



Advanced Technology Vehicles Manufacturing Loan Program

Effective Date: October 5, 2012

UPDATED GUIDANCE FOR APPLICANTS TO ADVANCED TECHNOLOGY VEHICLES MANUFACTURING LOAN PROGRAM

The Advanced Technology Vehicles Manufacturing Loan Program (ATVMLP) was authorized by Congress pursuant to Section 136 of the Energy Independence and Security Act of 2007, as amended (Section 136). The ATVMLP is administered by the U.S. Department of Energy's (DOE) Loan Programs Office (LPO). The purpose of the ATVMLP is to originate, underwrite and service loans (ATVM loans) from the U.S. Department of Treasury's Federal Financing Bank (FFB) to eligible automotive manufacturers and component suppliers to finance the cost of (i) reequipping, expanding or establishing manufacturing facilities in the United States to produce advanced technology vehicles (ATVs) and qualifying components and (ii) engineering integration performed in the United States of ATVs and qualifying components.

This guidance for ATVMLP applicants updates prior guidance issued on March 21, 2012. This guidance covers the following areas:

- I. General Eligibility Requirements**
 - 1) ATV/Qualifying Component Eligibility
 - 2) Applicant Technical Eligibility
 - 3) Applicant Financial Eligibility
 - 4) Eligible Costs

- II. General Application Requirements**
 - 1) Technical Application Requirements
 - 2) Financial Application Requirements
 - 3) Other Application Requirements

- III. Application Process**
 - 1) Application Intake Process
 - 2) Preliminary Due Diligence/Preliminary Terms and Conditions
 - 3) Advanced Due Diligence/Conditional Commitment Letter
 - 4) Advanced Due Diligence/Loan Documents and Closing

This guidance is based on the requirements of (i) Section 136 and the implementing Interim Final Rule (10 CFR 611) and (ii) the ATVMLP's policies and procedures in effect as of the date hereof. These requirements may be amended or changed from time to time. Applicants should read this guidance in conjunction with 10 CFR 611, which is accessible at the LPO's website (<https://lpo.energy.gov>).

For more information on the ATVMLP, please consult the LPO's website (<https://lpo.energy.gov>). Questions or comments may be sent to the ATVMLP by email at atvmloan@hq.doe.gov.

DISCLAIMER: This guidance does not constitute legal advice and is provided for informational purposes only. This guidance does not constitute rulemaking by DOE and may not be relied on to create a substantive or procedural right or benefit enforceable, at law or in equity, by any person. Without limitation, there can be no assurance that a conditional commitment letter will be issued to any applicant or, if a conditional commitment letter is issued, that a loan will ultimately be issued pursuant thereto.

I. GENERAL ELIGIBILITY REQUIREMENTS

ATVM loans may be made to eligible applicants to finance the cost of (i) reequipping, expanding or establishing manufacturing facilities in the United States to produce ATVs or qualifying components or (ii) engineering integration performed in the United States of ATVs or qualifying components. This Section I describes (1) eligibility requirements for ATVs/qualifying components, (2) technical eligibility requirements for applicants, (3) financial eligibility requirements for applicants, (4) technical eligibility requirements for projects and (5) eligibility requirements for project costs.

1) ATV/QUALIFYING COMPONENT ELIGIBILITY [10 CFR 611.2; 611.3]:

ATV Eligibility: In order for a vehicle to be eligible as an “ATV” under the ATVMMLP, the vehicle must be one of the following:

- (a) **Passenger automobile or light truck** (as defined in 49 CFR 523) that satisfies both of the following standards: (x) the emission standards set forth in clauses (i) and (ii) of the definition of “advanced technology vehicle” in 10 CFR 611.2, as evidenced by an emissions certification delivered in accordance with 10 CFR 611.3(a) and (y) the fuel economy standards set forth in clause (iii) of the definition of “advanced technology vehicle” in 10 CFR 611.2, as evidenced by a demonstration of the vehicle’s fuel economy performance in accordance with 10 CFR 611.3(b); or
- (b) **Ultra efficient vehicle** (defined as fully closed compartment vehicle designed to carry at least two (2) adult passengers that achieves either (x) at least 75 miles per gallon while operating on gasoline or diesel fuel or (y) at least 75 miles per gallon equivalent while operating as a hybrid electric-gasoline or electric-diesel vehicle or (z) at least 75 miles per gallon equivalent while operating as a fully electric vehicle).

Qualifying Component Eligibility: In order for a component to be eligible as a “qualifying component” under the ATVMMLP, the component must be both of the following:

- (a) **Designed for ATVs;** and
- (b) **Installed in ATVs** for the purpose of meeting the emission and fuel economy standards set forth in clauses (i), (ii) and (iii) of the definition of “advanced technology vehicles” in 10 CFR 611.2.

2) APPLICANT TECHNICAL ELIGIBILITY [10 CFR 611.100(A)(1)]:

In order to be technically eligible under the ATVMMLP, the applicant must be either one of the following:

- a) **Automotive Manufacturer Satisfying One of the Following Fuel Economy Requirements (as specified in 10 CFR 611.100(b)):** (x) if the applicant is an automotive manufacturer that built vehicles in model year 2005 that were subject to Corporate Average Fuel Economy (CAFE) standards, then the applicant must demonstrate that the adjusted average fuel economy for the vehicle fleet it produced in the most recent year for which final CAFE compliance date is available is at least equal to the adjusted average fuel economy of the applicant’s fleet for model year 2005; or (y) if the applicant is an automotive manufacturer that did not build vehicles in model year 2005 that were subject to CAFE standards, then the applicant must demonstrate that the projected combined fuel economy for the ATV’s being financed with the ATVM loan is at least equal to the industry adjusted average fuel economy for equivalent vehicles built in model year 2005; or
- b) **Manufacturer of a Qualifying Component.**

3) APPLICANT FINANCIAL ELIGIBILITY [10 CFR 611.100(A)(2)]:

In order to be financially eligible under the ATVMLP, the applicant “must be financially viable without the receipt of additional federal funding for the proposed project”.

- a) **“Financially Viable”:** The applicant will be deemed “financially viable” for purposes of 10 CFR 611.100(a)(2) if (i) there is a reasonable prospect that the applicant will be able to pay principal and interest as and when due under the ATVM loan and (ii) the applicant has a net present value that is positive, taking all costs, existing and future, into account. (See definition of “financially viable” in 10 CFR 611.2.) 10 CFR 611.100(c) sets forth a non-exhaustive list of the factors considered by the ATVMLP in determining whether the applicant is financially viable.
- b) **“Additional Federal Funding”:** 10 CFR 611.100(d) lists forms of direct and indirect assistance from the federal government which would be considered “additional federal funding” for purposes of 10 CFR 611.100(a)(2).

4) ELIGIBLE COSTS [10 CFR 611.102]:

Under 10 CFR 611.105(d)(3), the principal amount of an ATVM loan can be no more than 80% of total project costs (though the ATVMLP will generally require the principal amount to be significantly below 80% of total project costs). In addition, the ATVMLP only allows proceeds of the ATVM loan to be used to pay (or reimburse the applicant for payments of) eligible costs.

Eligible costs are:

- a) costs that are reasonably related to reequipping, expanding or establishing a manufacturing facility in the United States to produce ATVs or qualifying components; and
- b) costs of engineering integration performed in the United States for ATVs or qualifying components;

in each case that have been incurred after substantial completion of the application.

Examples of eligible costs include, but are not limited to, (i) costs of purchasing and installing equipment into a qualified facility and (ii) costs of direct materials and labor for reequipping, expanding or establishing a qualified facility or performing qualified engineering integration. Examples of ineligible costs include, but are not limited to (i) costs for vehicle variants that are not ATV, (ii) costs for components that are not qualifying components, (iii) costs for research and development, (iv) costs for operation and maintenance and general administration and overhead and (v) funding for reserve accounts.

For any applicant that intends to use the proceeds of an ATVM loan for a mixed-use project (i.e., a project that is expected to produce both (i) ATVs/qualifying components and (ii) non-ATVs/non-qualifying components), the applicant will be required to demonstrate that such proceeds will only be used for eligible costs. The ATVMLP will ultimately determine, based on information provided by the applicant and due diligence conducted by ATVMLP staff, which costs incurred for a mixed-use project are eligible costs.

II. GENERAL APPLICATION REQUIREMENTS

Applications should be submitted to the ATVMLP electronically via the LPO's website (<https://lpo.energy.gov>). The ATVMLP does not have a form of application. Applications must include the information and materials required by 10 CFR 611.101. This Section II lists the information and materials required by 10 CFR 611.101, providing guidance (in italics) where appropriate.

1) TECHNICAL APPLICATION REQUIREMENTS

- A. Project Description [10 CFR 611.101(b)]:** A description of the nature and scope of the proposed project for which a loan or award is sought under this part, including key milestones and location of the project.

The project description should be in the format of Microsoft Project or similar program. The description should be as detailed as possible. If the project's site has not yet been selected, please list all potential sites that have been identified that are under consideration. Please include the professional biographies of key management and senior staff.

- B. Qualification [10 CFR 611.101(c)]:** A detailed explanation of how the proposed project qualifies under applicable law to receive a loan or award under 10 CFR 611, including vehicle simulations using industry standard PSAT or similar model to show projected fuel economy.

2) FINANCIAL APPLICATION REQUIREMENTS

- A. Project Costs [10 CFR 611.101(d)]:** A detailed estimate of the total project costs together with a description of the methodology and assumptions used to produce that estimate.

The estimate should be in the format of a dynamic, integrated spreadsheet in Microsoft Excel or similar program. The estimate should cover all project costs on a quarterly and aggregate basis. The estimate should break-out eligible costs and ineligible costs.

- B. Detailed Financial Plan [10 CFR 611.101(e)]:** A detailed description of the overall financial plan for the proposed project, including all sources and uses of funding, equity, and debt, and the liability of parties associated with the project.

The financial plan should be in the format of a dynamic, integrated spreadsheet in Microsoft Excel or similar program. The sources and uses should be presented on a quarterly basis. When preparing the financial plan, please note that, while 10 CFR 611.105(d)(3) allows for the principal amount of an ATVM loan to be up to 80% of total project costs, strong applications will generally have financial plans providing for equity financing for significantly in excess of 20% of total project costs (see Section I.4 above).

- C. Financial Statements Projections [10 CFR 611.101(f)]:** Applicant's business plan on which the project is based and applicant's financial model presenting project pro forma statements for the proposed term of the obligations including income statements, balance sheets, and cash flows. All such information and data must include assumptions made in their preparation and the range of revenue, operating cost, and credit assumptions considered.

The applicant should provide forward-looking financial statements for its entire business, incorporating the financial impact of the proposed project. The financial statements should be in the format of a dynamic, integrated spreadsheet in Microsoft Excel or similar program. The program should permit variable inputs to the key assumptions underlying the financial statements (including exchange rates for any revenues or expenses denominated in foreign currencies). The financial statements should be prepared in accordance with US GAAP. The income statement, balance sheet, and cash flow statement should be linked. Any sensitivity

analyses that have been performed should be included within the model. Only input data and key assumptions should be hard-coded.

- D. Market Analysis [10 CFR 611.101(g)]:** An analysis of projected market use for any product (vehicle or component) to be produced by or through the project, including relevant data and assumptions justifying the analysis, and copies of any contractual agreements for the sale of these products or assurance of the revenues to be generated from the sale of these products.

The market analysis should provide (i) total market size and addressable market size, (ii) market participants (e.g., buyers, suppliers, competitors), (iii) substitution products and (iv) barriers to entry and (v) total cost of ownership (TCO). Please include a detailed breakdown of the key assumptions underlying the market analysis. Please specify the author, title and date of any third-party research used in the market analysis. Where available, please provide copies of (i) any contractual agreements or memoranda of understanding (MOUs) with customers, (ii) any sales channel agreements and (iii) any product service agreements.

- E. Historical Financial Statements [10 CFR 611.101(h)]:** Financial statements for the past three years, or less if the applicant has been in operation less than three years, that have been audited by an independent certified public accountant, including all associated notes, as well as interim financial statements and notes for the current fiscal year, of the applicant and parties providing the applicant's financial backing, together with business and financial interests of controlling or commonly controlled organizations or persons, including parent, subsidiary and other affiliated corporations or partners of the applicant.

- F. List of Collateral [10 CFR 611.101(k)]:** A listing and description of assets associated, or to be associated, with the project and any other asset that will serve as collateral for the Loan, including appropriate data as to the value of the assets and the useful life of any physical assets. With respect to real property assets listed, an appraisal that is consistent with the "Uniform Standards of Professional Appraisal Practice," promulgated by the Appraisal Standards Board of the Appraisal Foundation, and performed by licensed or certified appraisers, is required.

Please provide a detailed list of proposed collateral broken out by asset type (e.g. real estate, equipment, tooling, inventory, intellectual property, etc.). Please provide (i) the useful life of any physical assets, (ii) the book value of any physical assets and (iii) where available, the liquidation value of any physical assets. Please note that (i) per 10 CFR 611.107(d)(2), DOE must have a first priority security interest in all assets acquired with the ATVM loan, (ii) DOE generally requires a first-priority security interest in all other assets constituting the project and (iii) DOE may require a first-priority security interest in additional assets of the applicant.

- G. Demonstration of Financial Viability [10 CFR 611.101(l)]:** An analysis demonstrating that, at the time of the application, the applicant is financially viable without receipt of additional Federal funding associated with the proposed project, and that there is a reasonable prospect that the Applicant will be able to make payments of principal and interest on the loan as and when such payments become due under the terms of the loan documents, and that the applicant has a net present value which is positive, taking all costs, existing and future, into account. This information must include, from publicly traded companies, relevant filings with the Securities and Exchange Commission.

In order to demonstrate that the applicant is financially viable without additional federal funding, the application must (i) provide the financial information specified in 10 CFR 611.100(c) and any other relevant information requested by the ATVMLP and (ii) list all forms of direct or indirect assistance from the federal government specified in 10 CFR 611.100(d).

In determining whether there is a reasonable prospect for repayment of the ATVM loan, the ATVMLP will give significant consideration to applications that provide for any forms of credit enhancement from creditworthy affiliates or partners of the applicant.

The applicant's net present value (NPV) calculation should be incorporated into the forward-looking financial statements delivered pursuant to 10 CFR 611.101(f) (see Section II.2.C above). The NPV should be calculated using the discounted cashflow (DCF) method on a free cash flow to the firm (FCFF) basis.

3) OTHER APPLICATION REQUIREMENTS

- A. Compliance Certification [10 CFR 611.101(a)]:** A certification by the applicant that it complies each of the requirements of the program as set forth in the statute, the regulations in this part, and any supplemental requirements issued by the DOE.

The certification should be in the form of a brief letter, signed by a responsible officer of the applicant, stating that the applicant is in compliance with Section 136 and 10 CFR 611.

- B. Permits [10 CFR 611.101(i)]:** A list showing the status of and estimated completion date of applicant's required project-related applications or approvals for Federal, state, and local permits and authorizations to site, construct, and operate the project, a period of 5 years preceding the submission of an application under this Part.

Strong applications will have selected the project's site and obtained all necessary permits and approvals. If the project's site has not yet been selected, please list all potential sites that have been identified that are under consideration and the applicant's plan for selecting the final site and obtaining all necessary permits and approvals prior to closing the ATVM loan.

- C. NEPA Compliance [10 CFR 611.101(j)]:** Information sufficient to enable DOE to comply with the National Environmental Policy Act of 1969, as required by § 611.106 of this part.

The ATVMMLP will review the environmental information provided pursuant to 10 CFR 611.106 to determine the level of National Environmental Policy Act (NEPA) review required for the proposed project. The level of NEPA review will be either an environmental impact statement (EIS) or an environmental assessment (EA), unless a categorical exclusion (CatEx) applies. A CatEx is unlikely if the ATVM loan is used to finance the construction of a new manufacturing facility. The NEPA review process must be completed as a condition precedent to closing the ATVM loan. The ATVMMLP may determine that additional NEPA review is necessary if there are any changes to the project after the ATVM loan is closed that were not covered by the original NEPA review (e.g., the project's site). Applicants are strongly encouraged to consult the LPO's website (<https://lpo.energy.gov>) for more information on NEPA compliance.

- D. Davis-Bacon Act Compliance [10 CFR 611.101(m)]:** Written assurance that all laborers and mechanics employed by contractors or subcontractors during construction, alteration, or repair that is financed, in whole or in part, by a loan under this Part shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with 40 U.S.C. sections 3141-3144, 3146, and 3147 [i.e., the Davis-Bacon Act].

The written assurance must be signed by a responsible officer of the applicant. Applicants are strongly encouraged to consult the LPO's website (<https://lpo.energy.gov>) for more information on Davis-Bacon Act compliance.

- E. Form SF-LLL [10 CFR 611.101(n)]:** Completed Form SF-LLL.

Form SF-LLL is a standard federal form for disclosure of lobbying activities. The application must include a completed Form SF-LLL whether or not the applicant has engaged in lobbying activities. Form SF-LLL can be accessed at http://www.whitehouse.gov/omb/grants_forms.

III. APPLICATION PROCESS

This Section III provides a general overview of (1) the ATVMLP's application intake process, (2) the ATVMLP's process for conducting preliminary due diligence and providing preliminary terms and conditions for the proposed ATVM loan, (3) the ATVMLP's process for conducting advanced due diligence and issuing a conditional commitment letter (CCL) for the proposed ATVM loan and (4) DOE's process for finalizing loan documents and closing.

- 1) Application Intake Process.** Once the applicant has submitted the application to the ATVMLP (see Section II above), the ATVMLP will expeditiously review the application to determine whether it contains all of the information required by 10 CFR 611.101. The ATVMLP will notify the applicant if the applicant must submit any additional information or if the application is substantially complete. Once the application is deemed to be substantially complete, the ATVMLP will conduct an initial assessment of the technical and financial aspects of the application in order to determine whether the application will be moved to preliminary due diligence. If the ATVMLP determines not to move the application to preliminary due diligence, the application will be rejected and no further action taken by the ATVMLP.
- 2) Preliminary Due Diligence/Preliminary Terms and Conditions.** If the application is moved to preliminary due diligence, the ATVMLP will (i) conduct a preliminary evaluation of the technical, financial, legal and other aspects of the application and (ii) conduct a review of the eligibility of the vehicle/component, applicant and project costs (see Section I above for further information on eligibility requirements). If the preliminary application evaluation and eligibility review are not satisfactory to the ATVMLP, the application will be rejected and no further action taken by the ATVMLP. If the preliminary application evaluation and eligibility review are satisfactory to the ATVMLP, then the ATVMLP will provide the applicant with the preliminary terms and conditions of the proposed ATVM loan. The preliminary terms and conditions will not constitute a CCL. Instead, they will form the basis of negotiations towards a CCL. If the applicant agrees to the preliminary terms and conditions, the application will be moved to advanced due diligence. If the applicant does not agree to the preliminary terms and conditions, the application will be rejected and no further action taken by the ATVMLP.
- 3) Advanced Due Diligence/Conditional Commitment Letter.** If the application is moved to advanced due diligence, the ATVMLP will (i) conduct full due diligence on all technical, financial, legal and other aspects of the application and (ii) provide the applicant with a draft CCL attaching the terms and conditions of the proposed ATVM loan. Please note that the terms and conditions of the CCL may differ from the preliminary terms and conditions. Once the CCL is in final agreed form and assuming that the ATVMLP is satisfied with the results of its due diligence to date, the ATVMLP will submit the CCL to the appropriate departmental and governmental authorities for review and approval. If the CCL is approved, DOE will issue an executed copy of the CCL to the applicant for countersigning. Once the CCL has been countersigned, DOE will be conditionally committed to closing the ATVM loan, subject to (i) the finalization of loan documents, (ii) DOE's satisfaction with the final results of its due diligence and (iii) DOE's satisfaction that all other conditions precedent and requirements specified in the CCL have been met. DOE's commitment will also be subject to any expiration or termination provisions that may be included in the CCL.
- 4) Advanced Due Diligence/Loan Documents and Closing.** After the CCL has been issued and countersigned, the ATVMLP will (i) continue to its due diligence on all technical, financial, legal and other aspects of the application and (ii) provide the applicant with a draft loan agreement and other loan documents. Closing will not occur unless (i) all loan documents are in final agreed form, (ii) DOE is satisfied with the final results of its due diligence and (iii) DOE is satisfied that all other conditions precedent and requirements specified in the CCL and loan documents have been met. Please note that the final terms and conditions of the ATVM loan may differ from the terms and conditions of the CCL.

DISCLAIMER: This guidance does not constitute legal advice and is provided for informational purposes only. This guidance does not constitute rulemaking by DOE and may not be relied on to create a substantive or procedural right or benefit enforceable, at law or in equity, by any person. Without limitation, there can be no assurance that a conditional commitment letter will be issued to any applicant or, if a conditional commitment letter is issued, that a loan will ultimately be issued pursuant thereto.