

**TEXAS COMPTROLLER OF PUBLIC ACCOUNTS
NOTICE OF LOAN FUND AVAILABILITY
AND REQUEST FOR APPLICATIONS**

<p>NOTICE OF LOAN FUND AVAILABILITY AND REQUEST FOR APPLICATIONS: Pursuant to: (1) the LoanSTAR (Saving Taxes and Resources) Revolving Loan Program of the Texas State Energy Plan (SEP) in accordance with the Energy Policy and Conservation Act (42 U.S.C. 6321, et seq.), as amended by the Energy Conservation and Production Act (42 U.S.C. 6326, et seq.); (2) the Oil Overcharge Restitutionary Act, Chapter 2305 of the Texas Government Code; and (3) Title 34, Texas Administrative Code, Chapter 19, Subchapter D Loan Program for Energy Retrofits; the Texas Comptroller of Public Accounts (Comptroller) and the State Energy Conservation Office (SECO) announces its Notice of Loan Fund Availability (NOLFA) and Request for Applications (RFA #BE-G7-2012) and invites applications from eligible interested governmental entities for loan assistance to perform building energy efficiency and retrofit activities.

<p>PROGRAM SUMMARY: The Texas LoanSTAR Revolving Loan Program finances energy-related cost-reduction retrofits for eligible public sector institutions. Low interest rate loans are provided to assist those institutions in financing their energy-related cost-reduction efforts. The program's revolving loan mechanism allows loan recipients to repay loans through the stream of energy cost savings realized from the projects.

<p>FUNDS AVAILABLE AND LOAN TERM: Approximately \$43,600,000 in LoanSTAR funds may be available in the form of the building efficiency and retrofit revolving loan funds. The anticipated maximum amount of funds available for each loan recipient is \$7,500,000. SECO may make more than one award of a loan and may make more than one award of a loan to a single loan recipient with this NOLFA/RFA announcement. The interest rate to be charged to loan recipients for this NOLFA/RFA announcement is 2.0% fixed. The loan term will be equal to the composite simple payback term for the energy efficiency measures.

<p>ELIGIBILITY CRITERIA: Eligible public sector institutions include the following: (1) any state department, commission, board, office, institution, facility, or other agency; (2) a public junior college or community college; (3) an institution of higher education as defined in Section 61.003 of the Texas Education Code; (4) units of local government including a county, city, town, a public or non-profit hospital or health care facility; (5) a public school; or (6) a political subdivision of the state.

<p> Utility dollar savings are the most important criterion for determining if the measure can be considered an eligible Energy Cost Reduction Measure (ECRM). ECRMs are not limited to those activities that save units of energy. An ECRM could conceivably call for actions which save no energy or consume additional BTUs, but save utility budget dollars. Examples of such ECRMs include demand reduction, increased power factor, load shifting, switching utility rate structures, and thermal storage projects.

<p> Projects financed by LoanSTAR must have a composite simple payback of ten (10) years or less for design-build and design-bid-build projects and a total project payback of ten (10) years or less for energy savings performance contracts. In addition, each ECRM and Utility Cost Reduction Measure (UCRM) must have a simple payback that does not exceed the estimated useful life (EUL) or the ECRM or UCRM. Loan recipients have the option of buying down specific energy-related cost-reduction projects so that paybacks can meet both the individual and composite loan term limits. SECO encourages Applicants to consider renewable energy technologies when evaluating ECRMs and UCRMs.

<p> Before entering into a LoanSTAR loan agreement, Applicants are required to submit an Energy Assessment Report (EAR) for Design-Bid-Build Projects and Design-Build Projects, or a Utility Assessment Report (UAR) for Energy Savings Performance Contracts, or a Systems Commissioning Report in the case where the commissioning meets LoanSTAR payback requirements. All LoanSTAR projects must be reviewed and analyzed by a professional engineer licensed in the State of Texas (Engineer). The Engineer shall be selected by the Applicant.

<p> When an Engineer analyzes a project; he/she shall submit the details of his/her analysis in the form of an EAR for Design-Bid-Build Projects and Design-Build Projects, or a UAR for Energy Savings Performance Contracts. The EAR shall be prepared in accordance with the LoanSTAR Technical Guidelines (http://www.seco.cpa.state.tx.us/l/s_guideline.php) prescribed format. The UAR shall be prepared in accordance with the SECO Performance Contracting Guidelines (http://seco.cpa.state.tx.us/perf_contract.php) prescribed format. There is not a prescribed format for Systems Commissioning Reports.

<p> Project descriptions and calculations contained within the EAR, the UAR, and the Systems Commissioning Reports must be reviewed and approved by SECO before project financing is authorized.

<p>Project designs for Design-Bid-Build must be reviewed and approved by SECO before construction can commence. Design-Build project designs must be sufficiently complete to be reviewed and approved by SECO before construction can commence. Design-Bid-Build, Design-Build, and Energy Savings Performance Contracts are monitored during the construction phase and at project completion.

<p>Post-retrofit energy savings should be monitored by the Applicant in Design-Bid-Build and Design-Build projects to ensure that energy cost savings are being realized. The level of monitoring may range from utility bill analysis to individual system or whole building metering, depending on the size and types of retrofits installed.

<p>For Energy Savings Performance Contracts, a Measurement and Verification (M+V) plan must be developed and approved by SECO. Post construction measurement and verification costs must be included as part of the total project cost when calculating the payback.

<p>Additional LoanSTAR funds can be borrowed for metering of large, complex retrofits in order to maximize the probability of achieving, or exceeding, calculated savings; however, the maximum allowable loan amount, including the cost of the metering, cannot be exceeded.

<p>APPLICATION REQUIREMENTS: Comptroller will make the loan application, instructions, and a sample loan agreement with attachments available for review electronically on the SECO website at: <http://www.seco.cpa.state.tx.us/funding/> after 10:00 a.m. CT on Friday, October 26, 2012.

<p>The loan application must: (1) be complete; (2) be submitted under a signed transmittal letter; (3) include an executive summary and a table of contents; and (4) describe the project and personnel qualifications relevant to the evaluation criteria. Applications must also meet the following program requirements:

- <p>The maximum loan amount shall not exceed \$7.5 million.
- <p>The interest rate is set at 2.0%.
- <p>The term of the loan is equal to the composite simple payback term for the energy efficiency measures, which must be 10 years or less. The individual ECRM/UCRM must demonstrate a simple payback of less than the ECRM's/UCRM's estimated useful life.
- <p>Project expenses will be reimbursed on a "cost reimbursement" basis.
- <p>Loan recipient will be required to comply with federal Solid Waste Disposal Act, and, if applicable, National Environmental Policy Act, and National Historic Preservation Act. Loan recipients will ensure that the State Historical Preservation Office (SHPO) is consulted in any project award that may include a building or site of historical importance. In this regard, SHPO guidance will be solicited and followed to ensure that the historical significance of the building will be preserved. All requirements are set out in the sample contract.
- <p>SECO will conduct periodic on-site monitoring visits on all building retrofit projects.
- <p>All improvements financed through the LoanSTAR Revolving Loan Program shall meet minimum efficiency standards (as prescribed by applicable building energy codes). Examples of projects that are acceptable may include:
 - <p>Building and mechanical system commissioning and optimization
 - <p>Energy management systems and equipment control automation
 - <p>High efficiency heating, ventilation and air conditioning systems, boilers, heat pumps and other heating and air conditioning projects
 - <p>High efficiency lighting fixtures and lamps
 - <p>Building Shell Improvements (insulation, adding reflective window film, radiant barriers, and cool roof.)
 - <p>Load Management Projects
 - <p>Energy Recovery Systems
 - <p>Low flow plumbing fixtures, high efficiency pumps
 - <p>Systems commissioning
 - <p>Renewable energy efficiency projects are strongly encouraged wherever feasible, and may include installation of distributed technology such as rooftop solar water and space heating systems, geothermal heat pumps(only closed loop systems with no greater than 10 ton capacity),

or electric generation with photovoltaic or small wind and solar-thermal systems. If there are closed-loop geothermal heat pumps greater than 10 ton capacity involved, then Applicants will be responsible for further National Environmental Policy Act (NEPA) review by DOE in the event of an award. If renewable generation greater than 20 KW is involved, Applicants will be responsible for further NEPA review by DOE.

<p>Applicants shall submit one (1) original, five (5) bound copies, and one (1) electronic copy of the loan application, as well as of one of the following documents:

1. <p>Project Assessment Commitment. The Project Assessment Commitment can be used for Design-Bid-Build and Design-Build projects, for Energy Savings Performance Contracts, or for Commissioning projects. The Project Assessment Commitment shall be signed by the applicant's Chief Financial Officer or equivalent;
2. <p>Preliminary Energy Assessment (PEA). A PEA can be used for Design-Bid-Build and Design-Build projects, for Energy Savings Performance Contracts, or for Commissioning projects. The PEA must be completed by a Professional Engineer licensed in the State of Texas. PEAs must include Energy Cost Reduction Measure (ECRM) or Utility Cost Reduction Measure (UCRM) that will be completed to reduce utility (energy and water) costs. Project costs and simple paybacks must also be documented for each ECRM and UCRM in the PEA;
3. <p>Energy Assessment Report (EAR). An EAR can be used for Design-Bid-Build and Design-Build projects;
4. <p>Utility Assessment Report (UAR). The UAR can be used for Energy Savings Performance Contracts; or
5. <p>Commissioning Report for Commissioning projects.

<p>While the Project Assessment Commitment and the PEA will qualify the project for potential funding, an approved EAR, UAR or Commissioning Report will be required prior to execution of a loan agreement.

<p>ISSUING OFFICE: Parties interested in submitting an application should contact Jason C. Frizzell, Assistant General Counsel, Contracts, Texas Comptroller of Public Accounts, at: 111 E. 17th St., Room 201, Austin, Texas 78774, or via phone at (512) 305-8673. This NOLFA/RFA will be available on Friday, October 26, 2012, after 10:00 a.m. Central Time (CT) and during normal business hours thereafter.

<p>QUESTIONS: All written inquiries and questions must be received at the above-referenced address not later than 2:00 p.m. (CT) on November 2, 2012. Prospective applicants are encouraged to send Questions via email to contracts@cpa.states.tx.us or fax to (512) 463-3669 to ensure timely receipt. On or about November 9, 2012, or as soon thereafter as practical, Comptroller expects to post responses to the questions received by the deadline on the website referenced above. Late Questions will not be considered under any circumstances.

<p>CLOSING DATE: Applications must be delivered in the Issuing Office to the attention of the Assistant General Counsel, Contracts, no later than 2:00 p.m. (CT), on 7th day, December, 2012. Late Applications will not be considered under any circumstances. Applicants shall be solely responsible for verifying timely receipt of applications in the Issuing Office.

<p>EVALUATION CRITERIA: Loan Applications will be evaluated under the general criteria outlined in the application and instructions. Comptroller reserves the right to accept or reject any or all applications submitted. Comptroller is not obligated to execute a loan agreement on the basis of this NOLFA/RFA. Comptroller shall not pay for any costs incurred by any entity in responding to this NOLFA/RFA. Comptroller and SECO may request additional information at any time if deemed necessary for further evaluation.

<p>A Loan Application, submitted through a NOLFA/RFA process, must be reviewed by the SECO legal counsel before a loan can be considered. Applications that meet minimum qualifications are distributed to the members of the Evaluation Committee for their independent review and evaluation. The Evaluation Committee will review and individually score each written application. The Evaluation Committee has the option of selecting the top scoring applications and may, but is not required to, call the top scoring Applicants to come to SECO offices in Austin, Texas for an interview. The Evaluation Committee may, in its sole discretion, proceed directly to Applicant scoring and selection without the necessity of any oral interviews.

<p> Applicants who submit a project assessment commitment or a PEA will receive a Memorandum of Understanding (MOU) from SECO. The sole purpose of the MOU is to reserve LoanSTAR funds for the successful Applicant during the period the EAR, UAR, or Commissioning Report is being prepared. This document should not be construed as a loan approval and does not authorize the expenditure of funds for LoanSTAR projects. LoanSTAR project expenditures cannot be incurred before the effective date cited in a fully-executed loan agreement unless those expenditures are approved in the LoanSTAR Technical Guidelines. Commitment of funding to applicants will take place upon execution of the MOU. Those applicants must then submit an EAR, UAR, or Commissioning Report by the date identified in the MOU.

<p>The EAR, UAR or Commissioning Report shall be prepared by Engineer. The EAR and UAR shall be prepared in accordance with the guidelines and formats described above. A selected Applicant's CFO will also certify that three (3) original bound copies and one (1) electronic copy of the completed reports will be delivered to SECO for review within the required submittal date. The submitted EAR, UAR, or Commissioning Report will then be reviewed by the SECO technical staff or its contractor. The technical staff may request Engineer to provide additional information or calculations. If the report is not submitted within any Loan Application time constraints, SECO may, in its sole discretion, choose to withdraw the loan offer.

<p>LOAN AGREEMENT: SECO will attempt to negotiate a Loan Agreement with any selected Applicants after the EAR, UAR, or Commissioning Report has been reviewed and approved. The reports must be deemed to comply with LoanSTAR Technical Guidelines for EARs and SECO Performance Contracting Guidelines for UARs in order to move forward with the preparation of a Loan Agreement.

<p>A fully-executed Loan Agreement authorizes the selected Applicant to proceed with the design of their projects and includes guaranteed funding for the ECRMs stated in the approved EAR, UAR or Commissioning Report. If a Loan Agreement cannot be successfully negotiated within a reasonable period of time, negotiations will be terminated, and negotiations with the next highest ranking Applicant may commence. The process may continue until one or more Loan Agreements are signed or the loan offer is withdrawn. SECO may at any time, upon failure of negotiations, choose to reissue or withdraw the loan offer rather than continue with negotiations. If SECO decides, in its sole discretion, to award more than one loan, SECO may proceed with negotiations in the above-described manner with more than one Applicant simultaneously.

<p>DESIGN-BID-BUILD AND DESIGN-BUILD DESIGN AND REVIEW PROCESS: After a Loan Agreement has been executed, Applicant can begin the process of designing and implementing the projects identified in the report. Applicant agrees that bidding and construction activities shall not begin until after Applicant received SECO approval that the submitted designs conform to LoanSTAR Technical Guidelines. Applicants agree to competitively select contractors or bidders as required by Texas state law.

<p>A design-bid-build process includes two milestones.

1. <p>Selecting a design engineer. The engineer selected to design the projects can be the Engineer who prepared the Energy Assessment Report; however, Applicant must follow competitive procedures, based upon qualifications, to select the design engineer.
2. <p>Preparing the design documents. Applicant must submit Design Development Reports and Detailed Design Reports (Volume I, Appendix L of the LoanSTAR Technical Guidelines) to SECO for technical review and approval. The SECO Technical Review will ensure that the design specifications match the projects identified in the report.
 - i. <p>Design Development Report (50%) – This design review report will be completed when the design process is approximately 50% complete and will verify that the design is proceeding in a direction which conforms with the approved EAR.
 - ii. <p>Detailed Design Review Report (100%) – This design review report will verify that the completed design conforms to the intent of the approved energy assessment. In addition, it will evaluate the proposed schedule and estimated project construction budget provided by the design engineer.

<p>A design-build process includes two milestones.

1. <p>Selecting a design Engineer. The engineer selected to design the projects can be the Engineer who prepared the Energy Assessment Report; however, Applicant must follow competitive procedures, based upon qualifications, to select the Engineer.
2. <p>Preparing the design documents. Applicant must submit Design Development Reports and

Detailed Design Reports (Volume I, Appendix L of the LoanSTAR Technical Guidelines) to SECO for technical review and approval. The SECO Technical Review will ensure that the design specifications match the projects identified in the report.

- i. <p>Design Development Report (50%) – This design review report will be completed when the design process is approximately 50% complete and will verify that the design is proceeding in a direction which conforms with the approved EAR.
- ii. <p>Detailed Design Review Report – This design review report will verify that the design is sufficiently complete to determine that the project conforms to the intent of the approved energy assessment. In addition, the reviewer will evaluate the proposed schedule and estimated project construction budget provided by the design engineer. Any subsequent design elements completed after this review shall be forwarded to SECO to ensure the additional design elements meet the LoanSTAR Technical Guideline requirements.

<p>ENERGY SAVINGS PERFORMANCE CONTRACTING DESIGN REVIEW PROCESS: There is no design review process for Energy Savings Performance Contracts unless a system commissioning is a component of that program.

<p>SYSTEMS COMMISSIONING REVIEW PROCESS: Systems commissioning may be part of a Design-Bid-Build project, a Design-Build project, an Energy Savings Performance Contracting project or it may be a stand-alone activity. To be considered as an ECRM/UCRM or a stand-alone activity, the Systems Commissioning Report must be reviewed and approved by SECO prior to loan execution.

<p>Commissioning activities typically include surveying, interviewing, baseline measurements and analyses, definition of problems, definition of solutions, implementation of solutions, balancing, and verification measurements. Some of these steps may be repeated as necessary to optimize systems operations. In some cases system considerations extend beyond just the equipment installed under the LoanSTAR ECRMs. This is to ensure that total building system effects are comprehended and optimized. Since both heating and cooling systems are usually involved in this process, optimization activities may extend over a six-month period or longer. Documentation of findings and corrections, along with recommended operating procedures should be provided by the commissioning organization.

<p>NOTIFICATION UPON PARTIAL AND FULL COMPLETION: Applicant agrees to promptly notify SECO in writing when the project reaches 50% completion. Upon notification, SECO shall perform a construction monitoring visit to ensure the project complies with the LoanSTAR Technical Guidelines or SECO Performance Contracting Guidelines. After the construction monitoring visit, SECO will provide Applicant with a copy of the On-Site Construction Monitoring Report. This report will provide a general overview of construction site activities and will address issues of budget, schedule, and conformance of the work with the design documents and will make recommendations concerning any necessary changes in scope or budget.

<p>Applicant agrees to promptly notify SECO in writing when the project reaches 100% completion. Upon notification, SECO shall perform a construction monitoring visit to ensure the completed project complies with the LoanSTAR Technical Guidelines or SECO Performance Contracting Guidelines. After the construction monitoring visit, SECO will provide the Applicant with a copy of the Final Monitoring Report. This report focuses on compliance by the construction contractor with the “close-out” documentation requirements outlined in the bid documents. The report will verify that guarantees, warranties, releases, O&M manuals, training sessions required, etc. have been provided by the contractor. Applicant shall then certify with a written letter that materials and equipment to be replaced have been properly disposed. These materials would include, but not be limited to, light bulbs, ballasts, switches, controls, HVAC equipment, refrigerants, pumps, fans, blowers, piping, valves, conduit, wiring, and boilers. Certification shall include proper disposal of hazardous materials. All waste disposals must be conducted in compliance with local, State of Texas, and federal rules and regulations. Upon completion of the project and acceptance by SECO, Applicant will submit a Final Completion Report to SECO (LoanSTAR Technical Guidelines) and a final voucher request.

<p>REPAYMENT PROCESS: After submittal of the Final Completion Report to SECO and the final voucher request, Applicant shall request a Loan Repayment Schedule from SECO, which contains the outstanding loan balance, the term of the loan, and the schedule of quarterly payments to SECO. SECO forwards the Loan Repayment Schedule to Applicant based on the incurred loan amount. The outstanding loan balance consists of the

borrowed dollars plus the interest accrued on the borrowed dollars. Interest begins accruing on the borrowed dollars when Applicant receives that money. The interest continues to accrue until the date of the first scheduled loan repayment. The term of the loan is equal to the simple project payback that was provided in the EAR, UAR, or Commissioning Report. The term is determined by dividing the total project borrowed amount by the annual energy cost savings projected in the EAR, UAR or Commissioning Report. The schedule of quarterly payments will contain equal payments. Loan repayments will begin within sixty (60) days of project completion. The payments are due at the end of each fiscal quarter, using the State's fiscal calendar. Payments are due regardless of whether Applicant has achieved that level of energy savings and do not vary according to the actual energy savings.

<p>SCHEDULE OF EVENTS: The anticipated schedule of events pertaining to this RFA is as follows: Issuance of RFA – 26th day, October, 2012, after 10:00 a.m. CT; Questions Due – 2nd day, November, 2012, 2:00 p.m. CT; Official Responses to Questions posted – 9th day, November, 2012, or as soon thereafter as practical; Applications Due – 7th day, December, 2012, 2:00 p.m. CT; Loan Agreement Execution –as soon as practical.

Issued in Austin, Texas, on 26th day, October, 2012.

Jason C. Frizzell
Assistant General Counsel, Contracts
Texas Comptroller of Public Accounts