

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

***Request to Make Available for Qualified Applicants any Sales and Use Tax Exclusion
Remaining from the \$100 Million Statutory Cap
Under the Sales and Use Tax Exclusion Program***

Tuesday, November 14, 2017

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REQUEST

CAEATFA staff request approval of a resolution making available to applicants that qualified for additional sales and use tax exclusion (“STE”) but were capped at \$20 million of STE, any STE remaining from the \$100 million statutory cap after all applications submitted for the 2017 calendar year have been considered pursuant to Program Regulation Section 10032(a)(4)(A).

SUMMARY

BACKGROUND

In March 2010, Senate Bill 71 (Padilla, Chapter 10, Statutes of 2010) directed CAEATFA to implement the Sales and Use Tax Exclusion (“STE”) Program (the “Program”). The legislation authorized CAEATFA to approve eligible projects for a sales and use tax exclusion (STE) on equipment and machinery (“Qualified Property”) used for the “design, manufacture, production, or assembly” of either advanced transportation technologies or alternative energy source products, components or systems, as defined. In September 2012, Senate Bill 1128 (Padilla, Chapter 677, Statutes of 2012) expanded the Program to include Advanced Manufacturing projects. The legislation also placed an annual limit of \$100 million in STE awards for each calendar year. In October 2015, AB 199 (Eggman, Chapter 768, Statutes of 2015) further expanded the scope of the Program to include projects that process or utilize recycled feedstock.

In 2015, the STE Program became oversubscribed by \$66.1 million in application requests for projects under the three pre-existing pathways to eligibility (Alternative Source, Advanced Transportation, and Advanced Manufacturing), and again was oversubscribed in 2016.

As the Program has expanded and grown in utilization, CAEATFA staff has sought to address the issue of oversubscription by adopting programmatic changes that best advance CAEATFA and Program goals. Last year CAEATFA adopted regulations implementing a \$20 million project cap, with the possibility of eligible applications to receive additional STE

if any remained under the \$100 million statutory cap at the end of the year. Specifically, Regulation Section 10032(a)(4)(A) provides:

(A) If STE will be available at the last Authority board meeting of the calendar year, the Authority may provide additional STE to Applicants that qualified for additional STE but were capped at \$20 million of STE. Applicants wishing to exceed the \$20 million cap shall bring a revised Project Application or a new Application before the Authority for consideration in December of the same calendar year in which the original Application was approved. The revised or new Application shall include updated information requested in Section 10032 and will be evaluated pursuant to Section 10033. The Authority will announce end of the year availability no later than 28 days prior to the December Authority meeting.

STE REMAINING FOR 2017

Although CAEATFA has brought before the Board a record number of applications for consideration in 2017, the Program will have STE remaining under the \$100 million statutory cap at the December 2017 meeting.

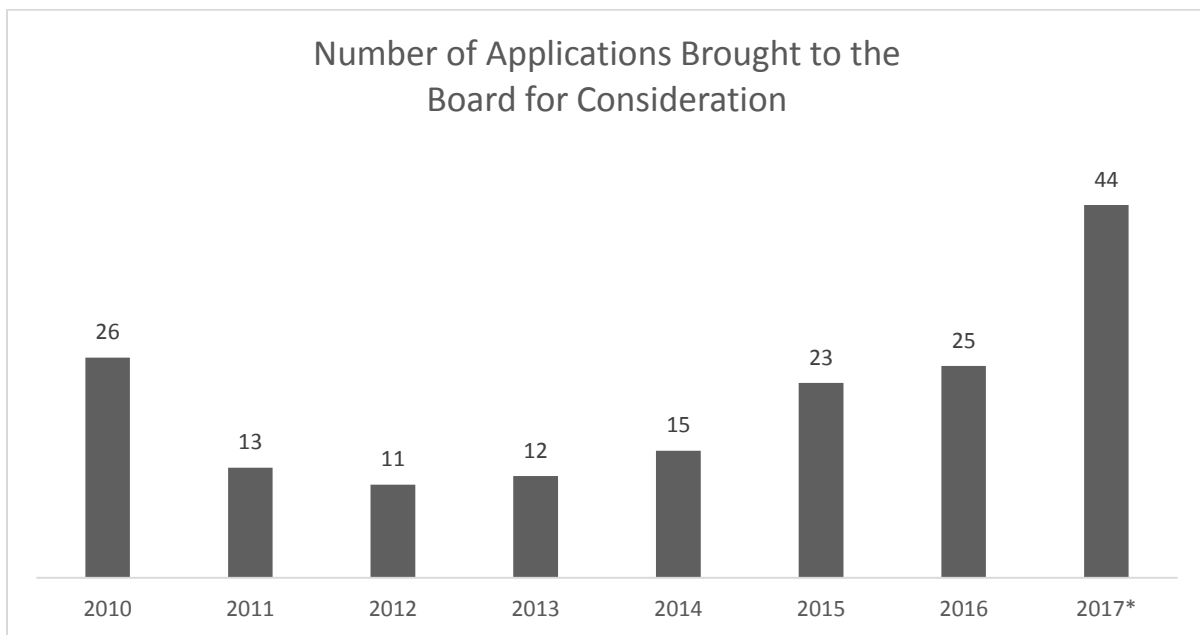


Figure 1: Number of Applications Brought to the Board for Consideration Each Year

*2017 numbers include the four applications under review for consideration at the December meeting.

The deadline to submit an application for consideration at the December 2017 Board meeting was October 20, 2017. If all pending applications submitted for consideration in November and December 2017 are approved, \$2,480,412 in STE will remain under the \$100 million cap, and the amount could be as high as \$5,643,188, depending on which applications are approved or are ready to move forward by the December Board meeting. If left unawarded in 2017, CAEATFA does not have the authority to “roll-over” this STE amount to grant in

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future years. Therefore, CAEATFA staff proposes making any remaining STE under the 2017 \$100 million cap available to eligible applicants pursuant to the Program's regulations.

As required in Section 10032(a)(4)(A), if an applicant would like to be considered by the Authority for additional STE in December, the company must submit a revised application with updated information that will be evaluated pursuant to Section 10033 of the Program regulations, which sets out the Program's net benefit evaluation criteria.

RECOMMENDATION

Staff recommends adoption of a resolution making available for qualified applicants any sales and use tax exclusion remaining from the \$100 million statutory cap under the Sales and Use Tax Exclusion Program in December 2017.

**RESOLUTION OF THE CALIFORNIA ALTERNATIVE ENERGY AND ADVANCED
TRANSPORTATION FINANCING AUTHORITY MAKING AVAILABLE FOR QUALIFIED
APPLICANTS ANY SALES AND USE TAX EXCLUSION REMAINING FROM THE \$100 MILLION
STATUTORY CAP UNDER THE SALES AND USE TAX EXCLUSION PROGRAM**

November 14, 2017

WHEREAS, the California Alternative Energy and Advanced Transportation Financing Authority ("Authority") is authorized by the California Public Resources Code Section 26011.8 to grant up to \$100,000,000 in sales and use tax exclusion for each calendar year under the Sales and Use Tax Exclusion Program (the "Program"); and

WHEREAS, under the California Code of Regulations, Title 4, Division 13, Section 10032(a)(4) and Section 10032(a)(4)(A), applications for the Program are capped at \$20 million in sales and use tax exclusion per Applicant, per calendar year, but if sales and use tax exclusion will be available at the last Authority board meeting of the calendar year, the Authority may provide additional sales and use tax exclusion to applicants that qualified for additional sales and use tax exclusion by were capped at \$20 million of sales and use tax exclusion; and

WHEREAS, under the California Code of Regulations, Title 4, Division 13, Section 10032(a)(4)(A) the Authority must announce end of the year availability of remaining sales and use tax exclusion for eligible applicants no later than 28 days prior to the December Authority meeting; and

WHEREAS, if all pending applications submitted for consideration in November and December 2017 are approved, additional sales and use tax exclusion will remain under the \$100 million statutory cap.

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

Section 1. The Authority will make available at the December 2017 Authority meeting, additional sales and use tax exclusion to applicants that qualified for additional sales and use tax exclusion but were capped at \$20 million of sales and use tax exclusion, pursuant to California Code of Regulations, Title 4, Division 13, Section 10032(a)(4)(A).

Section 2. This resolution shall take effect immediately upon its approval.