

h2EA Terms & Conditions

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1. PURPOSE

The purpose of this document is to set forth the terms and conditions for the administration of contributions under the h2 Early Adopters (h2EA) program managed by Technology Partnerships Canada (TPC), a Special Operating Agency of Industry Canada. The h2EA program is a separate program and shall be administered separately from other programs such as the Technology Partnerships Canada research and development program.

2. LEGISLATIVE AUTHORITY

The legislative authority for this program is: Paragraph 4(1)(a), subsections 5(c), 5(d), 6(c) and paragraph 14(1)(c) of the *Department of Industry Act*, Statutes of Canada 1995, Chapter 1.

3. OBJECTIVE

The h2EA program contributes to achieving the Department's strategic objectives, as stated yearly in Industry Canada's Report on Plans and Priorities.

The transition to a hydrogen economy presents a unique opportunity for Canada. This transition offers significant growth and investment opportunities for Canadian industry and offers a sustainable solution to climate change and pollution, particularly in our cities. By overcoming key technology and marketplace hurdles, Canada will be able to capitalize on its first-mover advantage in a hydrogen economy, thus maximizing the benefits of this transition for Canadians.

The Government of Canada seeks to work in partnership with hydrogen industry stakeholders to foster the development and early introduction into the marketplace in

Canada of technologies, such as fuel cells and those used to produce, store and distribute hydrogen, that support the transition to a hydrogen economy. In accelerating the market acceptance of hydrogen and hydrogen-compatible technologies, approved projects will provide broad environmental, economic and social benefits for all Canadians.

More specifically, the strategic objectives of the h2EA program will be the:

- Integration of hydrogen and hydrogen -compatible technologies;
- Development of hydrogen infrastructures;
- Development of skills and supply chain in the hydrogen industry;
- Development of codes and standards for the hydrogen industry;
- Increased performance, reliability, durability and economical viability of hydrogen and hydrogen -compatible technologies; and,
- Increased public, consumer and investor awareness and acceptance of the hydrogen capability.

4 . EXPECTED RESULTS AND OUTCOMES

The h2EA program is expected to create the following outcomes:

- accelerated market acceptance of hydrogen technologies and hydrogen-compatible technologies;
- world-class talent is attracted and retained; and,
- domestic and foreign investment in Canada are attracted.

In addition, the ultimate outcome of the h2EA program is to make a contribution to the objectives of Canada's Climate Change Agenda.

5. ELIGIBILITY CRITERIA

5.1 Eligible Activities

Eligible activities for h2EA program funding include those related to demonstrations in Canada. Implicit in demonstration is the application of individual technologies and their integration into a comprehensive working complex of a hydrogen economy in Canada, including:

- a. all types of fuel cells;
- b. fuel cell systems;
- c. other hydrogen-based power-generation technologies and materials;
- d. technologies and materials for producing, storing and distributing hydrogen from renewable and non-renewable energy sources; and,
- e. working prototypes of portable, stationary, mobile and fuelling applications using hydrogen technology.

5.2 Eligible Recipients

Eligible Recipients will participate in a group of legal entities consisting of two or more for-profit or not-for-profit incorporated entities, partnerships, cooperatives, trusts, associations or individuals. The Eligible Recipients must select one of theirs to be the point of contact with the Government of Canada and to be the entity managing the contribution agreement, including receiving and distributing to other Eligible Recipients of

the group the contribution made pursuant to the h2EA program. This Lead Eligible Recipient must be incorporated and registered pursuant to the laws of Canada.

Each Eligible Recipient shall execute the contribution agreement with the Government of Canada and be subject to all its terms and conditions. Each Eligible Recipient under the contribution shall be jointly and severally liable with the other Eligible Recipients.

Crown Corporations are Eligible Recipients, but cannot be lead recipients and Treasury Board Secretariat must be consulted to determine whether specific Treasury Board approval is required. However, Federal Departments and Agencies are not Eligible Recipients.

5.3 Eligible Costs

Eligible costs are those incurred by the eligible recipients and which, in the opinion of the Minister, are necessary and reasonable to carry out the eligible activities to which they relate, as outlined in the project's Statement of Work. Eligible costs will include labour, material, overhead (as calculated by a proxy of 65% of direct labour or other PWGSC methods that may be appropriate), insurance, equipment used to integrate the various components of the project and other attributable costs. Costs related to operating, testing, maintenance, codes, safety and standards development, training of skilled resources, public awareness, all of which are considered an integral part of demonstration activity, are also considered eligible costs. The Minister will not support the cost of acquiring either land or buildings, nor costs associated with the preparation of the application.

The Minister may support retroactive reimbursement of eligible project costs incurred prior to the signing of the contribution agreement with recipients. In such cases, retroactivity will not pre-date receipt of a proposal nor exceed 20% of total eligible costs.

The Minister will be under no obligation to reimburse eligible costs incurred by the eligible recipients should the application for funding be rejected.

6. ASSESSMENT CRITERIA

All applications will be assessed in the context of their relevance to the objectives of the h2EA program. Specifically, applications will be assessed in terms of the extent to which they demonstrate that:

- a. the project contributes to the strategic objectives of the government, providing technological and broad environmental, socio-economic and societal benefits to Canada;
- b. the project contributes to the strategic objectives of the h2EA program, including the establishment of a hydrogen industry, the development of a cluster of ancillary, supplier, and support service industries around an existing hydrogen technology base;
- c. the project represents a comprehensive working complex of a hydrogen economy;
- d. the project is technologically feasible, and that the group possesses, or can
- e. reasonably be expected to secure, the requisite technological and managerial capabilities, and financial resources, to achieve the stated objectives of the project;
- f. a contribution under the h2EA program is necessary to ensure that the project proceeds with the desired scope, timing or location; and,

- g. the eligible recipients have current and planned involvement in the Canadian economy.

Increasing market awareness, and public education are integral objectives of the h2EA program and such activities in these areas will be undertaken as appropriate for each project.

Project approval shall be at the discretion of the Minister.

7. TYPE AND AMOUNT OF ASSISTANCE

All decisions to provide financial assistance to recipients will reflect the need for a contribution under the h2EA program, with particular attention to the benefits to the industry as a whole with respect to capacity building, technological innovation leading to economic growth and sustainable climate change solutions.

Funding support from the h2EA program will be up to 50 percent of eligible costs for approved projects. In exceptional circumstances, when the Minister deems it essential and justified by the potential environmental, social and economic benefits, the sharing ratio may reach, but will not exceed, 75 percent of eligible costs.

8. MAXIMUM AMOUNT PAYABLE TO RECIPIENTS

Assistance provided will be in the form of contributions at a level and amount deemed by the Minister to be justified in light of the anticipated benefits to Canada, up to a maximum of \$40 million per project and \$20 million per eligible recipient over the term of these Terms and Conditions.

9. REPAYMENTS

The provisions of the Treasury Board Policy on Transfer Payments pertaining to the repayment of contributions will apply. The h2EA program contributions are repayable. However, there is an expectation that little or no repayments will be collected. The recipients performing these projects are not expected to generate revenues. In addition, these projects will not allow firms to rapidly realize main revenue streams but rather help them pursue further R&D on next generation technologies. For these reasons, no repayments under the h2EA program are expected, although it is possible that a situation may arise where repayments are due.

10. STACKING PROVISIONS

The provisions of the Government's Stacking Policy will apply and the maximum total government assistance will normally not exceed 75%. Government assistance includes federal, provincial, territorial, regional and municipal assistance.

Potential recipients are required to identify, at the time of the application and throughout the life of the project, other sources of proposed funding for the project, including contributions from: other programs in Industry Canada; other departments or agencies of the Government of Canada; or from other levels of government.

Contribution agreements will contain provisions that permit reductions in the Minister's contributions in cases where it is determined that total government assistance exceeds the allowed total government Stacking Limit. Existing internal monitoring systems are in place to recover payments made beyond the Stacking Limit.

11. ADMINISTRATION

11.1 General

The h2EA program will be administered in accordance with Canada's international agreements and, in particular, the granting of contributions will not be contingent, either in law or in fact, upon actual or anticipated export performance. However, the granting of assistance to enterprises that export will not, for that reason alone, be precluded. Further, the h2EA program will be administered in accordance with all applicable legislation and regulations (including the provisions of the *Canadian Environmental Assessment Act* and regulations thereunder) and, except for exemptions otherwise approved by Treasury Board, all applicable Treasury Board policies and directives.

11.2 Contribution Agreement

Contributions will be administered and paid in accordance with the contribution agreement which will identify all conditions pertaining to the contributions, all obligations of the parties, and the conditions under which payments will be made.

11.3 Delegation of Authority

The approval or rejection of applications, the execution and administration of the contribution agreement and related administrative matters, and the approval of claims for payment in conformity with the requirements of the *Financial Administration Act*, will be administered by officials of the Department in accordance with the delegated authorities approved by the Minister. Members of Parliament will have no formal role in the delivery and administration of the h2EA program.

11.4 Due Diligence

Projects considered for approval under the h2EA program will be subjected to a comprehensive due diligence process, including the verification of eligibility. At a minimum, the due diligence conducted by the h2EA program will consist of close examination of the proposal by technical and other experts.

All projects will be analyzed to determine the relative technological, management and financial risk, as well as the risk of achieving the forecast benefits.

Departmental systems, procedures and resources for ensuring due diligence in approving transfer payments and verifying eligibility and entitlement and for the management and administration of the h2EA program are in place.

11.5 Information Requirements and Reporting/Monitoring

The Minister will require from eligible recipients, information which the Minister deems pertinent to the assessment of the project. Without limiting the generality of the foregoing, this will include:

Application Requirements

- a. a detailed description of the eligible recipients who make up the group (ownership, management, business experience, financial results, etc.);
- b. a detailed description of the project, and of the technological, social, environmental and economic advances to be achieved;
- c. the forecast cost of the project, and details on its financing;
- d. the forecast benefits to result from the project and a description of how the project respects the strategic objectives of the program;
- e. the amount of any federal, provincial or municipal assistance or tax credit, received or likely to be received for the project;
- f. the description of activities related to the project that increase public awareness of the advances noted in b. above; and,
- g. the identification of former public servants involved in the project who are under the *Values and Ethics Code for the Public Service* (previously the *Conflict of Interest and Post-employment Guidelines*).

Reporting/Monitoring Requirements

During the duration of the approved project, contribution recipients will be required to submit periodic reports in sufficient detail to enable the Minister to assess the progress of the project.

TPC officials will meet contribution recipients, at a minimum, once annually to report on project progress.

Project results may be reported in TPC's accountability documents such as the Year in Review and Industry Canada's Departmental Performance Report.

Upon completion of the project, contribution recipients will be required to submit a final report on project benefits. Furthermore, as appropriate, contribution recipients will be required to provide progress reports beyond the life of the project.

11.6 Operating Resources

The h2EA program will ensure that sufficient resources are allocated for the conduct of due diligence as well as the management and administration of the program.

12. BASIS AND TIMING OF PAYMENT

Contribution payments will be made on the basis of documented claims for approved eligible costs incurred, to be submitted by the lead recipient not more frequently than monthly. Each claim is to be accompanied by a brief report of the work completed and details of all costs being claimed, and shall be substantiated by such documents as are satisfactory to the Minister.

Claims shall be certified by an officer of each respective eligible recipient or by such other person satisfactory to the Minister. The Minister may request at any time that any eligible

recipient provide satisfactory evidence to demonstrate that eligible costs claimed have been paid.

The Minister will withhold 10 percent of the contributions prior to completion of the projects or of such project audits as may be required.

Payments to h2EA program lead recipient for eligible costs incurred by eligible recipients will be consistent with the Treasury Board Transfer Payment Policy, including those involving advance payments of contributions.

All contribution agreements will include provisions for cancellation or reduction of contribution payments in the event that funding levels are changed by Parliament. This cancellation provision will also appear in all h2EA program literature.

13. RESULTS - BASED MANAGEMENT AND ACCOUNTABILITY FRAMEWORK

The Results-based Management and Accountability Framework developed for the h2EA program will be used to measure and report on results. Technology Partnerships Canada will also ensure that appropriate performance measurement systems are integrated into the operational cycle of its activities.

14. AUDIT

The Minister will retain the right to have the necessary audits of the contribution recipients' books, records and financial statements or other areas as required, undertaken by auditors satisfactory to the Minister, for the purpose of validating claims for reimbursement of eligible costs.

A Risk Based Audit Framework has been prepared in order to identify major risks, which exist or may arise during the design, deployment and operation of the h2EA program.

15. EVALUATION

The h2EA program will be evaluated in accordance with Treasury Board's policy on program evaluation. The responsibility for scheduling and arranging for the conduct of formal evaluations of the program's operations will rest with the Audit and Evaluation Branch of Industry Canada.

16. DURATION AND RENEWAL

These terms and conditions shall remain until March 31, 2008 or until otherwise revised or rescinded by the authority of the Treasury Board. All projects will be completed by March 31, 2008, and all payments will be made by March 31, 2008. Payments made subsequent to March 31, 2008 must be made in accordance with the Policy on Payables at Year-End (PAYE). An evaluation will be undertaken to assess the effectiveness of the program. This evaluation will be undertaken before March 31, 2008.