

**CALIFORNIA ALTERNATIVE ENERGY & ADVANCED TRANSPORTATION
FINANCING AUTHORITY**

Meeting Date: October 28, 2009

***Approval for Permanent Regulations to Establish Fee Structure
For the CAEATFA Program***

Prepared by: *Brian Gorban*

Summary: Staff requests approval to amend and file permanent regulations to establish a fee structure for CAEATFA's renewable program, as well as, a fee structure for all other CAEATFA programs, including alternative energy and advanced transportation. This is necessary to be adopted at this time to facilitate the consideration of applications for financial assistance for CAEATFA projects.

Background: Currently, CAEATFA has a separate fee structure for renewable energy applicants and all other applicants. Applicants other than renewable energy applicants that qualify as a small business have a fee structure that charges an administrative fee of four tenths of one percent (0.004) for financing under \$2,500,000, five tenths of one percent (0.005) for financing at least \$2,500,000 but no greater than \$4,999,999, and six tenths of one percent (0.006) for financing that is at least \$5,000,000. For applicants that do not meet the criteria for small business consideration by the Authority, the fees are six tenths of one percent (0.006). The applicant shall also reimburse CAEATFA for all reasonable and necessary out of pocket expenses incurred and all other direct or indirect expenses properly allocable to the proposed financing unless paid out of the proceeds of the bond issue.

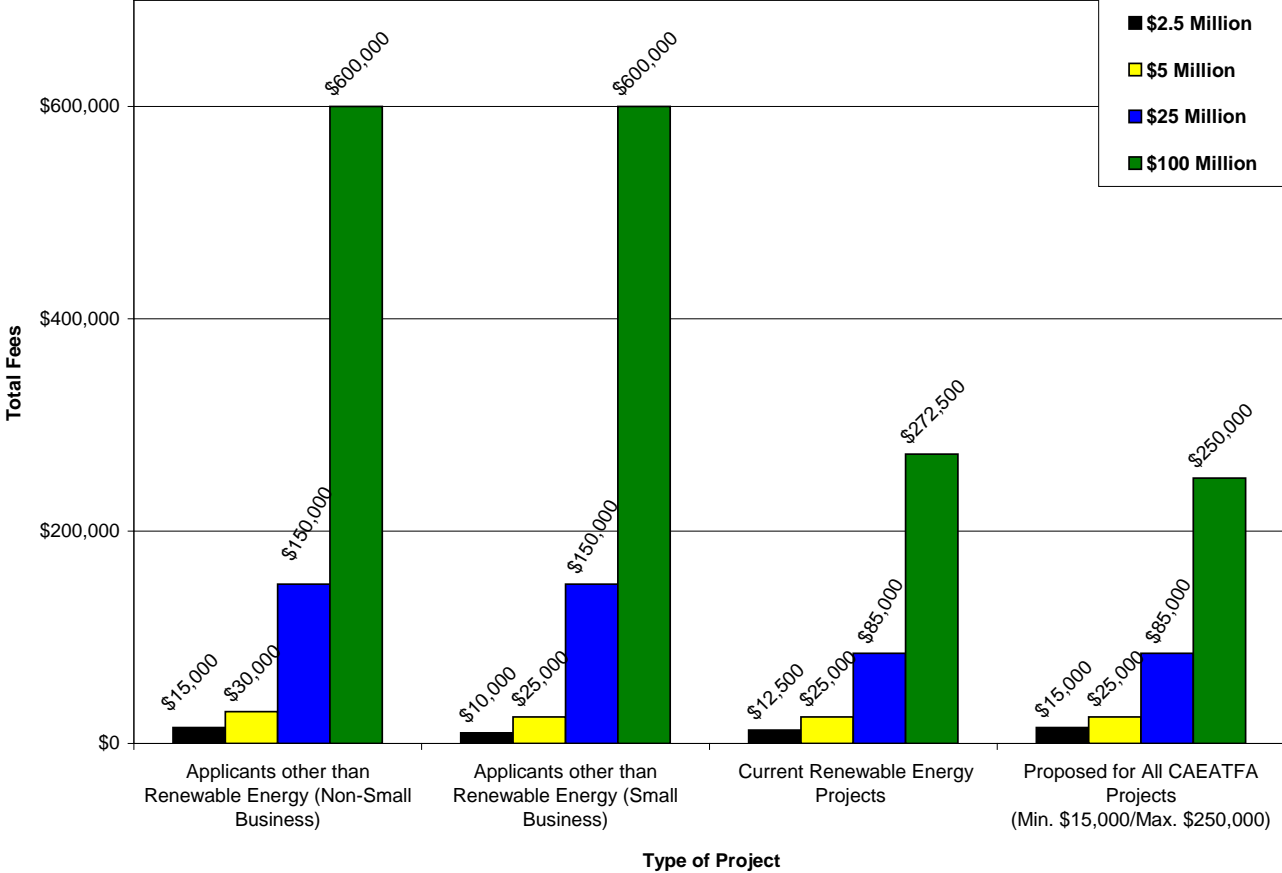
Renewable energy applicants have a tiered fee structure shown below and this is what CAEATFA is proposing to adopt for all projects [as shown in Attachment A](#):

- (A) If the financial assistance requested is no greater than \$5,000,000: 0.005 (five tenths of one percent).
- (B) If the financial assistance requested is greater than \$5,000,000 and no greater than \$25,000,000: \$25,000 plus 0.003 (three tenths of one percent) of the amount over \$5,000,000.
- (C) If the financial assistance requested is greater than \$25,000,000 but no greater than \$100,000,000: \$85,000 plus 0.0025 (twenty-five one hundredths of one percent) of the amount over \$25,000,000.
- (D) If the financial assistance requested is greater than \$100,000,000: \$272,500 plus 0.002 (two tenths of one percent) of the amount over \$100,000,000.
- (E) Annual Fee for CAEATFA Projects. The authority shall assess an annual fee each year for the life of the financial assistance in the amount of 0.0003 (three one-hundredths of one percent) of the approved financial assistance amount with a minimum fee of \$500 and maximum fee of \$10,000.

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In addition the proposed regulations would establish a minimum fee of \$15,000 and maximum fee of \$250,000 for all projects, as well as reasonable out of pocket expenses, for all projects.

CAEATFA Total Fees Comparison



Fee Structure (Existing Fees)

Type of Project	Issuance Fees			Application Fee	Annual Administrative Fee
	Up to \$2.5M	\$2.5-5 M	Over \$5M		
Applicants other than Renewable Energy (Small Business)	0.4% (.004)	0.5% (.005)	0.6% (.006)	0.05% (.0005) (min \$250, max \$5,000)	N/A
Renewable Energy Applicants (Non-Small Business)	0.6% (.006)	0.6% (.006)	0.6% (.006)	0.05% (.0005) (min \$250, max \$5,000)	N/A

Type of Project	Issuance Fees			Application Fee	Annual Administrative Fee
	Up to \$5M	\$5-25 M	\$25-100M		
Renewable Energy Applicants	0.5% (.005)	\$25,000 + 0.3% (.003)	\$85,000 + 0.25% (.0025)	0.05% (.0005) (min \$250, max \$5,000)	0.03% (.0003) per year with minimum \$500 and maximum \$10,000

Fee Structure (Proposed Fees)

Minimum Fee of \$15,000, Maximum Fee of \$250,000

Type of Project	Issuance Fees			Application Fee	Annual Administrative Fee
	Up to \$5M	\$5-25 M	\$25-100M		
All CAEATFA Projects	0.5% (.005)	\$25,000 + 0.3% (.003)	\$85,000 + 0.25% (.0025)	0.05% (.0005) (min \$250, max \$5,000)	0.03% (.0003) per year with minimum \$500 and maximum \$10,000

Fee Structure (Existing Fees)

Type of Project	Issuance Fees			Application Fee	Annual Administrative Fee
	Up to \$2.5M	\$2.5-5 M	Over \$5M		
Applicants other than Renewable Energy (Small Business)	0.4% (.004)	0.5% (.005)	0.6% (.006)	0.05% (.0005) (min \$250, max \$5,000)	N/A
Renewable Energy Applicants (Non-Small Business)	0.6% (.006)	0.6% (.006)	0.6% (.006)	0.05% (.0005) (min \$250, max \$5,000)	N/A

Type of Project	Issuance Fees			Application Fee	Annual Administrative Fee
	Up to \$5M	\$5-25 M	\$25-100M		
Renewable Energy Applicants	0.5% (.005)	\$25,000 + 0.3% (.003)	\$85,000 + 0.25% (.0025)	0.05% (.0005) (min \$250, max \$5,000)	0.03% (.0003) per year with minimum \$500 and maximum \$10,000

Fee Structure (Proposed Fees)

Minimum Fee of \$15,000, Maximum Fee of \$250,000, + reasonable out of pocket expenses

Type of Project	Issuance Fees			Application Fee	Annual Administrative Fee
	Up to \$5M	\$5-25 M	\$25-100M		
All CAEATFA Projects	0.5% (.005)	\$25,000 + 0.3% (.003)	\$85,000 + 0.25% (.0025)	0.05% (.0005) (min \$250, max \$5,000)	0.03% (.0003) per year with minimum \$500 and maximum \$10,000

Timeline: Outlined below is the estimated schedule.

Permanent Regulations

October 30, 2009	The Rulemaking File and Notice of Publication are filed with the Office of Administrative Law (OAL). The Notice of Proposed Regulatory Action is issued.
November 13, 2009	OAL publishes Notice and 45-day public comment period begins.
December 8, 2009	Conduct a workshop in Sacramento
December 30, 2009	Public comment period regarding proposed regulations ends.
January 27, 2010	Emergency Regulations expire (request first three month extension, if necessary)
January 27, 2010	Results of public hearing requests, if any, are presented at CAEATFA Board meeting. Present permanent regulations to Authority for adoption if no public comments are received warranting modification of the proposed regulatory changes.
February 1, 2010	Deliver permanent regulation package to OAL for 30-day review.
March 3, 2010	OAL issues Approval of Certificate of Compliance and files regulations with the Secretary of State.
April 2, 2010	Permanent regulations become effective.

*If public comments are received that warrant substantial modifications to the proposed regulations, then the process will be lengthened to accommodate a 15-day comment period as follows:

December 31, 2009	Proposed regulation amendments are modified and Notice Proposed Changes is issued to initiate a 15-day comment period.
January 15, 2010	15-day comment period ends.
February 17, 2010	Deliver permanent regulation package to OAL for 30-day review.
March 22, 2010	OAL issues Approval of Certificate of Compliance and files regulations with the Secretary of State.
April 21, 2010	Permanent regulations become effective.

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Recommendation: Staff recommends adoption of a resolution to establish a uniform fee structure for all CAEATFA projects and authorize staff to undertake permanent rulemaking proceedings and other actions related to CAEATFA regulation revisions.

**RESOLUTION OF THE CALIFORNIA ALTERNATIVE ENERGY AND
ADVANCED TRANSPORTATION FINANCING AUTHORITY
APPROVING REGULATIONS AND AUTHORIZING PERMANENT
RULEMAKING PROCEEDINGS AND OTHER ACTIONS RELATED
THERE TO, INCLUDING THE PUBLIC NOTICE
AND COMMENT PROCEDURES**

WHEREAS, the California Alternative Energy And Alternative Energy Financing Authority (the "Authority") is authorized by California Public Resources Code Section 26009 to adopt regulations to implement and make specific the statutory provisions governing the Authority's programs; and

WHEREAS, the Authority has determined that amendments establishing a fee structure for the Authority is within regulations as set forth in Article 1 of Division 13 of Title 4 of the California Code of Regulations, are necessary to be adopted at this time to facilitate the consideration of applications for financial assistance.

NOW, THEREFORE, BE IT RESOLVED by the California Alternative Energy and Advanced Transportation Financing Authority as follows:

Section 1. The proposed regulations presented at the October 28, 2009 meeting are hereby approved in substantially the form submitted. The Chair or Executive Director is hereby authorized, for and on behalf of the Authority, to proceed with the filing of the regulations, with the supporting documentation required by law, for the purposes of adopting these as regulations.

Section 2. The Chair or Executive Director of the Authority is hereby authorized and directed to take such actions, including making or causing to be made such changes to the regulations as may be required for approval thereof by the Office of Administrative Law, and to execute and deliver any and all documents that they may deem necessary or advisable in order to effectuate the purposes of this resolution.

Section 3. This resolution shall take effect immediately upon its approval.

Attachment A

Proposed Text of Regulations

Title 4. Business Regulations

Division 13. California Alternative Energy and Advanced Transportation Financing Authority

Article 1. Procedures Relating to the Authority of Officers and Members

§ 10020. Fees.

(a) The Authority shall charge fees for its reasonable and necessary administrative and program expenses, as a self sustaining agency.

(b) The following fees shall be applicable:

Application Fee. The Authority requires a non-refundable application fee of .0005 (one twentieth of one percent) of the principal amount of financing (but not less than \$250.00 or more than \$5,000.00) for each project to be considered for financing. This shall be paid at the time the formal application is submitted.

Administrative Fee. The Authority charges a one-time administrative fee due at the closing of the financing. The original application fee is credited against the administrative fee at that time.

~~(1) Small Business Issues, Except Those Receiving Financial Assistance For Renewable Energy Projects As Defined in Public Resources Code Section 26003(i). If the applicant meets the Authority's requirements for consideration as a small business, For all projects~~ the following apply:

~~(A) If the financing requested is no greater than \$2,499,999: .004 (four tenths of 1 percent).~~

~~(B) If the financing requested is at least \$2,500,000 but no greater than \$4,999,999: .005 (five tenths of 1 percent).~~

~~The criteria for determining if an applicant is considered a small business will be the same as that used by the U.S. Small Business Administration for their loan guarantee programs as of October 9, 1979. The maximum size is based upon net worth, income and number of employees. The SBA criteria is found in 13 CFR Sections 121.3-10 and 121.3-11, SBA Rules and Regulations.~~

~~(2) All Other Issues if the applicant does not meet the criteria for small business consideration by the Authority, or if the financing is \$5,000,000 or greater, the following fee structure shall apply:~~

~~(A) if the financial assistance requested is no greater than \$5,000,000.00: .005 (five tenths of one percent).~~

~~(B) if the financial assistance requested is greater than \$5,000,000.00 and no greater than \$25,000,000: \$25,000 plus .003 (three tenths of one percent) of the amount over \$5,000,000.00.~~

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(C) if the financial assistance requested is greater than \$25,000,000.00 but no greater than \$100,000,000.00: \$85,000 plus .0025 (twenty-five one hundredths of one percent) of the amount over \$25,000,000.

(D) if the financial assistance requested is greater than \$100,000,000.00: \$272,500.00 plus .002 (two tenths of one percent) of the amount over \$100,000,000.00.

(E) In no case shall the fee be less than \$15,000 nor more than \$250,000.

The applicant shall also reimburse the Authority for all reasonable and necessary out of pocket expenses the Authority may incur at the applicant's request, and all other direct or indirect expenses properly allocable to the proposed financing unless paid out of the proceeds of the bond issue. All fees for a particular proposed financing shall be paid by the applicant and deposited in the Authority fund.

(c) Annual Fee The Authority shall assess an annual fee each year for the life of the financial assistance in the amount of .0003 (three one-hundredths of one percent of the approved financial assistance amount with a minimum fee of \$500 and maximum fee of \$10,000.