

MINUTES

**California Alternative Energy and Advanced
Transportation Financing Authority
915 Capitol Mall, Room 587
Sacramento, California
March 17, 2015**

1. CALL TO ORDER & ROLL CALL

Alan Gordon, Chairperson, called the California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA or Authority) meeting to order at 10:58 a.m.

Members Present: Alan Gordon for John Chiang, State Treasurer
Anne Baker for Betty T. Yee, State Controller
Eraina Ortega for Michael Cohen, Director,
Department of Finance
Kevin Barker for Robert B. Weisenmiller, Chair,
California Energy Commission
Nick Chaset, for Michael Picker, President,
Public Utilities Commission

Staff Present: Deana J. Carrillo, Executive Director

Quorum: The Chairperson declared a quorum.

2. MINUTES

Mr. Gordon asked if there were any questions or comments concerning the February 17, 2015, meeting minutes. There were none.

Mr. Gordon asked if there was a motion.

Ms. Baker moved for approval of the minutes; upon a second from Ms. Ortega, the minutes were unanimously approved.

The item was passed by the following vote:

Alan Gordon for the State Treasurer	Aye
Anne Baker for the State Controller	Aye
Eraina Ortega for the Director of Finance	Aye
Kevin Barker for the California Energy Commission	Aye
Nick Chaset for the Public Utilities Commission	Aye

3. EXECUTIVE DIRECTOR'S REPORT

Ms. Carrillo began her report with program updates. She reported that the semi-annual reports had been received for CAEATFA's Property Assessed Clean Energy Loss Reserve Program (PACE Program), providing information on activity from July to December of 2014. Together, the PACE Program participants enrolled over 7,000 new residential assessments. Those assessments total over \$148 million which brings the total portfolio amount to \$498.9 million enrolled into the reserve. Regarding the California Hub for Energy Efficiency Financing (CHEEF), the Residential Energy Efficiency Loan Assistance Program (REEL Assistance Program) regulations were approved by the Office of Administrative Law. CAEATFA will soon be enrolling lenders, coordinating outreach and training efforts with the Center for Sustainable Energy, and the trustee contract has been approved by the Department of General Services. However, the master servicer contract is still under review.

Ms. Carrillo continued her report by providing legislative updates. She reported that in regard to CAEATFA's Sales and Use Tax Exclusion Program (STE Program), Assemblymember Dababneh introduced Assembly Bill 1269, which extends the advanced manufacturing eligibility from an initial term to expire July, 2016 to January, 2021. Staff is currently reviewing other legislative bills that have been introduced related to CAEATFA and will monitor and report to the Board appropriately.

Ms. Carrillo concluded her report by stating that under the Executive Director's delegated authority, no actions were taken this month.

4. BUSINESS ITEMS

A. DISCUSSION AND CONSIDERATION OF APPLICATIONS FOR SALES AND USE TAX EXCLUSION

1. Haas Automation, Inc.
Presented by: Ashley Bonnett, Analyst

Staff introduced Jeff Gorell of Anderson Kill, a lobbyist for Haas Automation, Inc.

Ms. Bonnett stated the following: Haas Automation, Inc. (Haas Automation) is requesting approval of \$81,426,200 worth of qualified property for the renovation of its current Computer Numerical Control (CNC) machinery tool manufacturing facilities located in Oxnard, California and to build an additional manufacturing facility next to one of its existing facilities. The proposed project would employ an advanced manufacturing process through the use of advanced semi-conductors in the CNC machinery and Flexible Manufacturing Systems (FMS), providing advance scheduling systems and full automation. Haas Automation anticipates that the FMS machining, automated loading, and information technology integration, as well as the fact that many of the machines will be twice as fast as those they replace, will significantly increase the rate of productivity while minimizing the facilities' environmental impact.

Agenda Item 2.

In response to the application's Legal Status Questionnaire, the Applicant disclosed that Gene Haas, sole shareholder and President of Haas Automation, entered a plea of guilty in 2007 for conspiracy to defraud the Internal Revenue Service (IRS) in violation of Title 18, United States Code, Section 371. In 2006, Mr. Haas was indicted for three counts of conspiracy to defraud the IRS, two counts of willful subscription to a false tax return, one count of intimidation of a witness, and one count of aiding and abetting related to the intimidation of a witness charge.

According to a press release from the United States Department of Justice, Mr. Haas pleaded guilty to just one count of conspiring to defraud the IRS involving a scheme orchestrated by Mr. Haas in 2000 and 2001 in which false expenses were put on Haas Automation's books in order to reduce Mr. Haas' personal income tax liability. The indictment states that Mr. Haas, along with co-conspirators, created false purchase orders and receiving documents to provide the appearance that Haas Automation was purchasing goods. These false purchase amounts were deducted as cost-of-goods-sold on Haas Automation's financial records, thereby reducing the reportable net income of Haas Automation and Mr. Haas as sole shareholder. The payments for the false purchases were then refunded and deposited into bank accounts other than Haas Automation's, including Mr. Haas' personal bank account. Under the plea agreement, Mr. Haas was sentenced to 24 months in prison, of which he served 16 months, was placed on 6 months of supervised released, and was required to pay a fine and all outstanding taxes, plus penalties and interest, a total in excess of \$70 million according to the Department of Justice press release.

As part of its due diligence, Staff requested additional information on both the legal disclosure and changes that Haas Automation had subsequently made. Haas Automation responded to Staff's initial request for further information by providing a broad and general description of the changes implemented to prevent tax fraud within its organization. Staff requested further details and documentation of the compliance policies and procedures that Haas Automation represents have been implemented; however, Haas Automation declined Staff's request for further specific and meaningful information on the responses contained in the Legal Status portion of the application.

Based solely on the proposed Project, the Applicant presents a strong case for approval due to the estimated benefits of the Project and its alignment with the goals of the program and statute, which are to expand opportunities for advanced manufacturing and job growth in our State. This program was designed to assist key types of manufacturing projects and job growth, and despite California's recent economic recovery, the manufacturing sector is still struggling. California's unemployment rate is currently ranked 49 of the 50 states, according to the United States Bureau of Labor and Statistics.

Agenda Item 2.

Additionally, Mr. Haas pleaded guilty based on actions that occurred about fourteen years ago in 2000 and 2001. Since that time, Mr. Haas served his prison sentence and repaid the required taxes and penalties. Company representatives have stated that it has subsequently made substantive modifications to the business structure and controls to avoid future fraud and abuse. Haas Automation is a major employer in Ventura County, and local media reports reflect that the Haas Foundation has been active in giving back to the community.

However, one of the purposes of the Legal Status Questionnaire is to assist the State in determining the corporate or business character of the entities it will choose to provide public assistance. The nature of the legal disclosure is directly related to the type of financial assistance that the Program provides; this is exacerbated by the fact that, by design, the Program relies heavily on self-certification to ensure the exclusion is being used in accordance with statute and regulations. While Haas Automation has stated that additional controls have been put in place, and there is no reason to believe that Haas Automation is not currently in compliance with all tax laws, potential abuse of the award would negate the net benefits test analysis and damage the integrity and efficacy of the Program.

Furthermore, when Staff requested further information and documentation on the issues disclosed in the Legal Status Questionnaire, Haas Automation rejected the request to provide further information beyond a brief and general description.

After evaluating the various policy goals and circumstances of this application, Staff, in consultation with legal counsel, has determined that to address the various policy goals, it is reasonable to approve the application with additional conditions to appropriately safeguard and protect taxpayer dollars to reflect the unique circumstances of this application.

Staff conditionally recommends approval of a resolution for Haas Automation's purchase of Qualified Property in an amount not to exceed \$81,426,200 anticipated to result in an approximate sales and use tax exclusion value of \$6,856,086, subject to the following conditions that will be included in the Master Regulatory Agreement between the Authority and the Applicant:

1. The Applicant must select and pay for a third party auditor, subject to the approval of the Authority, to conduct an audit at least annually pursuant to an agreed-upon procedures engagement, also subject to the approval of the Authority, that will among other things verify that the Qualified Property purchases included in reports submitted to the Authority are located at the Project locations. The third party audit will last for the duration of the initial term of the award (three years), plus one additional year to cover all reports submitted to the Authority.
2. The Applicant must acquire and pay for a surety bond for the amount of the sales and use tax exclusion award plus 5% to reimburse the State

Agenda Item 2.

of California if any of the conditions of the Master Regulatory Agreement are violated. The terms of the surety bond shall be subject to the approval of the Authority.

Alternatively, the Applicant may submit a more detailed explanation and representation of its internal controls and measures to prevent tax fraud by providing documentation of the following:

- a. A description of the business structure;
- b. A description of internal controls put in place;
- c. A list of new staff positions and a description of each position's duties and responsibilities;
- d. Copies of audits; and
- e. Copies of internal policies and procedures regarding invoicing, purchasing, and accounting.

Any documentation submitted by the Applicant will be subject to the review of the Authority. Staff's findings may be presented to the Board for further consideration before a Master Regulatory Agreement may be finalized, and if not satisfied, the Authority may ultimately require the surety bond.

3. The clawback provisions allowing the Authority to recover Financial Assistance used by the Applicant is expanded to include violation of the Master Regulatory Agreement and providing false or misleading information in the application or any report as grounds for recovery of Financial Assistance.
4. The Applicant must submit a quarterly report of the purchases made using the sales and use tax exclusion. This report will require the same information that is normally required in an Applicant's Semi-Annual report, with the only difference being the frequency of the reporting.
5. The Applicant must comply with all applicable local, state and federal laws and regulations during the term of the Master Regulatory Agreement.

Discussion ensued regarding Haas Automation's application, concerns with previously stated conditions, and whether Haas Automation's project should be approved.

Ms. Ortega moved for approval and there was a second from Mr. Chaset.

Mr. Gordon stated there was a motion and a second and asked if there were any other questions or comments from the Board or public. There were none and the item was approved.

The item was passed by the following vote:

Alan Gordon for the State Treasurer	Aye
Anne Baker for the State Controller	No
Eraina Ortega for the Director of Finance	Aye
Kevin Barker for the California Energy Commission	Aye
Nick Chaset for the Public Utilities Commission	Aye

B. NOTICE TO BOARD OF EXECUTIVE DIRECTOR’S DETERMINATIONS FOR SPECIFIC PARAMETERS UNDER THE SALES AND USE TAX EXCLUSION PROGRAM (INFORMATION ITEM)

Presented by: James Shimp, Analyst

Mr. Shimp stated that the STE Program’s application process calculates fiscal and environmental benefits of a proposed project by running applicant data through a series of built-in formulas. These formulas include parameters that change over time; for example, average sales or income tax rates, unemployment figures, state revenues, etc. Parameters can be updated by the Executive Director if doing so advances the goals of the program, is required by regulations, or will otherwise improve the accuracy of application evaluations. Parameters were last updated in March of 2014, and the Executive Director has now deemed it appropriate to make the following adjustments:

1. The discount rate is used to translate anticipated future benefits into a present day value. The rate is based on the state’s cost of borrowing, as reflected by the yield on a 30 year tax exempt general obligation. The rate will be changed to 3.75%
2. The current average state income tax rate is used to calculate income tax payments from increased economic activity generated by the project. It is based on gross income and total tax liability data from the Franchise Tax Board. The rate will be changed to 4.61%
3. The ratio of state and local government revenues to Gross State Output (GRSO) is a key portion of the equation that calculates indirect fiscal benefits of the project. It is based on General Fund revenue data from the Department of Finance, aggregate city and county revenue information from the State Controller’s Office, and gross state product numbers from the United States Department of Commerce. The GRSO is being changed to 5.98%
4. The current annual average unemployment rate for the State and counties generates additional benefit points for applicants locating in areas of higher unemployment. It is based on the most recent data from the Employment Development Department. The State average is being changed to 7.53%, and a county by county breakdown is available in the staff summary.
5. Pollution cost per megawatt hour of electricity, Gallon of Gasoline Equivalent (GGE), and Million British Thermal Units (MMBTU) for carbon dioxide. These

Agenda Item 2.

parameters are used to quantify environmental benefits of the project in terms of pollution costs avoided. This information comes from relevant industry research literature.

Mr. Gordon asked if there were any questions or comments from the Board or public, there were none.

5. PUBLIC COMMENT

Mr. Gordon asked if there were any comments from the public. There were none.

6. ADJOURNMENT

There being no further business, public comments, or concerns, the meeting adjourned at 11:31 a.m.

Respectfully submitted,

Deana J. Carrillo
Executive Director