

## Proposition 1B: Goods Movement Emission Reduction Program

### **Supplemental Procedures for Ships at-Berth Grid-Based Power Projects**

**FY2015-16 (Year 5)**

#### **INTRODUCTION**

The Proposition 1B: Goods Movement Emission Reduction Program (Program) is subject to statutory timeframes that limit the maximum time for local agencies to obligate Program funds through execution of contracts with equipment owners, and to liquidate (expend) those funds on completed projects. Grant funds not obligated or liquidated within the statutory timeframes revert back to the legislatively-controlled account and must be reappropriated to the Air Resources Board (ARB or Board) in a future State budget before they can be used.

To reduce the potential for reversion, ARB established shorter timelines for local agency action to allow for redirection (if needed) of grant funds prior to the statutory deadlines – except for the ships at-berth source category. Grants to install grid-based power for ships at-berth can have an extended period for completion because of the complexity of these construction projects.

These Supplemental Procedures apply only to ship at-berth grid-based power projects that utilize FY2015-16 (Year 5) Program monies, and are additive to the requirements of the Proposition 1B: Goods Movement Emission Reduction Program Guidelines for Implementation adopted June 25, 2015 (Guidelines).

The February 2013 Revised Supplemental Procedures for Ships at-Berth and Cargo Handling Equipment Projects which applies to the FY2008-09 projects is available on the Program website at: <http://www.arb.ca.gov/gmbond>.

#### **I. EQUIPMENT PROJECT SOLICITATION REQUIREMENTS**

Equipment project solicitations shall, at a minimum, meet the following requirements:

##### **A. Outreach Notification**

The local agency is required to provide written notice of the solicitation to all seaports within the trade corridor seeking applications for ships at-berth grid-based power projects.

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### B. Clarification of Eligibility

Solicitation materials shall include the following language to highlight equipment project eligibility, consistent with the Guidelines.

- For the purposes of this Program, a berth is a mooring designed to accommodate loading or unloading of one ship at a time.
- Eligible equipment includes existing cargo ship berth or existing cargo ship terminal at a seaport located within the four California trade corridors that receives visits solely by vessels not subject to the control requirements of ARB's Ships at-Berth Rule in effect as of 2015.
- Each project will compete with other ships at-berth and cargo handling equipment projects under the competitive ranking and selection process outlined in the Guidelines.
- Any ships at-berth project that is listed as a mitigation measure as part of a final, certified California Environmental Quality Act (CEQA) or National Environmental Policy Act (NEPA) document is not eligible for funding.

#### 1. Match Funding Requirements

- As outlined in Chapter VI.D.5 of the Guidelines, project applications must list proposed sources of match funds from other State, local, federal or private sources that will be used to supplement grant funding.
- Prior to execution of the equipment project contract, equipment owners must identify the specific source(s) of the match funds and certify that those funds are available to complete the entire project since the Program only provides partial reimbursement. This certification can be satisfied by a written statement from the equipment owner's Board or Chief Executive Officer for any match funds to be provided by the equipment owner and, if applicable, must also include written commitment(s) that document the availability of any outside source(s) of funding. Local agencies may require the certification at the time of application, or may obtain the signed written certification after application submittal but before execution of any contract obligating Program funds.

#### 2. Activities that may Affect Eligibility for Grid-Based Power Projects

At its own risk, the equipment owner may elect to proceed with certain preliminary activities prior to the execution of the equipment project contract without assurance of Program funding or priority for such funding.

- Activities that **may begin** prior to the execution of the equipment project contract include the following planning, procurement and infrastructure upgrade activities:

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- Design.
  - Engineering.
  - Execution of design, procurement and/or installation contracts for any element of the project (equipment owner may proceed with contracts at its own risk with no assurance of Program funding).
  - Ordering of any materials or equipment.
  - Installation of industrial station, substation(s), switchgear or other materials and equipment designed to increase the electrical power capacity available to the port for use at one or more berths (hereafter called “power upgrade project”). This work is typically an upgrade or addition to the existing 34kV or 12kV system and may also serve berths that are not funded under the Program.
  - Site preparation, grading, paving, excavation and trenching designed to accommodate materials, equipment or site access directly related to the power upgrade project work.
  - Activities related to ineligible project costs, including: environmental review, legal work, acquisition of permits and licenses, and shipside modifications.
- Activities that **may not begin** prior to the execution of the equipment project contract include the following installation activities:
    - Installation of materials, equipment pads, substation(s), transformer(s), switchgear or other equipment not directly related to the power upgrade project work.
    - Installation of transmission lines, equipment or related work that connect the power upgrade project to a substation, transformer, vault, cable reel or other “downstream” device for a berth that will be funded by the Program. This work typically includes 34kV or 12kV transmission lines that run from the power upgrade project equipment to 6.6 kV step-down voltage equipment and beyond.
    - Site preparation, grading, paving, excavation or trenching not directly related to the power upgrade project work.
    - Installation of vaults, plugs, cabling and cable reels designed to facilitate ship connections to the electricity grid.
- As clarification of the Guidelines, a prorated share of the charges to purchase and install special facilities or equipment associated with the power upgrade project are eligible for reimbursement. For example, if the power upgrade project is designed to serve five ship berths, plus electric equipment at the terminal, the Program eligible costs for a specific berth shall be based on the prorated share of power to be used at that berth as a portion of the total new power. Costs to operate or maintain special facilities or equipment are ineligible for reimbursement. For an expanded listing of eligible and ineligible costs, refer to Appendix C in the Guidelines.

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### C. Additional Solicitation Requirements

Solicitation materials shall also include the following:

#### 1. Project Schedule

- A statement by the local agency outlining the expected contract execution timeframe.
- A requirement that equipment project applicants provide a project schedule for each berth with project milestone completion date(s), including the key milestone dates marked with a double asterisk (\*\*), as listed below.
- A statement instructing applicants to base the project schedule in the application upon credible estimates, with the opportunity to update the schedule prior to execution of the equipment project contract.
- A statement indicating the local agency may allow the equipment owner to modify the approved project schedule and associated milestone completion dates (listed in the original contract) after contract execution. This provision is intended to allow equipment owners an opportunity to update the project schedule listed in the original contract after initiating key purchase orders and/or construction contracts. Any updates to the project schedule after initial contract execution must support timely completion and receive prior approval from the local agency.
- A requirement to provide project milestone completion dates including:
  - Preliminary design.
  - Environmental clearance (if applicable). \*\*
  - Final design.
  - Equipment ordering (with delivery dates consistent with timely completion of project milestones).
  - Equipment delivery (for all equipment with lead times over 1 month). \*\*
  - Power upgrade project (as defined above).
  - Execution of purchase orders and/or construction contract(s). \*\*
  - Permits.
  - Start construction (material and equipment installation). \*\*
  - Finish construction (material and equipment installation).
  - Commissioning/testing.
  - Demonstration of a fully operational system (with ship plugged-in).

For activities that have already been completed, provide the completion date(s) and note them as “actual.” The local agency may allow modification of the project milestone descriptions while maintaining the intended scope.

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### 2. Funding Information

- A statement that Program funds will be disbursed to the equipment owner only after the project meets the reimbursement requirements (seaports only) or is demonstrated to the local agency inspector to be fully operational and powering a ship docked at the berth. For non-seaport equipment owners and non-grid-based projects, Program funds will not be provided for financing or progress payments.
- A statement that for grid-based power projects with a seaport equipment owner, up to 80% of eligible costs will be reimbursed, subject to the following requirements:
  - Equipment owner has expended all non-Program match funding and is in compliance with the equipment project contract.
  - A minimum of 20% of the project funds will be held in retention until the post-inspection is completed and the project is demonstrated to the local agency inspector to be fully operational and powering a ship docked at the berth.

## **II. EQUIPMENT PROJECT APPLICATION REVIEW REQUIREMENTS**

In addition to the requirements of the Guidelines, equipment project application reviews shall, at a minimum, meet the following requirements:

### **A. Application Review**

Equipment project applicants (e.g., seaports, terminal operators, and other entities) are prohibited from participating in the application review, evaluation, and competitive ranking process.

### **B. Site Pre-inspection**

The local agency shall perform a site pre-inspection no more than 30 calendar days prior to contract execution to verify no work has started that would cause one or more berths to become ineligible for Program funds. The site pre-inspection shall include photographic evidence of likely or known locations where Project funded materials and equipment will be installed for each berth. The site pre-inspection shall also include photographic evidence of reimbursable material and equipment that have already been installed or are currently onsite awaiting installation. Photographs shall be retained by the local agency in the project files and made available to ARB upon request.

### **III. EQUIPMENT PROJECT CONTRACT REQUIREMENTS**

In addition to the requirements for equipment project contracts as listed in the Guidelines, the contract between the local agency and equipment owner shall include the following procedures and requirements:

#### **A. Certification**

The contract must include certification statements signed by the equipment owner as follows:

- A statement verifying that installation or construction activities prohibited prior to contract execution have not started at any of the berths included in the equipment project contract.
- A statement agreeing to actively cooperate with the local agency, ARB, or their designees during any ongoing evaluation or audit of the project site, schedule or records. This cooperation includes, but is not limited to, providing contact information and open access (if requested) to communicate directly with key project personnel, contractors, subcontractors, public utilities and material or equipment suppliers.

#### **B. Small Business Outreach**

The contract must include a provision obligating the equipment owner to design and implement a targeted outreach program to encourage small businesses to participate in the construction, alteration, demolition, repair, or improvement of equipment project infrastructure funded by the Program. This requirement originates from State law and more information is included in the Guidelines, Chapter IV.A.2.d.

#### **C. Tracking and Non-Performance**

##### 1. Tracking

- **Project Schedule**  
The contract must include the latest, updated project milestone completion dates that are available at the time of contract execution, including the key milestones in section I.C.1. marked with a double asterisk (\*\*).
- **Periodic Updates to Project Schedule**  
The contract must include a provision obligating the equipment owner to provide periodic updates to the project schedule as defined by the local agency. Schedule updates shall include, but are not limited to, the following:
  - Actual start and finish dates for any applicable activities.
  - Estimated completion dates for any activities that are in progress.
  - Estimated start and finish dates for any activities that have not started.

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- Actual or estimated start and finish dates for any additional activities known to the equipment owner that may jeopardize on-time project completion.
- Development of a Schedule Recovery Plan  
The contract must include the following provisions related to the use of a schedule recovery plan to be submitted by the equipment owner:
  - The equipment owner must submit a schedule recovery plan to the local agency within 30 calendar days if one of the following occurs:
    - One or more berths fail to meet a key milestone date (marked with a double asterisk \*\*) listed in the equipment project contract.
    - The equipment owner or the local agency becomes aware of a change that will cause one or more berths to miss the original project completion date(s) listed in the contract.
  - A schedule recovery plan for each affected berth must include the following:
    - A narrative description of the cause(s) of adverse schedule impacts, including a list of all schedule activities and milestone dates affected.
    - A narrative description of schedule recovery actions that have been and/or will be implemented to minimize or eliminate future schedule impacts.
    - An updated, comprehensive project schedule with milestone dates that support timely project completion.
  - The schedule recovery plan must be reviewed and approved by the local agency, and provided to ARB.

### 2. Non-Performance (in addition to the provisions specified in the Guidelines)

- The contract must list the cost-effectiveness from the approved ranked list (expressed in pounds of weighted emission reductions reduced per State dollar invested) and define this number as Required Usage Level for grid-based power projects.
- The contract must include a provision that allows the local agency, with approval from ARB, the ability to modify or terminate the contract and forfeit the Program funds for one or more berths if the equipment owner demonstrates non-performance or fails to meet a key (\*\*) milestone date listed in the contract and fails to provide an approved schedule recovery plan.
- The contract must include a provision that allows the equipment owner the ability to update the project schedule and associated milestone completion dates after contract execution. The revised, approved project milestone completion dates provided by the equipment owner must support timely completion and receive prior approval from the local agency.
- If the equipment owner fails to meet the commitments in an approved schedule recovery plan, the local agency may terminate the commitment to fund the affected berth(s) or terminate the contract in its entirety (as applicable).

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### D. Costs, Expenditures, and Disbursement

#### 1. Costs

- The contract must include a cost breakdown summary that provides an initial estimate of eligible costs anticipated for the project. If a single contract includes multiple berths, a separate cost breakdown summary must be provided for each berth. Items listed in each cost breakdown summary should be specific for the applicable berth. Eligible project costs that are applicable to multiple berths (e.g., a power upgrade project) must be prorated among all eligible and ineligible berths and other equipment served by that upgrade project. The equipment owner must provide calculations supporting the proration. A representative example of a cost breakdown summary includes the following items (as applicable):
  - Design and Engineering.
  - Electrical service connection.
  - Power upgrade project (prorated by berth if applicable).
  - Breakers and secondary breakers.
  - High-voltage cables.
  - Power control equipment, switchgear and/or step down transformer.
  - Power connection vaults and outlets.
  - Cable reels, cables, and connectors to connect at the vessel.
  - Control cable and equipment.
  - Other costs not listed above (as applicable).

The local agency may allow modification of the cost breakdown descriptions while maintaining the intended scope.

#### 2. Expenditures

- The contract must specify detailed invoicing procedures that conform to the Guidelines (see Chapter IV.B.2.c) and the local agency's procedures.
- The contract must include a statement that all invoices and backup material from the equipment owner, vendors, contractors, subcontractors, etc. used to establish eligible costs should identify the berth project, the work performed, and include a summary of project costs and quantities in the following categories:
  - Labor costs (including total labor man-hours expended).
  - Material costs.
  - Equipment costs.
  - Other category costs (as applicable).

#### 3. Disbursement

- The contract must include a statement that Program funds will be disbursed to the equipment owner only after the project meets the reimbursement requirements (seaports only) or is demonstrated to the local agency inspector to be fully

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operational and powering a ship docked at the berth. For non-seaport equipment owners, there will be no financing or progress payments.

- For grid-based power projects with a seaport equipment owner, the contract must include a statement that up to 80% of eligible costs will be reimbursed, subject to the following requirements:
  - Equipment owner has expended all non-Program match funding and is in compliance with the equipment project contract.
  - A minimum of 20% of the project funds will be held in retention until the post-inspection is completed and the project is demonstrated to the local agency inspector to be fully operational and powering a ship docked at the berth.

For seaport equipment owners of less than 10 berths, include a statement that if the equipment owner experiences difficulty meeting the above reimbursement conditions, ARB will work closely and cooperatively with the equipment owner and local agency to develop alternate requirements that facilitate project completion and maintain robust accountability. The seaport equipment owner shall submit a reimbursement proposal to be approved by the local agency and ARB.