

MINUTES

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

1. CALL TO ORDER & ROLL CALL

Alan Gordon, Chairperson, called the California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA or the Authority) meeting to order at 10:31 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
Jana Romero for Robert B. Weisenmiller, Chair,
California Energy Commission
Scott Murtishaw for Michael Picker, President, Public Utilities
Commission

Staff Present: Deana Carrillo, Executive Director

Quorum: The Chairperson declared a quorum.

2. MINUTES

Mr. Gordon asked if there were any questions or comments concerning the October 20, 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
Jana Romero for the California Energy Commission	Aye
Scott Murtishaw for the Public Utilities Commission	Aye

3. EXECUTIVE DIRECTOR’S REPORT

Ms. Carrillo began her report by providing an update on activity under the Sales and Use Tax Exclusion Program. CAEATFA recently received an unprecedented number of applications under the Sales and Use Tax Exclusion (STE) program bringing award requests beyond the annual legislative cap of \$100 million in awards per calendar year. Ms. Carrillo stated that this is an indicator of the program’s effectiveness and value in helping to retain and grow California’s manufacturing sectors as well as the continued growth and strength of the economy. Ms. Carrillo continued by explaining that the existing regulations do not adequately address the Program’s current position and during the last several weeks staff has worked on various administrative solutions and is developing a work plan to modify the regulations.

Ms. Carrillo further explained that agenda item 4.B provided short-term solutions and that staff is also exploring long-term more impactful solutions through legislation. Current legislative considerations range from removing or increasing the cap to obtaining authority to carry forward unawarded or unused funds.

Ms. Carrillo also provided one personnel update. Miriam Joffe-Block, initially an analyst under the California Hub for Energy Efficiency Financing (CHEEF) program, was recently promoted to program manager.

Ms. Carrillo then concluded her report.

4. BUSINESS ITEMS

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

- 1. Space Systems/Loral, LLC**
Presented by: James Shimp, Analyst

Staff introduced John Schatz, Flight Stores Fulfillment Project Manager

Mr. Shimp stated that Space Systems/Loral, LLC is seeking a sales and use tax exclusion in order to co-locate and retrofit its parts inventory, machine shop and other manufacturing groups. As part of the retrofit, the Applicant will be purchasing automated Vertical Lift Machines for storage, retrieval, and conveyance of materials and parts used in the manufacturing process. The Applicant represents that, through the use of technologies such as material detecting shuttle lifts and optical measuring equipment, its new system will reduce the stockroom footprint by 50% and allow faster and more accurate retrieval of materials. Additionally, the new retrieval system will be coupled with installation of high efficiency LED lighting to provide significant energy savings for the manufacturing operation.

Staff recommended approval of a resolution for Space System/Loral LLC's purchase of qualified property not to exceed \$5,586,000 anticipated to result in a sales and use tax exclusion of \$470,341.

Ms. Baker moved for approval and there was a second by Ms. Ortega.

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	Aye
Eraina Ortega for the Director of Finance	Aye
Jana Romero for the California Energy Commission	Aye
Scott Murtishaw for the Public Utilities Commission	Aye

B. CONSIDERATION OF STAFF'S REQUEST TO SUSPEND THE ACCEPTANCE AND CONSIDERATION OF NEW APPLICATIONS UNDER THE SALES AND USE TAX PROGRAM

Presented by Alejandro Ruiz, Staff Services Manager 1

Mr. Ruiz began his report by stating that CAEATFA has received requests for a total of \$96 million in sales and use tax exclusion awards for applications that would be eligible to be considered at the December 2015 Board meeting, thereby exceeding the 2015 \$100 million STE program award cap by \$74 million. CAEATFA also has received a total of \$174 million in award requests for the 2016 calendar year. Additionally, Assembly Bill 199, which was recently enacted with an urgency clause, expands the STE program to include manufacturers that utilize recycled feedstock. To appropriately handle the unprecedented program oversubscription and incorporation of a new type of project, staff recommended:

- (1) Current applications received to date that exceed the 2015 award cap be considered at the January 2016 Board meeting, or at the earliest meeting for which the applicant is prepared;
- (2) the Board suspend acceptance of any new applications immediately until regulations to evaluate projects eligible under AB 199 are approved by the Office of Administrative Law;
- (3) the Board suspend consideration of applications, beyond those set forth on Table 2, until regulations to evaluate projects eligible under AB 199 are approved by the Office of Administrative Law; and
- (4) the Board initially set-aside any remaining funds, not less than \$15 million, under the 2016 annual \$100 million cap for projects eligible under AB 199.

Mr. Ruiz noted that the history of the \$100 million cap in the STE program was

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relevant in seeking solutions going forward. He explained that initially SB 71 (2010) provided a “soft cap” which required that the Authority provide notice to the legislature if projects exceeded that cap. SB 1128 (2012), expanded eligible projects to include advanced manufacturing, and added a hard cap of \$100 million placed on the amount of awards that could be granted in a calendar year

Mr. Ruiz stated that in response to the “hard cap,” staff developed regulations in 2013 establishing procedures for program oversubscription: staff would review applications in the order they were received and implemented a waiting list limited to \$20 million in awards. To the extent that additional awards become available during the year, applications on the waiting list would be reviewed and considered by the Authority. The waiting list procedure envisioned program oversubscription occurring before the last quarter of the year, where an approved project would not move forward and the previously awarded exclusion could be awarded to an applicant on the waiting list. The waiting list, however, was not intended to carryover from one year to the next or handle award requests greater than \$20 million. Rather, the design of the waiting list reflected historical program trends in which the Authority had approved mostly smaller project sizes and where significant oversubscription was not an issue faced by the Authority

Mr. Ruiz further stated that as of November 16, 2015, the Authority had received fourteen applications, nine of which would otherwise be eligible to be heard in the 2015 calendar year, totaling \$2.6 billion in qualified property and \$222 million in STE. Under the existing procedures, the applications must be considered in the order in which they were listed, as long as they are complete. Under this scenario, only a few applications could be considered in 2015 before the Authority exceeds the \$100 million cap.

Mr. Ruiz continued that the majority of the remaining applications received that had not received awards in the 2015 calendar year would be heard at the earliest CAEATFA Board meeting in 2016 for which they are prepared.

Mr. Ruiz stated that to address the current oversubscription issue, staff proposed that the CAEATFA Board consider projects in the order in which they were received until the \$100 million cap is reached for 2015. To the extent the last application considered exceeds the \$100 million cap, staff would recommend awarding the remainder of the 2015 cap and inclusion in the resolution of a provision to award the remainder of the applicant’s STE request from the 2016 cap. This would allow CAEATFA to grant its entire 2015 award allocation and prevent the need for an applicant to submit a separate application for 2016.

Mr. Ruiz further explained that suspending the acceptance of new applications and the consideration of additional applications would provide staff the time to revise its administrative process for handling oversubscription and develop an evaluation methodology for projects eligible under AB 199 through the rulemaking process.

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Mr. Ruiz stated that staff also recommended setting-aside 2016 award funds – no less than \$15 million – for projects eligible under AB 199. Since AB 199 was recently enacted on October 11, 2015, staff have been conducting due-diligence on the potential project sizes for AB 199 applicants and the appropriate amount to set aside for such projects. Mr. Ruiz further explained that without suspending the receipt of new applications and further consideration of applications, beyond those currently considered, and without setting aside funds for AB 199 projects, there would be no funds available for projects eligible under AB 199, essentially negating the effectiveness of the urgency clause in AB 199.

Mr. Ruiz further stated that staff has recognized that if program activity continues on its current trend, legislation modifying the \$100 million annual cap would present the best long-term solution. He noted that potential legislative options could include raising or eliminating the award cap or allowing the Authority to roll-forward some or all of the \$248 million in un-awarded STE funding. In the meantime, however, staff will work to develop the most effective process utilizing existing award resources.

Mr. Ruiz summed up the following staff recommendations for Board approval of the following:

- (1) Current applications received to date that exceed the 2015 award cap be considered at the January 2016 Board Meeting, or at the earliest meeting for which they are prepared;
- (2) the Board suspend acceptance of any new applications immediately until regulations to evaluate projects eligible under AB 199 are approved by the Office of Administrative Law;
- (3) the Board suspend consideration of applications, beyond those already received, until regulations to evaluate projects eligible under AB 199 are approved by the Office of Administrative Law; and
- (4) the Board initially set-aside any remaining funds, not less than \$15 million, under the 2016 annual \$100 million cap for projects eligible under AB 199.

Mr. Gordon asked for public comment and the following people addressed the Board in support of the staff's recommendations:

- Mark Murray from Californians Against Waste
- Katherine Brandenburg from the Brandenburg Group for Schnitzer Steel
- Chuck White from Waste Management
- Terry Leveille from TL & Associates for CRM Company
- Veronica Pardo from California Refuse Recycling Council
- Rick Moore from Edgar And Associates for the City of Napa
- Neil Edgar from Edgar and Associates for California Compost Association
- Rod Rougelot from rePlanet by letter

There was no opposition from the public to the staff recommendations.

Ms. Ortega asked for the following clarifications:

- 1) Was the staff recommendation that the currently identified applicants be eligible under the current regulations?
- 2) Could a single large application deplete all of the STE funding for the year?
- 3) Could the program capture any unallocated funds from previous years or from an applicant not using all of their allocated funds?

Staff responded affirmatively to the first question, clarifying that applications received to date would be evaluated and considered under existing regulations. Staff further explained that internal deadlines for applicants are consistent, but that while an applicant may be scheduled to be heard at a designated board meeting, due to the significant interaction between the applicant and staff during the application review process, an applicant might not be ready to proceed at the initially scheduled Board meeting. In which case, the existing applications would be brought forward in order of receipt and preparation. Further, staff clarified that one applicant would be unlikely to exhaust existing funds, however any applicant, large or small, that exceeded current allocation would be brought to the Board for consideration on a case-by-case basis.

The Board Members discussed the viability of legislation, how the Department of Finance calculates the cost of the program, incentivizing small businesses and the historic design of the program.

Ms. Baker asked if the \$15 million proposed to be set aside for AB 199 implementation was sufficient. Mr. Murtishaw wanted to know if CAEATFA had a grasp on the number of applicants that might apply to the program under AB 199. Staff further explained that some of the recycling industry is eligible under existing regulations and that staff do not currently have adequate information to determine whether \$15 million was sufficient at this time. Ms. Baker asked that before the December Board meeting, staff and AB 199 stakeholders meet to determine if \$15 million is an adequate allocation.

Mr. Murtishaw stated that in his experience, it was critical to retain the discretion to reallocate funds back to other STE project types if the \$15 million set-aside for AB 199 implementation was more than necessary. He reiterated that any language developed should include the concept of reallocating back to other project types within the STE program.

Ms. Baker moved for approval and there was a second by Ms. Ortega.

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	Aye
Eraina Ortega for the Director of Finance	Aye
Jana Romero for the California Energy Commission	Aye
Scott Murtishaw for the Public Utilities Commission	Aye

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 11:16 a.m.

Respectfully submitted,

Deana J. Carrillo
Executive Director