

CALIFORNIA ALTERNATIVE ENERGY AND  
ADVANCED TRANSPORTATION FINANCING AUTHORITY

Meeting Date: November 15, 2011

*Consideration of Applicants' Requests for Waivers to Purchase 25% of Qualified Property  
within One Year of Application Approval under the SB 71 Program*

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**Summary**

The SB 71 Program (“Program”) requires that an Applicant purchase at least 25 percent (25%) of the total eligible equipment and machinery (Qualified Property) listed in the approved Board resolution within one year of Board approval of the Application (Regulations Section 10035(c)(1)) (“25% Purchase Requirement”). The 25% Purchase Requirement under the Program serves as both an indicator of project readiness and ensures that the financial assistance is used in a timely fashion to incentivize economic activity. The regulations also enable the Board to waive the 25% Purchase Requirement upon a finding that it is in the public interest and advances the purposes of the Program (Section 10035(c)(1)(A)).

**25% Purchase Requirement**

The SB 71 Program requires that Applicants approved by the Board must purchase the total eligible equipment and machinery (Qualified Property) as listed in the approved Board resolution within a specific timeframe. This time requirement under the Program serves as both an indicator of project readiness and ensures that the financial assistance is used in a timely fashion to incentivize economic activity.

As a standard, in addition to the 25% Purchase Requirement, Applicants are required to make the remainder of the purchases within three years of Board approval. These requirements are established in the Program’s Regulations<sup>1</sup> and are in the terms of the Regulatory Agreement between CAEATFA and the approved Applicants.<sup>2</sup>

In addition, upon a finding that it is in the public interest and advances the purposes of the program, the CAEATFA Board may waive the 25% Purchase Requirement.<sup>3</sup> The Board may make this finding at any point, whether it is at the time of Application approval or during the term of the Regulatory Agreement between CAEATFA and the Applicant.

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<sup>1</sup> The Program Regulations require an applicant to purchase at least 25% of its Qualified Property within one year. A number of applicants have represented that the equipment has been purchased, but has not yet been conveyed under the Program.

<sup>2</sup> Master Regulatory Agreement Section 6.A.

<sup>3</sup> Program Regulations Section 10035(c)(1)(A).

**Agenda Item – 4.B.**

If an Applicant does not meet the 25% Purchase Requirement, and does not receive a waiver of this requirement from the Board, the Applicant is no longer in compliance with the Program Regulations and the Regulatory Agreement between the Applicant and CAEATFA will be terminated.

In September 2011, CAEATFA staff provided a formal courtesy reminder to Applicants of the 25% Purchase Requirement, requested an update on the Projects, and provided notification that if Applicants fail to meet the 25% Purchase Requirement, the STE awarded would be forfeited. The table below shows the Applications approved in November 2010, and their status in reaching the 25% Purchase Requirement (as of November 3, 2011).

<b>Applications Approved in November 2010</b>						
	<b>Applicant Name</b>	<b>Location</b>	<b>Use of Proceeds</b>	<b>QP Amount</b>	<b>Estimated STE<sup>4</sup></b>	<b>Percent Conveyed as of 11/3/2011</b>
<b>1</b>	Bowerman Power LFG, LLC	Irvine (Orange County)	Landfill Gas Capture & Production	\$ 9,240,000	\$ 840,840	<b>0.0%</b>
<b>2</b>	ABEC Bidart Stockdale, LLC	Bakersfield (Kern County)	Biogas Capture & Production	\$ 1,131,584	\$ 102,974	<b>84.9%</b>
	ABEC Bidart Old River, LLC	Bakersfield, (Kern County)	Biogas Capture & Production	\$ 4,738,000	\$ 431,158	<b>0.0%</b>
<b>3</b>	First Solar, Inc.	Santa Clara (Santa Clara County)	Solar Photovoltaic Manufacturing	\$ 37,700,000	\$ 3,430,700	<b>99.9%</b>
<b>4</b>	Gallo Cattle Company	Atwater (Merced Atwater)	Biogas Capture & Production	\$ 1,245,000	\$ 113,295	<b>0.0%</b>
<b>5</b>	Solyndra LLC	Fremont (Alameda County)	Solar Photovoltaic Manufacturing	\$ 381,776,000	\$ 34,741,616	<b>72.6%</b>
<b>6</b>	The Solaria Corporation	Fremont (Alameda County)	Solar Photovoltaic Manufacturing	\$ 7,800,000	\$ 709,800	<b>32.5%</b>
<b>7</b>	Nanosolar Inc.	San Jose (Santa Clara County)	Solar Photovoltaic Manufacturing	\$ 140,187,900	\$ 12,757,099	<b>30.5%<sup>5</sup></b>
<b>8</b>	Stion Corporation	San Jose (Santa Clara County)	Solar Photovoltaic Manufacturing	\$ 105,473,402	\$ 9,598,080	<b>0.0%</b>
<b>9</b>	NuvoSun Incorporated	Milpitas (Santa Clara County)	Solar Photovoltaic Manufacturing	\$ 20,000,000	\$ 1,820,000	<b>43.0%</b>
<b>10</b>	Calisolar Inc.	Sunnyvale (Santa Clara County)	Solar Photovoltaic Manufacturing	\$ 39,000,000	\$ 3,549,000	<b>0.0%</b>
<b>11</b>	Bloom Energy Corporation	Sunnyvale (Santa Clara County)	Solid Oxide Fuel Cell Systems Manufacturing	\$ 37,447,693	\$ 3,407,740	<b>25.2%</b>

<sup>4</sup> The anticipated sales and use tax exclusion was calculated at time of Board approval using the statewide average of 9.1%. The statewide average decreased to 8.1% on July 1, 2011.

<sup>5</sup> Nanosolar has purchased but not yet conveyed the 30.5% of its equipment. Per CAEATFA regulations, the Applicant only needs to purchase the equipment to meet the 25% requirement. Nanosolar submitted a letter to CAEATFA to certify the purchases.

**Applicants Not Meeting the 25% Purchase Requirement**

Of the eleven applicants approved in November 2010 that moved forward, four have not met the 25% Purchase Requirement. Of the four only one, Bowerman Power LFG, LLC, is requesting a waiver. Staff is recommending that the waiver request be granted as detailed in Agenda Item 4.B.1.

Bowerman Power LFG, LLC (“Bowerman”)

Bowerman’s Application was for \$9.2 million in Qualified Property for a landfill gas facility in Irvine, Orange County. The Applicant has requested an extension of the 25% Purchase Requirement for one-year due to unanticipated delays in its permitting process. Staff’s review of this request and its recommendation to waive the time requirement can be found in Agenda item 4.B.1.