

State of Oregon



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

Date of Issuance: May 27, 2010
Date Applications Accepted: June 1, 2010
Application Due Date: July 30, 2010

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Attachments located at website:

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

Renewable Energy 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 three opportunity announcement shall consist of applications with projected facility cost equal to or greater than \$6,000,000 (OAR 330-090-0350(3)(c)).

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).

ORS 315.357 requires that applicants receive final certification before July 1, 2012 for the tax credit to be valid.

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.

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

1.1.4 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 up to \$30 million in tax credits available for tier three facilities using or producing renewable energy resources.

1.1.5 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

There is no advantage to submitting your application prior to June 1, 2010. 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 | May 27, 2010 |
| Date Applications Accepted | June 1, 2010 |
| Written Questions Due | June 11, 2010 by 5 PM |
| Questions & Answers Posted | June 16, 2010 |
| Applications Due | July 30, 2010 by 5 PM |
| Technical Review & Scoring (approx.) | August 2010 |
| Third Party Review (approx.) | September & October 2010 |
| BETC Preliminary Certificate Notification (approx.) | November 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
- All necessary supplemental documents attached
- Payment via check or credit card
- Signed Facility Owner Preliminary Statement
- Estimated completion date prior to July 1, 2012
- Site address located in Oregon

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

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 Three in your subject line.

Answers to questions submitted will be posted every few days up to the final due date of June 11, 2010 at 5PM.

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 may be delivered via U.S. Mail, courier or hand-delivered. Applications shall be sent to the attention of:

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

**Applications that are not addressed as provided above shall not be accepted.
 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 Opening and Review Process

The review process is described in Section 4.

3.6 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.

3.7 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.

3.8 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
- 4.5: Third Party Review if required by the Department

Each Section is explained in more detail below.

4.1.2 Review Committee.

The review committee includes at least three Department employees 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)

The Renewable Officer and a Contract Coordinator 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. 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 3.7.

4.3 Program Priority Review (Scored)

Each member of the Review Committee shall review and score all applications based on the criteria listed below:

Group 1 Priorities

Facility requirements listed in OAR 330-090-0105 through OAR 330-090-0350

Readiness to start and complete the facility

Cost Ratio of Power, power created per tax credit dollar requested

Payback Period

Financial Structure, percent of leveraged funds

Group 2 Priorities

Life Span, preference given to facilities with a longer life span

Jobs and Employment, hours of employment per tax credit dollar requested

Geographic area/local economic conditions, preference to low density and high unemployment

Strength of Business Plan

Aligning Renewable and Conservation Activities, preference to in process or complete activities

Group 3 Priorities

Connection and Infrastructure, preference given to existing infrastructure and connection

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)

Based on the review scores, applications will be ranked. The Review Committee will meet and make recommendations to the Director based on the available tax credits.

The Director will make initial determinations of those applications to be awarded Preliminary Certification, subject to a technical review and a third party review if required, which may include a report with findings from a Department approved reviewer. The Director may allocate tax credits up to 50 percent of the eligible facility costs at his discretion.

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.

If an application fails the technical review, the Director 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 Third Party Review

The Director may require selected applications to be subject to a Third Party Review of their business plan or other technical requirements. The Department will select the Third Party Reviewer. The applicant will be responsible for all costs associated with this review, payable directly to the Third Party Reviewer. Failure to provide additional information in a timely manner may result in denial of the application.

4.6 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. Once a Preliminary Certificate is awarded, the Department will be available to support the facility owner through Final Certification.

4.7 Notification

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

4.8 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).

4.9 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 applicant must receive final certification before July 1, 2012 for the tax credit to be valid. The Department will review the final application and may issue a Final Certificate. The sum of all financial incentives and the tax credit may not exceed the total eligible facility costs.