

## Part III - Administrative, Procedural, and Miscellaneous

### Round 3 of Phase III of the § 48A Qualifying Advanced Coal Project Program

Notice 2020-88

#### SECTION 1. PURPOSE

Section 48A of the Internal Revenue Code (Code), as originally enacted by the Energy Policy Act of 2005, Pub. L. 109-58, 119 Stat. 594 (August 5, 2005), provided for the first phase of the Qualifying Advanced Coal Project Program by authorizing the allocation of \$1.3 billion of credits (§ 48A Phase I Program). Section 111 of the Energy Improvement and Extension Act of 2008, Pub. L. 110-343, 122 Stat. 3765 (October 3, 2008), amended § 48A to provide for a second phase of the Qualifying Advanced Coal Project Program by authorizing the allocation of an additional \$1.25 billion of credits (§ 48A Phase II Program). Pursuant to § 48A(d)(4), on August 13, 2012, the Department of the Treasury (Treasury Department) and the Internal Revenue Service (Service) published Notice 2012-51, 2012-33 I.R.B. 150, to reallocate § 48A credits available after the conclusion of the § 48A Phase I and Phase II Programs (§ 48A Phase III Program). On March 9, 2015, the Treasury Department and the Service published Notice 2015-14, 2015-10 I.R.B. 722, announcing the 2015 reallocation round (Round 2) of the § 48A Phase III program.

This notice updates and amplifies the procedures for the allocation of § 48A Phase III credits by announcing the beginning of Round 3 of the § 48A Phase III Program.

To be considered in Round 3 of the § 48A Phase III Program, applications must be submitted to the Department of Energy (DOE) (Application for DOE Certification) and to the Service (Application for § 48A Certification) on or before **[90 days after Date of Publication]**. See section 3 of this notice for additional rules regarding these applications.

## SECTION 2. BACKGROUND

.01 Section 46 of the Code provides that the amount of the investment credit for any taxable year is the sum of the credits listed in § 46. That list includes the Qualifying Advanced Coal Project credit under § 48A.

.02 Section 48A(d)(1) provides that the Secretary of the Treasury or his delegate, in consultation with the Secretary of Energy, “shall establish a [Qualifying Advanced Coal Project Program] for the deployment of advanced coal-based generation technologies.” The Treasury Department and the Service established the § 48A Phase I Program in Notice 2006-24, 2006-1 C.B. 595, as modified and updated by Notice 2007-52, 2007-1 C.B. 1456.

.03 Pursuant to § 48A(d)(3)(B)(i) and (ii), the § 48A Phase I Program provided for (i) \$800 million of credits to be allocated to integrated gasification combined cycle (IGCC) projects and (ii) \$500 million of credits to other advanced coal projects. The Service allocated § 48A Phase I Program credits through annual allocation rounds in 2006, 2007-2008, and 2008-2009, with a special allocation round in 2008.

.04 Pursuant to § 48A(d)(3)(B)(iii), the Treasury Department and the Service established the § 48A Phase II Program by issuing Notice 2009-24, 2009-1 C.B. 817, to allocate an additional \$1.25 billion of credits for advanced coal-based generation technology projects. The Service allocated § 48A Phase II Program credits through two allocation rounds in 2009-2010 and 2011-2012.

.05 Pursuant to § 48A(d)(4), the Treasury Department and the Service issued Notice 2012-51 to establish the § 48A Phase III Program to reallocate \$658.5 million of available § 48A Phase I Program credits. In Announcement 2013-43, 2013-2 C.B. 524, the Service announced that the total amount of \$658.5 million of credits had been allocated, and, accordingly, the 2012-2013 allocation round would be the only allocation round in Phase III.

.06 The Treasury Department and the Service later determined that \$1,104,000,000 of § 48A credits were available for reallocation due to forfeitures of previously allocated § 48A Phase I and Phase II Program credits and unallocated § 48A Phase II Program credits. Accordingly, the Treasury Department and the Service issued Notice 2015-14, 2015-10 I.R.B. 722, to establish Round 2 of the § 48A Phase III Program.

.07 After the completion of Round 2 of the § 48A Phase III Program, the Treasury Department and the Service completed another review and determined that \$2,041,500,000 of § 48A credits are available for reallocation due to forfeitures of previously allocated § 48A credits. Accordingly, the Treasury Department and the Service have determined that an additional allocation round is appropriate, and this notice announces the beginning of Round 3 of the § 48A Phase III Program.

### SECTION 3. SECTION 48A PHASE III PROGRAM

.01 Except as otherwise specifically provided in this notice, Round 3 of the § 48A Phase III Program will be conducted in the same manner and under the same procedures as provided under Notice 2012-51. This notice restates or references certain provisions in Notice 2012-51 as a convenience to taxpayers. The restatement or referencing of these provisions does not diminish the effect of provisions in Notice 2012-51 that are not restated or referenced.

.02 For Round 3 of the § 48A Phase III Program, § 48A Phase III credits in the amount of \$2,041,500,000 are available for reallocation. The credits will not be separated into pools based on the type of projects or the type of primary feedstock.

.03 The § 48A Phase III credit for a taxable year is an amount equal to 30 percent of the qualified investment (as defined in § 48A(b)) for that taxable year in a Qualifying Advanced Coal Project (as defined in § 48A(c)(1) and § 48A(e)). This rule applies to both facilities that use an IGCC (as defined in § 48A(c)(7)) and facilities that use other advanced coal-based generation technologies (as defined in § 48A(f)).

.04 For Round 3 of the § 48A Phase III Program, the period to submit an Application for § 48A Certification begins on **[Date of Publication]**, and ends on **[90 days after Date of Publication]**. See section 3.07 of this notice for the date by which the Application for DOE Certification must be submitted to DOE. For purposes of determining the timeliness of submission of an Application for § 48A Certification by the Service, the rules of § 7502 apply.

.05 The Service will consider a project under Round 3 of the § 48A Phase III Program only if the Application for § 48A Certification for the project is submitted during

the application period and DOE provides the DOE certification and ranking (if any) for the project on or before **[120 days after Date of Publication]**.

.06 If an Application for DOE Certification does not include all of the information required by section 5.02 of Notice 2012-51, DOE may decline to accept the application. If an Application for § 48A Certification does not include all of the information listed in section 5.03 of Notice 2012-51, the application will not be accepted by the Service.

.07 For Round 3 of the § 48A Phase III Program, DOE will consider an Application for DOE Certification only if the application is postmarked on or before **[90 days after Date of Publication]**. See section 5.02 of Notice 2012-51 and Appendix B to this notice for the information to be submitted to DOE in an Application for DOE Certification. Appendix B to this notice also provides the instructions and address for filing the Application for DOE Certification. DOE will determine the technical and economic feasibility of the project and, if the project is determined to be feasible, will provide a DOE certification for the project to the Service. If DOE certifies two or more projects, DOE also will rank each of the projects it certifies (for example, first, second, third, etc.) relative to other certified projects and credits will be allocated to projects based on DOE ranking. DOE will provide DOE certification for projects determined to be feasible and DOE ranking (if any) to the Service by **[120 days after Date of Publication]**.

.08 By **[150 days after Date of Publication]**, the Service will accept or reject the taxpayer's Application for § 48A Certification and will notify the taxpayer, by letter, of its decision.

.09 If the taxpayer's Application for § 48A Certification is accepted, the acceptance letter will state the amount of the credit allocated to the project. If a credit is allocated to a taxpayer's project, the taxpayer will be required to execute an agreement in the form set forth in Appendix A to this notice. By **[180 days after Date of Publication]**, the taxpayer must return the executed agreement to the Service at the appropriate address listed in section 3.11 of this notice.

.10 By **[240 days after Date of Publication]**, the Service will execute and return the agreement to the taxpayer. The executed agreement applies only to the accepted taxpayer.

.11 Instructions and Address for Filing § 48A Application. There is no fee for filing an Application for § 48A Certification. It should be marked: "SECTION 48A APPLICATION FOR CERTIFICATION." A taxpayer may submit the Application for § 48A Certification to the Service by U.S. mail or private delivery service to:

Internal Revenue Service  
LB&I: Enterprise Activities Practice Area  
N14W24200 Tower Place Suite 202  
Waukesha, Wisconsin 53188

#### SECTION 4. EFFECT ON OTHER DOCUMENTS

Notice 2012-51, 2012-2 C.B. 150, and Notice 2015-14, 2015-10 I.R.B. 722, are amplified.

#### SECTION 5. EFFECTIVE DATE

This notice is effective upon publication in the Internal Revenue Bulletin.

#### SECTION 6. PAPERWORK REDUCTION ACT

The collection of information contained in this notice has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. § 3507) under control number 1545-2003.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

The collections of information in this notice are in section 3 and Appendix B. This information is required to obtain an allocation of Qualifying Advanced Coal Project credits. This information will be used by the Service to verify that the taxpayer is eligible for an allocation of the Qualifying Advanced Coal Project credits. The collection of information is required to obtain a benefit. The likely respondents are business or other non-profit institutions.

The estimated total annual reporting burden is 550 hours.

The estimated annual burden per respondent varies from 70 to 150 hours, depending on individual circumstances, with an estimated average of 110 hours. The estimated number of respondents is 5.

The estimated annual frequency of responses is on occasion.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, and subject to the disclosure of allocations provisions in § 48A(d)(5), tax returns and tax return information are confidential, as required by 26 U.S.C. § 6103.

## SECTION 7. DRAFTING INFORMATION

The principal author of this notice is Brendan P. Coppinger of the Office of Associate Chief Counsel (Passthroughs & Special Industries). For further information regarding this notice contact Mr. Coppinger on (202) 317-6853 (not a toll-free call).



## **APPENDIX A AGREEMENT**

[Insert taxpayer's name, address, and identifying number] ("Taxpayer") and the Commissioner of Internal Revenue ("Commissioner") make the following Agreement:

### **WHEREAS:**

1. On or before **[90 days after Date of Publication]**, Taxpayer submitted to the Internal Revenue Service ("Service"), an application for certification under Round 3 of the § 48A Phase III Program described in Notice 2020-88 ("Application for § 48A Certification").

2. Taxpayer's Application for § 48A Certification in Round 3 is for the project described below (the "Project"):

(a) The Project will use an advanced coal-based generation technology (as defined in § 48A(c)(2) and (f)).

(b) The Project will be located at [insert address or other identifying designation].

(c) The Project site in subsection (b) above may be changed only if the change is consistent with the objectives of the Qualifying Advanced Coal Project program, is requested by the taxpayer that received the credit allocation, and involves moving the Project site to improve the potential to capture and sequester CO<sub>2</sub> emissions, reduce costs of transporting feedstock, and serve a broader customer base. The Service will not agree to a project site change if the dollar amount of tax credits available to the taxpayer under § 48A would increase as a result of the site change or if the Project would not have been originally certified had such modification been included in the taxpayer's application.

(d) The Project is [insert either: “a new electric generation unit (as defined in § 48A(c)(6))”; “a retrofit of an existing electric generation unit (as defined in § 48A(c)(6))”; or “a repower of an existing electric generation unit (as defined in § 48A(c)(6)).”]

(e) The Project will have a total nameplate generating capacity (as defined in section 3.02 of Notice 2012-51) of at least [insert number] megawatts.

(f) At all times at least 75 percent of the cumulative total fuel input (as defined in section 3.03(1) of Notice 2012-51) used during normal plant operations (as defined in section 3.03(2) of Notice 2012-51) for the Project will be coal (as defined in section 3.01 of Notice 2012-51).

3. On [insert date of acceptance letter issued under Notice 2020-88], the Service accepted Taxpayer’s Application for § 48A Certification for the Project and allocated Qualifying Advanced Coal Project credit under § 48A in the amount of \$[insert number] to the Project.

4. Taxpayer understands that if Taxpayer fails to satisfy any of the certification requirements in § 48A(e)(2) within the time specified in § 48A(d)(2)(D) (2 years from the date specified in WHEREAS clause #3), or if the Service does not issue a certification for the Project under Notice 2020-88, the § 48A Phase III credit in the amount specified in WHEREAS clause #3 allocated to the Project in Round 3 of § 48A Phase III is fully forfeited.

5. Taxpayer understands that if the Project fails to attain or maintain the separation and sequestration of CO<sub>2</sub> emissions required by § 48A(e)(1)(G), the § 48A

Phase III Program credit in the amount specified in WHEREAS clause #3 allocated to the Project in Round 3 will be recaptured pursuant to § 50(a).

6. Taxpayer understands that if the Project is not placed in service by Taxpayer within 5 years of the date of issuance of the certification as determined under section 6.03 of Notice 2012-51, the § 48A Phase III credit in the amount specified in WHEREAS clause #3 allocated to the Project in Round 3 is fully forfeited. Taxpayer must provide evidence to the Service that the Project has been timely placed in service.

7. Taxpayer understands that if the plans for the Project change in any significant respect from the plans set forth in the Application for DOE Certification (as defined in section 5.02 of Notice 2012-51) and the Application for § 48A Certification (as defined in section 5.03 of Notice 2012-51) and, under section 7.01 of Notice 2012-51, the acceptance of Taxpayer's Application for § 48A Certification on the date specified in WHEREAS clause #3 is void, the § 48A Phase III credit in the amount specified in WHEREAS clause #3 allocated to the Project in Round 3 is fully forfeited.

8. Taxpayer understands that if the Project fails to satisfy any of the requirements in § 48A(e)(1)(A), (C), (D), (E), (F), and § 48A(i) for a Qualifying Advanced Coal Project or, during normal plant operations (as defined in section 3.03(2) of Notice 2012-51), fails to satisfy the requirement in § 48A(e)(1)(B) for a Qualifying Advanced Coal Project--

(a) at the time the Project is placed in service, § 48A Phase III credit in the amount specified in WHEREAS clause #3 allocated to the Project in Round 3 is fully forfeited; and

(b) after the Project is placed in service (and after satisfying all such requirements at the time the Project is placed in service), the Project ceases to be investment credit property and the recapture rules of § 50(a) apply.

9. Taxpayer understands that if at any time more than 25 percent of the cumulative total fuel input (as defined in section 3.03(1) of Notice 2012-51) used during normal plant operations (as defined in section 3.03(2) of Notice 2012-51) is not coal (as defined in section 3.01 of Notice 2012-51), the Project ceases to be investment credit property and the recapture rules of § 50(a) apply.

10. Taxpayer cannot claim the qualifying gasification project credit under § 48B for any qualified investment for which the Qualifying Advanced Coal Project credit is allowed under § 48A.

11. Taxpayer understands that if Taxpayer elects to claim the Qualifying Advanced Coal Project Credit on the qualified progress expenditures paid or incurred by Taxpayer during the taxable year(s) during which the Project is under construction and the Project ceases to be a Qualifying Advanced Coal Project (whether before, at the time, or after the Project is placed in service), rules similar to the recapture rules in § 50(a)(2)(A) through (D) apply.

12. This Agreement applies only to Taxpayer. Taxpayer must notify the Service within 90 days of the acquisition of the Project by any other person (a successor in interest). A successor in interest that plans to claim the § 48A credit allocated to the Project must request permission to execute a new agreement with the Service. If the request is granted, the new agreement must be executed no later than the due date (including extensions) of the successor in interest's Federal income tax return for the

taxable year in which the transfer occurs. If the interest is acquired at or before the time the Project is placed in service and the successor in interest fails to execute a new agreement, the § 48A Phase III credit in the amount specified in WHEREAS clause #3 allocated to the Project in Round 3 is fully forfeited. If the interest is acquired after the time the Project is placed in service and the successor in interest fails to execute a new agreement, the Project ceases to be investment credit property and the recapture rules of § 50(a) apply.

**NOW IT IS HEREBY DETERMINED AND AGREED FOR FEDERAL INCOME TAX PURPOSES THAT:**

1. The total amount of the § 48A Phase III credit that Taxpayer will claim for the Project under this Agreement on account of the acceptance of Taxpayer's Application for § 48A Certification in Round 3 cannot exceed the amount specified in WHEREAS clause #3.

2. This Agreement does not express whether the Taxpayer has met the certification requirements under § 48A(e)(2) or other future requirements to receive tax credits under § 48A.

3. This Agreement is limited and applies only to Taxpayer. A successor in interest that plans to claim the § 48A credit allocated to the Project must request permission to execute a new agreement with the Service.

**THIS AGREEMENT IS FINAL AND CONCLUSIVE EXCEPT:**

1. The matter it relates to may be reopened in the event of fraud, malfeasance, or misrepresentation of a material fact;

2. It is subject to the Internal Revenue Code sections that expressly provide that effect be given to their provisions (including any stated exception for § 7122)

notwithstanding any law or rule of law; and

3. If it relates to a tax period ending after the date of this Agreement, it is subject to any law enacted after such date, which applies to the tax period.

By signing, the parties certify that they have read and agreed to the terms of this Agreement.

**Taxpayer:** [insert name and identifying number]

**By:** \_\_\_\_\_ **Date Signed:** \_\_\_\_\_  
[insert name]

**Title:** [insert title]  
[insert taxpayer's name]

**Commissioner of Internal Revenue**

**By:** \_\_\_\_\_ **Date Signed:** \_\_\_\_\_

**Title:**

**APPENDIX B**  
**APPLICATION FOR DOE CERTIFICATION**  
**REQUEST FOR SUPPLEMENTAL APPLICATION INFORMATION FOR DOE**

The Internal Revenue Service (“Service”) and the Department of Energy (“DOE”) seek to certify Applications for DOE Certification and Applications for § 48A Certification that demonstrate a high likelihood of being successfully implemented by the applicants. To qualify, projects must be technically and economically feasible and use an appropriate clean coal technology.

This request for supplemental information:

- Describes the information to be provided by the applicant seeking a certification of feasibility from DOE, and
- Lists the evaluation criteria and Program Policy Factors to be used by DOE in the evaluation of an Application for DOE Certification. (For purposes of Appendix B, an Application for DOE Certification will be referred to as an “Application”.)

If, after review by DOE, a project is determined to be feasible, DOE will provide a DOE certification of feasibility to the Service. The Service will then accept or reject the taxpayer’s Application for § 48A Certification.

In conducting this evaluation DOE may utilize assistance and advice from qualified personnel from other Federal agencies and/or non-conflicted contractors. DOE will obtain assurances in advance from all evaluators that Application information shall be kept confidential and used only for evaluation purposes. DOE reserves the right to request clarifications and/or supplemental information from some or all applicants through written submissions and/or oral presentations, but is not required to do so.

Notice is given that DOE may determine whether or not to provide a certification of feasibility to the Service at any time after the Application has been received, without further exchanges or discussions. Therefore, all applicants are advised to submit their most complete and responsive Application.

Applications will not be returned.

**A. General**

This request, together with the information in relevant sections of Notice 2020-88 includes all the information needed to complete an Application. All Applications shall be prepared in accordance with this request in order to provide a standard basis for evaluation and to ensure that each Application will be uniform as to format and sequence.



Each Application should clearly demonstrate the applicant's capability, knowledge, and experience regarding the requirements described herein.

Applicants should fully address the requirements of Notice 2020-88, including Appendix B, and *not* rely on the presumed background knowledge of reviewers. DOE may eliminate without further consideration an Application that does not follow the instructions regarding the organization and content of the Application when the nature of the deviation and/or omission precludes meaningful review of the Application.

## **B. Unnecessarily Elaborate Applications**

Unnecessarily elaborate brochures or other presentations beyond those sufficient to present a complete and effective Application are not desired. Elaborate artwork, graphics and pictures are neither required nor encouraged.

## **C. Procedures to Submit an Application for DOE Certification**

An Application must include the information and documentation required by relevant sections of Notice 2020-88.

An Application will not be considered for Round 3 of the § 48A Phase III Program unless it is postmarked by **[90 days after Date of Publication]**. One electronic version on a USB flash drive of the Application must be submitted to:

Stephanie Kennedy  
M/S:922-204(D)  
National Energy Technology Laboratory  
626 Cochran's Mill Road  
Pittsburgh, PA 15236

One electronic version of the Application must also be sent to the Service as part of the Application for § 48A Certification. The Application for § 48A Certification will not be considered in Round 3 unless it is submitted to the Service on or before **[90 days after Date of Publication]**.

## **THE INFORMATION REQUIRED BY THIS REQUEST MUST BE SUBMITTED USING THE FORMAT AND THE HEADINGS OF THE "PROJECT INFORMATION MEMORANDUM" AS DESCRIBED BELOW.**

To aid in evaluation, an Application shall be clearly and concisely written and logically assembled. All pages of each part shall be appropriately numbered and identified with the name of the applicant and the date.

The Application, including the Project Information Memorandum, **MUST** be formatted in one of the following software applications:

- Microsoft Word™ 2010 or later edition
- Microsoft Excel™ 2010 or later edition
- Adobe Acrobat™ PDF 7.0 or later edition

Financial models should be submitted using the Excel™ spreadsheet software product and must include working calculation formulas and assumptions.

The applicant is responsible for the integrity and structure of the electronic files. DOE will not be responsible for reformatting, restructuring or converting any files submitted in response to this request.

The Project Information Memorandum, excluding Appendices, shall not exceed seventy-five (75) pages. Pages in excess of the page limitation will not be considered for evaluation. All text shall be typed, single spaced, using 12-point font, 1-inch margins, and unredacted 8-1/2-inch by 11-inch pages. Illustrations and charts shall be legible with all text in legible font. Pages shall be sequentially numbered. Except as otherwise noted herein the page guidelines previously set forth constitute a limitation on the total amount of material that may be submitted for evaluation. No material may be incorporated in any Application by reference as a means to circumvent the page limitation.

## **D. Project Information Memorandum**

### **1. Summary and Introduction**

- a. Description of the Project
- b. Financing and ownership structure
- c. Description of the main parties to the project, including background, ownership and related experience
- d. Current project status and schedule to beginning of construction

### **2. Technology and Technical Information**

Provide a description of the proposed technology, including sufficient supporting information (such as vendor guarantees, process flow diagrams, equipment descriptions, information on each major process unit and the total plant, compositions of major streams, and the technical plan for achieving the goals proposed for the project) as would be needed to allow DOE to confirm that the technical requirements of § 48A are met. Specifically, the applicant should:

- Provide evidence sufficient to demonstrate that the proposed technology meets the definition of “Advanced Coal-Based Generation Technology,” either

as integrated gasification combined cycle (“IGCC”) technology, or other advanced coal-based electric generation technology meeting the heat rate requirement of 8530 Btu/kWh.

- For advanced coal-based electric generation:
  - The applicant must provide evidence sufficient to justify the actual heat rate and heat rate corrected to conditions specified in § 48A(f)(2).
  - For projects including existing units, the applicant must provide evidence sufficient to justify that the proposed technology meets heat rate requirements specified in § 48A(f)(3).
- Provide evidence sufficient to justify that the proposed project is designed to meet the following performance requirements:
  - SO<sub>2</sub> (subbituminous coal is 80% or more of fuel input): 99% removal or emissions not more than 0.04 lbs/MMBTU
  - SO<sub>2</sub> (subbituminous coal is not more than 80% of fuel input): 99% removal
  - SO<sub>2</sub> (for all projects other than subbituminous coal projects): 99% removal
    - NO<sub>x</sub> emissions.....0.07 lbs / MMBTU
    - PM emissions.....0.015 lbs / MMBTU
    - Hg percent removal.....90%
- Provide evidence sufficient to demonstrate that the project meets the requirements for Qualifying Advanced Coal Projects as specified under § 48A(e)(1) including:
  - The project will power a new electric generation unit or retrofit/repower an existing electric generation unit. At least 50% of the useful output of the project is electrical power.
  - The fuel for the project is at least 75% coal (as defined in § 48A(c)(4) and section 3.01 of Notice 2012-51), on an energy input basis.
  - The project is located at one site and has a total nameplate electric power generating capacity (as defined in section 3.02 of Notice 2012-51) of at least 400 MW.
  - The project includes equipment that separates and sequesters at least 70% of such project’s total carbon dioxide (“CO<sub>2</sub>”) emissions. The CO<sub>2</sub> separation, capture, sequestration, and emission values shall be reported on metric tons per hour and metric tons per year basis under normal plant

operating conditions. The CO<sub>2</sub> separation, capture and sequestration percentages shall be calculated based on the total CO<sub>2</sub> that would otherwise be released into the atmosphere as industrial emission of greenhouse gas ("CO<sub>2</sub> emissions").

### **3. Applicant's Capability to Accomplish the Technical Objectives**

Provide a narrative supporting the applicant's capability to accomplish the technical objectives of the proposed project, including supporting documentation demonstrating that the applicant has assembled a team that is formally committed to participate in the proposed project. Provide information to support that the applicant has assembled a team with the skills and resources needed to implement the project as proposed. Provide signed agreements or letters from team members demonstrating that the proposed team members are fully committed to the project.

Provide information, including examples of prior similar projects completed by applicant, engineering-procurement-construction ("EPC") contractor, and suppliers of major subsystems or equipment, which support the capabilities of the applicant and its team members to design, construct, permit, and operate the facility. The applicant should demonstrate that the team members have a corporate history of successful completion of similar projects.

Provide information to support that key personnel of the applicant and its team members have knowledge, experience, and adequate degree of involvement to successfully implement the project.

Include the project status and relevant information from ongoing engineering activities. Also include in an appendix any engineering report or reports used by the applicant to develop the project and to estimate costs and operating performance. Include copies of any signed agreements to support project status claims regarding preliminary design studies, front-end engineering design ("FEED"), and EPC-type agreements.

### **4. Priority for Qualifying Advanced Coal Projects**

The applicant must submit information sufficient for categorization and prioritization of projects for certification, including documentation pertaining to the following:

- High priority project factors:
  - Increased by-product utilization, if applicable.
  - Research partnership with an eligible educational institution as defined in § 48A(e)(3)(B)(iii), if applicable.

- Highest priority factor: Separation and sequestration percentage of total CO<sub>2</sub> emissions.

## 5. Site Control and Ownership

Provide evidence that demonstrates the overall feasibility of implementing the project at the proposed site.

Provide evidence that the applicant owns or controls a site in the United States of sufficient size to allow the proposed project to be constructed and operated on a long-term basis. Documentation such as a deed demonstrating the applicant owns the project site, a signed option to purchase the site from the site owner, or a letter of intent signed by the site owner and stating the site owner's intent to sell the site to the applicant should be provided.

Describe the current infrastructure at the site available to meet the needs of the project. Provide documentation supporting applicant's conclusion that the proposed site can fully meet all environmental, coal supply, water supply, transmission interconnect, and public policy requirements. Such documentation may include signed agreements, letters of intent, or term sheets relating to coal supply, water supply, and product (e.g. CO<sub>2</sub>) transportation etc., and regulatory approvals supporting the key claims.

Provide detailed plans, schedules and status updates, particularly for sites with pre-existing conditions that could impact the proposed project. Pre-existing conditions may include, but are not limited to, sites with mandated environmental remediation efforts; brown-field sites that will require building demolition; or sites requiring substantial rerouting of existing roads, railroads, transmission lines or pipelines prior to the start of the project.

Applicants must select one "proposed site." However, projects with key physical or logistical elements that require close integration with another system for the project to succeed should provide information on all integrated systems regardless of where they are located.

Example 1: A power plant designed to operate exclusively on coal from a to-be-opened mine should provide supporting documentation for the new mine.

Example 2: An oxygen-blown IGCC plant planning to purchase oxygen from a third party who will construct a plant exclusively for this project should provide documentation for the oxygen supplier.

Example 3: An IGCC plant planning to sell CO<sub>2</sub> for enhanced oil recovery ("EOR") should provide an agreement for such a transaction indicating the annual CO<sub>2</sub> purchase quantity, expected project lifetime sales, CO<sub>2</sub> capacity of the site for EOR, and EOR site ownership.

This is not a comprehensive set of example projects or situations.

## **6. Utilization of Project Output**

Provide a projection of the anticipated costs of electricity and other marketable by-products produced by the plant.

Provide documentation establishing that a majority of the output of the plant is reasonably expected to be acquired or utilized. Such documentation should be signed by authorizing officials of both the buyer and seller, and may include: Sales Agreements, Letters of Intent, Memoranda of Understanding, Option Agreements, and Power Purchase Agreements.

Describe any energy sales arrangements that exist or that may be contemplated (e.g., a Power Purchase Agreement or Energy Sales Agreement) and summarize their key terms and conditions.

Include as an appendix any independent Energy Price Market Study that has been done in connection with this project, or if no independent market study has been completed, provide a copy of the applicant-prepared market study.

Identify and describe any firm arrangements to sell non-power output, such as CO<sub>2</sub>, and provide any evidence of such arrangements. If the project produces a product in addition to power, include as an appendix any related market study of price and volume of sales expected for that product.

## **7. Project Economics**

Describe the project economics and provide satisfactory evidence of economic feasibility as demonstrated through the financial forecast and the underlying project assumptions. The project economic and financial assumptions should be clearly stated and explained.

Show calculation of the amount of tax credit applied for based on allowable cost.

## **8. Project Development and Financial Plan**

Provide the total project budget and major plant costs (e.g., development, operating, capital, construction, and financing costs). Provide the estimated annual budget for and source of project development costs from the time of the Application until the beginning of construction, including legal, engineering, financial, environmental, overhead, and other development costs. Describe the overall approach to project development and financing sufficient to demonstrate project viability. Provide a complete explanation of the source and amount of project equity. Provide a complete explanation of the source and amount of project debt. Provide the audited financial statements for the most recently ended three fiscal years and quarterly interim financial

statements for the current fiscal year (a) for the applicant, (b) for any of the project parties providing funding, and (c) for any third-party funding source. If the applicant or another party does not have audited financial statements, the applicant or the party should provide equivalent financial statements prepared by the applicant or the party, in accordance with Generally Accepted Accounting Principles, and certified as to accuracy and completeness by the Chief Financial Officer of the party providing the statements.

For internally financed projects, provide evidence that the applicant has sufficient assets to fund the project with its own resources. Identify any internal approvals required to commit such assets. Include in an appendix copies of any board resolution or other approval authorizing the applicant to commit funds and proceed with the project.

For projects financed through debt instruments either unsecured or secured by assets other than the project, provide evidence that the applicant has sufficient creditworthiness to obtain such financing along with a discussion of the status of such instruments. Identify any internal approvals required to commit the applicant to pursue such financing. Include in an appendix copies of any board resolution or other approval authorizing the applicant to commit to such financing.

For projects financed through investor equity contributions, describe the source and status of each contribution. Discuss each investor's financial capability to meet its commitments. Include in an appendix, copies of any executed investment agreements.

If financing through a public offering or private placement of either debt or equity is planned for the project, provide the expected debt rating for the issue and an explanation of applicant's justification for the rating. Describe the status of any discussions with prospective investment bankers or other financial advisors.

Include as an appendix copies of any existing funding commitments or expressions of interest from funding sources for the project.

For projects employing nonrecourse or limited recourse debt financing, provide a complete discussion of the approach to, and status of, such financing.

In an appendix: (1) provide an Excel<sup>™</sup>-based financial model of the project, with working formulas, so that review of the model calculations and assumptions may be facilitated; and (2) provide pro-forma project financial, economic, capital cost, and operating assumptions, including detail of all project capital costs, development costs, interest during construction, transmission interconnection costs, other operating expenses, and all other costs and expenses.

## **9. Project Contract Structure**

Describe the current status of each of the agreements set forth below. Include as an appendix copies of the contracts or summaries of the key provisions of each of the following agreements:

- Power Purchase Agreement (if not fully explained in section 6 above).
- Coal Supply: describe the source and price of coal supply for the project. Include as an appendix any studies of coal supply price and amount that have been prepared. Include a summary of the coal supply contract and a signed copy of the contract.
- Coal Transportation: explain the arrangements for transporting coal, including costs.
- Operations & Maintenance Agreement: include a summary of the terms and conditions of the contract and a copy of the contract.
- Shareholders Agreement: summarize key terms and include the agreement as an appendix.
- Engineering, Procurement and Construction Agreement: describe the key terms of the existing or expected EPC contract arrangement, including firm price, liquidated damages, hold-backs, performance guarantees, etc.
- Water Supply Agreement: confirm the amount, source, and cost of water supply.
- Transmission Interconnection Agreement: explain the requirements to connect to the system and the current status of negotiations in this respect.
- If CO<sub>2</sub> is to be sold to a third party for sequestration, provide a Sales Agreement and provide specifics, such as CO<sub>2</sub> sales (metric tons per year), expected project lifetime sales (metric tons), potential CO<sub>2</sub> capacity of the site for sequestration (metric tons), technology and site suitability for sequestration, and sequestration site ownership and operation.

## **10. Permits Including Environmental Authorizations**

Provide a complete list of all Federal, State, and local permits, including environmental authorizations or reviews, necessary to commence construction of the project.

Explain what actions have been taken to date to satisfy the required authorizations and reviews, and the status of each.



Provide a description of the applicant's plan to obtain and complete all necessary permits, and environmental authorizations and reviews.

### **11. Steam Turbine Purchase**

If applicant plans to purchase a steam turbine or turbines for the project, indicate the prospective vendors for the turbine and explain the current status of purchase negotiations, and provide a timeline for negotiation and purchase with expected purchase date.

### **12. Project Schedule**

Provide an overall project schedule which includes technical, business, financial, permitting and other factors to substantiate that the project will meet the 2-year project certification and 5-year placed-in-service requirement.

The project schedule should be comprehensive and provide sufficient detail to demonstrate how applicant will meet the certification and placed-in-service requirements. The schedule should demonstrate that the applicant understands the required tasks and has allowed realistic times for accomplishing the technical and financial tasks. The schedule should include the milestone accomplishments needed to obtain the financing for the project.

Applicants should document their progress toward meeting any completion of permitting deadline. Existing permits and permit applications must be specific to the project proposed. If existing permits are not specific for the proposed coal-based project (e.g. the permits are for oil-fired or natural-gas-based units), specific plans, procedures and schedules for reapplying, modifying and/or renegotiating permits should be provided. Any local, State or Federal permitting schedules that may impact the overall project schedule should be included.

Applicant should document their progress toward obtaining engineering design information (i.e., FEED) to initiate permitting activities and to finalize the turbine generator purchase specification within the 2-year window. Most often, this requires final site, technology, and process selection. Signed FEED and/or EPC-type agreements, if available, should be provided.

### **13. Appendices**

- a. Copy of internal or external engineering reports.
- b. Copy of site plan, together with evidence that applicant owns or controls a site. Examples of evidence would include a deed, or an executed contract to purchase or lease the site.

c. Information supporting applicant's conclusion that the site is fully acceptable as the project site with respect to environment, coal supply, water supply, transmission interconnect, and public policy reasons.

d. Power Purchase or Energy Sales Agreement.

e. Energy Market Study.

f. Market Study for non-power output.

g. Financial Model of project.

h. Audited financial statements for the applicant and other project funding sources for the most recently ended three fiscal years, and the unaudited quarterly interim financial statements for the current fiscal year.

i. Expressions of interest or commitment letters from funding sources.

j. For each project contract, if no contract currently exists, provide a summary of the expected terms and conditions.

k. List of all Federal, State, and local permits, including environmental authorizations or reviews, necessary to commence construction.

## **E. Evaluation Criteria**

Advanced coal projects will be evaluated on whether they meet all the requirements of § 48A and this notice.

Technical: will be evaluated on whether the applicant has demonstrated the capability to accomplish the technical objectives.

Site: will be evaluated on the basis that the site requirement for ownership or control has been met, and that the site is suitable for the proposed project.

Economic: will be evaluated on whether the project has demonstrated economic feasibility, taking into consideration the submitted financial and project development and structural information and financial plan.

Schedule: will be evaluated on the applicant's ability to meet the 2-year project certification and the 5-year placed-in-service requirement.

## **F. Program Policy Factors to Be Used by DOE in the Evaluation of Applications**

Section 48A identifies minimum requirements for consideration for the Qualifying Advanced Coal Project credit, including the project's technical feasibility, cost, and

applicant's ability. In the event that there are more qualified (certifiable) Applications than there are available amount of tax credit, DOE will apply Program Policy Factors to rank eligible Advanced Coal Projects based on their ability to advance coal technology beyond its current state.

In ranking certified projects, highest priority will be given to the Primary Ranking Factor. Secondary and Tertiary Ranking Factors will be taken into account to rank projects that are not clearly differentiated on the basis of the Primary Ranking Factor, with higher priority given to Secondary Ranking Factors than to Tertiary Ranking Factors.

**Primary Ranking Factor:**

- Capture and sequestration of more than 70% CO<sub>2</sub> emissions. Only projects that capture and sequester 70% or more of the plant's CO<sub>2</sub> emissions will be considered for DOE certification. Among the certified projects, highest rankings will be given to projects with the greatest sequestration percentage of total separated CO<sub>2</sub> emissions.

**Secondary Ranking Factors:**

- Increased by-product utilization.
- Research partnership with an eligible educational institution as defined in § 48A(e)(3)(B)(iii).

**Tertiary Ranking Factors:**

- Presentation of other environmental, economic, or performance benefits.
- Higher plant efficiency.
- Geographic distribution of potential markets.
- The ratio of total nameplate generating capacity (as defined in section 3.02 of Notice 2012-51) to requested tax credit.
- Diversity of technology approaches and methods.

## **G. Supplemental Technical and Financial Guidance for Project Information Memorandum**

### **Technology and Technical Information**

It is important that the applicant select a specific advanced coal system for the project. Without that decision, it is difficult to provide the necessary specific design

information needed for DOE to evaluate the project feasibility with respect to performance, emissions, outputs of major streams as well as capital and operating costs.

The applicant's capability to meet the legislated heat rate and/or environmental targets should be supported with design information, and/or vendor guarantees that are project, site and coal specific.

### **Project Economics**

Applicants should demonstrate the project's economic feasibility and financial viability by providing a clear statement and explanation of the economic and financial assumptions made by the applicant, and a financial forecast for the project. The financial forecast should flow logically from the applicant's assumptions and be consistent with them. Applicants should include assumptions regarding financial and economic issues that may not be included in the project costs but have a direct impact on the project. The examples given in the "Site Control and Ownership" section are relevant here and their impact on the project economics should be discussed here.

### **Project Development and Financial Plan**

The information provided by the applicant in this section should demonstrate that the applicant's financial plan for developing the project is feasible and that the applicant will have access to necessary financing. The applicant should explain the source and timing for obtaining all financing, including the project development costs. It is important that the applicant explain and provide evidence that it has the capacity to fund the pre-construction project development costs, together with a budget for and description of those costs. Note that financial information is required for the applicant and for any other funding source.

### **Project Contract Structure**

This section requires that the applicant demonstrate an understanding of the commercial contracting process and show progress in establishing the framework of contracts and agreements that a project typically requires. Applicants should show that their intended contract structure is reasonable and that their assumptions relative to price, terms, and conditions are consistent with current market conditions. Evidence of final agreements, agreements in principle, or summaries of terms and conditions between the applicant and contract counterparties should be provided, if available.