Ohio | Development Services Agency

John R. Kasich, Governor   David Goodman, Director

Office of Energy and Redevelopment

Ohio Energy Loan Loss Reserve Program

Request for Qualifications # 1

March 21, 2014

Program Guidelines and Application Procedures

- Request For Qualifications (RFQ) Released – March 21, 2014
- Qualifications Due from Port Authorities – April 30, 2014
- Evaluation and Notice of Acceptance to Eligible Port Authorities – May 2014
- Loan Loss Reserve Agreements issued to Eligible Port Authorities – June 2014
- Eligible Port Authorities begin to Submit Qualified Energy Projects – June - December 2014
- Initial Funds Drawn into Loan Loss Reserve – June - December 2014

These guidelines have been developed pursuant to Division A, Title IV, Section 410, American Recovery and Reinvestment Act, 2009.

Submit Proposals to:
Ohio Energy Loan Loss Reserve Program
Attn: *Ohio Energy Loan Loss Reserve Program RFQ*
Office of Energy and Redevelopment
77 South High Street, 26th Floor
P.O. Box 1001
Columbus, OH 43216-1001

I. OVERVIEW

To be considered for funding for the Ohio Energy Loan Loss Reserve Program (the "LLR"), all Eligible Port Authorities, as described below, must complete a two-step application process:

1) Submit a one-page letter of intent to the following address no later than **3:00 p.m.** on **April 8, 2014**:

   Ohio Development Services Agency
   Office of Energy and Redevelopment
   Attention: Ohio Energy Loan Loss Reserve Program
   77 South High Street, 26th Floor
   P.O. Box 1001
   Columbus, OH 43216-1001

2) Submit qualifications, as described below to the Ohio Development Services Agency , Office of Energy and Redevelopment at the above address, no later than **3:00 p.m.** on **April 30, 2014**.

In accordance with the State Energy Program - American Recovery and Reinvestment Act (SEP-ARRA) federal stimulus initiative, the Ohio Development Service Agency (ODSA) is soliciting qualifications under its Ohio Energy Loan Loss Reserve Program Request for Qualifications (RFQ).

ODSA has established a Loan Loss Reserve (LLR) in accordance with U.S. Department of Energy (DOE) State Energy Program (SEP) Program Notice 10-008B, which states the following:

> *SEP funds may be used for a loan loss reserve to support loans made with private and public funds and to support a sale of loans made by a grantee or third-party lenders into a secondary market, subject to the following conditions. In order to ensure that a use of SEP funds to leverage additional public and private sector funds furthers the stated purposes of SEP, the activities supported by the leveraged funds are limited to those activities for the purchase and installation of energy efficiency and renewable energy measures consistent with the SEP regulations.*

<u>Available Loan Loss Reserve Amount</u>: On September 27, 2013 a master escrow agreement was executed and $17,923,900 was deposited into the Master LLR Escrow with the Toledo-Lucas County Port Authority serving as the Master LLR Escrow Agent or LLR Escrow Port Authority.

Objectives: The LLR is intended to provide credit support to Eligible Port Authorities as they originate loans within the State of Ohio for the financing of Energy Projects, as described below, consistent with all applicable requirements of SEP-ARRA. The program's main objective is to create local direct Energy Loan Programs to reach small and medium size applicants throughout the state that may otherwise not be able to participate in the existing Energy Loan Fund administered by the Office of Energy and Redevelopment. Eligible Port Authorities will develop programs targeting loan sizes of $1,000,000 or less; creating a minimum of $2 to $1 leverage of additional funds for energy efficiency projects provided by the Eligible Port Authority; providing competitive interest rates to potential borrowers; utilizing best practice energy administrative infrastructures and procedures currently being implemented by Ohio Port Authorities across the state; **and making financing available to all qualified applicants in Ohio regardless of geographic location.**

II. DEFINITIONS

1) "Additional Reserve" refers to a LLR to be held in a segregated account by an escrow agent or trustee of an Eligible Port Authority funded through draws on the Master Escrow LLR account. This Additional Reserve will be pledged to one or multiple Port Authority energy loans funded with Common Bond Fund proceeds or other acceptable financing mechanism.

2) "Bonds" means bonds, notes, or other forms of evidences of obligation issued in temporary or definitive form, including notes issued in anticipation of the issuance of bonds and renewal notes.

3) "Common Bond Fund" is a credit-enhancement vehicle based on a system of program reserves established in special funds of the Port Authority and deposited with a qualified corporate trustee. All security including (a) program reserves, (b) additional reserves funded in connection with each series of revenue bonds issued to finance costs of approved projects, (c) the loan repayments pledged from the portfolio of loans that are made from those proceeds, and (d) the collateral associated with each such loan, are pledged under the applicable trust agreement to support the revenue bonds issued for those projects.

4) "Eligible Loan" refers to a loan that is eligible to be supported by Additional Reserves provided by the Ohio Loan Loss Reserve Program pursuant to all requirements of SEP-ARRA and ODSA guidelines.

5) "Eligible Port Authority" which receives designation from ODSA, is an Ohio Port Authority which has an active Common Bond Fund Program or other acceptable financing mechanism and has the ability to issue financing to fund future qualified Energy Projects.

6) "Eligible Project" refers to an Energy Project that consists of eligible activities pursuant to all requirements of SEP-ARRA and ODSA guidelines.

7) "Energy Project" refers to a project that demonstrates a reduction in energy usage and associated costs, avoidance of fossil fuel emissions and the creation or retention of jobs. Eligible costs for Energy Projects are limited to:
   a. Project engineering;
   b. Equipment Costs;
   c. Installation Costs; and
   d. At ODSA's discretion, other expenses may be deemed necessary for the project that are not elsewhere identified as an eligible cost.

8) "Master Escrow Port Authority" refers to the Toledo-Lucas County Port Authority.

9) "Initial Term" refers to the two year, lifetime period of the Master LLR Escrow, established on September 27, 2013 and maturing on September 30, 2015.

10) "Master LLR Escrow" refers to the escrow agreement executed with the Toledo-Lucas County Port Authority on September 27, 2013.

11) "Port Authority" means a body corporate and politic created pursuant to the authority of section 4582.02 of the Revised Code.

12) "SEP-ARRA" refers to the State Energy Program funds appropriated under the authority of the American Recovery & Reinvestment Act of 2009.

III. APPLICATION PROCESS

Submit qualifications as specified in section IV below via email to: EnergyRFP@development.ohio.gov.

***Qualifications must be received by the Ohio Development Services Agency, Office of Energy and Redevelopment, no later than* April 30, 2014**, ***at 3:00 p.m. Eastern Time.* Late submittals will not be considered**.

All costs of preparing and submitting proposals in response to this RFQ are solely the responsibility of the applicant. ODSA shall not contribute, in any way, to the cost of the preparation and delivery of the qualifications.

Applicants are advised there will be no opportunity to correct mistakes or deficiencies in their qualifications after the submission deadline. Further, incomplete submissions will not be considered. It is the applicant's responsibility to ensure timely submission of a complete qualification. ODSA is under no obligation to consider a qualification which is received after the deadline or that is incomplete. No supplementary or revised materials will be considered after the scheduled date for submission unless specifically requested by ODSA.

All information submitted in response to this RFQ shall be public information unless a statutory exception exists which would exclude the information from being released to the public. Any information submitted with the qualification, which the applicant feels is a trade secret as that term is defined in ORC § 1331.61 must be conspicuously designated as such and shall be treated accordingly if the information is determined to be a trade secret under the laws of the State of Ohio. It is the applicant's sole duty to identify and mark such passages it deems trade secrets. All proposals submitted will become the property of ODSA and any information submitted in response to this RFQ will not be returned to the applicant.

ODSA reserves the right to:

- Accept or reject any and all submissions if the State of Ohio determines that it is in its best interest to do so;
- Reissue the RFQ requesting new qualifications from qualified parties;
- Waive or modify minor irregularities in submissions received;
- Negotiate with applicants, within the requirements of the RFQ, to best serve the interests of the State of Ohio;
- Require the submission of modifications or additions to qualifications as a condition of further participation in the selection process; and
- Adjust the dates for whatever reason it deems appropriate.

If, during the review process, ODSA determines that it is necessary to make further distinctions between certain applicants, it may request certain selected applicants to make a presentation to certain staff and reviewers.

IV. Information to be Submitted for Request for Qualifications

Upon designation from ODSA, eligible Port Authorities will have access to funds residing in the Master Escrow LLR. These funds are available for the creation and funding of an Additional Reserve to be used to support bonds issued within an Eligible Port Authority's Common Bond Fund or other acceptable financing mechanism as they originate loans within the State of Ohio for the financing of Energy Projects, consistent with any applicable requirements of SEP-ARRA. Ohio Port Authorities that wish to become an Eligible Port Authority must submit a response to this request for qualifications to the Office of Energy and Redevelopment that demonstrates the following:

1) The Port Authority has an established Common Bond Fund program in place and the ability to issue Common Bonds in order to create a direct loan program for Energy Projects; or the Port Authority has another acceptable mechanism for financing energy projects. Each Port Authority should include:

    a. A description of the history and background of the Port Authority and the Port Authority Common Bond Fund or other acceptable financing mechanism.
    b. A list of bonds or loans issued by the Port Authority, to date, in its Common Bond Fund or other acceptable financing mechanism, including dates, terms and loan amounts.
    c. Guidelines and underwriting criteria used for the Port Authority's Bond Fund program or other acceptable financing mechanism.
    d. Guidelines and underwriting criteria that will be used for the Port Authority's proposed or existing energy program.

2) The Port Authority has the ability to dedicate staff to implement an Energy Loan Program. This includes performing financial due diligence, reviewing projects for technical merit, and performing project management and implementation. Each Port Authority should include:
    a. A list of all staff or a related entity, if known, to be employed for implementation of the Energy Loan Program, their job qualifications, and their experience with Energy Projects and Common Bond Fund or other financing programs.
    b. Implementation procedures describing the Energy Project application intake, review, evaluation, funding, and reporting.

3) Submit a budget that depicts administrative costs necessary to implement the program over a two year period. Each Port Authority should include:
    a. An annual budget for a two year period depicting personnel costs, direct expenses and administrative costs.
    b. A description outlining sources of funding, excluding any sources that may be provided by ODSA.

4) Submit a marketing plan for the Port Authority's proposed or existing energy efficiency program. The marketing plan should include the following:
    a. A timeline for implementation of the program.
    b. A plan to reach potential borrowers outside the Port Authority's territory.

5) Submit all required documentation found in Appendix A: Required Documentation for Energy Loan Applicants.

V. Requirements for funding Additional Reserves

Additional Reserves will be funded from the Master LLR Escrow on a project-by-project basis in an amount up to 50% of the principal amount of an Eligible Loan, provided that each Eligible Port Authority shall be eligible to draw a maximum amount of $3,600,000 from the Master LLR Escrow during the Initial Term. ODSA will designate Eligible Port Authorities and they will be able to draw up to 50% of each individual Eligible Project amount up to $500,000 per project and place funds into the Additional Reserve held by the Common Bond Fund Trustee or escrow agent. This amount can be increased at the discretion of the Director. The Eligible Port Authority must submit the following to ODSA in order to request a draw for the Master LLR Escrow:

1) The amount of the Additional Reserve being requested. Eligible Loan(s) must equal two times the amount of the draw request for the Additional Reserve.

2) Evidence that a Common Bond Fund bond issue or other acceptable funding mechanism is being prepared including the anticipated issue date and total bond amount. In addition, provide a list of each borrower, if there are multiple borrowers, the Energy Loan amount, term and any special features of the loan, if applicable. Note: the bond issue and the Energy Loan amount may be an equal amount.

2) Evidence that all Energy Projects have been identified as Eligible Loans including verification that:
    a. Projects consist of eligible activities pursuant to all requirements of SEP-ARRA and ODSA guidelines.
    b. Projects demonstrate a reduction in energy usage and associated costs, avoidance of fossil fuel emissions, and the creation or retention of jobs.

3) Provide a financial due diligence report on each Borrower as well as a draft of the Loan Agreement(s) to be executed by the Eligible Port Authority for Eligible Loan(s).

4) Provide a signed certificate stating all funded projects will comply with ODSA guidelines and meet all conditions to qualify for financing.
    a. Per DOE guidance, SEP Program Notice 10-008B, ODSA:

       Shall have the right to review and monitor loans provided by third party lenders to ensure that loans are being made for the "purchase and installation of energy efficiency and renewable energy measures" and comply with all conditions of ARRA funds (e.g., Davis-Bacon, Buy American and NEPA) where applicable.

5) Provide a signed certificate ensuring that all SEP-ARRA funds requested to capitalize the Additional Reserve will retain their federal character for the entire period the funds are used for such purpose and comply with all requirements therein.
    a. If and when the Additional Reserve is no longer active, all federal funds (including principal, program income, and interest income) must be returned to ODSA.

6) Provide a signed certificate stating that no Eligible Loan for an Energy Project will be rejected due to geography.
    a. Eligible Port Authorities are required to accept applications from all

potential borrowers.

b. Eligible Port Authorities shall report to the Office of Energy and Redevelopment all application activity and indicate a reason for application denial. (See section IX. Reporting)

Other Conditions of the Loan Loss Reserve program:

7) All investments of funds in the Additional Reserve will be directed by the Eligible Port Authority. Eligible investments will be provided.

8) All investment earnings will remain in the Additional Reserve and must be used for SEP-ARRA eligible purposes. Interest Income from the Additional Reserves may be used by Eligible Port Authorities to pay for administrative costs associated with implementing the Energy Loan Program upon approval of the Director.

9) Funds deposited into Additional Reserves from the Master LLR Escrow must retain their federal character for the entire life of the Additional Reserve and the funds must be used for such purpose and be in compliance with all regulations of SEP-ARRA.

10) The requirements of the Additional Reserve will remain with the Eligible Port Authority until the Additional Reserve is no longer pledged to support Energy Loans originated by the Eligible Port Authority.

11) The initial draw of the Additional Reserve funds must be made by December 31, 2014.
    a. One extension to this deadline may be given by the Office of Energy and Redevelopment if requested in writing by an Eligible Port Authority.

12) ODSA is not required to replenish or replace any funds which were lost to loan default.

13) Eligible Port Authorities shall continue to issue financing for Energy Projects with the support of Additional Reserves throughout the duration of the Loan Loss Reserve Program. New loans supported by the Additional Reserves must be submitted to the Office of Energy and Redevelopment for pre-approval. The Office of Energy and Redevelopment will periodically review the balance of the Additional Reserves and uncommitted funds may be drawn back at the Director's discretion.

VI. Requirements for Eligible Loans

1) Eligible Port Authorities can issue loans for Eligible Projects backed by the Additional Reserve.
    a. All loans backed by the Additional Reserve must be pre-approved by ODSA.
    b. Energy Projects greater than $1,000,000 must undergo a full technical and financial review by ODSA and approval is subject to the Director's discretion.

2) Applicants must be a qualified manufacturer as defined by North American Industry Classification System (NAICS) code, a Public Entity, or a small business with annual revenues of less than $25 million. Other entities can be considered based on the merit of the project and availability of funding.

3) The maximum term of an Eligible Loan is 180 months.

4) Energy Projects should demonstrate a minimum energy savings of 15% and a simple-payback of 15 years or less.

VII. Specific activities eligible under this loan program include:

1) Retrofits of existing buildings or facilities with energy efficient or demand reduction equipment and practices may include:
    a. Insulation and weather sealing;
    b. Light emitting diodes (LED) lighting;
    c. Heating, ventilating and air conditioning (HVAC) upgrades;
    d. Purchase and installation of ENERGY STAR products;
    e. Replacement of windows and doors;
    f. Automated or remote control systems;
    g. Repairing or replacing motors; steam traps and related components, and systems in industrial operations; and
    h. Replacement of inefficient process equipment with higher efficiency equipment.
2) Purchase and installation of project equipment to increase the energy efficiency of Ohio's manufacturers, businesses and public entities.

3) Implementation of process changes or improvements that can show a reduction of energy use.

4) Distributed energy generation that significantly increases the energy efficiency at the project's facility.

Prohibitions (Ineligible Uses of Funds): The funds for this RFQ are from SEP-ARRA. States are prohibited by DOE from using SEP-ARRA grant funds:

- For construction, such as construction of mass transit systems and exclusive bus lanes, or for the construction, additions, or repair of buildings, or structures;
- To purchase land, a building or structure or any interest therein;
- To subsidize fares for public transportation;
- To subsidize utility rate demonstrations or state tax credits for energy conservation or renewable energy measures;
- To conduct or purchase equipment to conduct research, development or demonstration of energy efficiency or renewable energy techniques and technologies not commercially available; or
- For gambling establishments, aquariums, zoos, golf courses, or swimming pools.

VIII. Requirements for use of SEP-ARRA funds

ODSA has developed the Ohio Energy Loan Loss Reserve Program in accordance with the State Energy Program - American Recovery and Reinvestment Act (SEP-ARRA) federal stimulus initiative. The funds available in the Master LLR Escrow retain their federal character in perpetuity. In accordance with SEP-ARRA flow down provisions, all projects supported in whole or in part with Additional Reserves from this program must meet all applicable regulations of SEP-ARRA.

Federal Prevailing Wage Determinations - Davis-Bacon Act: Any Eligible Loan for an Energy Project backed by the Master LLR Escrow or an Additional Escrow will be subject to the provisions of the Davis-Bacon Act. The Davis-Bacon Act of 1931 is the federal law which requires the payment of geographic prevailing wages on public works projects. Additional information about complying with the Davis-Bacon Act can be obtained at: http://www.dol.gov/whd/programs/dbra/faqs.htm. Energy Projects that are directly funded through privately leveraged funds are not required to use the prevailing wage, and are not subject to the reporting requirements of the Davis-Bacon Act.

Buy America: To meet the requirements of the American Recovery and Reinvestment Act (ARRA), ODSA requires that all grantees adhere to the requirements of the "Buy America" provisions.

Other Federal Requirements: Unless a categorical exclusion applies, each Energy Project shall be submitted for review under the National Environmental Policy Act of 1969 (NEPA), and comply with Section 106 of the National Historic Preservation Act of 1966 and implement regulations prior to receiving any loan funds.

IX. REPORTING

1) Reporting from the borrower to the Eligible Port Authority – The SEP-ARRA funds impose certain reporting requirements. Eligible Port Authorities must obtain the information necessary and sufficient for ODSA to comply with such reporting requirements. ODSA will verify that Eligible Port Authorities have a process in

place for this reporting to occur during the Energy Project and will request the supporting documentation upon project completion. Eligible Port Authorities will be responsible for collecting:

Davis-Bacon Weekly Payrolls – The Borrower shall submit weekly for each week in which any Contract work is performed a copy of all payrolls to the Eligible Port Authority. Each payroll submitted shall be accompanied by a "Statement of Compliance," with an original signature from the Contractor or Subcontractor or his or her agent.

Monthly Progress & Financial Reports – Eligible Port Authorities shall collect monthly progress reports during the project construction period covering the goals accomplished, Energy Project expenditures, milestones met and any performance deficiencies or delays.

Report on Economic Impacts – Eligible Port Authorities shall document economic impacts for Ohio occurring as a result of the installation of the project equipment or measures, which include increased production, competitiveness, community impact, and job creation and retention. Evidence of job creation and retention can be separated into three areas: installation hours, new jobs directly created through the project(s), and retained jobs at the site.

a. "Installation Hours" – labor hours required for the construction and installation of equipment for completion of the Energy Project
b. "New Jobs" – represent new, full time equivalents (based on 2,080 installation hours per year) directly related to the Energy Project
c. "Retained Jobs" – represent existing, full time equivalent positions, directly related to the Energy Project that will be maintained due to its completion.

2) Reporting from the Eligible Port Authority to ODSA:

Quarterly Reports – Eligible Port Authorities shall report to ODSA about the performance of the Energy Projects and status of loans. Information must include:

a. Current Balances in Additional Reserve account;
b. Repaid loan principal, interest paid and other program income;
c. Additional Reserve funds paid to cover Port defaulted loans;
d. Details on loan portfolio to include;
    i. Individual loan amount and terms;
    ii. Repayment status;
e. Details on application activity to include:
    i. Location of applicant
    ii. Date of application
    iii. Loan amount requested

iv. Status of application
v. Reason for application denial if applicable

f. Verification of SEP-ARRA compliance reporting from borrowers, noting any deficiencies;
g. Quarterly energy consumption for completed Energy Projects; and
h. Other, as requested.

Project Completion Report – Eligible Port Authorities shall notify ODSA in writing when Energy Projects have been completed and shall submit the following:

a. Documentation collected to verify Davis-Bacon compliance;
b. Documentation collected to verify Buy-American compliance (if applicable);
c. Documentation that reflects the Recipient's closeout inventory of real and personal property that was provided by the Department of Energy (DOE) or partially or wholly acquired with project funds; and
d. Statement of economic impact for the completed project including job creation and retention data.

Annual Report – Eligible Port Authorities shall report to ODSA annually program-to-date cumulative values for the metrics contained in the quarterly report.

3) Additional Information – ODSA reserves the right to require any other documentation that may report Eligible Port Authorities activities related to the project to satisfy any federal or state requirements. Eligible Port Authorities shall respond within a reasonable time to any such supplemental request.

X. CHANGES TO THESE GUIDELINES

ODSA reserves the right to adjust the dates listed above for whatever reasons it deems appropriate without prior notice. ODSA also reserves the right to request additional information to assist in the review process and/or to reject any and all qualifications.

XI. MBE, EDGE, AND DISADVANTAGED BUSINESS ENTERPRISE BUSINESSES AND MINORITY WORKER INCLUSION PLAN

The State of Ohio is committed to the promotion of Minority Business Enterprise (MBE)/Encouraging Diversity, Growth & Equity (EDGE) in the State's purchasing program. Responders to this RFQ are strongly encouraged to prepare and provide the Office of Energy and Redevelopment with an MBE, EDGE or Disadvantage Business Enterprise Business Inclusion Plan on how it plans to provide contract opportunities to certified MBE/EDGE businesses and/or certified Disadvantage Business Enterprise contractors as part of its outreach and inclusion efforts and how it plans to recruit and provide jobs to minority workers. A listing of certified businesses, as well as the services and commodities they provide, is available from the Department of Administration. This listing and more information is available at http://das.ohio.gov/Divisions/EqualOpportunity/MBEEDGECertification/tabid/134/Default.aspx.