



Vermont Clean Energy Development Fund (CEDF)

JULY 2009 REQUEST FOR PROPOSALS

INTRODUCTION

The purpose of this Request for Proposals (RFP) is to obtain proposals for state projects that promote the development and deployment of cost-effective and environmentally sustainable electric power and thermal energy or geothermal resources – primarily with respect to renewable energy resources, and the use of combined heat and power technologies – for the long-term benefit of Vermont consumers.

Applicants may submit proposals for projects in the following categories: *Pre-Project Financial Assistance*, *Small-Scale Systems*, *Large-Scale Systems*, *Community-Scale Systems*, and *Special Demonstration Projects*. An applicant may submit multiple proposals in any category, but only one proposal per project/system. (For example: an applicant **cannot** request both pre-project funding assistance for a renewable energy system as well as funding for the cost of the system in the same grant round. A renewable energy system installer **can** submit proposals to install separate systems at different sites.) All projects must be based in Vermont and show long-term benefit to Vermont consumers. All electric-generation projects must be grid-connected.

There is a maximum award of \$100,000 for *Pre-Project Financial Assistance*, \$50,000 for *Small-Scale Systems*, \$250,000 for *Large-Scale* projects and *Special Demonstration* projects, and \$500,000 for *Community-Scale* projects. It is anticipated that a total of \$2 million in funding will be awarded. *Pre-Project Financial Assistance* projects require a 20% **cash** match from applicants for projects up to \$25,000 and a 50% match (no more than 25% of which may be in-kind match) for projects requesting \$25,001 to \$100,000. *Small-Scale Systems* projects require a 75% cash match. All other projects require a 50% match, no more than 25% of which can be in-kind match. Match greater than the required amounts is encouraged, and preference may be given to projects requesting lower funding amounts than comparable projects.

The Clean Energy Development Fund Board may allocate American Recovery and Reinvestment Act (ARRA) funding toward one or more projects awarded funding under this RFP. Thus, applicants must meet all transparency and accountability requirements if they are chosen as recipients of ARRA funding. Applicants are encouraged to thoroughly review this RFP as well as guidance provided by the Department of Energy (DOE) to the states at http://apps1.eere.energy.gov/wip/pdfs/sep_arra_foa.pdf (in particular, pages 4, 36-37, 40-43, and 47-50) and by the Office of Management and Budget (OMB) at www.recovery.gov. The Department of Public Service and the Clean Energy Development Fund Board reserve the right to make necessary changes or adjustments to the program design or to any statements made in

this RFP upon receiving further guidance from DOE, OMB, or the Vermont Office of Stimulus and Recovery (ESR).

Proposals must arrive to the Department of Public Service (DPS) office by 4:00 P.M. on Friday, August 14, 2009. Applicants mailing proposals should allow adequate time to ensure receipt of their proposal(s) by the deadline. Proposals received after 4:00 PM on Friday, August 14 will not be considered. Proposals are limited to 15 pages, with no less than an 11-point font and one-inch margins. One original signed hard copy, ten additional copies, and an electronic copy (which can be emailed or submitted on a CD) of the proposal must be delivered to Anne Margolis, c/o Vermont Department of Public Service. Proposals must include a complete Cover Page and Budget Worksheet, both of which are available on the DPS website or by contacting the Fund Manager. Electronic copies should be emailed to the Fund Manager and should consist of a SINGLE PDF file containing in this order: Cover Page, Proposal Narrative, and Budget Worksheet. **Both** electronic and hard copies must arrive before the deadline. Proposals and questions should be addressed to:

Anne Margolis
c/o Vermont Department of Public Service
112 State Street
Montpelier, VT 05620-2601
Phone: (802) 828-4017
Email: anne.margolis@state.vt.us

Grant awards will be announced in October.

BACKGROUND

In 2005, the Vermont General Assembly established the Vermont Clean Energy Development Fund (CEDF) through Act 74 (10 V.S.A. § 6523). The Act specifies that the CEDF will be established and funded through proceeds due to the state under the terms of two memoranda of understanding between the Vermont Department of Public Service (DPS) and Entergy Nuclear VT and Entergy Nuclear Operations, Inc., and by any other monies that may be appropriated to or deposited into the Fund. The CEDF will receive payments from Entergy through 2012.

Act 74 specifies that the Fund shall be managed to promote:

- The increased use of renewably produced electrical, thermal energy, and combined heat and power (CHP) technologies in the state;
- The growth of the renewable energy-provider and CHP industries in the state;
- The creation of additional employment opportunities and other economic development benefits in the state through the increased use of renewable energy and CHP technologies;
- The stimulation of increased public and private sector investment in renewable energy and combined heat and power related enterprises, institutions, and projects in the state.

The CEDF offers a portfolio of funding opportunities to accelerate the development, commercialization, and production of clean energy in Vermont including: grants, loans, equity investments, and direct incentive payments through the *Vermont Small-Scale Renewable Energy Incentive Program*. The CEDF plans to issue grant solicitations each year in January and July. Additional information on the CEDF is available in the on the DPS website at: http://publicservice.vermont.gov/energy/ee_cleanenergyfund.html .

PROJECT CATEGORIES

The purpose of this solicitation is to fund projects that promote the development and deployment of cost-effective and environmentally sustainable electric power and thermal energy and geothermal energy resources. To reach this goal, funding will be awarded to projects in the following five categories: *Pre-Project Financial Assistance*, *Small-Scale Systems*, *Large-Scale Systems*, *Community-Scale Systems*, and *Special Demonstration Projects*. Applicants cannot be reimbursed for educational, outreach, and similar types of activities, but should note whether these types of activities will be completed to promote the project. All electric-generation projects must be grid-connected. Off-grid projects are not eligible. Thermal projects, including combined heat and power projects, should maximize the thermal efficiency of the fuel source.

All projects that involve the community at any level must include a letter of support from the town or city in which the system is to be installed. Other types of projects are encouraged to include letters of support from the host community as well. Letters of support, Cover Pages, and Budget Worksheets do not count toward the 15-page limit.

Pre-Project Financial Assistance

This category includes feasibility studies and pre-development activities to develop new renewable energy generation facilities and CHP systems that will be **over 15 kW** in AC rated capacity, and over 1 million Btu/hour (thermal) or 15 tons of capacity (geothermal), which may require high-risk, early-stage activities and for those projects that do not have the resources to finance pre-project activities. Projects under this category may include: renewable energy resource assessments; site assessments; environmental impact and regulatory analysis; permitting; technical and engineering feasibility studies; engineering designs; and economic and financial feasibility studies. Other similar projects not specifically listed above will also be considered. Projects requiring anemometry should first apply to the Vermont Anemometry Loan Program (<http://web.vtc.edu/users/jnk06190/VTALP/>) or any other anemometry services offered by the State before applying for funds in this category.

The maximum grant award for this category is \$100,000: projects requesting up to \$25,000 are required to have a 20% **cash** match (20% of the total project cost); projects requesting \$25,001 to \$100,000 are required to have a 50% match, no more than 25% of which can be in-kind match. Projects must be completed within 1 year of award.

On-farm projects **are required** to first seek funding for feasibility studies and technical assistance through the Vermont Agency of Agriculture, *Agricultural Economic Development Special Account* before applying through the Clean Energy Development Fund. Contact Dan Scruton at the Vermont Agency of Agriculture for additional information on this funding opportunity by phone at 802-828-3836 or by email at dan@agr.state.vt.us.

Small-Scale Systems

This category includes clean energy systems totaling **no more than 15 kW** of AC rated capacity and no more than 1 million Btu/hour (thermal) or 15 tons of capacity (geothermal) per installation such as microturbines, fuel cells, geothermal systems, wood boilers/gasifiers, and CHP at residences, small commercial buildings, and schools. All projects that generate electricity must be grid-connected. Other similar-type systems not specifically listed above will also be considered. Residential applications will not be considered unless a suitable energy audit is included as part of the application (audits do not count toward the page limit) and proposed systems meet Energy Star efficiency standards. Geothermal systems may be subject to inclusion in a statewide residential geothermal monitoring program.

The maximum grant award for this category is \$50,000 and requires a 75% cash match. Projects must be completed within 2 years of award. **For electric-generation projects, a Grantee must receive their Certificate of Public Good (CPG) from the Public Service Board before any invoices or costs incurred for the project will be reimbursed by the CEDF. For thermal and geothermal projects, the final 50% of the grant will be withheld until the system is installed and operational. No more than 10% of a grant request may be for pre-development activities (see examples under Pre-Project Financial Assistance category).** That 10% may be reimbursed prior to receipt of CPG/FERC license.

Solar electric, solar hot water, wind, and hydro systems **are not** eligible for funding under this category as incentives are currently available under the *VT Small-Scale Renewable Energy Incentive Program* for these types of systems. Additional information on this incentive program is available at: www.erc-vt.org or by calling the Renewable Energy Resource Center at 877-888-7372. Residential biomass heating systems, such as woodstoves and outdoor wood boilers, are also excluded from this solicitation.

The grant may not be used to purchase used generating equipment, though the grant program may support upgrades of existing facilities with new equipment.

Large-Scale Systems

This category includes renewable energy and CHP projects **greater than 15 kW** in AC rated capacity and/or **greater than 1 million Btu/hour (thermal)** or **15 tons of capacity (geothermal)**. Renewable energy projects may include, but are not limited to: solar; hydroelectric; farm, landfill and sewer methane recovery; biomass power; district heating; and wind (projects must demonstrate an average wind speed of >6 m/s at hub height to be considered). The installation of microturbines, fuel cells, geothermal, and CHP systems at commercial, industrial, and institutional buildings are also eligible. All projects that generate electricity must be grid-connected. The Fund reserves the right to direct projects that may become eligible for expanded incentives under the Vermont Small-Scale Renewable Energy Incentive Program to apply for those incentives rather than to seek grant funding through this Request for Proposals. The Fund will in most cases base award amounts upon the prevailing incentive levels for each technology in the Vermont Small-Scale Renewable Energy Incentive Program.

The maximum grant award for this category is \$250,000 and requires a 50% match, no more than 25% of which can be in-kind match. Projects should be completed within 2 years of award. **For electric-generation projects, a Grantee must receive their Certificate of Public Good (CPG) from the Public Service Board (or a FERC license, for hydropower projects, if**

required) before any invoices or costs incurred for the project will be reimbursed by the CEDF. For thermal and geothermal projects, the final 50% of the grant will be withheld until the system is installed and operational. No more than 10% of a grant request may be for pre-development activities (see examples under *Pre-Project Financial Assistance* category). That 10% may be reimbursed prior to receipt of CPG/FERC license.

Wind, solar, and hydroelectric systems that have already received or reserved incentive payments through the *VT Small-Scale Renewable Energy Incentive Program* are not eligible under this category, unless additional capacity of over 15 kW or 1 million Btu/hour (thermal) will be added to the existing system. Additionally, the grant may not be used to purchase used generating equipment, though the grant program may support upgrades of existing facilities with new equipment. Applicants should complete preliminary feasibility studies and resource assessments prior to applying for funding under this category and include them as attachments with the applications (for all technologies except for solar).

On-farm projects cannot apply for funding under this category if they have received or plan to receive Vermont Agency of Agriculture, *Agricultural Economic Development Special Account* funding, unless the funding from the Agency is for pre-project assistance. Contact Dan Scruton at the Vermont Agency of Agriculture for additional information on the *Agricultural Economic Development Special Account* funding by phone at 802-828-3836 or by email at dan@agr.state.vt.us.

Community-Scale Systems

This category includes renewable energy and CHP projects **greater than 250 kW** in AC rated capacity and/or **greater than 8 million Btu/hour (thermal)** or **250 tons of capacity (geothermal)**. Renewable energy projects may include, but are not limited to: solar; hydroelectric; farm, landfill and sewer methane recovery; biomass power; district heating; and wind (projects must demonstrate an average wind speed of >6 m/s at hub height to be considered). This may include utility-scale installations. The installation of microturbines, fuel cells, geothermal systems, and CHP systems at commercial, industrial, and institutional buildings are also eligible. All projects that generate electricity must be grid-connected.

The maximum grant award for this category is \$500,000 and requires a 50% match, no more than 25% of which can be in-kind match. Projects should be completed within 2 years of award. **For electric-generation projects, a Grantee must receive their Certificate of Public Good (CPG) from the Public Service Board (or a FERC license, for hydropower projects, if required) before any invoices or costs incurred for the project will be reimbursed by the CEDF. For thermal and geothermal projects, the final 50% of the grant will be withheld until the system is installed and operational.** No more than 10% of a grant request may be for pre-development activities (see examples under *Pre-Project Financial Assistance* category). That 10% may be reimbursed prior to receipt of CPG/FERC license.

The grant may not be used to purchase used generating equipment, though the grant program may support upgrades of existing facilities with new equipment. Applicants should complete preliminary feasibility studies and resource assessments prior to applying for funding under this category and include them as attachments with the applications).

On-farm projects cannot apply for funding under this category if they have received or plan to receive Vermont Agency of Agriculture, *Agricultural Economic Development Special Account* funding, unless the funding from the Agency is for pre-project assistance. Contact Dan Scruton

at the Vermont Agency of Agriculture for additional information on the *Agricultural Economic Development Special Account* funding by phone at 802-828-3836 or by email at dan@agr.state.vt.us.

Special Demonstration Projects

This category includes projects that demonstrate and facilitate the development and commercialization of innovative renewable energy products, technologies, technology applications, and processes as well as emerging energy-efficient technologies¹. These projects must be designed to focus on market building and technology deployment strategies as opposed to traditional research and development activities. Projects should also include the following: a technical and economic analysis of the technology application or demonstration; expected project impact on the near-term commercialization of this technology; and dissemination of project information to potential users of the technology.

The maximum grant award for this category is \$250,000 and requires a 50% match, no more than 25% of which can be in-kind match. Projects should be completed within 2 years of award. **A Grantee must receive their Certificate of Public Good (CPG), if required (or a FERC license, for hydropower projects, if required), from the Public Service Board before any invoices or costs incurred for the project will be reimbursed by the CEDF. For projects that don't require a CPG, the final 50% of the grant will be withheld until the system is installed and operational.** No more than 10% of a grant request may be for permitting-type activities. That 10% may be reimbursed prior to receipt of CPG/FERC license.

The grant may not be used to purchase used generating equipment, though the grant program may support upgrades of existing facilities with new equipment.

INFORMATION REQUIRED FROM APPLICANTS

Proposals should be prepared simply and economically, providing a straightforward, concise description of the applicant's ability to meet the requirements of the RFP. Fancy bindings, colored displays, promotional materials, and so forth are not desired. Emphasis should be on completeness and clarity of content. Information in the applicant's proposal that should be held confidential must be clearly marked as confidential and comply with an exemption from public inspection as per 1 V.S.A. § 317(c) (available online at: <http://www.leg.state.vt.us/statutes/fullsection.cfm?Title=01&Chapter=005&Section=00317>). It is not acceptable to mark the entire proposal as confidential.

Grant proposals should be no longer than 15 pages, with no less than an 11-point font and one-inch margins. Resumes, letters of support, the Cover Page, and the Budget Worksheet, plus completed feasibility studies, **do not** count toward the 15-page limit. Other information, such as site maps, pictures, etc., count towards the 15-page limit.

¹ Emerging energy-efficient technologies means technologies that are both precommercial but near commercialization and that have already entered the market but have less than five percent of current market share; that use less energy than existing technologies and practices to produce the same product or otherwise conserve energy and resources, regardless of whether or not they are connected to the grid; and that have additional non-energy benefits such as reduced environmental impact, improved productivity and worker safety, or reduced capital costs.

Proposals must include at minimum the following information:

Cover Page

Applicants must complete the Cover Page included as Attachment 1 of this RFP and attach it to the front of the submitted proposal. Below are explanations of the information required on the Cover Page. This Cover Page is available as a separate document with form fields at http://publicservice.vermont.gov/energy/ee_cleanenergyfund.html or can be obtained from the fund manager (anne.margolis@state.vt.us). Below are explanations of the information required on the Cover Page.

1. Project Title

Provide a descriptive title for the project.

2. Project Category

State which project category (*Pre-Project Financial Assistance, Small-Scale System, Large-Scale System, Community-Scale System, Special Demonstration Project*) you are applying under.

3. Project Summary

Provide a short paragraph describing the essential elements of your project.

4. Identification of Applicant Organization

State the full name and address of the organization. Also list the main contact and his or her contact information. This person should also be listed as an Authorized Negotiator below.

5. Identification of Subcontractors

If applicable, list any subcontractors that will perform, or assist in performing, the work, including their name, address, and contact information.

6. Authorized Negotiator(s)

Include the name, phone number, and email address for individuals authorized to negotiate any and all aspects of the proposed grant with the State and/or Clean Energy Development Fund. One original hard copy of the proposal must be signed by a duly authorized representative of the party (or parties) submitting the proposal.

7.a. Electrical Output (not required for Pre-Project Financial Assistance applications):

Maximum installed generator capacity (kW; for solar, use the DC rating):

Expected actual maximum capacity (kW; for solar, use the AC rating):

Projected Annual kWh:

Capacity factor:

Fuel Type:

7.b. Thermal Output (not required for Pre-Project Financial Assistance applications):

(For CHP and thermal-only projects)

Fuel type:

Maximum heat delivery rate (Btu/hour):

Expected heat delivery rate (Btu/hour):

Expected annual Btus delivered:

Capacity factor:

Estimated CO₂ emission rate (in lbs/MMBtu of heat input):

Thermal source this project will displace (e.g., oil-fueled boiler) and an estimate of the CO₂ emission rate (lbs/mmBtu of heat input) of the displaced thermal source:

7.c. Geothermal Capacity (not required for Pre-Project Financial Assistance applications):

Describe your system (i.e., open loop/closed loop; water source/ground source; if water source, ground water/surface water):

Describe the length and depth of circulating loops:

Maximum heating/cooling capacity of heat pump (tons):

Ratio of equipment cost to installation cost:

Is the system Energy Star rated?

Has soil conductivity been assessed, and if so, what are the values?

Expected annual Btu of heating/cooling delivered:

Expected annual kWh consumed:

8. Energy Efficiency/Savings Aspects of Project:

Efficiency rating of installed equipment (if applicable):

Efficiency of fuel consumption (if applicable):

Efficiency measures already taken:

Efficiency measures to be taken:

Expected annual energy savings (kWh or Btu):

Amount of greenhouse gases reduced (CO2 equivalents):

Amount of criteria air pollutants reduced (tons):

9. Expected Interconnection Date (not required for Pre-Project Financial Assistance applications)

Applicants must provide an estimate of when they expect to apply for and receive their Certificate of Public Good from the Public Service Board or their FERC license or exemption.

10. Estimated Project Life (not required for Pre-Project Financial Assistance applications)

Applicants must provide a project lifespan estimate, either from the equipment warranty information or a reasonable estimation based upon similar installations.

11. Total Project Costs

Applicants must include the **total** project costs (this should also be included in the budget).

12. CEDF Funds Requested

Applicants must specify the amount of funds they are requesting from the CEDF towards their project.

13. Estimated Payback Time (not required for Pre-Project Financial Assistance applications)

Applicants must provide an estimate of the project's payback period, in years, both with and without CEDF funding. Please show your calculations.

14. Federal Funds Questionnaire:

The Clean Energy Development Fund may allocate American Reinvestment and Recovery Act (ARRA) funding to any grant, at its discretion. A grantee awarded federal funding must be registered in Central Contractor Registration (CCR) and have a DUNS number in order to receive a grant agreement. This process can take a long time, so applicants should be preparing now. To obtain a number, which can take time, call 1-866-705-5711 or visit <http://www.dnb.com/us/>. Projects awarded federal funds must adhere to federal requirements, including a preliminary National Environmental Policy Act (NEPA) review, if required (checklist may be viewed at <https://www.eere-pmc.energy.gov/NEPA.asp>), auditing, and reporting. A list of potential reporting requirements and funding limitations may be found at http://apps1.eere.energy.gov/wip/pdfs/sep_arra_foa.pdf in section 10.3A, as well as at <http://edocket.access.gpo.gov/2009/pdf/E9-9073.pdf> (see especially for Buy American and Davis-Bacon wage requirements), and in the ARRA terms and conditions appended to the end of this solicitation. Please answer the following:

Are you registered with CCR, and do you have a DUNS number?

If yes, what is the number?

If no, will you be able to apply for a number before a grant agreement is issued?

Is there any reason you cannot accept federal funds (for example, project already uses a federal funding source)?

Jobs you expect this project will retain (number, type, duration):

Jobs you expect this project will create (number, type, duration):

15. Signature:

Please sign below to indicate you have read and acknowledge all of the conditions of this request for proposals, and that, to the best of your knowledge, the information you have supplied is accurate.

Personnel

Applicants shall have demonstrable knowledge, skills, and experience as it relates to the required work. Proposals should include a description of the applicant's prior experience in all areas relevant to the project. The proposal must identify all persons that will be employed in the proposed work by skill and qualifications. Identify key personnel by name and title and provide a resume for each (resumes **do not** count toward the 15-page limit). Subcontractors must be listed, including the firm name and address and contact person (on the cover page as well), and complete description of work to be subcontracted. Include descriptive information concerning subcontractor's organization and abilities.

Work Plan

Describe in narrative form the plan for accomplishing the work required to complete the project. Indicate the number of hours allocated to each task and which staff member(s) will complete the tasks. Include a time-related chart showing each event, task, and decision point in the work plan. Also describe the plan for project oversight, quality assurance measures, and financial management and which staff member(s) will have this responsibility. Include a list of all permitting requirements for the project and whether any of the permits have been obtained. Identify whether any pre-development activities, including feasibility studies, have been completed for the project. Any necessary preliminary feasibility studies and/or resource assessments should be completed prior to applications for funding under the Large-Scale Systems or the Community-Scale Systems category. Solar projects do not need to supply feasibility studies but should include a PV Watts (or equivalent) report for the project site. Large-Scale or Community-Scale wind generation projects must supply at least one year of completed anemometry study.

Potential Energy Generation

Applicants should use this section to provide a brief description of any assumptions used in Sections 7, 8, 10, and 13 on the cover page.

Environmental, Economic, & Societal Impact

Applicants should describe the specific environmental, economic, and societal benefits created through support of the project such as: the reduction in carbon dioxide and other greenhouse gas emissions and air pollutants; reduction of fossil fuel use; number of existing jobs retained; and the number of new jobs created (both temporary and permanent). Applicants should be prepared to provide the calculations used for these estimates upon request. The U.S. EPA's Greenhouse Gas Equivalency Calculator may be used to provide an estimate of renewable electricity production project emissions reductions for the purposes of this section (available at: www.epa.gov/cleanenergy/energy-resources/calculator.html). Combined heat and power projects may use the calculator available at www.epa.gov/chp/documents/chp_emissions_calc.xls.

Installations at residential and commercial buildings must certify that the building has met required state energy codes. Applicants should also describe any high-performance or beyond code energy efficiency improvements that have been made or will be made in the buildings.

Budget Considerations

Applicants must submit a proposed budget for the project and include narrative explanations. A budget worksheet that may be used by applicants is available at http://publicservice.vermont.gov/energy/ee_cleanenergyfund.html or can be obtained from the fund manager (anne.margolis@state.vt.us). The following cost elements should be included:

Personnel (position, rate, hours)

Travel (mileage can not exceed the prevailing state rate at the time of travel)

Supplies & Materials

Equipment

Other (specify)

Total Direct Costs

Indirect Costs (may not exceed 23.64% of direct costs)

BUDGET TOTAL

The budget must also include the applicant's cash and in-kind match for the project. For each cost element, the applicant must show what portion will be paid with CEDF funds and what portion will be paid with matching funds (designating cash versus in-kind match). There is a maximum award of \$100,000 for *Pre-Project Financial Assistance*, \$50,000 for *Small-Scale Systems*, \$250,000 for *Large-Scale Systems* and *Special Demonstration Projects*, and \$500,000 for *Community-Scale Projects*.

Pre-Project Financial Assistance projects require a 20% cash match from applicants for projects requesting up to \$25,000 and a 50% cash match for projects requesting \$25,001 to \$100,000, no more than 25% of which can be in-kind match. *Small-Scale Projects* require a 75% cash match. All other projects require a 50% match, no more than 25% of which can be in-kind match. For example: If the total project cost for a large-scale system project is \$400,000, no more than \$200,000 can be requested in funding from the CEDF, and the remaining \$200,000 must be met through match, with no more than \$50,000 from in-kind match.

For this grant solicitation, applicants' time/labor committed to the project is considered in-kind match. Subcontractors/third party **donated** labor/services, equipment, and materials would also be considered in-kind match.

All match (both cash and in-kind) must be necessary for the accomplishment of project objectives and must be applicable to the grant period (cash or time previously spent on the project cannot be used as match). All match must be documented and verifiable. Match greater than the required amounts is encouraged.

The CEDF will expect to share in any cost savings realized by the selected applicant. Therefore, the CEDF's final share of each line item expenditure will be paid out at the proportionate rate of participation as established by that line item in the grant budget and/or any approved amendment to the budget.

Additional Information

Include any other information that is believed to be pertinent, but not specifically requested elsewhere in this RFP.

SELECTION CRITERIA

The CEDF Board will evaluate all proposals received based upon qualifications of the individuals proposed to perform the work, relevance of previous experience, completeness and quality of the proposal, how well the project meets the goals of the CEDF, reasonableness of cost, and any other criteria it deems relevant. Acceptance or rejection of any or all proposals will be determined by the exercise of the CEDF Board's sole discretion.

All proposals are subject to an evaluation by the DPS, the CEDF Fund Manager, the CEDF Board, and any other reviewers deemed necessary. The Board reserves the right (but in no way is obligated) to interview the top prospective candidates to aid in the selection process.

The award of the grant will be made based upon the information provided in the grant application that provides a basis for judging how the project matches up against the evaluation criteria listed below. Points will be assigned to the criteria as follows:

1. Experience & Qualifications (10 points)
 - Knowledge and/or experience in the relevant project area, including experience with similar projects.
 - Adequate capacity/staffing for the described work.
 - Previous experience with state or federal grants/contracts.
2. Work Plan (20 points)
 - Clarity and reasonableness of work plan, including definition and timeliness of tasks to be performed.
 - Plan and capacity for project control and financial management are clear and reasonable (including a strategy to implement, operate, monitor, and evaluate the project).
3. Project Characteristics (35 points)
 - Suitability of the site for the proposed projects.
 - Project risks are relative to similar proposed projects.
 - Potential for replicability (the degree to which the project provides lessons applicable to other projects).
 - Potential for public visibility and/or plan for promoting the site/project.
 - Potential annual energy generation, and project costs per annual energy generated.
 - Number of jobs retained or created.
 - Project contains beneficial Smart Grid characteristics, such as dispatchability.
 - Contribution to ARRA SEP goals and DOE objectives not listed elsewhere, if applicable, such as: energy saved and energy cost savings (a full list of goals and objectives may be found at http://apps1.eere.energy.gov/wip/pdfs/sep_arra_foa.pdf, section 4.2).
4. Environmental, Economic, and Social Impact (15 points)

- Degree of environmental, economic, and societal benefits (including contribution to reductions in greenhouse gas emissions and to the state's renewable energy objectives).
 - Project benefits public buildings and/or will be located in a transmission constrained area
 - Project includes high-performance design and/or energy efficiency improvements.
 - Applicant has maximized efficiency at the project site prior to implementation of renewables, if applicable
 - Project makes the highest and best use of its fuel resource
 - Project includes a sustainable biomass fuel sourcing plan, if applicable
5. Budget (20 points)
- Budget line items and amounts are sufficiently described and justified to explain the necessity of each item.
 - Costs are reasonable and competitive and payback justifies grant funding.
 - Degree of financial leverage (through funding obtained from the federal government, private investors, or other funding sources).
 - The need for financial assistance is well established/justified.

GENERAL TERMS AND CONDITIONS

1. The CEDF Board reserves the right to reject any and all proposals received as a result of this RFP for any reason, to waive minor irregularities in any proposals received, and to negotiate with any party in any manner deemed necessary to best serve the interests of the State.
2. The CEDF Board shall not be responsible for any costs incurred by any party in preparation of any proposal submitted in response to this RFP.
3. The CEDF Board reserves the right to amend or cancel this RFP at any time if the best interest of the State requires such action.
4. News releases pertaining to this RFP, grant award, or the project shall not be made without prior written approval from the CEDF Board.
5. All parties submitting proposals shall be Equal Opportunity Employers. During the duration of the performance of this contract, the contractor will be expected to comply with all federal, state and local laws respecting non-discrimination in employment.
6. The CEDF Board will pay for actual work performed and expenses incurred under this project up to the specified grant amount. Specific payment provisions will be arrived at upon mutual agreement of the parties. All payments will require the submission of an itemized billing of work performed to date in sufficient detail to justify payment.
7. In most instances, the grant payments made under this program will be treated as taxable income by the IRS and the State of Vermont. It is the responsibility of the recipient of this grant payment to consult with their tax advisor to determine the correct treatment of this payment for Federal and State tax purposes.

8. If a selected applicant receives a Vermont Business Solar Tax Credit, pursuant to 32 V.S.A. § 5930z or 32 V.S.A. § 5822(d) from the State of Vermont for their project, they shall remit the equivalent dollar amount of the tax credit to the State of Vermont for use by the Clean Energy Development Fund.
9. The selected applicants shall agree to grant to the State a nonexclusive, irrevocable license to reproduce, translate, publish, use, and dispose of all material developed as a result of this project. The selected applicants further shall agree that they will not copyright any material developed as a result of the project.
10. Before commencing work on this project, a Grantee must have a Grant Agreement in place with the State. Before a Grant Agreement will be issued, the Party must provide certificates of insurance to show that the following minimum coverages are in effect. It is the responsibility of the Party to maintain current certificates of insurance on file with the state through the term of the Agreement. No warranty is made that the coverages and limits listed herein are adequate to cover and protect the interests of the Party for the Party's operations. These are solely minimums that have been established to protect the interests of the State.

Workers Compensation: With respect to all operations performed, the Party shall carry workers' compensation insurance in accordance with the laws of the State of Vermont.

General Liability and Property Damage: With respect to all operations performed under the contract, the Party shall carry general liability insurance having all major divisions of coverage including, but not limited to:

Premises - Operations
Products and Completed Operations
Personal Injury Liability
Contractual Liability

The policy shall be on an occurrence form and limits shall not be less than:

\$1,000,000 Per Occurrence
\$1,000,000 General Aggregate
\$1,000,000 Products/Completed Operations Aggregate
\$ 50,000 Fire/ Legal/Liability

Party shall name the State of Vermont and its officers and employees as additional insureds for liability arising out of this Agreement.

Automotive Liability: The Party shall carry automotive liability insurance covering all motor vehicles, including hired and non-owned coverage, used in connection with the Agreement. Limits of coverage shall not be less than: \$1,000,000 combined single limit.

Party shall name the State of Vermont and its officers and employees as additional insureds for liability arising out of this Agreement.

11. The CEDF Board and the State assume no liability in any fashion with respect to this RFP or any matters related thereto. All prospective contractors and their subcontractors or successors, by their participation in the RFP process, shall indemnify, save and hold the

State and its employees and agents free and harmless from all lawsuits, causes of action, debts, rights, judgments, claims, demands, damages, losses and expenses or whatsoever kind in law or equity, known and unknown, foreseen and unforeseen, arising from or out of this RFP and/or any subsequent acts related thereto, including but not limited to the recommendation of a contractor and any action brought by an unsuccessful applicant.

12. All grant funds dispersed from the American Recovery and Reinvestment Act (ARRA) are subject to all requirements of the ARRA including reporting requirements, purchasing requirements, auditing requirements, requirements for administration of funds received, and requirements for transparency and accountability. Please review the bulletins and forms available at <http://finance.vermont.gov/forms> for the latest guidance.
13. All grant awards are subject to the availability of funding.

AMERICAN RECOVERY AND REINVESTMENT ACT TERMS AND CONDITIONS

In addition to the General Terms and Conditions above, the following applies to any grants awarded ARRA funding:

The funds used to support this agreement, in full or in part, are provided through the federal American Recovery & Reinvestment Act (ARRA or the Act); this agreement therefore is subject to payment criteria and specific reporting requirements mandated by the Act. A periodic report, certified by an authorized agent of the Party, utilizing the form provided by the State of Vermont and attached hereto, shall be submitted as required. Failure to submit timely, accurate and fully executed reports will result in a mandate to return to the State funds already disbursed under this agreement, or the withholding of current and future payments under this agreement until such time as the reporting irregularities are resolved to the State's satisfaction.

For subrecipients who report awards of federal funds to the State, said subrecipient agrees to include information of ARRA funding separately from other federal awards reported on their Statement of Expenditures of Federal Awards (SEFA).

The parties to this agreement are further bound by the Act that they shall promptly refer to an appropriate federal inspector general any credible evidence that a principal, employee, agent, contractor, subrecipient, contractor, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving the ARRA funds used to support this agreement.

In addition to a regular quarterly report as required by the Fund, ARRA-funded projects must supply information in the format below (Form ESR-4) no later than 5 days after the end of every quarter:

Form ESR-4

ARRA Quarterly Tier 1 Report			
This report form is to be used to provide the information requested and thereby fulfill your legal obligation under the federal American Recovery & Reinvestment Act of 2009 (ARRA) to which your contract, subgrant, or loan agreement is subject. This periodic report, certified by an authorized agent of the Tier 1 Recipient named in Item 7 below, shall be submitted for the quarter ended as shown in Item 17 below. Failure to submit timely, accurate and fully executed reports will result in a mandate to return to the State funds already disbursed under this agreement, or the withholding of current and future payments under this agreement until such time as the reporting irregularities are resolved to the State's satisfaction.			
SECTION A – [STATE OF VERMONT USE ONLY]			
State of Vermont ARRA Activity Information:			
1. Agency (ARRA-F):		2. Department (ARRA-F):	
3. ARRA Activity (ARRA 1-01):			
4. Name of ARRA Activity Manager:			
VISION Chartfield #:			
Federal ARRA Award Information:			
5. Federal Agency Award # (ARRA-B):		6. CFDA # (ARRA-E):	
Tier 1 Recipient Information (Contractor, subrecipient, or borrower):			
7. Recipient Name: (ARRA-3-03):		8. DUNS # (ARRA-E):	
9. Address as registered with CCR (ARRA-3-04):			
10. ARRA Entity Type (ARRA-3-05):		11. Is this letter A – H? <input type="checkbox"/> YES <input type="checkbox"/> NO	
12. Is this ARRA Activity for infrastructure or does it included infrastructure spending? <input type="checkbox"/> YES <input type="checkbox"/> NO			
Tier 1 Agreement (contract, subgrant, or loan):			
13. SOV Contract, Subgrant, or Loan # (ARRA-3-02):			
14. Total Agreement Amount (ARRA-3-07): \$		14a. Agreement Date (ARRA-3-08):	
15. Grant Period (ARRA-H) From:		To:	
16. Cumulative Amount Paid to Date (ARRA-3-06): \$			

SECTION B – [TIER 1 RECIPIENT USE ONLY]			
Reporting Information - This Report:			
17. For the calendar Quarters Ended:			
18. Completion Status (ARRA-2-03):		<input type="checkbox"/> Not Started <input type="checkbox"/> Less than 50% complete <input type="checkbox"/> 50% or more complete <input type="checkbox"/> Fully Completed	
19. If BOTH Items 11 and 12 are "YES", the cumulative disbursements made on infrastructure must be provided below:			
ARRA \$	Federal non-ARRA \$	Non-federal \$	Total Infrastructure \$
20. Cumulative Infrastructure Impact Narrative in accordance with OMB code ARRA-2-06 – available at: http://finance.vermont.gov/sites/finance/files/pdf/forms/OMB_ARRA_Codes.pdf			
21. Cumulative Employment Impact Narrative (ARRA 2-04):			
NOTE: If your organization has a method for tracking and reporting positions and Full-Time Equivalents (FTE), you may use your own methodology; if not, you must use the default calculations in the columns below:			

22. Employment Impact Statistics:	← Positions Retained →			← New Positions Created →		
	A	B	C	D	E	F
Position, Category, Type, or Title(s): (Describe broadly - e.g. Laborer, Manager, or Therapist)	Cumulative Amount Paid to Date	Avg. Hourly Rate	# FTEs (A/B/2080 = C)	Cumulative Amount Paid to Date	Avg. Hourly Rate	# FTEs (D/E/2080 = F)
Total Positions						

23. AUTHORIZATION AND CERTIFICATION (all fields are required):	Signature Prepared by:		Date:
	Name:	Title:	
	Phone:	Email:	
	Authorized Signature:		Date:
	Name:		Title:

I certify as an agent for the entity submitting this form and named in Item 7 above, that I am legally authorized to sign and submit this report; I certify that under penalty of perjury the information contained Section B herein is complete and accurate as of the date certified:

SECTION C – [STATE OF VERMONT USE ONLY]

24. REVIEW, APPROVAL AND CERTIFICATION:		
I certify that under penalty of perjury the information contained in Section A herein is complete and accurate as of the date certified:	State of Vermont ARRA Activity Manager:	Date:
	Name:	Title:

ARRA QUARTERLY TIER 1 REPORT INSTRUCTIONS (FORM ESR-4)

PURPOSE: To provide for Tier 1 recipients of ARRA funds to provide the awarding State Recipient department with the information it requires for quarterly reporting of OMB metrics.

DEFINITIONS: Definitions are found in the Finance and Management forms library at:
http://finance.vermont.gov/sites/finance/files/pdf/forms/OMB_Proposed_Reporting_Summary.pdf

SECTION BY SECTION INSTRUCTIONS: The form has three Sections:

SECTION A – STATE OF VERMONT USE:

- Items 1 through 15 are data that must be obtained at the time the agreement (Contract, sub-grant, or loan) with the Tier 1 recipient is executed. This will change only if the agreement is subsequently amended.
 - Item 16 will be updated quarterly. It must agree with the disbursements according to the department's accounting system and reported in the normal process of expenditure reporting to the department's ARRA federal funding agency.
-

SECTION B – TIER 1 RECIPIENT USE:

- Item 17 is the end date of the reporting period. It will be for a calendar quarter and the appropriate year: mm/dd/yyyy.
 - Item 18 is the project completion status if the agreement is project-related. It is Not Applicable if the agreement is for the support of ongoing program operations. Note that completion status may not be determined by payments to date. It must reflect non-financial metrics which would be defined in a contract or grants Attachment A.
 - Item 19 & 20 are required only if Items 11 and 12 in Section A are both marked "YES". Item 19 is the cumulative infrastructure disbursement dollars by funding type and Item 20 is an infrastructure impact narrative.
 - Item 21 is a narrative describing the cumulative employment impact of the agreement. This is necessarily a brief synopsis. The OMB guidance seems daunting, but brevity on the form and an ability to answer follow-up questions is what we expect.
 - Item 22 is to obtain job statistics. A job is retained through ARRA insofar as ARRA pays for it, unless it is a new position in which case the job was created. Divide the cost of pay (not including benefits or payroll taxes) for comparable jobs by the average hourly rate for that type of job and that result by 2080 to obtain the full-time equivalent jobs. This is what the form is set up for the respondent to do.
 - Item 23 must be signed and thereby certified by an authorized agent of the Tier 1 recipient named in Section A, Item 7.
-

SECTION C – TIER 1 RECIPIENT USE:

- Item 24 must be signed and thereby authorized and certified by the SOV agency ARRA Activity Manager assigned.
-

DISTRIBUTION AND FILING SCHEDULE:

- Section A, Items 1 - 15 are to be completed by the Activity Manager assigned and included as an Attachment to the applicable SOV contract, subgrant or loan for this Tier 1 recipient.
- Quarterly, the SOV Activity Manager assigned will complete Section A, Item 16 and [post – make available – provide] for the Tier 1 Recipient to complete Section B by the date(s) required by ESR.
- Subsequently, the SOV Activity Manager will review, certify and authorize by electronic signature by the date(s) required by OMB.
- The information will then be collected electronically, assembled and reported by the SOV Recipient Department to the Office of Economic Stimulus and Recovery.)

Special provisions relating to work funded under American Recovery and Reinvestment Act of 2009 (Mar 2009)

[Prescription: This clause must be included in all grants, cooperative agreements and TIAs (new or amended) when funds appropriated under the Recovery Act are obligated to the agreement.]

Preamble

The American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, (Recovery Act) was enacted to preserve and create jobs and promote economic recovery, assist those most impacted by the recession, provide investments needed to increase economic efficiency by spurring technological advances in science and health, invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits, stabilize State and local government budgets, in order to minimize and avoid reductions in essential services and counterproductive State and local tax increases. Recipients shall use grant funds in a manner that maximizes job creation and economic benefit.

The Recipient shall comply with all terms and conditions in the Recovery Act relating generally to governance, accountability, transparency, data collection and resources as specified in Act itself and as discussed below.

Recipients should begin planning activities for their first tier subrecipients, including obtaining a DUNS number (or updating the existing DUNS record), and registering with the Central Contractor Registration (CCR).

Be advised that Recovery Act funds can be used in conjunction with other funding as necessary to complete projects, but tracking and reporting must be separate to meet the reporting requirements of the Recovery Act and related guidance. For projects funded by sources other than the Recovery Act, Contractors must keep separate records for Recovery Act funds and to ensure those records comply with the requirements of the Act.

The Government has not fully developed the implementing instructions of the Recovery Act, particularly concerning specific procedural requirements for the new reporting requirements. The Recipient will be provided these details as they become available. The Recipient must comply with all requirements of the Act. If the recipient believes there is any inconsistency between ARRA requirements and current award terms and conditions, the issues will be referred to the Contracting Officer for reconciliation.

Definitions

For purposes of this clause, Covered Funds means funds expended or obligated from appropriations under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5. Covered Funds will have special accounting codes and will be identified as

Recovery Act funds in the grant, cooperative agreement or TIA and/or modification using Recovery Act funds. Covered Funds must be reimbursed by September 30, 2015.

Non-Federal employer means any employer with respect to covered funds – the contractor, subcontractor, grantee, or recipient, as the case may be, if the contractor, subcontractor, grantee, or recipient is an employer; and any professional membership organization, certification of other professional body, any agent or licensee of the Federal government, or any person acting directly or indirectly in the interest of an employer receiving covered funds; or with respect to covered funds received by a State or local government, the State or local government receiving the funds and any contractor or subcontractor receiving the funds and any contractor or subcontractor of the State or local government; and does not mean any department, agency, or other entity of the federal government.

Recipient means any entity that receives Recovery Act funds directly from the Federal government (including Recovery Act funds received through grant, loan, or contract) other than an individual and includes a State that receives Recovery Act Funds.

Special Provisions

A. Flow Down Requirement

Recipients must include these special terms and conditions in any subaward.

B. Segregation of Costs

Recipients must segregate the obligations and expenditures related to funding under the Recovery Act. Financial and accounting systems should be revised as necessary to segregate, track and maintain these funds apart and separate from other revenue streams. No part of the funds from the Recovery Act shall be commingled with any other funds or used for a purpose other than that of making payments for costs allowable for Recovery Act projects.

C. Prohibition on Use of Funds

None of the funds provided under this agreement derived from the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, may be used by any State or local government, or any private entity, for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

D. Wage Rates

All laborers and mechanics employed by recipients, subrecipients and contractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance

with subchapter IV of chapter 31 of title 40, United States Code. With respect to the labor standards specified in this section, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan numbered 14 of 1950 (64 Stat. 1267, 5 U.S.C. App.) and section 3145 of title 40 United States Code.

E. Reporting Requirements for Recipients

Not later than 10 days after the end of each calendar quarter, each recipient shall submit a report to the Contractor Officer or to an address or website designated by the Contracting Officer that contains:

- The total amount of American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, covered funds received from that agency;
- The amount of American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, covered funds received that were expended or obligated to projects or activities;
- A detailed list of all projects or activities for which American Recovery and Reinvestment Act of 2009, Pub L. 111-5, covered funds were expended or obligated including:
 - Name of project or activity
 - Agreement number
 - Description of project or activity
 - Evaluation of the completion status of project or activity
 - Estimate of number of jobs created and retained by project or activity in the manner and form prescribed
 - Infrastructure investments made by State and local governments, purpose, total cost, rationale of agency for funding infrastructure investment, name of agency contact.
 - Information on subgrants awarded by recipient to include data elements required to comply with the Federal Accountability and Transparency Act of 2006 (Pub. L. 109-282).

See the Reporting Requirements Checklist for the ARRA-Performance Progress Report and Instructions.

This information shall be reported to and published on the Internet at www.Recovery.gov.

Recipients required to report must register with the Central Contractor Registration (CCR) database. Recipient shall ensure that all first-tier subrecipients have a DUNS number and are registered in the CCR no later than the date the first report is due under paragraph F above.

Failure to comply with this reporting requirement may result in termination of that part of the award funded by the Recovery Act.

F. Access to Records

With respect to each financial assistance agreement awarded utilizing at least some of the funds appropriated or otherwise made available by the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, any representative of an appropriate inspector general appointed under section 3 or 8G of the Inspector General Act of 1988 (5 U.S.C. App.) or of the Comptroller General is authorized –

- (1) to examine any records of the contractor or grantee, any of its subcontractors or subgrantees, or any State or local agency administering such contract that pertain to, and involve transactions relation to, the subcontract, subcontract, grant, or subgrant; and
- (2) to interview any officer or employee of the contractor, grantee, subgrantee, or agency regarding such transactions.

G. Publication

An application may contain technical data and other data, including trade secrets and/or privileged or confidential information, which the applicant does not want disclosed to the public or used by the Government for any purpose other than the application. To protect such data, the applicant should specifically identify each page including each line or paragraph thereof containing the data to be protected and mark the cover sheet of the application with the following Notice as well as referring to the Notice on each page to which the Notice applies:

Notice of Restriction on Disclosure and Use of Data

The data contained in pages ---- of this application have been submitted in confidence and contain trade secrets or proprietary information, and such data shall be used or disclosed only for evaluation purposes, provided that if this applicant receives an award as a result of or in connection with the submission of this application, DOE shall have the right to use or disclose the data here to the extent provided in the award. This restriction does not limit the Government's right to use or disclose data obtained without restriction from any source, including the applicant.

Information about this agreement will be published on the Internet and linked to the website www.recovery.gov, maintained by the Accountability and Transparency Board. The Board may exclude posting contractual or other information on the website on a case-by-case basis when necessary to protect national security or to protect information that is not subject to disclosure under sections 552 and 552a of title 5, United States Code.

H. Protecting State and Local Government and Contractor Whistleblowers.

The requirements of Section 1553 of the Act are summarized below. They include, but are not limited to:

Prohibition on Reprisals: An employee of any non-Federal employer receiving covered funds under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, may

not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing, including a disclosure made in the ordinary course of an employee's duties, to the Accountability and Transparency Board, an inspector general, the Comptroller General, a member of Congress, a State or Federal regulatory or law enforcement agency, a person with supervisory authority over the employee (or other person working for the employer who has the authority to investigate, discover or terminate misconduct, a court or grant jury, the head of a Federal agency, or their representatives information that the employee believes is evidence of:

- gross management of an agency contract or grant relating to covered funds;
- a gross waste of covered funds
- a substantial and specific danger to public health or safety related to the implementation or use of covered funds;
- an abuse of authority related to the implementation or use of covered funds; or
- as violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to covered funds.

Agency Action: Not later than 30 days after receiving an inspector general report of an alleged reprisal, the head of the agency shall determine whether there is sufficient basis to conclude that the non-Federal employer has subjected the employee to a prohibited reprisal. The agency shall either issue an order denying relief in whole or in part or shall take one or more of the following actions:

- Order the employer to take affirmative action to abate the reprisal.
- Order the employer to reinstate the person to the position that the person held before the reprisal, together with compensation including back pay, compensatory damages, employment benefits, and other terms and conditions of employment that would apply to the person in that position if the reprisal had not been taken.
- Order the employer to pay the employee an amount equal to the aggregate amount of all costs and expenses (including attorneys' fees and expert witnesses' fees) that were reasonably incurred by the employee for or in connection with, bringing the complaint regarding the reprisal, as determined by the head of a court of competent jurisdiction.

Nonenforceability of Certain Provisions Waiving Rights and Remedies or Requiring Arbitration: Except as provided in a collective bargaining agreement, the rights and remedies provided to aggrieved employees by this section may not be waived by any agreement, policy, form, or condition of employment, including any predispute arbitration agreement. No predispute arbitration agreement shall be valid or enforceable if it requires arbitration of a dispute arising out of this section.

Requirement to Post Notice of Rights and Remedies: Any employer receiving covered funds under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, shall post notice of the rights and remedies as required therein. (Refer to section 1553 of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, www.Recovery.gov, for specific requirements of this section and prescribed language for the notices.).

[If the award will have Recovery Act and non-Recovery Act funds, reimbursement costs must be done by receipt of an SF-270, Request for Advance or Reimbursement, through the Automated Clearing House and VIPERS. Include the provision below to require the Recipient to distinguish between the funds.]

I. Request for Reimbursement

Recipients must provide information with its submission of the SF-270, Request for Advance or Reimbursement, to identify the portion of the request that is associated with Recovery Act projects.

J. False Claims Act

Recipient and sub-recipients shall promptly refer to the DOE or other appropriate Inspector General any credible evidence that a principal, employee, agent, contractor, sub-grantee, subcontractor or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict or interest, bribery, gratuity or similar misconduct involving those funds.

K. Information in supporting of Recovery Act Reporting

Recipient may be required to submit backup documentation for expenditures of funds under the Recovery Act including such items as timecards and invoices. Recipient shall provide copies of backup documentation at the request of the Contracting Officer or designee.

L. Availability of Funds

Funds appropriated under the Recovery Act and obligated to this award are available for reimbursement of costs until September 30, 2015.

[Include Buy American if construction, alteration, maintenance, or repair of a public building or public work will be funding under this award.]

Buy American

(a) Definitions.

The following definitions apply to terms used in Section 1605 of the American Recovery and Reinvestment Act of 2009, Public Law 111-5, (“Recovery Act”):

“Building or work” means construction activity as distinguished from manufacturing, furnishing of materials, or servicing and maintenance work. The terms include, without limitation, buildings, structures, and improvements of all types, such as bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, canals, dredging, shoring, rehabilitation and reactivation of plants, scaffolding, drilling, blasting, excavating,

clearing, and landscaping. The manufacture or furnishing of materials, articles, supplies, or equipment (whether or not a Federal or State agency acquires title to such materials, articles, supplies, or equipment during the course of the manufacture or furnishing, or owns the materials from which they are manufactured or furnished) is not “building” or “work” within the meaning of this definition unless conducted in connection with and at the site of such building or work as is described in the foregoing sentence, or under the United States Housing Act of 1937 and the Housing Act of 1949 in the construction or development of the project.

“Construction material” means an article, material, or supply brought to the construction site by the Contractor or a subcontractor for incorporation into the building or work. The term also includes an item brought to the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site. Materials purchased directly by the Government are supplies, not construction material.

“Domestic construction material” means—

- (1) An unmanufactured construction material mined or produced in the United States; or
- (2) A construction material manufactured in the United States.

“Foreign construction material” means a construction material other than a domestic construction material.

“Steel,” as used in this subpart, means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements. “Recovery funds” means any funds that are made available from appropriations made under this Act.

“United States” means the 50 States, the District of Columbia, and outlying areas including:

- (1) Commonwealths.
 - (i) Puerto Rico.
 - (ii) The Northern Mariana Islands;
- (2) Territories.
 - (i) American Samoa.
 - (ii) Guam.
 - (iii) U.S. Virgin Islands; and
- (3) Minor outlying islands.
 - (i) Baker Island.
 - (ii) Howland Island.
 - (iii) Jarvis Island.
 - (iv) Johnston Atoll.
 - (v) Kingman Reef.
 - (vi) Midway Islands.
 - (vii) Navassa Island.
 - (viii) Palmyra Atoll.
 - (ix) Wake Atoll.

(b) Buy American Requirement. None of the funds appropriated or otherwise made available by the American Recovery and Reinvestment Act of 2009, Public Law 111-5

(“Recovery Act”) may be used for a project for the construction, alteration, maintenance, or repair of a public building or public work unless—

- (1) The public building or public work is located in the United States; and
- (2) All of the iron, steel, and other manufactured goods used as material in the project are produced or manufactured in the United States. Production of the iron or steel in the United States requires melting in the United States.

(c) Exceptions to Buy American Requirement. A recipient may request a waiver from the Buy American Requirement when it believes one of the following exceptions applies in a particular case:

- (1) applying the Buy America Requirement would be inconsistent with the public interest;
- (2) iron, steel, and the relevant manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or
- (3) inclusion of iron, steel, and manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent.

(d) Any waiver request from the recipient to use foreign construction material must be submitted to the head of the Federal agency and shall include adequate information for Government evaluation of the request, including—

- (1) A description of the foreign and domestic construction materials;
- (2) Unit of measure;
- (3) Quantity;
- (4) Price;
- (5) Time of delivery or availability;
- (6) Location of the construction project;
- (7) Name and address of the proposed supplier; and
- (8) A detailed justification of the reason for use of foreign construction materials cited in accordance with paragraph (c) of this award term.

(e) A request based on unreasonable cost shall include a reasonable survey of the market and a completed price comparison table as follows with any applicable supporting information:

FOREIGN AND DOMESTIC CONSTRUCTION MATERIALS PRICE COMPARISON

Construction Material Description	Unit of Measure	Quantity	Price (Dollars)*
<i>Item 1:</i>			
Foreign construction material	_____	_____	_____
Domestic construction material	_____	_____	_____
<i>Item 2:</i>			
Foreign construction material	_____	_____	_____
Domestic construction material	_____	_____	_____

[List name, address, telephone number, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.]

[Include other applicable supporting information.]

[Include all delivery costs to the construction site].*

- (f) The price of construction material shall include all delivery costs to the construction site and any applicable duty.
- (g) Any recipient request for a determination submitted after the award shall explain why the recipient could not reasonably foresee the need for such determination and could not have requested the determination before award. If the recipient does not submit a satisfactory explanation, the head of the Agency need not make a determination.
- (h) Proof that a waiver has been granted by the head of the Federal agency includes (1) a revised award notice documenting approval to use foreign construction materials and a list of the excepted materials and (2) a final waiver determination that has been published by the head of the Federal agency in the Federal Register.

[Include next 2 paragraphs if award is to a State Government or an Agency.]

Additional Funding Distribution and Assurance of Appropriate Use of Funds

Certification by Governor -- Not later than April 3, 2009, for funds provided to any State or agency thereof by the American Reinvestment and Recovery Act of 2009, Pub. L. 111-5, the Governor of the State shall certify that: 1) the state will request and use funds provided by the Act; and 2) the funds will be used to create jobs and promote economic growth.

Acceptance by State Legislature -- If funds provided to any State in any division of the Act are not accepted for use by the Governor, then acceptance by the State legislature, by means of the adoption of a concurrent resolution, shall be sufficient to provide funding to such State.

Distribution – After adoption of a State legislature’s concurrent resolution, funding to the State will be for distribution to local governments, councils of government, public entities, and public-private entities within the State either by formula or at the State’s discretion.

Certifications

With respect to funds made available to State or local governments for infrastructure investments under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, the Governor, mayor, or other chief executive, as appropriate, certified by acceptance of this award that the infrastructure investment has received the full review and vetting required by law and that the chief executive accepts responsibility that the infrastructure investment is an appropriate use of taxpayer dollars. Recipient shall provide an additional certification that includes a description of the investment, the estimated total cost, and the amount of covered funds to be used for posting on the Internet. A State or local agency may not receive infrastructure investment funding from funds made available by the Act unless this certification is made and posted.