

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

***Request to Approve a Time Extension for the
Initial Term of the Master Regulatory Agreement¹***

**Gilead Sciences, Inc.
Application No. 16-SM037**

November 19, 2019

Prepared By: *Xee Moua, Program Analyst*

SUMMARY

Applicant – Gilead Sciences, Inc.

Location – La Verne, Los Angeles County

Industry – Industrial Biotechnology

Project – Construction of a New Biopharmaceutical Manufacturing Facility (Advanced Manufacturing)

Total Amount Qualified Property Approved– \$51,645,674

Estimated Sales and Use Tax Exclusion Amount at Approval² – \$4,348,566

Amount of Time Requested –

- One year, three months and eighteen days, until March 31, 2021 for the Initial Term of the Master Regulatory Agreement (four years, three months and 18 days from the date of initial CAEATFA Board approval)

Staff Recommendation – Approval

¹ All capitalized terms not defined in this document are defined in the Program’s statute and regulations.

² This amount is calculated based on the average statewide sales tax rate at the time of initial approval, which was 8.42%.

REQUEST

On December 13, 2016, the CAEATFA Board approved a sales and use tax exclusion (“STE”) for Gilead Sciences, Inc. (“Gilead” or the “Applicant”) for the purchase of up to \$51,645,674 in Qualified Property to build a 250,000 square-foot state-of-the-art pharmaceutical manufacturing campus in La Verne (the “Project”). The Master Regulatory Agreement (“Agreement”) initial term provided the Applicant with three years from the date of Board Approval to utilize its STE award. The initial term of the Agreement can be extended by the Board upon a finding that an extension is in the public interest and advances the purposes of the program.

As of November 1, 2019, Gilead has used the STE to purchase approximately \$47,274,208 of Qualified Property (92% of the total Qualified Property approved) and began production in October 2018. The Applicant is requesting to extend the Agreement initial term by one year, three months and 18 days, until March 31, 2021 to accommodate the processing, designing, building, and delivery of a freeze dryer by the vendor.

According to the Applicant, the purchase of the freeze dryer has been made and Gilead has received an invoice for a thirty percent down payment. Additional payments will be made during specific momentum points according to a signed contract with the vendor. Gilead anticipates that the building phase of the freeze dryer will be completed during Q4 of 2020, delivery will take place by the end of Q4 2020, it will be installed by Q1 of 2021, and site acceptance testing will be completed in Q4 of 2021.

THE APPLICANT

Gilead Sciences, Inc. (“Gilead” or “the Applicant”) is a Delaware corporation founded in Foster City, California in 1987. Gilead is a research based biopharmaceutical company that discovers, develops, and commercializes innovative medicines in areas of unmet medical need. Their portfolio of products and pipeline of investigational drugs includes treatments for HIV/AIDS, liver diseases, cancer and inflammation, and serious respiratory and cardiovascular conditions. Due to their ongoing growth, Gilead is looking to expand their workforce and facilities over the next five years.

Gilead Sciences, Inc. is publicly traded under the symbol GILD and has no major shareholders (10.0% or greater).

The corporate officers of Gilead Sciences Inc. are:

Daniel O’Day, CEO and Chairman
Robin Washington, CFO
Brett Pletcher, EVP, General Counsel and Corporate Secretary
Johanna Mercier, CCO
Gregg H. Alton, Chief Patient Officer
Jason Okazaki, SVP, Corporate Legal, and Assistant Secretary

THE PROJECT

The Applicant requested a sales and use tax exclusion to build a 250,000 square-foot state-of-the-art pharmaceutical manufacturing campus in La Verne. The facility will produce AmBisome, an antifungal antibiotic. AmBisome is used to treat patients with serious fungal conditions that have resisted more traditional treatment, such as cryptococcal meningitis and mucormycosis. The active ingredient, Amphotericin B, acts by binding to the sterol component of the cell membrane of susceptible fungi, killing the cell. Because of the composition of AmBisome, the manufacturing process must be extremely precise to maintain control over its chemical functionality.

The Applicant represents that the facility has been designed with sustainable manufacturing technologies in mind. It will reclaim the water discharge from its generators and the external vial washer and use it in the chiller make up water. Other sustainable features of the facility include the use of natural lighting where possible, a roof design that allows solar panels to be installed in the future, and heat recovery chillers to transfer heat to the building hot water system. These and other energy-saving technologies will contribute to the efficiency of the facility and its “demand response” capability which allows for peak load shaving based on utility company requests.

AGREEMENT INITIAL TERM EXTENSION REQUEST

Gilead has requested that the initial term of the Agreement be extended from December 13, 2019 to March 31, 2021 in order to accommodate the timing of processing, designing, building, and delivery of a freeze dryer by the vendor.

Staff Evaluation

Gilead has purchased approximately 92% of the total \$51,645,674 in Qualified Property, and production at the facility began in October of 2018. The Applicant has also signed a contract with the vendor for the processing, designing, building, and delivery of a freeze dryer, which is the final piece of equipment for the Project. Despite the timeline delay of acquiring the freeze dryer, Gilead is confident an additional one year, three months and 18 days will be sufficient time to complete the total Project. Based on this information, Staff believes extending the term of the Agreement will allow for the Project to be completed, and is therefore in the public interest and advances the purpose of the program.

LEGAL QUESTIONNAIRE

Staff has reviewed the Applicant’s responses to the questions contained in the Legal Status portion of the Application. The Executive Director, in consultation with legal counsel, has determined that the legal issues disclosed do not affect the financial viability or legal integrity of the Applicant.

CAEATFA FEES

In accordance with CAEATFA Regulations,³ the Applicant has paid an additional fee of \$500 because extending the initial term requires a modification to the Applicant’s Master Regulatory Agreement.

RECOMMENDATION

Staff recommends that the Board approve Gilead Sciences, Inc.’s request to extend the initial term of the Agreement by one year, three months and 18 days, until March 31, 2021 as it is in the public interest and advances the purpose of the program.

Attachments

- Attachment A: Gilead Sciences, Inc.’s letter requesting waiver (October 3, 2019)
- Attachment B: Gilead Sciences, Inc.’s staff summary at the time of approval

³ California Code of Regulations Title 4, Division 13, Section 10036

**RESOLUTION APPROVING A TIME EXTENSION FOR
GILEAD SCIENCES, INC.’S INITIAL TERM FOR
THE MASTER REGULATORY AGREEMENT**

November 19, 2019

WHEREAS, on December 13, 2016 the California Alternative Energy and Advanced Transportation Financing Authority (the “Authority”), a public instrumentality of the State of California, approved a Sales Tax Exclusion (“STE”) in the amount of \$51,645,674 of Qualified Property for **Gilead Sciences, Inc.** (the “Applicant”); and

WHEREAS, within three years of the approval by the Authority, the Applicant must make all purchases of the total amount of Qualified Property listed in the approval resolution (Regulations Section 10035(b)(1)); and

WHEREAS, upon a finding that it is in the public interest and advances the purposes of the Program, the Authority may waive the requirement that all purchases of Qualified Property be made within three years of Application approval (Regulations Section 10035(b)(1)(A)); and

WHEREAS, the Applicant has requested a waiver of the requirement to purchase all of the Qualified Property within three years, due to unexpected delays in the Project timeline, extending the term by one year, three months and 18 days, until March 31, 2021; and

WHEREAS, granting the waiver will allow the Project to proceed and the state to receive the anticipated environmental and economic benefits that justified the initial approval of the Project in accordance with the law, thereby advancing both the public interest and the purposes of the Program.

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

Section 1. The Authority finds that it is in the public interest and advances the purposes of the Authority to extend the initial term of the Agreement to March 1, 2021.

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

Attachment A: Gilead Sciences, Inc.'s Letter Requesting Waiver (October 3, 2019)



333 Lakeside Drive
Foster City, CA 94404
Attn: Corporate Tax

October 3, 2019

California Alternative Energy and Advanced Financing Authority Board
915 Capital Mall, Room 457
Sacramento, CA 95814

Re: CAEATFA Sales and Use Tax Exclusion Extension

To Whom it May Concern:

Gilead Sciences, Inc. is formally requesting a waiver of time extension to complete the purchases of our remaining qualified property outlined in our Master Regulatory Agreement dated January 12, 2017. Please see the following responses to the requested information in an email dated September 3, 2017:

CAEATFA Request: *A request for a time extension, including the specific amount of time requested, an anticipated schedule for purchasing the remainder of the Qualified Property, and rationale for why this specific amount of time is needed.*

Gilead Response: Gilead Sciences, Inc. requests a time extension until March 2021 to complete the remaining purchases of qualified property. The qualifying equipment has been purchased from the vendor but the process to design, build, start-up and deliver to the United States is a time intensive process. Gilead anticipates that all of the aforementioned steps will be completed by March 2021.

CAEATFA Request: *An explanation of why the extension is necessary (i.e. why the initial term deadline will not be met).*

Gilead Response: See the response to the question above. The estimated cost of the qualified equipment is \$4,011,182.

CAEATFA Request: *An explanation of what assurances there are that the new timeline will be met.*

Gilead Response: The vendor has provided Gilead with a fixed timeline. The vendor has reserved timelines for Gilead's equipment fabrication and will ensure that they meet these deadlines.

CAEATFA Request: *Amount of Qualified Property purchased to date*

Gilead Response: Per the 7/31/2019 Semi Annual Report, Gilead has purchased \$47,097,208.13 of qualified property.

CAEATFA Request: *Information on whether the scope of the project has changed.*

Gilead Response: The scope of the project has not changed. The equipment being purchased will be used in the highly technical manufacturing process of Gilead products.

Feel free to contact us if you have any further questions.

Sincerely,


Terilea J. Wielenga
Vice President, Corporate Tax

Encls.



333 Lakeside Drive
Foster City, CA 94404
Attn: Corporate Tax

October 10, 2019

California Alternative Energy and Advanced Financing Authority Board
915 Capital Mall, Room 457
Sacramento, CA 95814

Re: CAEATFA Sales and Use Tax Exclusion Extension – Follow-Up Questions

Please see the responses to the questions proposed by Matthew Parsons:

CAEATFA Request: When did production at the facility, month, and year?

Gilead Response: October 2018

CAEATFA Request: The request states the reason for extension is related to the timing of the vendor being able to process the design, build, start-up and deliver a piece or pieces of qualified property. Is this correct? And can you specify which equipment.

Gilead Response: Yes, this is correct. The equipment that was purchased is LYOVAC™ Freeze Dryer FCM 75-I with ALUS™.

CAEATFA Request: Can you provide as much detailed timeline as when you expect each phase to be completed with regard to question #2.

Gilead Response: Design/Build: Completed Q4 2020; Delivery: End of Q4, 2020; Install: Q1 2021; Commission/Validate: Q4 2021.

CAEATFA Request: Lastly, you mentioned the equipment has been purchased, which does suggest that CAEATFA can be reassured the timeline will be met. Can you further expand on how the Board can be assured the timeline will be met and reassured the final purchase(s) will be made.

Gilead Response: The purchase has been made and Gilead has received an invoice for 30% down payment. An additional 30% down payment will be due when 50% of the design/build is complete and another 30% after successful Factory Acceptance Testing, and the final 10% after the Site Acceptance Testing. This is all per the terms of the contract that has been accepted by both parties.

CAEATFA Request: Can you be specific as to what date you'd prefer? March 1, or March 31, or another date within March?

Gilead Response: Gilead would like an extension until March 31, 2021.

Attachment B: Gilead Sciences, Inc.’s Staff Summary at the Time of Approval

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

Request to Approve Project for Sales and Use Tax Exclusion (STE)⁴

**Gilead Sciences, Inc.
Application No. 16-SM037**

December 13, 2016

Prepared By: *Ellen Hildebrand, Analyst*

SUMMARY

Applicant – Gilead Sciences, Inc.

Location – La Verne, Los Angeles County

Industry – Industrial Biotechnology

Project – Construction of a New Biopharmaceutical Manufacturing Facility (Advanced Manufacturing)

Value of Qualified Property – \$51,645,674

Estimated Sales and Use Tax Exclusion Amount⁵ – \$4,348,566

Application Score –

Fiscal Benefits Points:	899
<u>Environmental Benefits Points:</u>	<u>25</u>
Net Benefits Score:	924
<u>Additional Benefits Points:</u>	<u>169</u>
Total Score:	1,093

Staff Recommendation – Approval

⁴ All capitalized terms not defined in this document are defined in the Program’s statute and regulations.

⁵ This amount is calculated based on the average statewide sales tax rate of 8.42%.

THE APPLICANT

Gilead Sciences, Inc. (“Gilead” or “the Applicant”) is a Delaware corporation founded in Foster City, California in 1987. Gilead is a research based biopharmaceutical company that discovers, develops, and commercializes innovative medicines in areas of unmet medical need. Their portfolio of products and pipeline of investigational drugs includes treatments for HIV/AIDS, liver diseases, cancer and inflammation, and serious respiratory and cardiovascular conditions. Due to their ongoing growth, Gilead is looking to expand their workforce and facilities over the next five years.

Gilead Sciences, Inc. has no major shareholders (10.0% or greater).

The corporate officers of Gilead Sciences Inc. are:

John C. Martin, CEO
John F. Milligan, President
Norbert W. Bischofberger, EVP
Robin L. Washington, CFO
Gregg H. Alton, EVP
Paul R. Carter, EVP

THE PROJECT

The Applicant is requesting a sales and use tax exclusion to build a 250,000 square-foot state-of-the-art pharmaceutical manufacturing campus in La Verne (the “Project”). The facility will produce AmBisome, an antifungal antibiotic. AmBisome is used to treat patients with serious fungal conditions that have resisted more traditional treatment, such as cryptococcal meningitis and mucormycosis. The active ingredient, Amphotericin B, acts by binding to the sterol component of the cell membrane of susceptible fungi, killing the cell. Because of the composition of AmBisome, the manufacturing process must be extremely precise to maintain control over its chemical functionality.

The Applicant represents that the facility has been designed with sustainable manufacturing technologies in mind. It will reclaim the water discharge from its generators and the external vial washer and use it in the chiller make up water. Other sustainable features of the facility include the use of natural lighting where possible, a roof design that allows solar panels to be installed in the future, and heat recovery chillers to transfer heat to the building hot water system. These and other energy-saving technologies will contribute to the efficiency of the facility and its “demand response” capability which allows for peak load shaving based on utility company requests.

ANTICIPATED COSTS OF QUALIFIED PROPERTY

The anticipated Qualified Property purchases are listed below:

Solid Dose Packaging Line	\$ 10,950,000
Vial Secondary Packaging Line	4,332,067
Warehouse Miscellaneous Equipment	180,000
Downflow Booth	90,000
Refrigerator/Freezer	250,000
Loading Dock Equipment	180,000
Autoclaves	1,324,848
Vaporized Hydrogen Peroxide Pass Through Biodecontamination Equipment	932,516
Dryers and Fume Hoods	1,288,725
Temperature Control Units	1,087,830
Homogenizer	350,000
Water For Injection Point of Use Coolers	91,187
Tanks and Vessels	314,437
Hydration System & Parts Washers	1,536,694
Laminar Air Flow Hood	78,000
Lyos	13,280,903
Laminar Air Flow Ceilings	927,591
Environmental Monitoring System	1,368,000
Quality Control Visual Inspection System and Vials	376,659
Filler Train	6,845,334
Process Chiller	79,200
Miscellaneous Production Equipment	1,229,450
DDP Stopper Chute	58,516
Purified/RO Water Generation System	657,866
Water For Injection Generation System	1,095,431
Pure Steam Generation	571,892
Chloroform and Methanol Bulk Storage Vessels	240,000
Solvent Emissions Reduction System	1,097,528
Process Waste Water Neutralization System	100,000
Sterility Test Isolator and Walk In Incubators	731,000
Total	<u>\$51,645,674</u>

Note: The Qualified Property purchases reported in the Application and shown here in staff's report are estimated costs. At the termination of the master regulatory agreement a finalized project equipment list will be prepared detailing the value of the Project equipment acquired and detailing the actual tax benefit realized pursuant to Revenue and Tax Code Section 6010.8. Variance from the costs shown in the Application and in this report may occur prior to the closing due to increased costs of certain components (of the Project) over original estimates, and other reasons. In addition, such costs may vary after closing due also to increased costs, as well as common design and equipment modifications during construction, differences in equipment due to future changes in law or regulation, or for other reasons.

TIMELINE

Construction of the facility is substantially complete and all Qualified Property has been purchased. Commercial manufacturing is slated to begin in late 2017 and 2018.

PROJECT EVALUATION
NET BENEFITS

The total cost of the Qualified Property purchases is anticipated to be \$51,645,674 and the total net benefits are valued at **-\$440,179** for the Project. Although the cumulative fiscal and environmental benefits fall short of the estimated Sales and Use Tax Exclusion amount, resulting in a negative net benefit, the Project has additional employment, research and development, and industry cluster benefits. These benefits are not quantifiable in fiscal terms, but increase the Total Score above the qualifying threshold.⁶ The Project received a Total Score of 1,093 points, which exceeds the required 1,000 point threshold, and a total Environmental Benefits Score of 25 points, which exceeds the 20 point threshold.

- A. **Fiscal Benefits (899 points)**. The net present value of the total fiscal benefits over the lifetime of the Qualified Property is derived from the Applicant’s sales taxes, personal income taxes paid by the firm’s employees, firm taxes on profits, property taxes and other indirect fiscal benefits of the Applicant which amounts to \$3,908,387 resulting in a Fiscal Benefits score of 899 points for the Project.

- B. **Environmental Benefits (25 points)**. The Project will result in an Environmental Benefits Score of 25. The Applicant received points in the following categories:
 - 1. **Environmental Sustainability Plan (20 of 20 points)**. The Applicant represents that they will implement an environmental sustainability plan for the Project by using a building management system to monitor and track the building’s mechanical and electrical equipment including ventilation, lighting, and power systems. Data output from this system will be used to track actual environmental impact against planned efficiency and sustainability standards.

 - 2. **Energy Consumption (5 of 30 points)**. The Applicant represents that its manufacturing process will result in a five percent reduction in energy consumption relative to the industry standard manufacturing process.

- C. **Additional Benefits (169 points)**. Applicants may earn additional points for their Total Score. The applicant submitted information and received 169 additional points.
 - 1. **Permanent Jobs (40 of 75 points)**. The Applicant represents that the Project will support a total of 246 permanent jobs at its Facility. CAEATFA estimates that approximately 16 of these jobs will be attributable to a marginal increase in jobs created due to the approved STE resulting in a Permanent Jobs Score of 40 points for the Project.

 - 2. **Construction Jobs (55 of 75 points)**. The Applicant represents that the Project will support a total of 500 construction jobs at its Facility. CAEATFA estimates that approximately 32 of these jobs will be attributable to a marginal

⁶ California Code of Regulations Title 4, Division 13, Section 10033(c)(6)

increase in jobs created due to the approved STE resulting in a Construction Jobs Score of 55 points for the Project.

3. **Unemployment (9 of 50 points)**. The Applicant’s Project is located in Los Angeles County which has an average annual unemployment rate of 8.2%. This is above 110% of the statewide average annual unemployment rate which was 7.5% in 2014, the dataset used in the application. This results in an Unemployment Score of nine points for this Project.
4. **Research and Development Facilities (25 points)**. The Applicant has verified that it has a facility located on-site that performs research and development functions related to the production process.
5. **Industry Cluster (40 points)**. The industry associated with this Application has been identified by the City of Los Angeles Workforce Investment Board as an industry cluster of the region of the Project’s location.

STATUS OF PERMITS/OTHER REQUIRED APPROVALS

Gilead has obtained the vast majority of the required permits for the Project, and is in the process of acquiring South Coast Air Quality Management District and equipment anchorage permits.

LEGAL QUESTIONNAIRE

Staff reviewed the Applicant’s responses to the questions contained in the Legal Status portion of the Application. The responses did not disclose any information that raises questions concerning the financial viability or legal integrity of this Applicant.

CAEATFA FEES

In accordance with CAEATFA Regulations,⁷ the Applicant has paid CAEATFA an Application Fee of \$10,000 and will pay CAEATFA an Administrative Fee of up to \$206,583.

RECOMMENDATION

Staff recommends approval of Resolution No. 16-SM037 for Gilead Sciences, Inc.’s purchase of Qualified Property in an amount not to exceed \$51,645,674 anticipated to result in an approximate sales and use tax exclusion value of \$4,348,566.

⁷ California Code of Regulations Title 4, Division 13, Section 10036

RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF A MASTER REGULATORY AGREEMENT WITH GILEAD SCIENCES, INC.

December 13, 2016

WHEREAS, the California Alternative Energy and Advanced Transportation Financing Authority (the “Authority” or “CAEATFA”) has received the Application of **Gilead Sciences, Inc.** (the “Applicant”), for financial assistance in the form of a master regulatory agreement (the “Agreement”) regarding tangible personal property utilized to process Recycled Feedstock, in an Advanced Manufacturing process or for the design, manufacture, production or assembly of Advanced Transportation Technologies or Alternative Source products, components, or systems (“Qualified Property”) as more particularly described in the staff summary and in the Applicant’s Application to the Authority (collectively, the “Project”); and

WHEREAS, the Applicant has requested the Authority to enter into the Agreement to acquire Project equipment with an estimated cost not to exceed \$51,645,674 over a period of three years; and

WHEREAS, the Applicant believes that this form of financial assistance will enable it to avail itself of the benefits of an exclusion from sales and use taxes relative to the Qualified Property pursuant to California Revenue and Taxation Code Section 6010.8; and

WHEREAS, approval of the terms of the Agreement and authority for the Executive Director, Deputy Executive Director, or Chair of the Authority to execute the necessary documents to effectuate the Agreement is now sought;

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

Section 1. The Project constitutes a “project” within the meaning of Public Resources Code Section 26003(a)(8)(B).

Section 2. The requested master regulatory agreement constitutes “financial assistance” within the meaning of Public Resources Code Section 26003(a)(6).

Section 3. The Applicant is a “participating party” within the meaning of Public Resources Code Section 26003(a)(7).

Section 4. The Executive Director, Deputy Executive Director, or Chair of the Authority (the “Authorized Signatories”) are hereby authorized for and on behalf of the Authority to approve any changes to the Project as the Executive Director shall deem appropriate, provided that the amount of the Qualified Property to be purchased may not be increased above the amount approved by the Authority.

Section 5. The proposed form of the Agreement between the Applicant and the Authority, as filed with the Authority prior to this meeting, is hereby approved. The Authorized Signatories are hereby authorized and directed, for and on behalf and in the name of the Authority, to execute, acknowledge and deliver to the Applicant the Agreement in substantially the form filed with or approved by the Authority, with such insertions, deletions or changes therein as the Authorized Signatory executing the same may require or approve, and with particular information inserted therein in substantial conformance with the staff summary and in the Applicant's Application to the Authority, such approval to be conclusively evidenced by the execution and delivery thereof. The Authority understands and agrees that pursuant to the terms of the Agreement, the obligations of the Applicant may, under some circumstances, be carried out or assumed by a successor or assignee entity, or by an affiliate of the Applicant.

Section 6. Each of the Authorized Signatories, acting alone, is hereby authorized and directed to do any and all ministerial acts, including (without limitation) the execution and delivery of any and all documents and certificates they may deem necessary or advisable in order to consummate the Agreement and otherwise effectuate the purposes of this Resolution.

Section 7. The Applicant shall assure CAEATFA that all Qualified Property listed in the semi-annual reports pursuant to the Agreement shall be installed, maintained and operated in compliance with all applicable local, state and federal laws.

Section 8. The Agreement shall only apply to Qualified Property that the Applicant certifies will be installed, maintained and operated at facilities within the State of California.

Section 9. The adoption by the Authority of this Resolution for the Applicant shall not be referred to in any application before any governmental agency as evidence of the feasibility, practicality or suitability of the Project or in any application for any required permission or authority to acquire, construct or operate the Project.

Section 10. This Resolution is effective immediately and will remain in full force and effect unless the Regulatory Agreement, as defined in CAEATFA Regulations Section 10035(a), is not executed within thirty (30) days of the date of this Resolution. The Executive Director may extend the thirty days if necessary.