining time available.**

Please see response to Question #84.

87. ***Among the financial documentation required, the solicitation specifically asks for audited cash flow statements. Our City has comprehensive annual financial statements (all audited) but they do not include cash flow statements.***

***I am hoping that we can either 1) create them (but they wouldn't be audited); or 2) we can provide various other types of reports to demonstrate that we do have adequate cash flow in the fund we are proposing to use for the grant match share. I just want to make sure that one of these scenarios would be acceptable.***

Please see response to Question #84.

88. ***Would a compilation of past grant performance, including a full set of financial statements, balance sheet, income statement, and cash flow statement meet the requirements of Section III (H)(4)(b)(3)(a)?***

Yes. Please see response to Question #84.

89. ***For vendor furnished equipment, can the vendor's general resume of experience be used to satisfy the key resume requirements?***

Yes, resumes should include contact information in regards to existing installations, if available. Technology performance data is helpful in evaluating your technology plan.

90. ***How much detail is necessary for a project cost estimate? Is a budget level estimate from an engineer or an equipment vendor for the contract work acceptable?***

Yes, budget level estimates are acceptable for a project cost estimate.

91. ***We're assuming that a hired Engineering Contractor and a primary General Mechanical/Construction Contractor will be considered subcontractors under your solicitation agreement. Do we need to identify/declare the subcontractors they use in the application?***

In the budget, there are two classifications of Subcontractors in our grant agreements; they are Major Subcontractors and Minor Subcontractors. (See Budget Forms and Instruction document (Attachment 5) for more details). Subcontracting must be done in accordance with Section 9 of the grant Terms and Conditions (Attachment 9 under this solicitation). On the application form (Attachment 1), only list major subcontractors.

92. ***Are indirect costs allowed as any percentage of the project budget? If so, what is the limit and what can be included in indirect and what is specifically excluded?***

Indirect charges are discussed in the Budget Forms and Instruction document (Attachment 5). Rates and personnel shown must reflect rates and personnel you would charge if you were chosen as the Recipient for this solicitation. The salaries, rates, and other costs entered on these forms become part of the final agreement. The entire term of the agreement and projected rate increases must be considered when preparing the budget. The rates proposed are considered capped and shall not change during the term of the agreement.

**93. Can co-product revenue be counted toward the support/success of a project?**

Yes.

**94. CEC requests a 5 year proforma. Is the required proforma for the company, the entire project (existing + proposed), or simply the incremental proposed project?**

In order to score well in the evaluation process, the applicant should demonstrate the economic viability of the proposed project. This includes showing financial solvency and liquidity currently or within five years. The five-year proforma statement should include income and cost information from all sources, and related by-products or co-products. Please refer to scoring criteria #2 (Business Plan, Financial Plan) (page 31).

**95. Regarding Section III (H)(4)(b)(3)(a)(i) regarding the 5 year proforma financial information, given our plant will go through a slightly more than two year construction period, we should submit proforma financials including the construction period or just the first five years of operations?**

Applicants should provide a proforma for the first five years of the project, including construction.

**96. The Financial Plan section requests “estimated value and planned use of any potential LCFS, Renewable Fuel Standard Program (RFS2), and/or cap and trade credits.” How does the Energy Commission anticipate that such credits will be treated in the evaluation of the Financial Plan? How important is it for an applicant to discuss credits when they are not necessary to financial viability of the project?**

Discuss only as necessary to demonstrate economic viability of the proposed project.

**97. What is included in the benefit-cost score? Can you give an example?**

Benefit-cost score is defined as the proposed cost of GHG reductions in dollars of Energy Commission funding per ton of carbon reduced. For example, if a project reduces total carbon emissions by X tons and the recipient is asking for Y dollars from the Energy Commission, then the benefit-cost score is obtained by Y divided by X.

**98. Is GREET required in the calculation of the LCFS pathway if you can get to the CI value without it?**

GREET is the default model used for determining carbon intensity values. The Air Resources Board (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 ARB’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, methods, and data that went into the calculation.

## **ELIGIBLE PROJECT COSTS**

**99. Can the project costs include:**

***Purchase costs for new trucks to gather and transport feedstocks for proposed biofuel?*** Yes.

***Infrastructure costs for fueling in-house truck fleet with proposed biofuel?*** Yes.

***Costs for conversion of trucks to use proposed biofuel (i.e. compressed biomethane)?*** Yes.

***Would an onsite fueling station constructed as part of a proposed project be eligible for grant funding?*** Yes.

The above-listed are eligible as indicated; however, scoring criteria are applied to determine the degree to which the proposed facility / project's budget is cost effective for the project's capacity (dollars per gallon equivalent). Projects with the above listed project costs may not score as competitively. Please refer to scoring criteria #5 (Project Budget).

**100. Are vehicles used for collection/transportation of feedstock and/or delivery of liquid biofuel products eligible project costs for either award or match funding?**

Vehicles are eligible project costs; however, scoring criteria are applied to determine the degree to which the proposed facility / project's budget is cost effective for the project's capacity (dollars per gallon equivalent). Projects with the above listed project costs may not score as competitively. Please refer to scoring criteria #5 (Project Budget). When counting vehicles as match funds, the value of the contribution must be based on documented market values or book values, prorated for its value to the project, and depreciated or amortized over the term of the project using standard accounting principles.

**101. Do costs for engineering by in-house employees or subsidiary companies qualify for inclusion in project costs?**

Yes.

**102. Can CEC funds be used for fuel certification testing as a one of the tasks for a project under this solicitation?**

No, fuel certification testing is not eligible for funding.

**103. Please confirm that engineering, and fabrication work, and equipment purchases from outside the State or outside the Country would still be counted towards cost share as long as the project itself is built and operated in California. Also, please let us know if conducting part of the work or purchasing equipment from outside the Country will result in negative scores or will be perceived negatively by the reviewers.**

Purchases from outside of the State or Country will be counted towards cost share, as long as project construction and operations occur in California. However, scoring criteria are applied to maximize economic and environmental benefits in California. Projects with work (other than project construction or operations) being performed outside of California may not score as competitively as projects that perform work in California. Please refer to scoring criteria #6 (Economic Benefits) (page 33).

**104. Can fabricated equipment (tanks) be sourced outside of California or field installed by contractors from outside California?**

Yes, equipment and installation are not part of project constructions and operations and may occur out-of-state. However, please see the response to Question #103 for how this may impact scoring.

### **SECTION 3103**

**105. Regarding Title 20, section 3103 (b) outlined in the Special Conditions Attachment 10, we would like to understand if CE&P IV1's project would be required to discount "credits" it transfers or sells? CE&P IV1 expects to generate and sell substantial low carbon related credits including LCFS, RIN's & Cap & Trade. We are especially interested in fully understanding this requirement given CE&P IV1's financial projects outline that income generated from the sales of these low carbon credits contribute significantly to the project's feasibility. We are concerned that should discounting of these credits be required, CE&P IV1's profitability would be significantly negatively impacted and this project's viability would be in question. Some specific questions:**

***Specifically, what credits would be required to be discounted?***

As California Code of Regulations, Title 20, section 3103(b) currently reads, any credits that are generated by the project during the term of the agreement that are used to meet a performance requirement mandated by any local, regional, state, or federal law, rule, or regulation must be discounted. This includes, but is not limited to, credits used to comply with California's Low Carbon Fuel Standard, the U.S. EPA's Renewable Fuel Standard, and any cap and trade programs, except for voluntary programs.

Applicants should note that the Energy Commission has issued an Order Instituting Rulemaking to consider amendments to section 3103. The Energy Commission intends to review and potentially eliminate section 3103 (b).

***Attachment 10, Exhibit D outlines that credits should be discounted by the percentage of Commission funds received. Can you explain exactly how this works? How is the discount % determined?***

As California Code of Regulations, Title 20, section 3103(b) currently reads, credits must be discounted in proportion to the funding received from the Energy Commission for the project, according to the following formula:

(Fair market value of credits) X (1 – [Commission Share/Total Facility Costs])

For example, if the fair market value of credits is \$500,000, the total project cost is \$10,000,000, and the total funding awarded by the Energy Commission to the project is \$5,000,000, then the credits after discounting would equal \$250,000.  $(500,000) \times (1 - [5,000,000 / 10,000,000])$ .

As stated above, Applicants should note that the Energy Commission has issued an Order Instituting Rulemaking to revise section 3103.

***Attachment 10, Exhibit D outlines the period credits need to be discounted is “during the term of the Agreement or for a period of three years thereafter”. How is it determined if the period discounting is applicable is the term of the agreement or three years thereafter?***

As California Code of Regulations, Title 20, section 3103(b) currently reads, the applicable discounting period is both the term of the Agreement *and* three years thereafter. However, the discounting requirement applies only to credits generated by the project during the term of the Agreement. The three year period applies if credits generated during the term of the Agreement are transferred three years from the end date of the Agreement.

As stated above, Applicants should note that the Energy Commission has issued an Order Instituting Rulemaking to consider amendments to section 3103.

***If CE&P IV1 should be granted funding under a gasoline substitute, would discounting of credits only be applicable to ethanol based credits or other credits generated such as electricity and biomethane based credits?***

As California Code of Regulations, Title 20, section 3103(b) currently reads, discounting of credits is applicable to all credits used to meet a performance requirement mandated by any local, regional, state, or federal law, rule, or regulation must be discounted. The Energy Commission will not provide funding to comply with a standard already required by the law. Any credits generated by the project, whether ethanol, electricity, or biomethane based, are subject to discounting.

As stated above, Applicants should note that the Energy Commission has issued an Order Instituting Rulemaking to consider amendments to section 3103.

### **MISCELLANEOUS**

**106. Our company currently has a sugarcane feedstock growing agreement in place with its farmers who are currently growing a few hundred acres of seed cane. Our plan is to expand the current arrangement up to 40 additional farmers for the upcoming expansion. Arranging signed agreements for up to 40 additional farmers prior to submitting this application will present quite a challenge.**

**We believe the most reasonable approach would be for us to submit our current sugarcane growing agreement with the solicitation application and list the specific farmers as TBD, as outlined in section 9 of the General Grant Terms and Conditions (Attachment 09 Exhibit C). Would this be an acceptable approach in this regard?**

**For the same reasons, the specific varieties that will be planted on each specific farm will not be known until finalization of each farmer agreement. We will develop a detailed budget and outline, based on its best estimate, the acreage to be planted for each variety in the application. It is very likely once agreements are signed with the farmers, actual acreage for each variety will vary from the submitted budget. In regards to section 8a of the Terms and Conditions, we don't view these likely changes as a "significant change" but would like the Energy Commission's view on this.**

**Would any changes in varieties planted outlined in the section 5 b of the Terms and Conditions above be considered a "reallocation" as outlined in section 8d?**

The following answer is based on the facts above. Please note that the Energy Commission may not have all the pertinent information and therefore the following answer may change:

Submit copies of correspondence with commitments to supply feedstock for the proposed project. Letters of intent from project partners including feedstock providers are acceptable at the time of application submission. However, it should be clear the total acreage and minimum yields over which funding is requested did not change depending on variety. Additionally, projects recommended for funding must execute all subcontracts (e.g. feedstock, technology, off-take agreements, match funds) within 90 days of the executed agreement with the Energy Commission. The Energy Commission reserves the right to cancel proposed awards that do not meet these agreement execution and subcontract execution deadlines.

**107. During the Q & A, I think I heard staff say there is another solicitation coming out that is for feasibility studies and includes a small pilot. Do you have a date selected for when the solicitation will come out, the amount of funding for the solicitation, and the name of the PON?**

Yes, the Energy Commission is planning an additional Stage 1 solicitation, dependent on available funds, for smaller projects with lower production limits. Please refer to our website for more information: <http://www.energy.ca.gov/contracts/transportation.html>. Additionally, sign up for our transportation email Listserv at <http://www.energy.ca.gov/transportation/> to automatically receive email notifications on future funding solicitations.