

Instructions on Requesting a Conditional Agreement

Q1. What is the process for a Sponsor to request a Conditional Agreement with the Department of Energy (DOE)?

A1. The process for a Sponsor to request a Conditional Agreement consists of the following five steps:

- Step 1. Advance Notification of Sponsor Intent (*Optional*)
- Step 2. Request Submitted by Sponsor
- Step 3. DOE Initial Review of Request
- Step 4. DOE Processing of Request
- Step 5. Execution of Conditional Agreement

Q2. What are the five steps of the request process for a Conditional Agreement?

A2. The following explains the information requirements and review processes leading to execution of a Conditional Agreement.

Step 1: Advanced Notification of Sponsor Intent (*Optional*)

At least one month before submitting a request to the DOE for a Conditional Agreement, a Sponsor may notify DOE of its intent to request a Conditional Agreement. Please note that advance notification by a Sponsor is preferred but not required. Advance notification is desirable to provide DOE with valuable information for planning and managing the review of requests for Conditional Agreements, and may facilitate the DOE review and processing of individual requests for a Conditional Agreement.

Advance notification should be sent to the following Standby Support e-mail account, StandbySupport@nuclear.energy.gov, and should contain the following information:

- Name of proposed nuclear power plant
- Name of Sponsor
- Designated point of contact to address administrative matters for this submittal (title, email, telephone, fax, mailing address)
- Date COL application was docketed, or is expected to be docketed
- Anticipated date of Conditional Agreement request to be submitted to DOE

DOE will acknowledge receipt of the advance notification. If an acknowledgement of receipt is not received within five (5) business days, contact Kenneth Wade, DOE Project Manager, at kenneth.wade@nuclear.energy.gov or at (301) 903-6509.

Step 2: Submit Request for Conditional Agreement

A Sponsor may request a Conditional Agreement, with or without advance notification (Step 1), by submitting a letter to DOE accompanied by the following supporting information and documentation:

1. Electronic copy (on CD-ROM) of the Sponsor's docketed combined Construction and Operating License Application (COLA) and, if applicable, an electronic copy of the design certification or early site permit, or environmental report referenced or included with the COLA.
2. Summary level schedule identifying key projected dates of construction, testing, and full power operation. This schedule should also identify the following key milestones (*Note: a detailed schedule of Inspections, Tests, Analyses, and Acceptance Criteria (ITAAC) verifications is not required at this point*):
 - *Major phases of construction*
 - *Dates for startup testing period*
 - *Power escalation schedule*
 - *Anticipated date of full power operation*
3. A detailed business plan that includes intended financing for the project including credit structure and all sources and uses of funds for the project, the most recent private credit rating or other similar credit analysis for the project cash flows for all debt obligations of the advanced nuclear facility, and a pro forma statement. (*Note: DOE anticipates this information to be largely in the form of an Excel spreadsheet.*)
4. Estimated amount and timing of Standby Support payments for debt service under covered delays
5. Estimated amounts of coverage Sponsor requests to be allocated to the Program Account and/or the Grant Account, including whether these amounts would be different if the nuclear power plant is one of the Initial Two Reactors or one of the Subsequent Four Reactors
6. Name of proposed nuclear power plant
7. Name of Sponsor
8. Designated point of contact to address administrative matters for this submittal (title, email, telephone, fax, mailing address)
9. Date COL application was docketed

DOE will acknowledge receipt of the request. If an acknowledgement of receipt is not received within seven (7) business days, a Sponsor may contact Kenneth Wade, DOE Project Manager, at kenneth.wade@nuclear.energy.gov or at (301) 903-6509.

Step 3: DOE Initial Review of Request

DOE will conduct an initial review of the request to determine whether the information as provided by the Sponsor is adequate for DOE to proceed to the next step, a detailed review that the requirements for a Conditional Agreement have been met. If the provided information in the request is adequate, DOE will notify the Sponsor the information is adequate and begin processing the request.

If the provided information is inadequate, the Department will notify the Sponsor of the areas of deficiency and request additional information to remedy the deficit. Once DOE determines the provided information is adequate, DOE will notify the Sponsor that the information is adequate and begin processing the request.

Step 4: DOE Processing of Request

To process a request for a Conditional Agreement, DOE will conduct a detailed review of the information and documentation provided by the Sponsor to determine whether the Sponsor is eligible for a Conditional Agreement, the information provided is accurate and complete, and the Conditional Agreement is consistent with applicable laws and regulations.

In processing the request, DOE will determine the estimated cost of a standby support contract based on the financial information provided by the Sponsor. The methodology used to derive the estimated cost of a Standby Support Contract will be consistent with the methodology that was described in the notice of the final rule on Standby Support for Certain Nuclear Plant Delays (71 Fed. Reg. 46306, August 11, 2006). For sponsors seeking coverage for loan costs under the Program Account, the estimated cost associated with a Standby Support Contract is calculated on a per plant basis and consists of the sum of the subsidy cost associated with ITAAC reviews and pre-operational hearings and the subsidy cost associated with potential litigation events. For sponsors seeking coverage for incremental costs under the Grant Account, the estimated cost is based on the lower of two options: the actual cost of the short-term supply contract for replacement power purchased by the sponsor during the period of delay or for each day of replacement power by its day-ahead weighted average index price in \$/MWh at the hub geographically nearest to the advanced nuclear facility as posted on the previous day by the Intercontinental Exchange (ICE), or an alternate electronic market price deemed reliable by the Department.

Step 5: Execution of a Conditional Agreement

When review and processing of the request is complete, DOE will determine whether the requirements for a Conditional Agreement have been satisfied. DOE will notify the Sponsor of its determination and, if the requirements for a Conditional Agreement have been met, DOE will send a Conditional Agreement to the sponsor that includes the necessary information to complete the Conditional Agreement (e.g., name of nuclear power plant, estimated subsidy costs, etc.). Upon receipt by the Sponsor, the Sponsor is

responsible for reviewing the completed Conditional Agreement and determining whether to execute the Conditional Agreement as provided. If the sponsor accepts the Conditional Agreement, it should sign the Conditional Agreement and mail it back to DOE. If the sponsor does not accept the Conditional Agreement, the Sponsor must notify DOE of its decision to reject the Conditional Agreement. A decision by the Sponsor to accept or reject the Conditional Agreement must be provided to DOE within sixty (60) business days of receipt of the Conditional Agreement.

DOE will acknowledge receipt of the signed Conditional Agreement within five (5) business days. Within ten (10) business days following receipt, DOE will execute the Conditional Agreement and notify the Sponsor that the Conditional Agreement is fully executed and in effect. A copy of the Conditional Agreement will be sent to the Sponsor within ten (10) business days following DOE execution of the agreement. A Conditional Agreement must be in effect before a sponsor can be eligible for a Standby Support contract.

A Sponsor may contact Kenneth Wade, Project Manager, at kenneth.wade@nuclear.energy.gov or at (301) 903-6509, to check on the status of receipt or execution of the Conditional Agreement within the timeframes described above.

Q3. Will Sponsors have the opportunity to negotiate the terms and conditions of the Conditional Agreement?

A3. No. Although each Sponsor will have its own Conditional Agreement with DOE, the basic terms and conditions of a Conditional Agreement have been set forth in DOE regulations at 10 CFR Part 950 and in the Conditional Agreement publicly released by DOE on September 25, 2007 [provide website citation]. DOE is responsible for calculating the estimated costs of coverage under the Conditional Agreement based on its analysis of the information provided by the Sponsor with its request for a Conditional Agreement.

Q4. Will my information be shared with anyone outside the Department of Energy?

A4. No, provided that the Sponsor follows the disclosure provisions in 10 CFR Part 950.42 and appropriately identifies and marks any documents or information that is privileged or confidential. As noted in 10 CFR Part 950.42, information received from a Sponsor may be made available to the public subject to the provision of 5 U.S.C. 552, 18 U.S.C. 1905 and 10 CFR part 1004, provided that: (1) subject to the requirements of law, information such as trade secrets, commercial and financial information that a Sponsor submits to the Department in writing shall not be disclosed without prior notice to the Sponsor in accordance with Department regulations concerning the public disclosure of information; and (2) upon a showing satisfactory to the Program Administrator that any information or portion thereof obtained under this regulation would, if made public,

divulge trade secrets or other proprietary information, the Department may not disclose such information.

Q5. How should I transmit my documentation?

A5. A Sponsor's request for a Conditional Agreement and supporting information and documentation should be delivered both through a private delivery service (including any electronic copies of supporting information) and electronically via the standby support e-mail account, *StandbySupport@nuclear.energy.gov*. Submission through both systems is preferred but not required; however, the sponsor's docketed combined Construction and Operating License Application should not be transmitted electronically to DOE and may only be delivered by mail to DOE because of the anticipated file size, which cannot be supported by DOE's file server.

Q6. Where do I deliver my hard copy request?

A6. DOE strongly recommends that a Sponsor send their request through a private delivery service. All packages delivered through the U.S. mail system are irradiated during which the request and supporting documentation, including electronic files, could be destroyed. Requests should be sent to:

**Kenneth Chuck Wade, Project Manager
Office of Nuclear Energy, NE-31,
U.S. Department of Energy,
19901 Germantown Road
Germantown, MD 20874**

(Note: this is not a mailing address.)

Q7. Is there a size limitation on the DOE file server?

A7. DOE's file server cannot accept files larger than 15 megabits without special arrangements. It is conceivable that a Sponsor's financial model, which contains pro forma information, will exceed the DOE-governed file size. If a file(s) exceed the 15 megabits limitation, a Sponsor must call the DOE Help Service Desk at 301-903-2500. A Sponsor must provide the following information in order for larger files to be delivered to the Program Manager:

1. State that the e-mail is for Kenneth C. Wade, Project Manager, Office of Nuclear Energy (301-903-6509), and that the file exceeds the DOE file size limitation;
2. Inform the DOE Help Service Desk that Mr. Wade is aware that the file has been sent; and
3. Provide the file name, time sent, and file size.