

WORLD TRADE ORGANIZATION

G/SCM/Q2/USA/25
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(02-5955)

Committee on Subsidies
and Countervailing Measures

Original: English

SUBSIDIES

Replies to Questions Posed by JAPAN¹, AUSTRALIA²
and the EUROPEAN COMMUNITIES³ Regarding the
New and Full Notification of the UNITED STATES⁴

The following communication, dated 25 October 2002, has been received from the Permanent Mission of the United States.

QUESTIONS FROM JAPAN

I. Aerospace & Aeronautics

- **Advanced Subsonic Technology Programme (p.2) and**
- **High Speed Research Programme (p.5)**

Q1. Could the United States explain what is meant by “other cooperative-type agreements”?

Reply

Cooperative-type agreements refer to arrangements between NASA and private industry firms used to stimulate research to benefit the general public. These agreements often involve arrangements whereby the government and recipient share the cost of the research.

Q2. Please explain how many companies have been aided under these Programmes?

Reply

Given the large number of companies involved in both programmes and the availability of some of the research within the public record, it is impossible to estimate how many companies, either from the United States or other countries have been aided by this research.

II. Metals, Minerals, and Extraction (Non-Fuel)

- **Emergency Steel Loan Programme**

Q1. Could the United States explain how many companies exactly have received guarantee under the Programme since 1999?

¹ G/SCM/Q2/USA/22

² G/SCM/Q2/USA/24

³ G/SCM/Q2/USA/23

⁴ G/SCM/N/48/USA-G/SCM/N/60/USA-G/SCM/N/71/USA

Reply

Since 1999 two companies have received guarantees under this programme.

Q2. You stated that there have been eight applications, totalling \$592,643,620 in loans. Does this amount mean the total amount of guaranteed loans from 1999 through 2001? Could the United States please explain which steel companies receive these loans? Please explain what the amount received by each company was?

Reply

The amount listed is the total amount of guaranteed loans for which applications were received during the period 1999-2001. Although Article 25 of the Subsidies and Countervailing Measures Agreement does not require the identification of individual recipients in a subsidy notification, the United States can, for the sake of full transparency, report that only two companies have received loans under this programme. Geneva Steel received a loan in the amount of \$110,000,000 and Hanna Steel received a loan in the amount of \$42,118,120.

QUESTIONS FROM AUSTRALIA

Energy and Fuels (Energy Development, Storage and Transportation & other Related Sectors)

Q1. Could the United States please advise whether qualifying producers and blenders are required to use domestic sourced feedstock?

Reply

There is no requirement that qualifying producers and blenders use domestically-sourced feedstock

ATTACHMENT III: Notification of State-Level Measures

Arkansas: Emerging Technology Development

Q1. What are the criteria for qualifying for a tax credit?

Reply

This programme is eligible to manufacturers of high-growth energy technologies that are on the verge of rapid expansion into new markets.

Georgia: Investment Tax Credit

Q1. Is this a discretionary programme?

Reply

No, the programme is not discretionary. All manufacturers and telecommunication companies are eligible to receive the tax credit.

Q2. What are the criteria for qualifying for a tax credit?

Reply

This programme is available to manufacturers or telecommunications companies having a presence in Georgia for at least 5 years. The company must invest at least \$50,000 on an expansion project.

Kentucky: Industrial Development Act (KIDA)

Q1. What type of manufacturing projects are eligible for tax credits?

Reply

The programme is open to all new and expanding manufacturing projects.

Nebraska: Ethanol Tax Credit

Q1. What are the criteria for receipt of a tax credit?

Reply

The tax credit is only given to new ethanol producers.

QUESTIONS FROM THE EUROPEAN COMMUNITIES**Aerospace & Aeronautics****General Remarks:**

Q1. The notification omits any mention of financial expenditures by the US Department of Defense that provides benefit to commercial entities (e.g., US producers of civilian aircraft). Please explain the reason for this omission and provide a list of all applicable DoD subsidies and their contents. In particular, please identify and discuss subsidies granted under DoD's Research, Development, Testing & Evaluation (RDT&E) and Independent Research & Development (IR&D) programmes.

Reply

The relevant administering authorities for these programmes have been contacted. An answer will be provided as soon as possible.

Q2. The notification makes mention of only five aerospace and aeronautics programmes, four of which, the US notes, were discontinued during the notification period. It is the understanding of the European Communities that, for example in US Fiscal Year 2001, the US Government provided at least \$747.6 million in aeronautics-related funding through the Office of Aerospace Technology, at least \$419.4 million in funding for aeronautics-related Research & Programme Management, and at least \$50.6 million in funding for aeronautics-related Construction of Facilities, for total NASA aeronautics funding of at least \$1,217.6 million during that 12-month period. The notification, however, omits any mention of these financial expenditures, which are focused, primarily or exclusively, on civilian ventures. Please explain the reason for this omission and provide a list of all applicable NASA subsidies and their contents for each calendar year covered by the notification.

Reply

Please note that several of the programmes discussed in the US notification are funded from the budgeted amounts cited in the question. However, the relevant administering authorities have been contacted to determine if additional information needs to be provided.

Advanced Subsonic Technology Programme

Q3. As regards NASA's Advanced Subsonic Technology programme, the notification states: This programme was discontinued at the end of fiscal year 1999 as NASA refocused its programme activities from an emphasis on strengthening industrial competitiveness to research investments focused on the public good. Please explain what this statement means and specify how this re-focusing was accomplished. Please explain whether "research investments" of NASA will be made in US firms only and whether the "public goods" NASA hopes to create will be freely available to the general public or rather will be available only to US firms.

Reply

As a result of changes in the composition of the aviation market as well as a NASA re-evaluation of the direction of its aerospace programme, a decision was reached to focus NASA's research programme on public good. Public good, in this context, means those technologies which when attained will lead to an enhanced quality of life (environmentally friendly, more mobile, and safe and secure) for our society. The research investments of NASA will in general, be made with US firms, except for those cases where specific goods and services may be obtained from non-US firms. Non-US firms may participate in NASA research programmes.

Q4. Please describe in detail all elements of the AST programme that have been transferred to other programmes at NASA (or elsewhere in the US Government) as a result of the termination of the programme in FY 1999.

Reply

No programme elements were transferred to other NASA (or elsewhere in the US Government) programmes.

Q5. Please indicate how many companies have benefitted from the programme and specify in percentage of the total the three biggest recipients of the benefits granted.

Reply

A very large number of companies have directly participated in the programme. Additionally, because the research results are publicly available, many other companies – both inside and outside of the United States – have benefitted indirectly.

High-Speed Research (HSR)

Q6. With regard to the high-speed research programme, the notification states: Due to the nature and focus of the R&T activity, these contracts, grants and other cooperative-type agreements were awarded to large civil aircraft and engine manufacturers, advanced aerospace material manufacturers, and other major subsystem developers for aircraft, engine and air traffic management systems. How many firms did receive subsidies under this programme during the notification period?

Reply

The primary firms that participated in the HSR programme were two airframe and two propulsion system companies. Numerous other firms participated, based on specific expertise in a technical area, but to a lesser degree.

Q7. What was the total expenditure concerning the development of a high speed civil transportation plane?

Reply

None of the HSR programme expenditures was applied to development of a high speed civil transport. All research investments were devoted to addressing technical challenges in the area of environmental compatibility and economic viability.

Q8. On average how many projects were funded and how many firms received subsidies under this programme? Do enterprises have to re-submit a new application every year? What are the criteria that enterprises must meet in order to receive the benefits from this programme?

Reply

The primary firms that participated in the three main projects of the HSR programme were two airframe and two propulsion system companies. Numerous other firms participated, based on specific expertise in a technical area, but to a lesser degree. Private-sector participation was determined through open solicitation (each having its own selection criteria) of a series of research proposals with multi-year awards. Programme funding was however, subject to annual evaluation as part of the on-going NASA budget cycle within the United States government federal budget process.

Q9: Why was the programme ended?

Reply

This programme was discontinued at the end of fiscal year 1999 following a decision by the major aircraft manufacturer that the state of technology was insufficient to overcome the environmental and economic challenges for the foreseeable future.

Q10. In light of the US's notification that "the High Speed Research Programme had the specific aim of improving, by 2005, the technology base for the possible future development of an economically viable and environmentally friendly high speed civil transport by private aerospace companies", please describe what benefits principal HSR/HSCT contractors received from this programme.

Reply

As noted, the HSR programme was unsuccessful in achieving a technology base sufficient to overcome the barriers necessary for future development of an environmentally acceptable and economically viable high speed civil transport.

Q11. Please describe in detail all elements of the HSR/HSCT programme that have been transferred to other programmes at NASA (or elsewhere in the US Government) as a result of the termination of the programme in FY 1999.

Reply

No element of the HSR programme was transferred to other programmes at NASA (or elsewhere in the US Government) as a result of the termination of the programme.

The X-33 Programme

Q12. Could the United States explain whether this programme is for the sole use of non-commercial aerospace activities? Are commercial activities benefitting from this programme, and if so, what industries are the main beneficiaries?

Reply

The X-33 programme was cancelled in May, 2001. The intent of the X-33 programme was to demonstrate technologies necessary to reduce the cost and increase the safety of space access. The technology advancement would have benefitted both the US government and private industry in a broad range of sectors of the economy; however, we have no information that any commercial activities received specific benefits from this programme.

Q13. Please indicate what percentage of X-33 programme participants were non-US companies or organizations.

Reply

The X-33 programme had two non-US firms serving as subcontractors to US firms.

Q14. Please indicate to what extent the programme participants shared the full costs of the programme.

Reply

The X-33 programme was a cooperative effort between NASA and private industry. NASA contributed approximately \$912 million and Lockheed Martin contributed approximately \$357 million.

Q15. What was the total budgeted amount for the X-33 during the programme's life (FYs 1995–2000)?

Reply

As noted above, NASA contributed approximately \$912 million.

The X-34 Programme:

Q16. Please describe the inter-relation of the X-33 and X-34 programmes and subsidies conferred by the programmes.

Reply

The X-33 and X-34 programmes were managed by the same NASA Enterprise: The Office of Aerospace Technology. The goal of each programme was similar – demonstrate technologies necessary to reduce the cost and increase the safety of space access systems. Otherwise, there was no relationship, technical or budgetary, between the two programmes. The X-34 Programme was also

cancelled in May, 2001. We have no information that any commercial activities received specific benefits from either programme.

Q17. Please identify who was “the” participating company in this programme.

Reply

Orbital Sciences Corporation

Q18. The notification states that since 1996 the programme has been “limited to the construction of a flight demonstrator that would test a number of new launch vehicle technologies including composite structures and advanced thermal protection systems”. Does “the” participating company in the X-34 programme obtain use of the flight demonstrator at less than arm’s length fair market price? Is use of this flight demonstrator open to all competitors of “the” participating company on equal terms and conditions?

Reply

NASA retained complete control over the technologies to be demonstrated and any other use of the X-34 technology demonstration vehicle. Prior to programme cancellation, the Agency did not plan for private use of the X-34 vehicle by Orbital Sciences Corporation or its competitors.

Q19. What was the total budgeted amount for the X-34 during the programme’s life (FYs 1995–2001)?

Reply

\$205 million

The Spacecraft Technology Development Programme

Q20. Please indicate to what extent the programme participants shared the full costs of the programme, explain how assistance is provided to industry and how technology know how transfer from NASA is taken into account?

Reply

Industry participants shared the programme research cost by participation in cost-share contracts. The extent of the industry contract cost share was based upon several factors (NASA Federal Acquisition Regulation Supplement §1816.303-70) including the extent to which the research effort was likely to enhance the contractor’s capability, expertise, or competitive advantage. “Know-how ” information was made available via professional interchanges between NASA and contract/university researchers as well as placement of NASA research results on Public Access servers.

Q21. Was participation open to both U.S. and non-U.S. participants?

Reply

Yes.

Agriculture

Q22. It is mentioned that several programmes (EEP, DEIP) had been authorized in the Uruguay Round Agreement Act of 1994 until the year 2001. Since the notification mentions the extension of fundings through the year 2002, will there be any further extensions after the end of this year?

Reply

The authorities to operate the DEIP and EEP were extended by the Farm Security and Rural Investment Act of 2002 through calendar year 2007 and fiscal year 2007, respectively.

Q23. On page 11 of the notification "Mandated Export Sales of Dairy Stocks" the US indicate under "Amount" that there were no export sales of CCC owned dairy products during fiscal years 1998, 1999, 2000, 2001. Then under "trade effects" the document refers to attachment I for statistics. In attachment I the document shows the value of selected commodities exported by the US. These values concern poultry and, indeed, dairy products. Can the US explain the relation between the statement under "amount" and the contents of "Attachment I"? Do the values in Attachment I not contain any CCC dairy sale? Why does attachment I not include export values of other commodities than poultry and dairy products?

Reply

There were no direct US Government subsidized export sales of dairy products. Reference to Attachment I should not have been included under "trade effects" for the Mandated Export Sales of Dairy Stocks. Attachment I reflects sales made under the EEP and DEIP programmes for which only poultry and dairy products were exported.

Q24. Where did the US include food aid in the form of wheat, wheat flour and other commodities subsidized under "Art 416 (b)" and the "PL 480" programmes in the current notification?

Reply

These programmes were not included in our notification – they are food aid programmes managed according to international food aid rules.

Q25. Where did the US include export credit guarantees in the current notification?

Reply

US agricultural export credit guarantees were not included in our notification; such guarantees are provided according to the commitments in the Agreement on Agriculture.

Q26. Where did the US notify subsidies for crop insurance payments in the current notification?

Reply

As noted in the beginning of our notification, domestic agricultural subsidies were not included in our notification. We expect that this information will be provided in the near future.

Q27. Where did the US notify in the current notification the tax exemption for agricultural products for Foreign Sales Corporations (FSC)?

Reply

In light of the dispute settlement proceedings, FSC was not notified. The United States has stated its intention to come into compliance with the rulings of the WTO Appellate Body.

Energy and Fuels

Partnership for a New Generation of Vehicles (PNGV)

Q28. It is mentioned that the PNGV commenced in 1993 and will end in September 2002. Will there be any follow-up programmes? Please explain in more detail the role of the USCAR in the various mechanisms through which assistance is provided and participants are selected.

Reply

There will be no follow-programme to the Partnership for a New Generation of Vehicles. USCAR is the Big-Three consortium for pre-competitive R&D and was the industry counterpart for PNGV.

Solar and Renewable Energy Resources Technologies:

Q29: Please explain in more detail the functioning of partnerships including industry co-investment. Does industry have to repay any amounts after a successful commercial launch of a product?

Reply

General

The missions of each of the Solar and Renewable Energy Resources sub-programmes include: (1) working in partnership with US industry to establish geothermal energy as a sustainable, environmentally sound, economically competitive contributor to the US and world energy supply to develop integrated energy storage systems that increase the value of electricity derived from intermittent wind and solar sources by making the power available regardless of when it is generated; (2) utilizing the core competency of the National Laboratories, universities, and industry to develop and demonstrate the processes and technologies needed to produce, store, transport, and utilize hydrogen safely in various applications; and (3) improving the technical, societal, and environmental benefits of hydropower resources by conducting collaborative research and development with industry and other Federal agencies.

Collaboration with industry partners allows the programme to leverage resources through cost-shared cooperative agreements or CRADAs. DOE laboratories have primarily used CRADAs. Under a CRADA, a DOE laboratory and its public or private partner or partners agree that their scientists will collaborate on a research project of mutual interest and consistent with the laboratory's mission. Both parties may contribute personnel, services, and property to the CRADA project, and the partner(s) can provide funding for the laboratory's research. However, the DOE laboratory cannot provide funds to the partner(s) under a CRADA. Laboratories may provide personnel, services, facilities, equipment, or other resources to the partner.

Under a grant or cooperative agreement, DOE provides funding directly to the grantee or partner. Under a grant, there is no substantial involvement in the activity by DOE. Under a cooperative agreement, there is substantial involvement, which exists if responsibility for the management, control, or direction of the project (or for the performance of the project) is shared by DOE and the recipient. Providing technical assistance or programmatic guidance does not constitute such substantial involvement if: (1) the recipient is not required to follow the guidance; or (2) the assistance or guidance (a) is not expected to result in continuing DOE involvement in the performance of the project; or (b) pertains solely to the administrative requirements of the award.

Intellectual property rights to technology developed under the grant, cooperative agreement or CRADA are negotiated in advance. In general, the inventing partner retains ownership rights, while the other partner receives appropriate licensing rights.

Cost-Sharing and Recoupment

Please refer to paragraphs 12-18 of the Attachment. DOE does not require and will not seek repayment or recoupment of government funding if inventions developed with the assistance of the Solar and Renewable Energy Resources Technologies programme are commercialized.

Electric Energy Systems and Storage

The programme works with a diverse group of partners to meet end user needs. The programme cooperates extensively with electricity users and providers, equipment manufacturers, system integrators, academic and research organizations. This cooperation helps identify merging trends, and supports development of energy storage systems that will play a vital role in a restructured electricity marketplace. In FY 1998, the programme received over \$1,600,000 in cost-sharing commitments from its industry partners.

Hydrogen Research and Development, and Hydrogen Generation from Electrolysis

Minimum qualifications include fulfilment of the minimum required cost share contribution of 20 per cent of the total project cost for the Hydrogen R&D sub-programme and 50 per cent of the total project cost for the Hydrogen Generation from Electrolysis sub-programme. If the minimum requirements cannot be met, the financial assistance application will not be comprehensively evaluated or considered for Award. In-kind contributions (e.g., contributions of services or property; donated equipment, buildings, or land; donated supplies; or unrecovered allowable indirect costs) may be considered as all or part of the cost share.

After the comprehensive evaluations are completed for all competing applications, DOE applies Programme Policy Factors. The purpose of considering these factors is to maximize the effective use of available Government funding. These factors are considered by the selection official to ensure that the programme, as a whole, meets the goals of the issuing Programme Office and is consistent with the programme mission. The factors to be applied are:

- Geographic distribution of Applicants
- Technical diversity of Projects
- Applicant cost share beyond the minimum required; and
- For storage-related projects only, technical diversity of university teams.

Hydrogen Generation From Electrolysis:

The programme policy factors to be applied are:

- Geographic distribution of applicants; and
- Technical diversity of Projects.

Enhanced Geothermal Systems

Only those who own, have valid leases, or legal access to unproductive geothermal properties in the US and are capable of providing the necessary cost-share could submit proposals. Third party consulting groups may be part of the project team, but were not eligible to submit proposals.

Two awards have been made under the solicitation. During each phase of the project, as the project progresses to the commercialization phase, the awarded must provide minimum non-federal cost share in the amounts specified as follows: Phase One: 20 per cent; Phase Two: 40 per cent; Phase Three: 80 per cent; Phase Four: 100 per cent.

Manufacture, Installation, and Testing of New Environmentally Friendly Hydropower Turbine Designs

DOE will provide up to 50 per cent of the total cost of the following items:

- Finalizing turbine design (this may include environmental/biological tests, if necessary to finalize turbine design);
- Preparing the engineering testing criteria and plan;
- Preparing the biological testing criteria and plan;
- Conducting engineering and biological tests;
- Conducting Operations & Maintenance monitoring tasks; and
- Preparing the interim, final and topical reports.

No other tasks will be cost-shared by DOE. Only costs incurred for the identified items after the cooperative agreement is signed are eligible for reimbursement. Applicant's cost share must be either cash or labour hours and can include items other than those listed above. In-kind costs are not accepted.

Energy Conservation Programmes – Transportation Sector:

Q30. Please explain which companies are eligible for various competitive procedures to participate in this programme? How and by whom is the selection made?

Reply

Please refer to the discussion of eligibility requirements in the paragraphs 4-11 of the Attachment, for financial assistance awards (grants and cooperative agreements) and paragraphs 19-20 of the Attachment for CRADAs.

Generally, under competitive award procedures for financial assistance, eligibility requirements are determined by programme officials and are contained in programme solicitations and in the Energy Policy Act and the Simpson-Craig Amendment. Eligibility requirements for financial assistance are applied by DOE contracting officers, and heads of programmes. Eligibility for CRADAs is determined by DOE national laboratories and is subject to the Stevenson-Wydler Technology Innovation Act of 1980. CRADAs are awarded by DOE national laboratories.

Motor Control and Power Conversion Technologies

Please refer to the following solicitation for cooperative agreements: FY2002 Joint Office of Energy Efficiency and Renewable Energy and Office of Fossil Energy Science Initiative, DE-PS26-02NT41432, 17 May 2002.⁵

For competitive awards, a DOE Contracting Officer may award financial assistance under this solicitation to those applicants whose applications are determined to be in the best interest of the Department in achieving the programme objectives set forth in the solicitation. Selection of an application is achieved through a process of evaluating and comparing the relative merits of the applicant's complete applications, in accordance with all of the evaluation factors set forth in the solicitation. DOE accepted applications based on their potential in best achieving programme objectives, rather than solely on evaluated technical merit or cost. The solicitation stated that DOE may select for an award all, none, or any number or part, of an application, based on its decision as to which meritorious applications best achieve the programme objectives. Selection for negotiations are made entirely on the basis of applications submitted. Applicants were directed to address specifically the factors mentioned in the evaluation criteria, and not depend upon the background knowledge of the reviewer of the application.

Advanced Liquid Natural Gas Onboard Storage System

Please refer to solicitation DE-SC02-02CH11108, 20 June 2002, for cooperative agreements which states that:

Applications that do not meet the following Qualification Criteria will not be evaluated or considered for award by the DOE Contracting Officer:

1. Teaming – The participation of a tank manufacturer is required. The tank manufacturer must have the resources to be able to successfully manufacture and market LNG tanks and be committed to participating in any Phase II effort, if awarded; and
2. Cost Share – In accordance with Section 3002 of the Energy Policy Act, applicants are required to provide a minimum cost share of 20 per cent of the total project costs. Cost share may be provided as cash or in-kind contributions. Cost share may not be other federal funding. Cost share must originate from non-federal sources. The stated minimum cost sharing requirements will not be waived or adjusted during the negotiation of any award. Fee or profit will not be paid under any award resulting from this solicitation and foregone fee or profit will not be accepted as cost sharing.

The Contracting Officer will eliminate any application from consideration if it does not meet the Qualification Criteria or if it is so obviously deficient as to be totally unacceptable on its face. Technical Proposals are numerically point scored in accordance with the evaluation criteria and weights set forth in the solicitation.

Programme policy factors, while not indicative of an application's individual merit, are relevant and essential to the process of selecting applications which best achieve the Department's overall programmatic goals and objectives. The Programme Policy Factors applicable to selecting applications for award under this solicitation are set forth below. All are of equal importance. Upon completion of the technical, business, and cost evaluations, these Programme Policy Factors will be

⁵ Available at: <http://www.pr.doe.gov/>

applied against those applications which are deemed potential candidates for award, before final selections are made:

- A diversity of methods and approaches to achieve high efficiency, reliability, and durability of an Advanced Liquid Natural Gas (LNG) Onboard Storage Systems;
- Supporting complementary efforts or projects which, when taken together, will best achieve the programme goals; and
- Greatest potential to benefit the economy of the United States.

Energy Conservation – Industry Sector:

Q31. Please explain what are „other forms of cooperation“ in the context of assistance under these programmes.

Reply

The United States notification states that DOE provides assistance through grants, CRADAs and “other forms of collaboration accomplished through consortium-based activities between government laboratories and private industry”.

These arrangements consist of CRADAs or subcontracts between DOE national laboratories and private industry. “R&D consortia” are defined by DOE as arrangements that involve multiple federal and private parties working together for a common R&D objective. Costs may be shared, but usually no funds are exchanged between participants.

Industries of the Future:

Q32. Please explain how cost-shared RD&D works, which companies are eligible and how “industry who lack funds and/or know how” are defined. After having “moved successfully their technologies from the research bank to the market place” do companies have to pay back part or total of the assistance received through this programme. Does the integrated delivery programme provide the new technologies to the receiving industrial firms free of charge?

Reply

The DOE/EERE Office of Industrial Technologies (OIT) invests in pre-competitive and high-risk R&D that individual companies are unable to undertake without government support. By working with entire industries rather than individual companies, OIT maximizes the energy benefits of technology investments and fosters the formation of public-private partnerships. Although the Industries of the Future strategy focuses on nine key energy-intensive industries, it engages the participation and expertise of many related industries.

With the exception of the Metals Initiative programme, repayment of the government contribution has not been required with respect to Industries of the Future activities. Appropriations laws require repayment of up to one and one-half times the total federal investment from the proceeds of the commercial sale, lease, manufacture, or use of technologies developed under the programme. Repayment or recoupment applies to domestic and foreign sales. (See paragraphs 16-18 of the Attachment)

The programme does not provide technologies to industrial firms free of charge.

Please refer to the discussion of eligibility and cost sharing requirements in the Attachment and to the “Guide to Financial Assistance for Technology Innovators”, (January 2001) published by

the Department of Energy, Office of Energy Efficiency and Renewable Energy, Office of Industrial Technologies.⁶

Industries of the Future

The Industries of the Future Programme uses open, competitive solicitations as the primary mechanism to provide financial assistance to effective public-private partnerships, leverage funds, and obtain substantial reductions in energy intensity. The solicitation process has been streamlined and is now uniform across all Industrial Technologies programmes and sub-programmes. Project management efforts are centralized to provide greater uniformity and more effective delivery of services. Competitive solicitations require the national laboratories to work in partnership with the private sector to submit proposals. To facilitate these partnerships, the Laboratory Coordinating Council works to inform the private sector about the unique and relevant capabilities of the national laboratories. The project selection process entails merit reviews by peer experts and careful evaluation of projected energy and economic savings. Prospective and retrospective peer review exercises are used to evaluate project performance and progress and to adjust support. To verify programme performance and results, all commercialized technologies and the extent of their use by industry are tracked. Crosscutting RD&D enables energy improvements in multiple industries. The Industries of the Future strategy embraces efficiency enhancements to technologies that are widely used in a broad cross-section of US industry. Given the breadth of use of these technologies, even a small improvement in their efficiency can mean substantial energy and cost savings.

The following conditions apply to solicitations for cooperative agreements for the following sub-programmes: Industrial Materials for the Future, Sensors and Controls, Supporting Industries, Agriculture Industry of the Future, Petroleum Industry of the Future, Chemical Industry of the Future, Glass Industry of the Future, Steel Industry Ironmaking Research Challenge, Emerging Technologies Deployment, and Emerging Technologies Deployment for the Chemical and Petroleum Industry:

For-profit, non-profit, state and local governments, Indian Tribes, and institutions of higher education may submit applications, unless otherwise restricted by the Simpson-Craig Amendment. Multi-partner collaborations between industry, university, and National Laboratory participants are encouraged. Single organization awards are not considered. Industrial partners must be included, either as primary applicants or as cost sharing partners.

For steel industry ironmaking research and development cooperative agreements, the cost sharing participants must also include at least two steelmakers and at least one equipment supplier and/or engineering firm to the steel industry. The participants should be in position to deploy the equipment innovations and processes to a broad segment of the steel industry.

For Glass Industry of the Future cooperative agreements, industrial partners must be included, either as primary applicants or as lower tier subcontractors, or as cost share participants.

For Emerging Technologies Deployment for the Chemical and Petroleum Industry cooperative agreements, any industrial company that owns and operates a petroleum refinery or chemical plant where the technology will be installed and field-tested is eligible to apply. Applicants are encouraged to propose a teaming arrangement that includes technology developers (industry, university, and national laboratories), and a commercializing partner (i.e., equipment supplier, technology vendor, etc.).

⁶ Available at: <http://www.oit.doe.gov/inventions/pdfs/0101finasst.pdf>

For Sensors and Controls and Mining Industry of the Future/Mineral Processing Technology cooperative agreements, any nonprofit or for-profit organization, university or other institution of higher education, or non-federal agency or entity is eligible to apply.

The following conditions apply to solicitations for cooperative agreements for the following programmes: Industrial Materials for the Future, Sensors and Controls, Supporting Industries, Agriculture Industry of the Future, Petroleum Industry of the Future, Chemical Industry of the Future, Glass Industry of the Future, Steel Industry Ironmaking Research Challenge, Emerging Technologies Deployment, and Emerging Technologies Deployment for the Chemical and Petroleum Industry:

National laboratories are not eligible for an award. However, an application that includes performance of a portion of the work by a National Laboratory may be considered for award provided the applicant clearly identifies the unique capabilities, facilities and/or expertise the Laboratory offers the primary applicant. National Laboratories will receive their funding through their existing arrangements with the Government.

Fifty per cent minimum non-federal cost-share is required for research and development projects to ensure industrial involvement in each of the proposals and to ensure that the novel materials or materials processing technologies developed by this R&D programme will be fully implemented by industry. This cost share requirement is not subject to waiver. The first year cost share can be as low as 30 per cent if subsequent years have sufficient cost share so that the non-federal share of the total project is at least 50 per cent.

For Steel Industry Research Challenge cooperative agreements: Cost share is encouraged, but is not required.

For Sensors and Controls cooperative agreements, In accordance with 10 CFR 600.30, the DOE has determined that a minimum cost share for this project is 20 per cent; except for those projects determined to be fundamental research.

University-Industry Partnerships for Aluminum Industry of the Future

Twenty per cent minimum non-federal cost share is required, and is not subject to waiver. All US institutions of higher learning, whether private or public, and their associated research organizations (collectively called universities) are eligible. Collaboration among relevant Departments within each college or university is encouraged. Applications from two or more collaborating academic institutions will also be accepted. Multi-partner collaborations between university and industry participants are encouraged. Industrial partners must be included in each application but will not be considered as primary applicants. Applications that do not include industry partners will not be evaluated and will not be eligible for an award under this solicitation. Applications that fail to quantify the projected energy savings of the proposed research will not be evaluated and will not be eligible for award. National laboratories are not eligible for an award.

Industrial Materials for the Future (Knowledge Base or Core Activities)

Proposals are solicited from universities, and not-for-profit research institutes for research and development leading to new materials and processing methods for eventual use. Universities, and not-for-profits are required to form partnerships for technology development and to work with industry to ensure that core activities will ultimately lead to successful applications in industry. National laboratories may partner in these activities but cannot be the prime recipient. Multi-partner collaborations between industry, university, and National Laboratory participants are encouraged. Cost share is not required, but evidence of industry interest in the proposed technology must be provided.

Inventions and Innovation Sub-Programme

Applicants must be: (1) individuals that are US citizens, either native-born or naturalized; (2) small businesses (as defined by Small Business Administration) that are incorporated and operating in the US; or (3) institutions of higher learning located in the US. Individual inventors and very small businesses (15 or fewer employees) are especially encouraged to participate.

US individual inventors, small businesses, universities and not-for-profit research institutes can apply for grants of up to \$40,000. US individual inventors and small businesses can apply for grants of up to \$200,000. The grants are for research and technical development of an innovation. The programme does not fund commercialization (i.e., patent applications or advertising or marketing costs).

Cost sharing is highly encouraged, but is not mandatory. The level of cost share is one of the programmatic selection considerations used by the selection official. In conjunction with the evaluation results and rankings of individual applications, the selection official will make selections for negotiations and planned awards from among the highest-ranking applications using the following programme policy factors:

- Participation of independent inventors and very small businesses (15 or fewer employees);
- Degree to which the project aligns with the vision and roadmap documents of the OIT focus industries;
- Impact on national energy consumption;
- Geographic distribution (considering past awards and current applications);
- Diversified Industries of the Future portfolio of technologies;
- Level of cost share;
- Justification for DOE funding;
- Number and success of prior awards (as determined from government records); and
- Amount of available DOE funding.

Industrial Assessment Centers Sub-Programme

Eligible applicants are the 26 current Industrial Assessment Centres. To be eligible, applicant institutions must be accredited by the Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology and a Field Management Organization cannot also be an Industrial Assessment Centre institution at any time during the project period (2003-2007). Cost sharing is not required.

NICE3 Sub-Programme

Applicants must be state agencies on behalf of or in conjunction with industry or industry who have coordinated state agency endorsement.

The DOE share for each award is up to \$525,000. Industry may receive a maximum of \$500,000 in federal funding. A maximum of \$25,000, or 10 per cent of the total amount to industry, whichever is less, may be used to support a state agency's costs associated with financial assistance administration, technology transfer/dissemination, marketing, etc. (this portion of the federal contribution is not required to be cost shared). Non-federal cost share from industry or a combination of state and industry sources for a single award must be at least 50 per cent of the total cost of the project. Support must be in the form of cost-sharing which demonstrates a substantial interest in the proposed project to fully implement the technology in industry. Cash, equipment, labour, and in-kind

contributions are all allowable as cost share. Participants cannot count funds derived from other Federal funding sources as part of their required cost share.

Plant Wide Assessments

Only industrial "end-users" defined as those companies who own and operate a facility within the OIT Industry of the Future strategic areas (Forest Products, Chemicals, Petroleum Refining, Steel, Aluminum, Metal Castings, Glass, Mining, and Agriculture) are eligible. In addition to end-user participation, a project team may involve other partners including, but not limited to, design and consulting engineering firms, manufacturers, distributors, utilities, energy service companies, state energy offices, and research institutions. End-user companies are encouraged to include such participation. Other non-end user entities are also encouraged to catalyze and support proposal submission by end-user companies. This solicitation requires a 50 per cent cost share (which may not be waived) to ensure industrial involvement in each of the proposals.

Oil Programme

Q33. Please describe in more detail who benefitted from this programme. How much, in percentage of the total amounts, was attributed to major petroleum companies?

Reply

The programme provided support to universities, state geological surveys, independent researchers, National Laboratories, oil field service companies, consulting firms and others in private industry. Less than 10 per cent of funding went to large, vertically integrated petroleum companies.

Excess of Percentage Over Cost Depletion for Oil, Gas and Other Fuels:

Q34 Please specify how "small scale producers" are defined.

Reply

Percentage depletion is allowed only for independent producers and royalty owners (as contrasted to integrated oil companies). An independent producer is any producer who is not a retailer or refiner. A retailer is any person who directly, or through a related person, sells oil or natural gas through a retail outlet operated by the taxpayer or a related person, or to any person that is obligated to market or distribute such oil or natural gas under the name of the taxpayer or related person or has the authority to occupy any retail outlet owned by the taxpayer or related person. A person is not a retailer if the combined gross receipts of that person and all related persons from the retail sale of oil and natural gas do not exceed \$5 million per year. A refiner is any person who directly or through a related person engages in the refining of crude oil, but only if such person or related person has a refinery run in excess of 50,000 barrels per day on any day during the taxable year. Further, a taxpayer may claim percentage depletion with respect to only up to 1,000 barrels of average daily production of crude oil or an equivalent amount of natural gas. For producers of both oil and natural gas, this limitation applies on a combined basis. Small producers benefit from this provision because of the limitations on refiners and qualifying production.

Alternative Fuel Production Credit:

Q35. Please describe the qualifying production of fuels eligible for credit.

Reply

For purposes of this credit, qualified fuels include: (1) oil produced from shale and tar sands; (2) gas produced from geopressured brine, Devonian shale, coal seams, a tight formation, or biomass (i.e., any organic material other than oil, natural gas, or coal (or any product thereof); and (3) liquid, gaseous, or solid synthetic fuels produced from coal (including lignite), including such fuels when used as feedstocks.

Capital Gains Treatment of Royalties on Coal:

Q36 Please explain who benefitted from this programme and what were the criteria for eligibility. Was the tax concession only allocated to the royalties received or also on the sales of coal.

Reply

Coal royalties may be treated as long-term capital gain when the owner of coal or an economic interest therein (including a lessee) disposes of it under a contract (which may include a lease or a sublease) with a retained economic interest. This treatment generally is not available in the case of sales of coal. Only non-corporate owners of coal properties receive income tax concessions. For taxable corporations, net capital gains are included in income subject to tax and taxed at the same rates as other income.

Various Fishing Vessel and Permit Buyback Programmes

Q37. Please indicate what happened to the bought back vessels. Were they wrecked or sold again? Have any of the bought back permits been sold again?

Reply

With the exception of a couple of vessels that were authorized to be used for charitable, humanitarian, scientific or law-enforcement purposes, all bought back vessels have been scrapped. All bought back permits have been revoked.

Capital Gains Treatment of Certain Timber Income:

Q38. Please specify which kind of timber is meant by “certain timber”. What are the criteria for being eligible for those tax concessions?

Reply

The phrase “certain timber” in the original explanation means that not all disposals of timber are accorded capital gains treatment. Whether the disposal of timber generates capital or ordinary income depends on the purpose for holding the timber and the method of disposal. Timber that is held primarily for sale to customers in the ordinary course of business would not receive capital gains treatment upon disposal unless the taxpayer satisfies one of the following two conditions: (1) The timber owner cuts standing timber and elects to consider such cutting as a sale or exchange of timber and has owned the timber for at least one year (the definition of timber owner for this purpose includes those holding a contract right to cut timber); or (2) the timber owner disposes of timber with retained economic interest. To retain an economic interest, the timber owner would enter into a contract that would specify the amount paid per unit of timber cut while retaining the legal title to the timber until it is cut. The definition of timber owner for this purpose includes sublessors and those holding a contract to cut timber.

Expensing of Multiperiod Timber Growing Costs

Q39. Please explain which timber owners are eligible to benefit from this tax concession and which deductions they can expense?

Reply

Taxpayers generally must capitalize their direct costs and a properly allocable share of their indirect costs to property produced or property acquired for resale. However, timber raised, harvested or grown by taxpayers is exempt from the capitalization provisions. The type of costs timber producers are allowed to deduct, rather than capitalize include the following: management costs, property taxes, insurance premiums, interest, fire, disease and insect protection costs, and thinning costs.

Expensing of Exploration and Development Costs for Non-fuel Minerals:

Q40. Please specify which capital outlays are qualified to benefit from this tax concession. What are the criteria for eligibility?

Reply

Exploration expenditures are expenditures for the purpose of ascertaining the existence, location, extent, or quality of any deposit of ore or other mineral paid or incurred before the beginning of the development stage of the mine or other natural deposit. Such expenditures (but not including expenditures for depreciable assets) are allowed as a deduction in computing taxable income. Development expenditures are expenditures for the development of a mine or other natural deposit (but not including expenditures on depreciable assets) which are made after deposits of ore or other minerals are shown to exist in sufficient quantity and quality to reasonably justify commercial exploitation by the taxpayer. Development expenditures must be for preparing a mineral deposit for extraction of the mineral and not for equipment or facilities which relate solely to the extraction of the mineral from the deposit.

Emergency Steel Loan Guarantee Programme

Q41. Please explain the criteria of eligibility for this programme.

Reply

To qualify for a loan guarantee, a company must produce steel mill products and must have experienced layoffs, production losses, or financial losses since the beginning of the steel import crisis in January 1998 or operate substantial assets of a company that meets these qualifications.

The AMTEX Programme

Q42. Please explain in more detail CRADA in context with this programme. Is the technology transfer for the receiving or participating company free of charge?

Reply

With the establishment of the AMTEX programme, a Cooperative Research and Development Agreement (CRADA) was reached between US Department of Energy (DOE) and industry. The CRADA agreement is a contract that regulates industry-government interaction toward

meeting the goals of AMTEX. The four non-profit textile industry organizations represented in the CRADA agreement include Cotton Inc., the Institute of Textile Technology, Textile/Clothing Technology Corporation, and the Textile Research Institute/Princeton. The agreement links these industry organizations with eight DOE national laboratories. DOE and the textile industry organizations provide matching funds towards AMTEX research. Technologies developed under this collaboration was transferred to participating organizations, as well as to all interested parties, free of charge. (Please also note that the AMTEX programme was terminated in 2000.)

STATE LEVEL PROGRAMMES

Q43. We note that in some cases no programme authority is mentioned, in many cases the information on the amounts of the subsidy is missing, in particular for tax subsidies no total revenue loss figures are given. Please complete this information where missing.

Reply

We have provided a revised chart which includes much of the information not originally provided. We have had a particularly difficult time obtaining tax revenue loss figures. This is not unusual given the confidentiality of the information and the lack of specific databases tracking such losses.

Alabama

Trico Steel Company

Q44. Please explain this assistance programme in more detail? Who was the programme authority? What is the nature of the tax incentive and what determines the duration?

Reply

Under this programme the incentives included, free land, block grant for the site, grading excavation, tax incentives, and below- market interest bonds to finance the plant and equipment. The statutory authority is HB 438 TRICO Bill, which was passed in June 1995.

California

Employees in Economic Incentive Areas

Q45. Please give more details on this credit. What are the criteria for benefitting from this programme, conditions of repayment, amounts?

Reply

This programme was mistakenly identified as a separate programme. In fact, it is simply an aspect of the Enterprise Zone programme (see description of “hiring credit for wages paid” in the “Amount” column for Enterprise Zones). This error has been corrected in our revised state programme chart.

Delaware

Enterprise Zones

Q46. Please specify the policy objective and which form of assistance, what are the criteria of eligibility, amounts and repayment conditions.

Reply

The programme has a requirement of job creation associated with the project. The form of assistance can be tax exempt bond financing, which has a lower interest rate than conventional financing, or tax abatement, at the following levels: 75 per cent abated for 10 years for zones in municipalities, and 60 per cent abated for 10 years in unincorporated areas.

Florida

High Impact Performance Incentive Grant

Q47. Please give more details on qualification for high impact business. What are the criteria of eligibility? How is high impact business certified?

Reply

In order to participate, the company must be in a designated high-impact sector, create at least 100 new full time jobs in Florida in a three-year period and make a cumulative investment in the state of at least \$100 million in the same time frame. For research and development facilities, the requirements are lower. Seventy-five full time jobs need to be created and there should be a cumulative capital investment of at least \$75 million over a three-year period.

Idaho

Rural Community Block Grant Programme

Q48. Please specify the criteria of eligibility for the grant. What is the average grant awarded? How many companies have benefitted?

Reply

This programme requires job creation within communities that have a population of 10,000 or less. Large cities are not eligible. The project must address the needs of the residents of their jurisdiction or impact area.

The average request is for \$3 million. To date, eight companies have benefitted from this programme.

Illinois

Coal Demonstration Programme

Q49. Please specify what is mixed financing? Do the firms have to repay any amounts?

Reply

The Coal Demonstration Programme provides partial funding, while funding is also provided through the Illinois Coal and Energy Development Bond Fund. Companies do not have to repay the grants.

Rail freight Programme

Q50. Please specify in percentage of the total how much of the programme consisted of grants and how much is in loans? Were there any special conditions for the loans?

Reply

This is primarily a loan-based programme. On average the programme consists of 10 per cent grants and 90-100 per cent loans.

Each loan is negotiable with the recipient. However, the average interest rate is 3 per cent and the repayment period is between 10-20 years. Some type of collateral is required in order to receive the loan.

Indiana

Steel Dynamics

Q51. Please give more details on this assistance. How much of the amount was grants how much was other assistance? Please specify the rate of tax credit and the duration, indicate conditions of tax abatement and interest rates on bonds.

Reply

The purpose of this programme was to assist in the start-up of a \$370 million mini-mill in Butler, Indiana (November 1995). The form of subsidy is tax credits; tax abatement; bonds; and county economic development income tax revenues applied toward project. The amount of the subsidy is: DeKalb County tax incentives: \$77.84 million; DeKalb County bonds that will produce \$11.1 million for the project; DeKalb County bonds of \$5.6 million to be repaid by property taxes; DeKalb County grant from economic development income tax revenues: \$12.5 million. The total is \$107.4 million. The duration of the DeKalb County tax abatement is 10 years.

The purpose of the Spencer County programme was the construction of a \$285 million new structural mill in Whitley County (August 1998). The form of subsidy is Spencer County tax abatements. The amount of subsidy is up to \$59 million. The duration is 10 years.

Iowa

New Plate Mill Ipso

Q52. Please specify the details of the state incentive packet for this company, in particular form, rate, conditions and duration.

Reply

The incentives were provided by the State of Iowa to Ipso for the construction of a new plate mill which cost \$360 million. The incentives included a direct cash outlay by the State of \$3 million and additional tax incentives of \$70 million over a period of 20 years.

Kentucky

Coal Income Tax Credit

Q53. Please explain what is meant by “Kentucky Coal”? Does imported coal also fall under this description and if not, can you please explain how this reconciles with Art. 3.1(b) of the WTO Subsidies Agreement? Please specify the annual tax loss budgeted by the state.

Reply

For purposes of the Coal Income Tax Credit, “qualifying coal” is coal that is subject to the coal severance tax, which is levied on every taxpayer in Kentucky engaged in severing or processing coal. Specific information on budgeted tax loss is unavailable.

Maryland

Smart Growth Economic Development Infrastructure and Assistance Fund

Q54. Please specify which companies are eligible, what are the criteria? What are the amounts involved? Please provide information on loan conditions, equity investments and amount of grants.

Reply

Eligible recipients include a local (county) government and MEDCO. A qualified distressed county is defined as a county, including Baltimore City, with an approved local strategic economic development plan. The jurisdiction must also have an unemployment rate, for the most recent 18 months, of at least 150 per cent of the State's unemployment rate for the same period; and an average per capita personal income, for the most recent 24 months, at or below 67 per cent of the State's per capita personal income for the same period. The site must be located in a Priority Funding Area. The programme was created in 1999, but had a slow start. At the end of fiscal year 2001, over \$20 million was still in the fund. However, due to increased activity during the first half of fiscal year 2002, \$25.6 million was either disbursed or approved against \$25.9 million of available funds. The state legislature approved \$7.7 million for the fund for fiscal year 2003. No projects are currently under consideration. The fund will expire in 30 June 2004, unless extended.

Bethlehem Steel Corporation

Q55. Please give the exact details of this grant, whether these are one-off grants and if any further grants will be given to this project.

Reply

The purpose of this programme was to support a new \$300 million cold-rolling mill. The authority is the Economic Development Opportunities Programme and the Department of Business and Economic Development/Baltimore County. The form of the subsidy was a grant. The amount of subsidy was funded as follows: Economic Development Opportunities Programme grant: \$5.5

million; Department of Business and Economic Development/Baltimore County: \$300,000 workforce training grant; and, Baltimore County Revolving Loan Fund Grant of \$200,000. The total is \$6 million. This was a one-time grant.

Massachusetts

Seafood Revolving Loan Fund

Q56. Please give more details on the loan conditions.

Reply

These are direct loans for the expansion of offshore or shoreline seafood enterprises. The loan amounts range from \$50,000 to \$3,000,000. They are provided to manufacturers and small businesses including industrial, commercial and service firms. Funds may be used for the acquisition, renovation or construction of facilities and the purchase of machinery and equipment. Funds cannot be used for revolving lines of credit.

New York

Energy Products Centre

Q57. Please specify more details on eligibility for the programme. Please explain marketing and financial assistance. Does this consist in grants or repayable favourable loans, what are the conditions?

Reply

In order to receive a loan, persons should be a customer of one of the following utility companies: Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation, or Orange and Rockland Utilities, Inc. Customers must have identified an eligible improvement project, have the necessary documentation and a loan commitment from a participating lender.

Project funding is budgeted in advance by programme topic and specific in each "Programme Opportunity Notice". The programme money is allocated among the chosen projects. New York State lenders provide loans with an interest rate of 4.5 per cent. The average cost of a project being funded is up to \$200,000.

Ohio

Steel Development Initiative

Q58. Please specify how many companies benefitted from this initiative? What are the eligible project costs? How much in total was provided so far in loans? Please explain Infrastructure Grants. What was the exact amount granted? Conditions of the grant? How many companies benefitted?

Reply

To date, ten companies have benefitted from this programme. The programme includes: \$30 million over the next three years to assist with capital investment for expansion or restructuring projects; \$60 million tax-exempt financing of eligible pollution control equipment; \$5 million in

grants over the next three year for infrastructure improvements or key equipment acquisitions; and \$15 million in training grants to upgrade the skills of industry workers.

Infrastructure grants are allocated for public infrastructure improvements necessary to move a project forward or make key equipment acquisitions. The total amount that has been granted since 2001 is \$600,120. Conditions for receiving the grant are job creation and retention. Five companies have benefitted from this programme.

Oklahoma

Enterprise Zones, Former Military Bases and High Impact Quality Jobs

Q59. Please specify the total amounts involved? What are the conditions for grants and mixed financing. What was the biggest amount granted to one single company?

Reply

We have contacted the administering authorities of this programme and are awaiting an answer.

Tennessee

Economic Development Fund

Q60. Please give more details on the loan conditions.

Reply

To be eligible, the loan must be used for buildings, plant equipment, infrastructure, or property, based on the capital investment leveraged, the number of jobs created, power generated, and geographic diversity. The notified maximum investment refers to a single project. During 1999, five loans were made and four in 2000. No loans were dispersed in 2001.

Texas

Capital Fund Real Estate Development and Business Programme

Q61. Please specify the criteria of eligibility, conditions of grant, what are the maximum amounts to single companies?

Reply

These grants are not made directly to a company, but are federal dollars provided by HUD to municipalities for the creation of permanent jobs. A total of \$3 million, or three jumbo grants, are awarded each year. Approximately 20 smaller grants totaling \$750,000 were awarded last year. An applicant must demonstrate that jobs will be created from the project; \$25,000 is awarded for each job created. The applicant must also provide matching funds in order to be eligible.

Rural Economic Development Fund (Rural Development Finance Programme)

Q62. Please specify the conditions of loan guarantee, which areas were concerned, how many companies benefitted from the programme, what are the amounts?

Reply

Businesses must be interested in locating in Texas, or expanding their operations, adding new locations, and putting in new equipment or hiring new employees. The programme also assists rural communities interested in attracting new business or retaining existing businesses, or working to improve telecommunication infrastructure, housing or health care in the area to improve the "livability" of the community. An individual or business that may also be a prospect for the Texas Agricultural Finance Authority (TAFA) programme. Loans range from \$100,000 to \$1,000,000 and must be repaid within a maximum of 20 years. The base rate of the loans is a base rate as listed in the Wall Street Journal, plus 2 per cent. From 1999-2001, 46 companies benefitted from this programme.

Utah

Industrial Assistance Fund (IAF)

Q63. Please specify the amounts and conditions. How much of it is loans, how much grants, maximum amount for one single company?

Reply

The ranges of incentive awards that have been given by the IAF vary from company to company depending on the type of incentive being applied for, how many jobs will be created, financial history, and what the company is requesting. Typically, awards range from \$100,000 to \$1,000,000.

A company that applies to expand on the Wasatch Front would have to fall within a Targeted Market or a Corporate Expansion. The Target Markets are defined by the DBED Board, in line with the Governor's efforts. A Corporate Expansion has to have \$10,000,000 in Utah expenditure and spend \$5.7 dollars to every \$1 that is awarded. (This requirement may change in the near future.) Companies that would apply under the Rural Incentive are those that are out of the Wasatch Front and many types of companies can apply under this incentive.

Washington

Industrial Machinery and Equipment, Industrial Fuels and Raw Materials, Ships and Vessels under Construction, Prototype of Aircraft Parts

Q64. Please explain these tax exemptions in more detail, what are the amounts involved (total state tax loss)?

Reply

Industrial machinery and equipment receive tax exemptions under three laws. The total revenue foregone to the state for fiscal year 2003 is estimated to be \$9.7 million.

There is also a sale and use tax exemption. State tax foregone in fiscal year 2003 is approximately \$141 million. Please note that the estimated tax loss revenue would not be realized if the exemption was repealed because deliveries would simply be made out of the state to avoid the sales tax.

There is also a tax exemption for motor fuel used by manufacturers in R&D. There is no current fiscal impact of this programme.

Attachment

Forms of Cooperation, Eligibility, Cost-Sharing Requirements and Recoupment Issues Applicable to All Department of Energy Programmes

The following regulations and policies apply to all programmes of the Department of Energy (DOE), including the Energy Conservation – Transportation Sector programme, the Solar and Renewable Energy Resources Technologies programme, the Energy Conservation – Industry Sector programme; and the Industries of the Future programme.

Forms of Cooperation

- I. The Department of Energy (DOE) provides financial assistance through grants, cooperative agreements, laboratory cooperative research and development agreements (CRADAs) and other forms of collaboration accomplished through consortium-based activities between government laboratories and private industry. Section 3001 of the Energy Policy Act of 1992 authorizes DOE to enter into contracts, cooperative agreements, CRADAs, grants, joint ventures and any other type of agreement available to the Secretary of Energy.

Competitive and Noncompetitive Financial Assistance

- II. The Department of Energy solicits applications for financial assistance in a manner which provides for the maximum amount of competition feasible. DOE may award financial assistance on a noncompetitive basis only if the application satisfies the criteria set forth in Title 10, Code of Federal Regulations, Subpart 600.6, paragraph (c).
- III. The Assistant Secretary of Energy responsible for the programme that is awarding the financial assistance, the Deputy Administrator, or another programme official of equivalent determines whether or not a noncompetitive award is in the public interest. Noncompetitive awards of over \$1 million must be approved prior to award by the initiating programme official, and the Assistant Secretary of Energy responsible for the programme, an official of equivalent authority or a designee, a contracting officer and legal counsel. Noncompetitive awards of \$1 million or less must receive concurrence by the Head of Contracting Activity for the programme, the contracting officer, and such awards must be approved by legal counsel unless legal approval is waived.

Scope of Eligibility Requirements for Financial Assistance

- IV. Eligibility for the award of financial assistance is determined by project solicitations and DOE regulations published at Title 10 Code of Federal Regulations Subpart 600.6 and Section 600.500. These regulations and DOE Financial Assistance Letter 96-02 contain additional information concerning these eligibility requirements.
- V. The eligibility requirements set forth in the regulations and DOE Financial Assistance Letter 96-02 apply to “financial assistance”, which is defined by the Federal Grants and Cooperative Agreements Act as grants and cooperative agreements. The term financial assistance does not apply to government procurement contracts or CRADAs, which are subject to the conditions set forth in the Stevenson-Wydler Technology Act, discussed below.

Foreign Participation in Financial Assistance Programmes

- VI. Section 2306 of the Energy Policy Act of 1992 (EPACT), implemented by 10 CFR Part 600.500 and DOE Financial Assistance Letter 96-02, imposes eligibility requirements on companies seeking financial assistance under Titles XX through XXIII of the Act. These titles of the Act include the following programmes: Solar and Renewable Energy Resources Technologies; Energy Conservation – Transportation Sector; Energy Conservation – Industry Sector; and Industries of the Future.
- VII. In order for DOE to make an award to companies that apply for financial assistance under a covered programme, the Secretary must make two determinations. First, the Secretary must determine that the applicant's participation will be in the economic interest of the United States.
- VIII. If the applicant is not a United States-owned company, it must meet two additional tests:
- It must be incorporated or organized in the United States, and
 - Its parent company must be incorporated or organized in a foreign country that affords treatment to United States-owned companies that is comparable to treatment the United States affords foreign-owned companies in the following areas: access to government-supported joint ventures in energy research and development, local investment opportunities, and protection of intellectual property rights.
- IX. The Secretary of Energy has delegated the authority to make such eligibility determinations as required by Section 2306 of EPACT to the Deputy Assistant Secretary of Energy for Procurement and Assistance Management. The Deputy Assistant Secretary for Procurement and Assistance Management, by memorandum dated 11 April 1995, redelegated authority to make these eligibility determinations to the Heads of Contracting Activities in individual programme offices.
- X. When an applicant submits evidence that it is a foreign-owned company, the DOE Office of the Assistant General Counsel for Technology Transfer and the Office of the US Trade Representative are contacted for assistance in determining whether the country of the parent company satisfies the eligibility requirements. Upon approval, a copy of each determination with the applicable representations is forwarded to the DOE Office of Procurement and Assistance Management within 30 days of award.

Simpson-Craig Amendment

- XI. Organizations which are described in section 501(c)(4) of the Internal Revenue Code of 1986 and engage in lobbying activities after 31 December 1995, are not eligible for the receipt of Federal funds constituting an award, grant, or loan. Section 501(c)(4) of the Internal Revenue Code of 1986 covers:

“Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational or recreational purposes.”

Lobbying activities are defined broadly to include, among other things, contacts on behalf of an organization with specified employees of the Executive Branch and Congress with regard to Federal legislative, regulatory and programme administrative matters.

Cost-Sharing Requirements for Financial Assistance

- XII. Section 3002 of EPACT, as implemented in DOE regulations at Title 10 Code of Federal Regulations Sections 600.123 and 600.127, governs cost-sharing requirements applicable to all DOE programmes. Except as otherwise provided in EPACT, DOE must require a commitment from non-Federal sources of at least 20 per cent of the cost of the project for research and development programmes. DOE may reduce or eliminate the non-Federal requirement if DOE finds that the research and development is of a basic or fundamental nature.
- XIII. Fundamental research is defined as, “basic and applied research in science and engineering, the results of which ordinarily are published and shared broadly within the scientific community, as distinguished from proprietary research and from industrial development, design, production, and product utilization, the results of which ordinarily are restricted for proprietary or national security reasons.”
- XIV. For demonstration projects and commercial application, except as otherwise provided in EPACT, DOE must require at least 50 per cent of the costs directly and specifically related to any demonstration or commercial application project under this Act to be provided from sources outside of the federal government. DOE may reduce this requirement if DOE finds that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet programme objectives.
- XV. Section 3002 of EPACT provides that cost share may be provided as cash or as in-kind contributions (personnel, services, equipment, and other resources). Exceptions are noted below. Cost share may not be from other federal funding, including federal funding of a national laboratory through another contract vehicle.

Recoupment of Government Funding

- XVI. Currently, DOE does not have a general policy regarding the repayment of funds provided by the government to industry after an invention developed with government funding is commercialized. The primary goal of DOE research, development and demonstration programmes is not to recover or recoup the government’s investment, but rather, is to further the public purposes of such activities. The public purposes include national security, energy security, environmental quality, and US leadership in science.
- XVII. Recoupment has been required only with respect to the following DOE programmes, only if the technologies are commercialized: the Clean Coal Technology programme, the Metals Initiative programme (within the Industries of the Future programme), the Electric Vehicles Advanced Battery Development programme (within the Energy Conservation -- Transportation Sector programme), and the Advanced Light Water Reactor programme. The four programmes that require repayment cover about 60 projects.
- XVIII. DOE recoups its investment under all four programmes through royalties and fees paid under licensing agreements. A percentage of revenues from commercial sales of technologies is also applied toward repayment in three of the programmes and to a limited extent in the Advanced Battery Programme. The Metals Initiative Programme allows for the recovery of

150 per cent of the federal investment, while the other three programmes are limited to 100 per cent.

Selection of CRADA Participants

- XIX. Section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a) governs the selection of CRADA participants. Please refer to this Act and to DOE Order DOE O 483.1 and DOE M 483.1-1 for further information concerning DOE policies with respect to CRADAs. EPACT Section 2306 and cost sharing requirements do not apply to CRADAs.
- XX. Section 12 of the Stevenson-Wydler Technology Innovation Act provides that in deciding what cooperative research and development agreements to enter into, laboratory directors shall (a) give special consideration to small business firms, and consortia involving small business firms; and (b) give preference to business units located in the United States which agree that products embodying inventions made under the cooperative research and development agreement or produced through the use of such inventions will be manufactured substantially in the United States and, in the case of any industrial organization or other person subject to the control of a foreign company or government, as appropriate, take into consideration whether or not such foreign government permits United States agencies, organizations, or other persons to enter into cooperative research and development agreements and licensing agreements. Small business firms are US firms that meet statutory size criteria.
-