

# GUIDANCE FOR APPLICANTS TO THE ADVANCED TECHNOLOGY VEHICLES MANUFACTURING LOAN PROGRAM

**Effective Date: May 10, 2019**

The Advanced Technology Vehicles Manufacturing Loan Program (ATVM Program) was authorized by Congress pursuant to Section 136 of the Energy Independence and Security Act of 2007, as amended (Section 136). The ATVM Program is administered by the U.S. Department of Energy's (DOE) Loan Programs Office (LPO). The purpose of the ATVM Program is to originate, underwrite and service loans to eligible automotive manufacturers and component manufacturers 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.

Parties interested in financing from the ATVM Program are invited to participate in pre-application consultations with LPO staff to discuss if a proposed project may meet eligibility criteria, and if so, whether or how to engage in the ATVM Program application process. Given the unique eligibility and rigorous underwriting standards of the ATVM Program, interested parties are strongly encouraged to engage with the LPO staff in pre-application consultations.

This document is based on the requirements of: (i) Section 136 and the implementing Interim Final Rule (10 CFR 611); and (ii) the ATVM Program's policies and procedures in effect as of the date hereof. These requirements may be amended or changed from time to time. Applicants should refer to the Interim Final Rule, which is accessible through the LPO's website (<https://www.energy.gov/lpo/atvm/atvm-governing-documents>).

This guidance covers the following areas:

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## **II. Application Process**

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This guidance material updates previous materials issued on October 5, 2012, November 4, 2014 and June 24, 2016.

**DISCLAIMER:** This guidance: does not constitute legal advice and is provided for informational purposes only; and, 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. PRE-APPLICATION CONSULTATION

The ATVM Program is structured to provide loans to qualified manufacturers. The scale of projects financed through the ATVM Program are typically on the order of tens of millions to several billions of dollars, and are by their nature complex undertakings. Parties interested in obtaining such a loan should understand all stages of the application process, due diligence review, negotiation of terms, and financial closing for an ATVM Program loan prior to preparing an application. In addition, applicants should be prepared to engage a team of professionals (e.g., accountants, attorneys, financial analysts, engineers, environmental experts, etc.) supporting their efforts throughout the entire process.

Parties are strongly encouraged to participate in discussions with LPO staff, referred to as “pre-application consultations”, prior to preparing an application to the program. Pre-application consultations are meant to informally address issues and materials that are needed to meet the standards of an acceptable application. Pre-application consultations serve to inform potential applicants about eligibility and viability criteria, program parameters and the application process.

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The purpose for conducting the pre-application consultations is to provide a preliminary assessment as to eligibility and viability of a project and to discuss whether a party should submit an application. To that end, LPO staff will:

- Describe the overall application and screening process including due diligence, underwriting, timing and costs;
- Clarify common misconceptions about the ATVM Program including what key factors determine whether a borrower presents a reasonable prospect of repayment;
- Explain LPO’s limited appetite for accepting market risk; and
- Review preliminary materials that would typically accompany a formal application.

By conducting such consultations before a prospective applicant completes an application, LPO intends to:

- Improve the experience for potential applicants by providing a venue for ongoing communications with LPO staff thereby giving prospective applicants a better idea of what they need to demonstrate in order to obtain LPO support.
- Work more directly with prospective applicants on structuring their transaction and informing them of what is needed to reach due diligence, which in turn may lead to a possible conditional commitment.
- For projects that demonstrate a readiness to proceed, provide advice on additional materials that would lead to a more complete application. The result will be a more efficient formal application process that will give the most viable prospective applicants greater confidence that investing the time, effort, and money to apply will more likely result in their ability to reach due diligence and a potential conditional commitment.
- Provide projects that do not meet program requirements the benefit of an early explanation of that fact thereby avoiding the risk of interested parties wasting further resources. As a result, such interested parties can continue to work on their project without having to invest time and money to develop a formal application or having the incorrect understanding that an application is proceeding towards due diligence and consideration for a conditional commitment when, in fact, it is not.

## II. APPLICATION PROCESS

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

### 1) APPLICATION INTAKE PROCESS:

Applications are submitted electronically to the LPO's website (<https://apply.loanprograms.energy.gov/>). Applications must contain all the information specified in 10 CFR 611.101, however, such information is not required to be in a specified format. LPO will promptly review each application to determine whether it contains sufficient information to determine whether the applicant is eligible under 10 CFR 611.100. DOE can reject an application that does not contain the required information. If LPO determines that the applicant is eligible, the ATVM Program will review the technical, financial, environmental and legal aspects of the application to determine if the project specified in the application meets ATVM Program viability thresholds per 10 CFR 611.103. If the project satisfies such viability thresholds, then the ATVM Program may elect to continue preliminary due diligence. If the ATVM Program does not elect to conduct due diligence with respect to the application, then DOE may reject the application and will take no further action with respect to the application. Note, that once the ATVM Program determines an application contains all the information necessary to conduct an eligibility assessment, relevant project costs incurred by the project sponsors may qualify as eligible costs (see Section III.4 below for further information on "eligible costs").

### 2) PRELIMINARY DUE DILIGENCE/PRELIMINARY TERMS AND CONDITIONS:

If the application is moved to preliminary due diligence, the ATVM Program will: (i) conduct a further evaluation of the technical, financial, legal and other aspects of the application; and (ii) confirm the eligibility of the vehicle/component, applicant and project costs (see Section III below for further information on eligibility requirements). Prior to the start of preliminary due diligence, project sponsors will be expected to execute one or more Sponsor Payment Letters which will obligate the sponsors to pay for DOE's third-party consultants (e.g., financial, legal, technical and market advisors) engaged to support due diligence. If the preliminary application evaluation and eligibility review are not satisfactory to the ATVM Program, the application may be withdrawn or rejected, and no further action will be taken by the ATVM Program. If the preliminary application evaluation and eligibility review are satisfactory to the ATVM Program, then the ATVM Program will provide the applicant with the preliminary terms and conditions of a proposed ATVM Program 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 may be withdrawn or rejected, and no further action will be taken by the ATVM Program.

### 3) ADVANCED DUE DILIGENCE/CONDITIONAL COMMITMENT LETTER:

If the application is moved to advanced due diligence, the ATVM Program 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 specifying the terms and conditions of the proposed ATVM Program loan. 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 ATVM Program is satisfied with the results of its due diligence to date, the ATVM Program 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 Program loan, subject to DOE's satisfaction: (i) of the finalization of loan documents; (ii) with the final results of its due diligence; and (iii) 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 included in the CCL.

### 4) LOAN DOCUMENTS AND CLOSING:

After the CCL has been issued and countersigned, the ATVM Program will: (i) continue to conduct 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. Note that the final terms and conditions of the ATVM Program loan may differ from the terms and conditions of the CCL.

### III. GENERAL ELIGIBILITY REQUIREMENTS

ATVM Program 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 III describes: (1) eligibility requirements for ATVs and qualifying components; (2) technical eligibility requirements for applicants; (3) financial eligibility requirements for applicants; and (4) eligibility requirements for project costs.

#### 1) ELIGIBILITY REQUIREMENTS FOR ATVS and QUALIFYING COMPONENTS [10 CFR 611.2; 611.3]:

**Vehicle Eligibility.** In order for a vehicle to be eligible as an “ATV” under the ATVM Program, the vehicle must be one of the following:

**a) Passenger automobile or light truck** that satisfies both: (i) the emission standards set forth in clauses (1) and (2) 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 (ii) at least 125 percent of the harmonic production weighted average combined fuel economy for vehicles with substantially similar attributes in model year 2005 (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** that is a fully closed compartment vehicle designed to carry at least two (2) adult passengers that achieves at least: (i) 75 miles per gallon while operating on gasoline or diesel fuel; (ii) 75 miles per gallon equivalent while operating as a hybrid electric-gasoline or electric-diesel vehicle; or (iii) 75 miles per gallon equivalent while operating as a fully electric vehicle.

**Component Eligibility.** In order for a component to be eligible as a “qualifying component” under the ATVM Program, the component must be both of the following:

**a)** Designed for ATVs; and

**b)** Installed for the purpose of meeting the performance requirements of ATVs.

#### 2) TECHNICAL ELIGIBILITY REQUIREMENTS FOR APPLICANTS [10 CFR 611.100(a)(1)]:

In order for an applicant to be eligible under the ATVM Program, the applicant must be one of the following:

**a) Automotive Manufacturer Satisfying One of the Following Fuel Economy Requirements (as specified in 10 CFR 611.100(b)):** (i) 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 data is available is at least equal to the adjusted average fuel economy of the applicant’s fleet for model year 2005; or (ii) if the applicant is an automotive manufacturer that did not build vehicles in model year 2005 that were subject to CAFE requirements, then the applicant must demonstrate that the projected combined fuel economy for the relevant ATV(s) being financed with the ATVM Program 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) FINANCIAL ELIGIBILITY REQUIREMENTS FOR APPLICANTS [10 CFR 611.100(a)(2)]:

In order for an applicant to be eligible under the ATVM Program, the applicant must be “financially viable” without the receipt of additional Federal funding associated with the proposed eligible project. 10 CFR 611.100(c) sets forth a non-exhaustive list of the factors considered by the ATVM Program in determining whether the applicant is financially viable.

**Financially Viable.** The applicant will be deemed financially viable for purposes of 10 CFR 611.100(a)(2) if DOE determines that:

**a)** there is a reasonable prospect that the applicant will be able to pay principal and interest as and when due under the ATVM Program loan; and

**b)** the applicant has a net present value that is positive, taking all costs, existing and future, into account.

**Restrictions on Additional Federal Funding.** 10 CFR 611.100(d) sets forth a non-exhaustive list of 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) ELIGIBILITY REQUIREMENTS FOR PROJECT COSTS [10 CFR 611.102]:**

The ATVM Program only allows proceeds of its loan to be used to pay (or reimburse the applicant for payments of) eligible costs. Under 10 CFR 611.105(d)(3), the principal amount of an ATVM Program loan can be no more than 80% of total project costs (though the ATVM Program may require the principal amount to be significantly below 80% of total project costs). Costs that have been incurred following the submission of all required application information may qualify as eligible costs per 10 CFR 611.102 if they are either:

- 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.

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

### **IV. GENERAL APPLICATION REQUIREMENTS**

Before completing an application, parties are encouraged to participate in pre-application consultations with the LPO staff for the purpose of obtaining a recommendation to submit an application. As previously stated, the ATVM Program does not have a standard form application. At a minimum, applications must include the information and materials required by 10 CFR 611.101. This Section IV 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 an ATVM Program loan is sought, including key milestones and location of the project.

*The project description should be in the format of Microsoft Word or similar program. The description should be as detailed as possible. If the project’s site has not yet been selected, list all potential sites that have been identified that are under consideration. Include a list of the names of key management and senior staff involved with the proposed project.*

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

*The qualification section should contain a detailed explanation of how: (i) the vehicle/component satisfies the eligibility requirements for ATVs and qualifying components set forth in Section III.(1) above; and (ii) the applicant satisfies the technical eligibility requirements set forth in Section III.(2) above. Information regarding Autonomie can be found at <http://www.autonomie.net>.*

#### **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 monthly and aggregate basis, and break-out eligible costs and ineligible costs.*

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

**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, debt, and the liabilities 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 of funds should be presented on a monthly basis. Note that while 10 CFR 611.105(d)(3) allows for the principal amount of an ATVM Program loan to be up to 80% of total eligible project costs, strong applications will generally have financial plans providing for equity financing significantly in excess of 20% of total project costs.*

**C. Pro Forma Financial Statements [10 CFR 611.101(f)].** Applicant's complete business plan for the subject project and applicant's financial model presenting pro forma financial statements for the proposed term of the obligations including income statements, balance sheets, and statements of cash flows. All such information and data must include all underlying assumptions including the range of revenue, operating costs and credit assumptions considered.

*Applicants 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). Only input data and key assumptions should be hard-coded. The financial statements should be prepared in accordance with Generally Accepted Accounting Principles or comparable standards (e.g., International Financial Reporting Standards). The income statement, balance sheet, and statement of cash flows should be linked, and any sensitivity analyses that have been performed should be included within the model.*

**D. Market Analysis [10 CFR 611.101(g)].** An analysis of projected market use for any vehicle/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 and competitors); (iii) substitute products; (iv) barriers to entry; and (v) total cost of ownership. Include a detailed breakdown of the key assumptions underlying the market analysis. Specify the author, title and date of any third-party research used in the market analysis. Where available, provide copies of: (i) any contractual agreements or memoranda of understanding with customers; (ii) any sales channel agreements; and (iii) any product service agreements.*

*Applicants should note that in all but the most extraordinary circumstances, market analysis (studies) will not be sufficient to establish a high level of confidence that adequate future sales will occur.*

**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. Include 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. Also include business and financial interests of controlling or commonly controlled organizations or persons, including parent, subsidiary and other affiliated corporations or partners of the applicant.

*Strong applications will include historical financial statements demonstrating positive cash flows and debt service capacity.*

**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 its useful life. 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.

*Provide a detailed list of proposed collateral broken out by asset type (e.g., real estate, equipment, tooling, inventory, intellectual property, etc.) along with: (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. 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 Program 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 (NPV) which is positive, taking all costs, existing and future, into account. For publicly traded companies, this information must include relevant filings with the U.S. Securities and Exchange Commission.

*In order to demonstrate that the applicant is financially viable without additional Federal funding, the application at a minimum must: (i) provide the financial information specified in 10 CFR 611.100(c) and any other relevant information requested by the ATVM Program; 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 Program loan, the ATVM Program 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 NPV calculation should be incorporated into the forward-looking financial statements delivered pursuant to 10 CFR 611.101(f). The NPV should be calculated using the discounted cash flow method on a free cash flow to the firm basis. The discount rate applied in this calculation should be a market-based rate which reflects the weighted average cost of capital of the proposed borrower including its cost of debt and its cost of equity, consistent with a rate of return expected by similar investors in similar projects.*

**H. Additional Guidance on Adequate Future Sales.** A critical element in determining whether a proposed applicant meets the financial viability requirement is the inquiry into whether it will be able to achieve adequate sales of its products sufficient to sustain its long-term existence. Adequate future sales are essential to a borrower's ability to repay any ATVM Program loan that may be made. This ability to achieve future adequate sales is sometimes referred to in the marketplace as whether a company is "commercially viable" or has achieved "market acceptance."

*The determination of adequate future sales depends significantly upon the stage of development of an applicant and the product(s) proposed to be financed under the ATVM Program. Where a company has a history of sales of the same or a similar product as is proposed to be financed by DOE, (e.g., an expansion of an existing manufacturing facility), then the determination of adequate future sales may be straightforward, especially where there is significant evidence of unfulfilled demand.*

*However, where a start-up company that has not generated revenue seeks to commence operations, or an established company proposes to enter a new product or geographic market, the evaluation of adequate future sales cannot be made primarily on the basis of past sales performance. In these instances, applicants must develop proposals that either establish to a high level of confidence that adequate future sales will occur, or that the consequences to DOE of sales under-performance have been mitigated. In many cases, applicant proposals will involve some combination of both. In all but the most extraordinary circumstances, market studies and non-binding customer reservations to purchase vehicles or components will not be sufficient to establish adequate future sales. Whether a particular applicant proposal is adequate for DOE's purposes is a highly fact-specific inquiry that will depend upon many considerations, including the relevant product and geographic markets, the cost structure of the applicant, any pre-existing revenue streams and liabilities that the applicant may have, and the level of competition in the market place. In other words, there is no "one size fits all" solution to establishing the likelihood of adequate future sales.*

*Based on past experience, certain measures observed by DOE serve as illustrations of how a high level of confidence in adequate future sales can be achieved in the absence of a demonstrated sales history. For example, long-term contracts for purchase of the product output from creditworthy offtakers (contracted offtake) can significantly reduce market risk. Similarly, if the market for a product is an established "commodity market," characterized by standardized performance requirements and widespread demand, evidence that the applicant will be able to sell into that market profitably may serve to mitigate market risk. While the foregoing measures have demonstrated their usefulness in the past, DOE does not prescribe specific arrangements to establish the likelihood of adequate future sales. Such arrangements are best achieved by applicants with reference to the specific circumstances of individual projects.*

*Note that while adequate future sales are a critical element of financial viability, many other factors will come into play in establishing overall financial viability, including, but not limited to: demonstrated management capability and experience; the ability to execute the project plan; the availability of other capital resources; the existence of relevant intellectual property rights; the ability to obtain all necessary governmental approvals; and the ability to generate cash flow and profit from sales over time.*

### **3) OTHER APPLICATION REQUIREMENTS**

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

*The certification should be in the form of a brief letter, signed by a responsible officer of the applicant.*

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



*Strong applications will have selected the project's site and obtained all necessary permits and approvals. If the project site has not yet been selected, list all potential sites 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 Program loan.*

**C. NEPA Compliance [10 CFR 611.101(j)].** Information sufficient to enable DOE to comply with the National Environmental Policy Act of 1969 (NEPA).

*The ATVM Program will review the environmental information provided pursuant to 10 CFR 611.106 to determine the level of NEPA review required for the proposed project. The NEPA review will be either an environmental impact statement or an environmental assessment, unless a categorical exclusion (CatEx) applies. A CatEx is unlikely if the ATVM Program loan is used to finance the construction of a new manufacturing facility on a greenfield site. The NEPA review process must be completed as a condition precedent to closing the ATVM Program loan. The ATVM Program may determine that additional NEPA review is necessary if there are any changes to the project after the ATVM Program loan is closed that were not covered by the original NEPA review (e.g., the project's site).*

**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 an ATVM Program loan 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.

*The written assurance should be in the form of a brief letter, signed by a responsible officer of the applicant.*

**E. Form SF-LLL [10 CFR 611.101(n)].** Completed Form SF-LLL 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](http://www.whitehouse.gov/omb/grants_forms).*

**F. Other Information [10 CFR 611.101(o)].** Other information, as determined necessary by DOE.

#### **4) CO-FINANCING ARRANGEMENTS**

The ATVM Program will consider applications that contemplate co-financing arrangements with qualified financial institutions.

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