

State of Oregon



Department of Energy Issues the Following Business Energy Tax Credit (BETC) Opportunity Announcement – Tier Two

Date of Issuance: September 30, 2010
Date Applications Accepted: October 1, 2010
Application Due Date: October 29, 2010 at 5PM

Single Point of
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Changes were made to the opportunity announcement since the last funding period. Please read the entire opportunity announcement before submitting your application. Some changes are:

- Applicant must submit four (4) copies of the application packet
- Applicant must indicate if and how they plan to take the Federal Business Energy Investment Tax Credit, if not ODOE will assume taking as a grant
- Applicant may request a lower tax credit amount
- Estimated facility completion date by April 30, 2012 to provide ODOE adequate time to process the complete final application

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Attachments located at website:

<http://www.oregon.gov/ENERGY/CONS/BUS/tax/BETC-Renewables.shtml>

Tier Two General Application

Appendix No. 1 – For Biomass, Wind, Hydro & Geothermal Facilities

Appendix No. 2 – For Biomass Infrastructure Facilities

Appendix No. 3 – For Solar Photovoltaic Facilities

Appendix No. 4 – For Solar Thermal Facilities

Section 1: Purpose and General Information

1.1 Introduction

1.1.1 Background.

Oregon Laws, 2010, Chapter 76, Section 2 limits the amount of potential tax credits for facilities (projects) using or producing renewable energy resources or listed as renewable energy resources under ORS 469.185 to \$300 million for the biennium ending June 30, 2011. To meet these limits, ORS 469.195(2) established a tiered priority system and the criteria that the Oregon Department of Energy (Department) Director may consider in deciding whether to grant a Business Energy Tax Credit (BETC) for these facilities. The statute requires the Director to subject facilities with higher projected costs to closer scrutiny and compare facilities of similar costs against each other. Therefore, a competitive review process has been established to determine which renewable facilities will receive a BETC preliminary certificate.

1.1.2 Purpose

The purpose of this BETC opportunity announcement is to create a competitive review process that follows the requirements in ORS Chapter 469 and determines which facilities using or producing renewable energy resources will receive a BETC. The Department's goal is to allocate tax credits to those facilities that give the greatest overall value for Oregon taxpayer money.

1.1.3 Eligibility & Timing

Eligibility

The tiered priority system applies to applications for facilities that use or produce renewable energy resources, or are listed as renewable energy resources, as defined under ORS 469.185. (OAR 330-090-0350(1)).

Facilities eligible for consideration for BETC preliminary certification under this tier two opportunity announcement shall consist of applications with total projected facility cost equal to or greater than \$500,000 but less than \$6,000,000 (OAR 330-090-0350(3)(b)). This is the cost before considering federal grants or other credits.

An eligible applicant (a facility owner) must meet the following three requirements:

1. Be a trade, business or rental property owner with a business site in Oregon **or** be an Oregon non-profit organization, tribe, or public entity that partners with an Oregon business or resident;
2. Own or be the contract buyer of the facility; and
3. Use the equipment or lease it to another person or business in Oregon.

Timing

The Department must receive the Application for Preliminary Certification for facilities using or producing renewable energy resources before the owner begins physical construction. See OAR 330-090-0110(30).

If a Preliminary Certificate is issued it shall be valid for three years from the date of issuance. A tax credit recipient must receive a Final Certificate before the credit can be claimed on an Oregon tax return.

ORS 315.357 requires that applicants receive final certification before July 1, 2012 for the tax credit to be valid. ORS 469.215(4) and OAR 330-090-0133(1)(b) provide the Department 60 days to either approve or deny the final certificate upon receipt of a completed final application. Therefore, the Department is requiring that applicants submit their completed final application by April 30, 2012 to provide adequate processing time.

The applicant must also adhere to the opportunity announcement schedule provided in Section 1.2.

1.1.4 Prior Applications not Issued Preliminary Certification

Tier two applications submitted during the June-August 2010 funding period must reapply with the updated application forms and submit a \$500 initial review charge to be considered during this funding period. See OAR 330-090-0350(11). The new application must meet all the requirements provided in this opportunity announcement. Applicants that submit a new application in October 2010 will not receive priority over applications received for the first time. A first time application for a facility is one that has never applied for a BETC. All applications received during this opportunity announcement will be reviewed using criteria list in Section 4.3.

1.1.5 Tax Credit Availability

Qualifying renewable energy resource facilities completed on or after January 1, 2007 are eligible for a tax credit equal to 50 percent of eligible costs. See OAR 330-090-0105(1). Per OAR 330-090-0150 renewable energy resource facilities will be allowed up to \$20 million in maximum eligible facility costs, excluding wind facilities with an installed capacity of more than 10 megawatts. Wind facilities with an installed capacity of more than 10 megawatts are eligible for a tax credit equal to 5 percent of eligible costs, up to a maximum of \$7 million for facilities receiving preliminary certification during 2010. For all facilities, the tax credit is filed over five years: 10 percent each year. Unused credits can be carried forward up to eight years. For facilities with certified costs that exceed \$10 million, the five year tax period shall begin with the tax year immediately following the tax year during which the completed application for final certification of the facility is received by the Department.

For this BETC opportunity announcement there is a total of approximately \$10 million in tax credits available for tier two facilities using or producing renewable energy resources.

1.1.6 Pass Through Option

Facility owners may “pass-through” or transfer their tax credit eligibility to a pass-through partner in exchange for a lump-sum cash payment. The Department determines the rate that is used to calculate the cash payment. A facility must be completed and the owner must receive final certification before July 1, 2012 for the tax credit to be valid. Once a Final Certificate is issued, it can only be transferred once to a pass through partner.

1.2 Schedule

Applications received by the Department prior to the date of application acceptance will be rejected and will have to be resubmitted during the application period.

<u>Event</u>	<u>Due Date</u>
Date of Issuance	September 30, 2010
Date Applications Accepted	October 1, 2010
Written Questions Due	October 13, 2010 by 5PM
Questions & Answers Posted	October 20, 2010
Applications Due	October 29, 2010 by 5 PM
Technical Review & Scoring (approx.)	November & December 2010
BETC Preliminary Certificate Notification (approx.)	Late December 2010

1.3 Definitions

For general definitions. See OAR 330-090-0110, which are incorporated by reference herein.

1.3.1 “**Department**” means Oregon Department of Energy.

1.3.2 “**Facility**” as defined in OAR 330-090-0110(26). **Note:** It is important that applicants review this definition thoroughly. The term “Facility” is used to describe a project.

Section 2: Application Requirements

2.1 Minimum Application Requirements (Pass/Fail)

The following is a list of the minimum application requirements:

- Complete application and necessary appendix for facility type, which includes, but is not limited to, all required fields such as facility owner name, Federal Tax ID or SSN and facility location
- All necessary supplemental documents attached
- Payment via check or credit card (\$500)
- Signed Facility Owner Preliminary Statement
- Estimated completion date by April 30, 2012
- Site address located in Oregon
- Four (4) copies of the application packet

2.2 Program Priority Review (Scored)

Applicant shall provide information on the application and appendixes for the following priority categories:

- Facility requirements listed in OAR 330-090-0105 through OAR 330-090-0350
- Readiness to Start and Complete the Facility
- Cost Ratio of Power
- Payback Period
- Financial Structure
- Life Span
- Jobs and Employment
- Geographic area/Local Economic Conditions
- Strength of Business Plan
- Aligning Renewable and Conservation Activities
- Connection and Existing Infrastructure
- Combined Heat and Power or Co-Gen Systems
- Reliability of Power
- Public Body Competitive Bidding
- Percentage of Maximum Eligible Tax Credit Requested

2.3 Technical Review

The applicant shall complete the appropriate appendix and attach the appropriate documentation for the facility in which they are applying for the tax credit.

Section 3: Application Process

3.1 Authority

The Department is conducting this opportunity announcement pursuant to its authority under ORS 469.195(2) as amended by Oregon Laws, 2010, Chapter 76, Section 6.

3.2 Questions

Questions, including requests for explanations of the meaning or interpretation of provisions of this opportunity announcement, shall be submitted via e-mail, arrive by the date and time specified in Section 1.2, and be addressed to the attention of only the SPC identified on the cover page of this announcement. To help ensure questions are answered and responses are posted appropriately, please identify Tier Two in your subject line.

Answers to questions submitted will be posted every few days up to the final due date.

For questions on claiming the tax credit, contact the Oregon Department of Revenue (www.oregon.gov/DOR) or call 1-800-356-4222.

3.3 Submission of Preliminary Certification Applications

3.3.1 Submitting Application

The Department shall receive Preliminary Certification Applications no later than the closing date and time specified in Section 1.2 at the address below.

Applications and any additional materials shall be submitted on 8½" x 11" paper and stapled or clipped. Please do not submit applications in binders, dividers or other bound forms.

Applicants shall submit one (1) original application packet marked "ORIGINAL" and three (3) additional copies of the application packet including all attachments for each of the program priority reviewers.

Applications may be delivered via U.S. Mail, courier (including FedEx, DHL, UPS) or hand-delivered. Applications and any additional materials shall be provided in a sealed envelope or box and sent to the attention of:

Oregon Department of Energy
BETC Opportunity Announcement – Tier Two
625 Marion St. NE
Salem, OR 97301

Applications that are not received in a sealed envelope or box and addressed as provided above shall not be accepted. Applications that are addressed improperly will be rejected and will have to reapply during the acceptance period to be considered.

Late, faxed or electronically transmitted applications shall not be accepted.

3.3.2 Review Charge

Preliminary Certification Applications will not be reviewed and are considered incomplete unless the \$500 initial non-refundable review charge is received with the application. Payment is received with the application when a signed check made payable to "The Oregon Department of Energy" is included or the credit card block on the front page of the application is completed and signed. If the payment is unable to be processed, the review of the application will be terminated and the application will be deemed incomplete. **The \$500 initial review charge is non-refundable.**

Applications that advance to the technical review, Section 4.4, will be required to submit an additional non-refundable review charge as calculated below.

Total projected facility cost _____ x .0060 = \$ _____

Your required additional non-refundable review charge is the amount calculated above, unless your calculated amount is more than \$35,000. If your calculated additional non-refundable review charge is more than \$35,000, you are required to pay \$35,000.

3.4 Withdrawal of Preliminary Certification Application

Applicants (facility owners) may withdraw their Preliminary Certification Application by submitting a written request via U.S. Mail, courier or hand-delivered to the address listed in Section 3.3.1. The written request must contain the following:

- A clearly written statement requesting the withdrawal
- The name of the facility owner as identified on the application
- Signature of facility owner or authorized agent

The Department will not refund the \$500 initial review charge nor apply it to future review charges. Applicants will receive notification confirming their withdrawal seven working days after the application due date; see Section 1.2.

3.5 Waiver of Facility Start Date

If a facility (project) was started prior to submitting a preliminary application, an applicant must file a written request to waive the facility start date requirement. See OAR 330-090-0130(5)(a).

For the Director to approve a waiver request, certain circumstances and criteria must be met. OAR 330-090-0130(5)(b) provides that “[t]he Director may approve preliminary certification after facility start if:

- (A) The request is in accord with OAR 330-090-0120;
- (B) Special circumstances make application for preliminary certification before facility start up impracticable. Such circumstances include process delays beyond the applicant's control, facility funding and energy supplies or markets; and
- (C) The Director receives the waiver request within 90 days of facility start date. Under extraordinary circumstances the Director may extend the waiver period provided the facility serves the aims of the program.
- (D) Failing to submit an application for preliminary certification before signing contracts for the facility does not constitute special circumstances supporting a waiver.”

For the waiver to be considered, a written waiver request must be submitted with the tier two application. The program priority reviewers will serve as the waiver review committee and make the recommendation as to whether to grant or deny the waiver.

3.6 Submitting Multiple Applications

An applicant may submit separate applications for different-sized or variations of facilities (projects) in the appropriate tiers. An applicant that submits multiple applications must indicate to the Department in writing, in a cover letter to the application, that the applicant acknowledges that OAR 330-090-0120(2)(b) prevents an applicant from receiving multiple BETC applications for a single facility. Additionally, the applicant must agree that all but one of the applications will be withdrawn after the results of the program priority review are announced. The Department may select and offer a Preliminary Certificate to some or all of the multiple applications identified in the cover letter. At that time, the applicant may only choose to move forward one of the applications offered a Preliminary Certificate. The applicant may not substitute to move forward an application not offered a Preliminary Certificate.

Multiple applications received without a cover letter will be considered under OAR 330-090-0120(2)(b). OAR 330-090-0120(2)(b)(B) provides the list of criteria the Department considers when determining if multiple applications have been made for the same facility. If the Department would combine the applications, the applications should be submitted in the same application, see Section 3.7.

3.7 Submitting Multiple Location Sites

An applicant may submit one application for multiple sites. The applicant should complete a single tier two general application and attach the appropriate appendix for each site location. The costs and other data from all the appendixes will be considered together in the review process and for determining tier two eligibility.

3.8 Federal Business Energy Investment Tax Credit

In the appendix form, an applicant must indicate if and how they plan to take the Federal Business Energy Investment Tax Credit. If not indicated, the Department will apply it as a grant. When taken as a federal grant, the incentive will be deducted from the estimated costs.

3.9 Opening and Review Process

The review process is described in Section 4.

3.10 Public Information, Confidentiality

The State of Oregon's Public Records Law (ORS 192.410 et seq.) (PRL) applies to tax credit applications submitted to the Department. The law states every person has a right to inspect any public record of a public body, subject to certain exceptions.

Certain information, including trade secrets (ORS 192.501(2) and confidential submissions (ORS 192.502(4)), may be exempt from disclosure under exemptions to the PRL. Please consult your legal counsel to determine whether these or other exemptions could apply to your application.

Under certain circumstances, as set out in ORS 192.445 (1), the personal safety exemption to the PRL, the Department is authorized to withhold your address, phone number and electronic mail address. If you want to claim this exemption under the PRL, please contact the SPC on the front cover prior to sending in your application for a BETC. Please consult your legal counsel to determine whether this exemption applies to you.

The Department does not endorse any company that requests application information and does not sell this information as a mailing list.

The Department will publicly announce applications that receive Preliminary Certification as a result of this opportunity announcement. The public announcement will include, but is not limited to, the business owner's name, type of facility, location of facility and awarded tax credit.

3.11 Reservation of Department Rights

The Department reserves all rights regarding the opportunity announcement, including, without limitation, the right to:

- a. Amend, delay or cancel the opportunity announcement without liability if the Department finds it is in the best interest of the Department to do so;

- b. Not consider any or all applications received upon finding that it is in the best interest of the Department to do so;
- c. Deem incomplete any application that fails substantially to comply with all prescribed opportunity announcement procedures and requirements
- d. Allocate tax credits up to 50 percent of the eligible facility costs at its discretion.

3.12 No BETC Preliminary Certificate Obligation

The Department is not obligated as a result of the submission of an application to award a BETC preliminary certificate to an applicant.

Section 4: Review and Award

4.1 Review Process

4.1.1 Review Overview.

The Department shall conduct a review of the applications received in response to this opportunity announcement. The Department shall evaluate and score all applications on the completeness, quality, and applicability of their content in accordance with the following Sections:

- 4.2: Minimum Application Requirements Review (Pass/Fail)
- 4.3: Program Priority Review (Scored)
- 4.4: Technical Standards Review

Each Section is explained in more detail below.

4.1.2 Review Committee.

The review committee includes at least three Department staff assigned by the Director.

4.1.3 Disqualification.

Any attempt by an applicant to improperly influence a member of the review committee during the application review process shall result in application denial. All comments and questions should be addressed to the attention of only the SPC identified on the cover page of this announcement.

4.2 Minimum Requirements Review (Pass/Fail)

Two Oregon Department of Energy staff members shall review all applications on a pass/fail basis and determine if each application meets the minimum requirements described in Section 2.1 of the opportunity announcement. Applicant's failure to comply with the instructions or failure to submit a complete application may result in the application being found incomplete and rejected. Only those applications that meet the minimum requirements shall be considered for further review in Section 4.3. See the Reservation of the Department's Rights in Section 3.8.

4.3 Program Priority Review (Scored)

Each member of the Review Committee shall review and score all applications based on the criteria listed below. Each of the program priorities listed below are not weighted equally. The priorities in Group 1 carry more weight than priorities in Group 2 and Group 3. Group 2 priorities carry more weight than priorities in Group 3.

Group 1 Priorities

- Facility requirements listed in OAR 330-090-0105 through OAR 330-090-0350
- Readiness to start and complete the facility, based on number of days from the date of the program priority review to completion of the facility.
- Cost Ratio of Power, power created per tax credit dollar requested. The reviewers use a conversion chart to convert everything into KBTus for comparison.
- Payback Period, the number of years for the facility to payback the costs, less than one year is not allowed.
- Financial Structure, percent of leveraged funds. Leveraged funds are those that the facility owner will be responsible for the initial or later payment such as owner funds or loans. Non-leveraged funds are those that the facility owner will not be responsible for paying back such as tax credits, grants and utility incentives (this includes but is not limited to BETC, federal credits/grants and Energy Trust of Oregon money).

Group 2 Priorities

- Life Span in number of years, preference given to facilities with a longer life span.
- Jobs and Employment, hours of employment per tax credit dollar requested. Considers construction, operating and maintenance jobs by hours directly related to the facility (project). Operating and maintenance hours should be estimated for the first five years of the facility's operation.
- Geographic area/local economic conditions of the site location, preference to low density areas in the eastern part of the state and high unemployment rates.
- Strength of Business Plan, the reviewers are looking for understanding, depth and knowledge of all aspects of the facility relating to the application including a financial analysis of the facility (project).
- Aligning Renewable and Conservation Activities, preference to in process or complete activities that are relevant to the facility (project).

Group 3 Priorities

- Connection and Infrastructure, preference given to existing infrastructure and connection, outside the facility not within.
- Combined Heat and Power or Co-Gen System, preference given to combined heat and power or co-gen systems.
- Reliability of Power, preference given to a consistent flow of power.
- Public Body Competitive Bidding, preference given to public bodies that use a competitive bidding process (Does not apply to private entities).
- Percentage of maximum eligible tax credit requested, preference given to applicants that request less than their maximum eligible tax credit. An applicant may request less than their maximum eligible tax credit. If reduced, the lowered tax credit amount will be used when calculating other program priority scores and the applicant will receive points based on the lowered tax credit amount. The applicant shall not receive more than their requested amount. Please note that OAR 330-090-0350(3)(e) allows applicants to apply for less than the maximum eligible tax credit for their project, but this does not change the tier within which the application is reviewed.

Based on the review scores, applications will be ranked. The Review Committee will meet and make recommendations to the BETC Manager and the Energy Development Services Division Administrator.

The BETC Manager and the Energy Development Services Division Administrator will review the reviewers' recommendation and using their discretion determine which applications to recommend based on rank or program considerations. They may recommend tax credits up to 50 percent of the eligible facility costs. The Energy Development Services Division Administrator will present the recommendation to the Director.

The Director will make initial determinations of those applications to be awarded Preliminary Certification, subject to a technical review. In the initial determination, the Director may use his discretion to determine applications based on rank or program considerations. He may allocate tax credits up to 50 percent of the eligible facility costs. See OAR 330-090-0350(9)(a).

Only those applications selected in the initial determination shall be considered for further review in Section 4.4. **At this time, applicants will be required to submit their non-refundable additional review charge as described in Section 3.3.2.**

4.4 Technical Standards Review

Each application will be reviewed by a BETC technical reviewer to determine if the technical standards are met as described in OAR 330-090-0105 through OAR 330-090-0350.

The technical reviewers may request additional information and documentation from an applicant for any portion of the application. Applicants shall remain available during the evaluation period to respond to requests for additional information. Failure to provide additional information in a timely manner may result in denial of the application. A timely manner will be determined by the BETC technical reviewer and communicated to the applicant; the range of time will be 10 to 30 days.

If an application fails the technical review, the BETC Manager may choose another application from the list of ranked applications from Section 4.3. This application will be required to pay the non-refundable additional review charge as described in Section 3.3.2 to advance to the Technical Standards Review.

4.5 Offer of Preliminary Certification

After satisfying the Technical Standards Review, applications will be assigned an Energy Analyst to assist facility owners through facility completion or tax credit award. The parties will work to enhance the application and the facility to encourage success. The Energy Analyst will communicate to the facility owner the conditions surrounding the offer of Preliminary Certification. Applicants shall have 10 working days to respond in writing to the offer. Inability to agree on conditions may result in termination of the offer. See OAR 330-090-0350(9)(b). Once a Preliminary Certificate is awarded, the Department will be available to support the facility owner through Final Certification.

4.6 Notification

Once the Department has confirmed allocation of the available tax credits, the remaining applicants shall be notified of the outcome.

4.7 Amendments to the Preliminary Certificate

No amendments are allowed except in the case of equipment modifications within 10 percent of the approved specification. See OAR 330-090-0130 (7).

4.8 Final Certification

An owner should apply to the Department for Final Certification when the facility is completed and must send a letter from a certified public accountant, not employed by the facility owner, stating that he or she has reviewed the facility costs. See OAR 330-090-0130(11)(a)(B). The Department will review the final application and may issue a Final Certificate. The applicant must receive final certification before July 1, 2012 for the tax credit to be valid. The sum of all financial incentives and the tax credit may not exceed the total eligible facility costs.