

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

Meeting Date: December 15, 2015

***Request to Set-Aside \$23 Million of the 2016 Annual \$100 Million Cap for Projects Eligible
Under Assembly Bill 199***

Prepared By: *James Shimp, Analyst*

Summary. As of November 16, 2015, the California Alternative Energy and Advanced Transportation Financing Authority (“CAEATFA” or the “Authority”) received requests for sales and use tax exclusion (“STE”) awards that would potentially oversubscribe the program’s \$100 million annual cap in both 2015 and 2016.¹ At the same time, staff was tasked with incorporating Assembly Bill 199 (Chapter 768 of Statutes of 2015) into the STE program, which would expand eligible projects to include manufacturers that process or utilize recycled feedstock. Staff anticipated that without a set-aside for these new applicants, 2016 award funds would be granted within the first quarter of 2016, preventing CAEATFA from providing financial assistance to projects eligible under AB 199 in the upcoming calendar year. At the November 17, 2015 Board meeting staff recommended that the Board initially set-aside no less than \$15 million of the 2016 Award Cap for projects eligible under AB 199, which was approved by the Governor as an urgency statute. The recommendation was adopted and the Board requested Staff to conduct additional research and outreach to stakeholders to determine whether a \$15 million set-aside would be sufficient to meet industry demand. To this end, staff initiated a Request for Information (“RFI”), and solicited addition information from the recycling industry. As a result of the RFI, staff is recommending the following:

- (1) That the initial set-aside for applications eligible under AB 199 be raised from \$15 million to \$23 million under the 2016 annual \$100 million cap; and
- (2) subsequent to modifications to the Program Regulations, the CAEATFA Board limit its consideration of new Application to projects eligible under AB 199 for a two month period, after which time it shall resume considering all eligible projects under the Program.

Background. On October 11, 2015, Governor Brown signed AB 199 into law (Chapter 768 of Statutes of 2015) as an urgency statute, which takes effect immediately upon enactment. AB 199 expands the STE program to include manufacturers that process or utilize recycled feedstock. However, before regulations could be drafted for this new pathway to eligibility CAEATFA received applications representing enough STE to potentially oversubscribe the program’s \$100 million annual cap in 2015 and 2016. By November 16, 2015 the Authority had received requests for a total of \$222 million of STE from alternative source, advanced transportation, and advanced manufacturing applicants. To appropriately handle the unprecedented Program oversubscription, staff brought the following recommendations before the Board on November 17, 2015:

¹ The term “awards” refers to the value of sales and use tax exclusion granted by the Authority Board.

- (1) Current applications received to date that exceed the 2015 award cap be considered at the January 2016 Board meeting, or at the earliest meeting for which they are prepared;
- (2) the Board suspend acceptance of any new applications immediately until regulations to evaluate projects eligible under AB 199 are approved by the Office of Administrative Law;²
- (3) the Board suspend consideration of applications, beyond those set forth on *Table 2*, until regulations to evaluate projects eligible under AB 199 are approved by the Office of Administrative Law;^{3,4} and
- (4) the Board initially set-aside any remaining funds, not less than \$15 million, under the 2016 annual \$100 million cap for projects eligible under AB 199.

Staff advised the Board that these recommendations would allow the Authority to evaluate and improve its process for handling oversubscriptions through a regulatory process, and provide access to financial assistance to projects eligible under AB 199 in 2016. The recommendations were unanimously approved, and the Board asked staff to do additional research to determine whether a \$15 million set-aside would be sufficient to accommodate demand from projects eligible under AB 199.

Request for Information. On November 23, 2015 staff sent out a RFI on the email service lists for CAEATFA, CalRecycle, and Californians Against Waste (“CAW”), an industry trade organization, regarding projects that are potentially eligible under AB 199 (Attachment A). Respondents were asked to provide a description of how they would meet the statutory definition of a project that “processes or utilizes recycled feedstock,” in addition to details about anticipated purchase amounts and timeframes. Respondents were also given an opportunity to provide any other comments they felt were relevant to the implementation of AB 199.

As of the deadline, December 2, 2015, twelve companies have responded to the RFI. According to these responses, projected Qualified Property purchase amounts are anticipated to range between \$3 million and \$120 million, with an average spend of \$23 million and a total spend for all respondents of \$276.9 million. Estimated STE amounts range from \$253k to \$10.1 million, with an average STE of \$1.9 million and a total STE for all respondents of \$22.9 million.⁵ Some respondents have already begun purchasing equipment, though most plan to begin purchasing in 2016, with additional acquisitions being made over the next four years.

Staff recognizes that the timeframe for responding to the RFI was short, due to the process necessary to bring an updated recommendation at the December Authority meeting. Accordingly, the RFI may not be fully representative of projects that are potentially eligible under AB 199. A more thorough and robust stakeholder and industry outreach process will

² As authorized under the Sales and Use Tax Exclusion Program, California Code of Regulations, Title 4, Division 13, Section 10032(a)(7).

³ The table provided in the November 17, 2015 staff report has since been changed to reflect the approval of Space Systems/Loral, the voluntary rescinding of Mission Rubber’s application, and Atieva and NuvoSun’s shift from the December 2015 meeting to the January 2016 meeting.

⁴ As authorized under the Sales and Use Tax Exclusion Program, California Code of Regulations, Title 4, Division 13, Section 10032(a)(3)

⁵ Based on an average statewide sales and use tax rate of 8.42%.

continue to be undertaken during the regulatory development. As Staff learns more about the industry and potential pipeline, and the Authority considers any new information it may lift or extend the set-aside as necessary.

Table 1: RFI Respondents			
Respondent Name	Feedstock	Qualified Property (\$)	Estimated STE (\$)
CRM	Tires	7,000,000	589,000
Shark Glass Recycling North America	Laminated Glass	3,000,000	253,000
Roplast Industries	Post-Consumer Resin	4,000,000	337,000
OnSite Waste Solutions	Food Waste	5,000,000	421,000
Command Packaging	Agricultural Plastic	16,000,000	1,400,000
Aemerge RedPak Services Southern California	Medical Waste	19,300,000	1,300,000
Verdeco Recycling	Post-Consumer PET (polyethylene terephthalate)	12,700,000	1,000,000
Tri-City Economic Development Corporation dba Tri-CED Community Recycling	Mixed Recyclables	7,000,000	589,000
Schnitzer Steel	Scrap Metal	20,000,000	1,684,000
Metropolitan Recycling	Mixed Recyclables	1,400,000	118,000
Biodico	Cooking Oil and Agricultural Waste	120,000,000	10,100,000
Burrtech Waste Industries	Mixed Recyclables	61,500,000	5,178,300
	Totals	276,900,000	22,920,300

Set Aside for Projects Eligible Under AB 199. Per the resolution adopted at the November 17, 2015 Board meeting, the Authority has suspended acceptance of any new applications and will not consider any applications beyond those listed in *Table 2*. As of December 1, 2015 the Authority has twelve remaining applications, totaling \$2.6 billion in qualified property and \$221 million in STE. Under the existing procedures, the applications listed in *Table 2* must be considered in the order in which they are listed, as long as they are complete and applicants provide timely responses to enable staff to complete its analysis.

Pursuant to the Board’s approval of the approach recommended at the November 2015 Authority Meeting, Staff is currently recommending three projects that will fully exhaust the 2015 Award Cap, and allocate \$17.6 million of the 2016 cap. If these actions are adopted at the December Board meeting, the remaining available awards at the beginning of 2016 would be \$82.4 million. The remaining applications on *Table 2* that did not receive awards in the 2015 calendar year will be heard at the earliest CAEATFA Board meeting in 2016 for which they are prepared, as long as approval of an application does not reduce the available 2016 funds to less than that amount deemed necessary by the Board as a set-aside for AB 199 applicants (currently no less than \$15 million).

Given project sizes represented in the RFI responses, the \$15 million set-aside approved at the November 17, 2015 Board meeting may be insufficient to accommodate the needs of prospective AB 199 applicants. The future regulations would specify which types of projects are eligible and

how environmental and fiscal benefits will be calculated for the various types of projects. The fact that a potential applicant has responded to the RFI does not guarantee they would qualify under AB 199 or pass the net benefits test in the application process. Staff will continue to accept stakeholder input to identify likely projects and determine the fiscal and environmental benefits thereof.

Staff recommends increasing the set-aside from \$15 million to \$23 million. Doing so would preserve sufficient awards under the 2016 \$100 million cap for the prospective AB 199 applicants that responded to the RFI, while still allowing the Authority to provide assistance to all of the current non-AB 199 applications that would otherwise be eligible under the 2016 cap. Under this arrangement the Authority would be able to consider projects in *Table 2* up to and including Escondido Bioenergy without exceeding the \$23 million set-aside amount.

Table 2: Remaining STE Based on Applications to be Considered in 2015 and 2016⁶							
	Applicant Name⁷	Month Eligible	Month Proposed	Type of Project	Qualified Property (\$)	Estimated STE (\$)	Remaining STE (\$)⁸
Currently Eligible for Awards under the 2015 \$100 MM Cap							
1	ABEC #2	Dec. 2015	Dec. 2015	Alternative Source	5,990,614	504,409	21,772,613
2	Millenium Space	Dec. 2015	Dec. 2015	Advanced Manufacturing - Aerospace	4,284,672	360,769	21,411,843
3	Tesla	Dec. 2015	Dec. 2015	Advanced Transportation	463,625,000	39,037,225	(17,625,382) ⁹
Eligible for Awards under the 2016 \$100 MM Program Cap							
							82,374,618 ¹⁰
4	Atieva	Dec. 2015	Jan. 2016	Advanced Transportation	530,750,000	44,689,150	37,685,468 ¹¹
5	NuvoSun	Dec. 2015	Jan. 2016	Alternative Source	22,500,000	1,894,500	35,790,968
6	Gill Aerospace	Dec. 2015	Jan. 2016	Advanced Manufacturing - Aerospace	8,472,000	713,342	35,077,626
7	Kite Pharmaceuticals	Dec. 2015	Jan. 2016	Advanced Manufacturing - Pharmaceuticals	13,763,050	1,158,849	33,918,777
8	California Safe Soil	Jan. 2016	Jan. 2016	Advanced Manufacturing - Fertilizer	3,750,000	315,750	33,603,027
9	rPlanet Earth Los Angeles	Jan. 2016	Jan. 2016	Advanced Manufacturing - Recycled Plastic	119,800,000	10,087,160	23,515,867

⁶ The order of these projects is subject to change, applications are still under review for completeness and eligibility, the priority order of these applications are subject to change.

⁷ Applicants are listed in the order by which they would be considered by the Authority Board.

⁸ The remaining STE column shows the amount of exclusion available for a calendar year after a proposed project is approved.

⁹ Tesla would receive awards from the 2015 and 2016 award funds.

¹⁰ Awards remaining at the beginning of 2016 if Tesla is approved in December using awards from 2015 and 2016.

¹¹ Atieva requested that its application be considered at the January 19, 2016 Authority meeting.

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10	Escondido Bioenergy	Jan. 2016	Jan. 2016	Alternative Source	1,900,000	159,980	23,355,887
11	Tesla	Jan. 2016	Jan. 2016	Advanced Transportation	1,259,345,000	106,036,849	(82,680,961)
12	Gilead Sciences, Inc.	Jan. 2016	Jan. 2016	Advanced Manufacturing - Pharmaceuticals	187,645,674	15,799,766	(98,480,727)
Total					\$2,621,076,010	\$220,757,749	

Tentative Timeline. All of the dates below are tentative and subject to change. In addition, as Staff learns more about the industry and potential pipeline, and the Authority considers any new information it may lift or extend the set-aside at an earlier date.

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|-----------------|---|
| March 15, 2016 | CAEATFA Board considers and approves proposed modified regulations incorporating AB 199. |
| April 22, 2016 | First deadline for AB 199 applications to be submitted. |
| June 21, 2016 | First Board meeting at which AB 199 applications may be considered. Board also considers resuming acceptance of all applications. |
| July 19, 2016 | Second meeting at which only AB 199 applications may be considered. |
| August 16, 2016 | Meeting at which the Board resumes consideration of all project types. |

Staff Recommendation.

Staff recommends Board approval of the following:

- (1) That the initial set-aside for applications eligible under AB 199 be raised from \$15 million to \$23 million under the 2016 annual \$100 million cap; and
- (2) the Authority resume accepting all applications at the first Authority meeting in which AB 199 applications shall be considered.

These actions will allow staff to provide financial assistance to projects eligible under AB 199 while minimizing the impact on existing non-AB 199 applicants.

**RESOLUTION OF THE CALIFORNIA ALTERNATIVE ENERGY AND ADVANCED
TRANSPORTATION FINANCING AUTHORITY INCREASING THE SET-ASIDE FOR
APPLICATIONS UNDER ASSEMBLY BILL 199**

December 15, 2015

WHEREAS, the California Alternative Energy and Advanced Transportation Financing Authority (“Authority”) has received requests for Sales and Use Tax Exclusion (“STE”) awards that exceed the \$100 million cap for the 2016 calendar year;

WHEREAS, the Authority approved a resolution at the November 17, 2015 meeting to stop accepting new applications as authorized by the California Code of Regulations, Title 4, Division 13, Section 10032(a)(7) and set-aside any remaining 2016 sales and use tax exclusion awards, not less than \$15 million, for projects eligible under AB 199;

WHEREAS, the Authority requested additional research to determine whether the initial \$15 million set-aside would be sufficient to meet the demands of potential AB 199 applications; and

WHEREAS, the results of a request for information show that potential applications under AB 199 may exceed the initial \$15 million set-aside.

Section 1. The Authority shall increase the initial set-aside for applications eligible under AB 199 from \$15 million to \$23 million under the 2016 annual \$100 million cap.

Section 2. The Authority shall resume accepting and considering all new applications at the first Authority meeting in which AB 199 applications shall be considered.

Section 3. This resolution shall take effect immediately upon its approval.

**Attachment A: Request for Information for Potential Applicants Under Assembly Bill 199
(November 23, 2015)**



CALIFORNIA ALTERNATIVE ENERGY AND ADVANCED
TRANSPORTATION FINANCING AUTHORITY

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Date: November 23, 2015
To: All Interested Participants
From: Deana Carrillo
Executive Director, California Alternative Energy and Advanced
Transportation Financing Authority (CAEATFA)
Subject: Request for Information – Expanded State Program
Sales and Use Tax Exclusion (STE) for California Recycled Feedstock

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Deana J. Carrillo

Overview/Background

California recently established a new law to expand CAEATFA's existing sales and use tax exclusion program to include approved projects that process or utilize recycled feedstock.¹ CAEATFA is soliciting input from the end-users of this program to assist in developing the program's structure and requirements.

The authorizing statute (Chapter 768 of the Statutes 2015 (SB 199 Eggman)) provides the legal authority and specific parameters to establish the recycled feedstock portion of the STE program.² When the CAEATFA Board of Directors discussed the issue of potential oversubscription to the STE program at its November 17th, 2015 meeting, the establishment of a set-aside of a portion of STE funds specifically for AB 199 participants was determined to be necessary in order to ensure that funds will be available to these participants. CAEATFA is collecting information from potential program participants in order to assist in the implementation of AB 199.

CAEATFA is requesting that comments be submitted by **COB December 2, 2015** and welcomes any ideas that may contribute to the successful implementation of the recycled feedstock portion of the program.

¹ The California Alternative Energy and Advanced Transportation Financing Authority is housed within the State Treasurer's Office.

² The full text of the statute can be found at http://leginfo.ca.gov/pub/15-16/bill/asm/ab_0151-0200/ab_199_bill_20151011_chaptered.pdf

Questions

- 1) Please provide the name of your company and information for the best point of contact for your company (name, telephone and email address).
- 2) In what way do your activities meet the statutory definition of a project that “processes or utilizes recycled feedstock”? (Please specify your industry and type of feedstock)¹
- 3) How much equipment do you anticipate purchasing during the next four years (from 2016-2019)?
- 4) Approximately when do you anticipate beginning the purchase of equipment?
- 5) Are there any other comments which you wish to make regarding the implementation of AB 199?

Responding to this RFI

Please submit your questions and/or response to:

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You may e-mail your response and/or questions to: caeatfa@treasurer.ca.gov. For questions or concerns, please contact Nina.Kapoor@treasurer.ca.gov.

Next Steps

The input received from this RFI will assist in CAEATFA’s development of the initial program structure/regulations to implement AB 199. CAEATFA anticipates soliciting additional feedback from stakeholders and hosting various public workshops and meetings to solicit further input on program development and implementation. Interested parties are encouraged to sign-up on CAEATFA’s listserv at <http://treasurer.ca.gov/caeatfa/>. Updates, when available, will also be posted on the [AB 199 website](#)

¹ *Public Resources Code Section 26011.8 (b)(1) “Project” means tangible personal property if at least 50 percent of its use is either to process recycled feedstock that is intended to be reused in the production of another product or using recycled feedstock in the production of another product or soil amendment...“Project” does not include tangible personal property that processes or uses recycled feedstock in a manner that would constitute disposal as defined in subdivision (b) of Section 40192.*