

**Qualified Energy Conservation Bond (QECB)**

**GUIDELINES AND APPLICATION**

**Application must be submitted electronically and received by:**

**March 2, 2011 at 5:00 p.m.**

**December 2010**



The Georgia Environmental Finance Authority (GEFA)  
233 Peachtree Street, NE  
Harris Building  
Ste. 900  
Atlanta, GA 30303  
<http://www.gefa.org>

GEFA QECB On-line Application Portal  
<http://www.gefa.org/Index.aspx?page=488>

White House recovery website  
[www.recovery.gov](http://www.recovery.gov)

IRS ARRA Bond guidance  
<http://www.irs.gov/taxexemptbond/article/0,,id=206034,00.html>

Qualified Energy Conservation Bond (QECB)  
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## **I. Opportunity Background Information**

### **A. Overview of QECB**

Section 301(a) of Tax Extenders and Alternative Minimum Tax Relief Act of 2008, Division C of Pub. L. 10-343. 122 Stat. 1365 (2008) (“Act”) added new § 54D to provide program provisions for QECBs. The Act amended § 54A(d)(1) to provide that the term “qualified tax credit bond” means, in part, a qualified energy conservation bond that is part of an issue that meets the requirements of § 54A(d)(2), (3), (4), (5), and (6) regarding expenditures of bond proceeds, information reporting, arbitrage, maturity limitations, and prohibitions against financial conflicts of interest. The Act also amended § 54A(d)(2) to provide that, for purposes of § 54A(d)(2)(C), the term “qualified purpose” for a QECB means a purpose specified in § 54D(a)(1) described below.

The Act added § 54D(d) to provide a national bond limitation (“national bond volume cap”) authorization for QECBs of \$800 million. Section 1112 of Title 1 of Division B of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115 (2009) (“2009 Act”) amended § 54D(d) to increase the national bond volume cap authorization for QECBs from \$800 million to \$3.2 billion.

The U.S. Treasury and the Internal Revenue Service determined individual state caps. The volume cap allocation for the State of Georgia is \$100,484,000. The Act provides that a city or a county meeting a population requirement will receive a large local government volume cap allocation. In Georgia, 19 counties, 2 consolidated governments and 3 cities met the ARRA requirements for sub-allocation from the State. On August 20, 2009, the Georgia State Financing and Investment Commission (GSFIC) recognized the required sub-allocations to qualifying local governments totaling \$63,436,469 with the balance of \$37,047,531 available to the State to allocate. As of December 15, 2010, \$7,386,689 of QECB sub-allocation has been returned to the state. According to federal rules, 30% of the state total volume cap may be used for private activity. This amount is currently \$13,330,266 (30% of the state allocation and waived local government allocations combined).

The Georgia Environmental Finance Authority (GEFA) is responsible for determining the guidelines and coordinating the process for recommending allocations to GSFIC for allocation of available QECBs. Recommendations for allocation to local governments will be made pursuant to GEFA’s competitive application process. GEFA and GSFIC may also consider use of QECB allocation for eligible state energy projects financed with the State’s general obligation bonds.

This application attempts to gather all the necessary information required for project selection. GEFA reserves the right to request additional information as necessary.

### **B. Eligible Activities**

The QECB provides financing for qualified efficiency and conservation purposes as defined in Section 54D(f) Tax Extenders and Alternative Minimum Tax Relief Act of 2008 (and provided below). GEFA will recommend local government and private sector projects to GSFIC for allocation through this competitive process. Qualified Energy Conservation Bonds (QECB) may be issued by a public entity, and are available to finance the below activities.

(a) Capital expenditures incurred for purposes of (i) reducing energy consumption in publicly-owned buildings by at least 20 percent, (ii) implementing green community programs (including the use of loans, grants, or other repayment mechanisms to implement such programs), (iii) rural development involving the production of electricity from renewable energy resources, or (iv) any qualified facility (as determined under section 45(d) without regard to paragraphs (8) and (10) thereof and without regard to any placed in service date).

(b) Expenditures with respect to research facilities, and research grants, to support research in (i) development of cellulosic ethanol or other nonfossil fuels, (ii) technologies for the capture and sequestration of carbon dioxide

produced through the use of fossil fuels, (iii) increasing the efficiency of existing technologies for producing nonfossil fuels, (iv) automobile battery technologies and other technologies to reduce fossil fuel consumption in transportation, or (v) technologies to reduce energy use in buildings.

(c) Mass commuting facilities and related facilities that reduce consumption of energy, including expenditures to reduce pollution from vehicles used for mass commuting.

(d) Demonstration projects designed to promote the commercialization of (i) green building technology, (ii) conversion of agricultural waste for use in the production of fuel or otherwise, (iii) advanced battery manufacturing technologies, (iv) technologies to reduce peak use of electricity, or (v) technologies for the capture and sequestration of carbon dioxide emitted from combusting fossil fuels in order to produce electricity.

(e) Public education campaigns to promote energy efficiency.

#### Special Consideration for Private Activity Bonds:

Section 54D(f)(2) provides that, in the case of any private activity bond, the term “qualified conservation purposes” shall not include any expenditure that is not a capital expenditure.

#### Special Consideration for Green Community Programs

New § 54D(e)(4) added by the 2009 Act provides a special rule for bonds to finance green community programs, stating that bonds issued for the purpose of providing loans, grants, or other repayment mechanisms for capital expenditures to implement green community programs are not treated as private activity bonds for purposes of § 54D(e)(3).

### **C. Eligible Applicants**

Local government entities may apply for public purpose QECBs or on behalf of private entity for a QECB private activity allocation. Thirty percent of a state’s allocation may be used for private activity bonds, which are bonds that benefit businesses or individuals. Currently \$13,330,266 (30% of the state allocation and waived local government allocations combined) is available for private sector activity. Local governments or development authorities with projects benefiting the public or private sector may submit applications up to this amount. If additional local governments waive their allocations to the state, more bond allocations may be made available.

Local governments may submit an application for public or private activities. Both types of applicants will be reviewed competitively through this award process.

“Local government entity” means:

- (a) a county or city and county;
- (b) a municipality;
- (c) a school district;
- (d) a local government authority
- (e) a development authority

Cities and counties who have already received an allocation of QECB’s may also use this application to request a larger volume cap amount if they have a project that requires a greater amount of funds than their current allocation. Any county or municipality who has already received a large local government volume cap allocation of QECB is encouraged to contact and work with GEFA on how best to use their allocation.

Applicants seeking support for private activity projects must first contact their local government or development authority for project support and approval. If local governments with allocation amounts cannot support the private activity project, then application can be made through the local government or development authority to GEFA for

allocation authority from the state allocation or from waived local allocations made available to GEFA. Private activity project applicants in locales without allocation authority can apply through their local government or development authority to GEFA, as mentioned in this subsection.

GSFIC may allocate QECBs to the State of Georgia without formal application from the State. State agencies may not apply for QECBs using this process. State agencies interested in submitting project ideas for QECB consideration should contact David Godfrey, State Utilities Program Manager at (404) 584 – 1091 or [dgodfrey@gefa.ga.gov](mailto:dgodfrey@gefa.ga.gov).

## **II. Administrative Information**

### **A. QECB Specific Requirements**

This guidance is provided to remind Applicants of existing federal guidance and is to assist when receiving and/or awarding contracts/subcontracts using funds made available under the American Recovery and Reinvestment Act of 2009, Pub L. 111-5 (ARRA or the Act). It is the responsibility of Awarded Applicants to ensure compliance with all ARRA regulations and requirements imposed by the Qualified Energy Conservation Bond. The **Appendix 1, Terms and Conditions Use of American Recovery and Reinvestment Act of 2009 (ARRA) Funds** provides specific requirements specifically for these bonds.

### **B. Ability to Issue Bonds**

By submitting an application, the Applicant affirms its acceptance of the terms and requirements of the QECB program as established by ARRA, the U.S. Treasury, GSFIC and GEFA. The applicant must be willing and able to issue QECBs within six months of the volume cap award. Financing timelines longer than six months will be considered by GEFA, but may not have priority over more “shovel ready” applications.

### **C. Inquiries**

Applicants should not rely on any other statements, either written or oral, that alter any specification or other term or conditions of this application during the open solicitation period. Applicants should consult with bond counsel regarding the legal requirements and issuance of Qualified Energy Conservation Bonds or other ARRA specific requirements.

Project Eligibility inquiries can be directed to:

Andrew Ladd

GEFA

[aladd@gefa.ga.gov](mailto:aladd@gefa.ga.gov)

404-584-1131

## **III. Response Format & Application Requirements**

### **A. Mandatory Documentation**

Applicants must submit an application package for funding. The application package must include the below mandatory documents:

- a. Certificate from the Issuer certifying that the Issuer has a project eligible for financing by Qualified Energy Conservation Bonds.
- b. A written opinion of Legal counsel, addressed to GEFA, to the effect that the issuer is authorized under the laws of the state to issue bonds for projects of the same type and nature as the project which is the subject

of the application. The opinion shall cite by constitutional or statutory reference, including a reference to the session laws of the General Assembly in the case of a constitutional reference, the provision of the Constitution or law of the state which authorizes the bonds for the project;

- c. Written opinion of legal counsel, addressed to the Authority, to the effect that the bonds which are covered by the application will qualify, based upon the information available at that time to such legal counsel, as Qualified Energy Conservation Bonds when issued; and
- d. Evidence of financing commitment: With respect to Qualified Energy Conservation Bonds, a written letter of intent from a lender, financial institution, underwriter, investment banker, or other purchaser, addressed to the Authority, to purchase the bonds upon delivery by the Issuer. In the discretion of the Executive Director, this requirement may be waived in the event an officer of the Issuer certifies, in writing, that the bonds subject to the application will be issued on a competitive bid basis.
- e. A narrative proposal describing the project to be funded by this opportunity. This narrative proposal, **excluding the cover page and any attachments**, shall not exceed five (5) consecutively numbered (bottom center), 8.5x11-inch pages of single-spaced, standard 11-point type with 1-inch margins. NO hard copy applications will be accepted. All applications must be submitted through on-line application portal at <http://www.gefa.org/Index.aspx?page=488>. The proposal shall include the requested funding amount in even amounts of \$1,000.00.
- f. Financing schedule including required approvals as applicable to a public purpose bond or private activity bond (bond resolution, validation hearing, TEFRA hearing, etc).

## **B. Application Response Requirements**

The narrative proposal submitted by the applicant shall include the following information about the proposed project and should meet all other requirements regarding length and format as specified under section III.A(e) (above):

### Project Abstract

Provide a brief description of the project or program for which funding is being requested and clearly state how it will help meet the goals and objectives of the QECB program and the American Recovery and Reinvestment Act. The abstract should be no more than 125 words.

*Please keep this paragraph free of any proprietary information.*

### Project Narrative

Provide a project background and narrative that demonstrates, with specificity, a thorough explanation of how the project will contribute to the stated goals. Describe the location of the installation and why the applied technology is appropriate. Describe the project including the type and size of the energy efficiency and/or renewable energy included and the county(ies) in which the project is located. Provide information on how this fits into the facility's energy plan or larger related effort. Also include an explanation of the technical merits of the project, including the cost effectiveness of the proposed technology.

### Additional Funding Sources

Indicate any other funding sources that will be used for this project and describe any plans to attract additional funding. **If funding is not yet secured or awarded from any source, please indicate that clearly.**

### Plan of Finance

Provide an explanation of how the QECB's will be secured (i.e., General Obligation Bonds which would require voter approval, capital leases or certificates of participation, etc), and the term of the borrowing.

### Staff Project Management Experience, Qualifications and Facilities Requirements

Describe the project staff responsibilities and qualifications. Provide a biographical sketch of the staff and/or development team to include a brief resume/summary of qualifications and previous accomplishments (for similar projects) for project manager(s). Describe the internal resources available to the project team or partners, including

facilities, major equipment and other technical aspects, permits, and administrative resources that will be required for the project.

#### Project Tasks

A list of project tasks that must be completed in order for the project to be completed must be submitted. These tasks will directly feed into the milestone progress and will be included in the contract. Tasks should identify core areas of work, lead and the amount of time to complete. A chart (Gantt or similar) should be used to describe timeframes for the project's tasks.

#### Project Milestones

Include a schedule of project milestones that demonstrate a project start date until the end of the project. Identify what issues/conditions still need to be resolved before the project can begin and what barriers might be foreseeable. The milestones should reflect major events in the life of the project and should help determine progress to success.

#### Project Impacts

Include information on reduction in energy consumption, energy baseline information and jobs created. Explain how these numbers were derived providing supporting information if appropriate. Note: This information must also be provided on the GEFA application page. The metric information included in the narrative proposal should match the metric information included in the online application page. If it does not match, the review team will consider the lowest of the two numbers provided and may deduct points from the total score.

GEFA reserves the right to request additional information as necessary during the review process.

### **C. Application Submission**

Applications must be received by 5:00 p.m. (EST) on March 2, 2011.

**Only electronic applications will be accepted.** Applications must be submitted through the online application form available at <http://www.gefa.org/Index.aspx?page=488>

Incomplete applications or applications received after the deadline will **not** be considered.

Applicants will receive an automatic e-mail confirming receipt.

### **D. Application Fee**

All applicants will need to submit a \$250 application fee, payable to GEFA.

Upon application submission, the applicant will receive an automatic confirmation e-mail. This e-mail should be printed, attached to the application fee, and mailed to the address below. Applications are due March 2<sup>nd</sup>.

Application fees must be received by March 9<sup>th</sup>, 2011 in order to be considered for review. GEFA will notify you electronically upon receipt of the application fee.

Checks should be mailed to:

Attn: Andrew Ladd  
The Georgia Environmental Finance Authority (GEFA)  
233 Peachtree Street, NE  
Harris Building  
Ste. 900  
Atlanta, GA 30303

#### **IV. Evaluation and Award Selection Process**

##### **A. Evaluation Team**

All applications will be reviewed by an evaluation team comprised of GEFA staff, representatives from the Georgia State Investment and Finance Commission (GSFIC) and other evaluators as appropriate. Applicants will be notified when/if additional information, documentation or personal interviews with project principals are required. All information required to complete the application for allocation is provided herein. No additional information, including email and phone calls, will be considered during the selection process.

##### **B. Scoring Process**

When reviewing proposals, special consideration shall be given to:

- Projects that would promote or expand economic opportunities, with particular attention given to areas of economic distress, regional cooperation, and local energy needs.
- Projects that meet critical energy needs and/or statewide energy conservation goals
- Projects which the Authority has determined will enhance the public good and general welfare of the state as a whole.
- Projects that demonstrate feasibility and readiness.
- Re-allocation requests for Qualified Energy Conservation Bond eligible projects that evidence a letter of support from a state agency whose duties include economic development, community development, energy or environmental activities.

GEFA or GSFIC reserves the right to vary from the criteria as necessary or appropriate based on guidelines provided by U.S. Treasury and the Internal Revenue Service.

##### **C. Decisions**

Volume cap allocation recommendations are expected to be made in April 2011. Final determinations will be made by GSFIC at a subsequent meeting of the Commission.

Bonding capacity is limited. Applications meeting all of the program's general policy guidelines may not necessarily receive an award.



## Appendix 1: ARRA Terms & Conditions

The contract, grant, or purchase order to which these Supplemental Provisions are attached has been funded, in whole or in part, with ARRA Funds. In the event of a conflict between the provisions of these Supplemental Provisions, the Special Provisions, the contract or any attachments or exhibits incorporated into and made a part of the contract, the provisions of these Supplemental Provisions shall control.

**1. Definitions.** For the purposes of these Supplemental Provisions, the following terms shall have the meanings ascribed to them below.

**1.1. "ARRA"** means the American Recovery and Reinvestment Act of 2009, (Public Law 111-5).

**1.2. "ARRA Funds"** means any funds that are expended or obligated from appropriations made under ARRA.

**1.3. "ARRA Project"** means a project or program funded directly by or assisted, in whole or in part, by ARRA Funds.

**1.4. "Contract"** means the contract to which these Supplemental Provisions are attached and includes a grant contract or a loan contract.

**1.5. "Contracting Entity"** means a Prime Recipient, a Subrecipient, or a Recipient Vendor.

**1.6. "Contractor"** means the party or parties to the Contract other than the Prime Recipient and includes a grantee, subgrantee, or a borrower. For purposes of ARRA reporting, Contractor is either a Subrecipient or a Recipient Vendor under this Contract.

**1.7. "Entity"** means a governmental body; legally recognized for profit or nonprofit business organization, such as a corporation, limited liability company, or partnership; or sole proprietor and excludes individual recipients of Federal assistance.

**1.8. "FFATA"** means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282).

**1.9. "Prime Recipient"** means a Georgia State Agency or Institution of Higher Education that receives ARRA Funds directly from a Federal Agency in the form of a grant, loan, or cooperative agreement.

**1.10. "Subcontractor"** means an Entity engaged by Contractor to provide goods or perform services in connection with this contract.

**1.11. "Subrecipient"** means a non-Federal Entity receiving ARRA Funds through a Prime Recipient to support the performance of the ARRA Project for which the ARRA Funds were awarded. A Subrecipient is subject to the terms and conditions of the Federal award to the Prime Recipient, including program compliance requirements. The term "Subrecipient" includes and may be referred to as Subgrantee.

**1.12. "Supplemental Provisions"** means these Supplemental Provisions for Contracts and Grants Using Funds Provided under the American Recovery and Reinvestment Act of 2009, as may be revised pursuant to ongoing guidance from the relevant Federal or State of Georgia Agency or Institution of Higher Education.

**1.13. "Vendor"** means a dealer, distributor, merchant or other seller providing goods or services required for a project or program funded by ARRA. A Vendor is not subject to all the terms and conditions of the Federal award, and all program compliance requirements do not pass through to a Vendor. However, a Vendor may be subject to selected program compliance requirements. See §22 of these Supplemental Provisions.

**1.13.1 “Recipient Vendor”** means a Vendor that receives ARRA Funds from a Prime Recipient.

**1.13.2 “Subrecipient Vendor”** means a Vendor that receives ARRA Funds from a Subrecipient.

**2. Compliance.** Contractor shall comply with all applicable provisions of ARRA and the regulations issued pursuant thereto, including but not limited to these Supplemental Provisions. Any revisions to such provisions or regulations shall automatically become a part of these Supplemental Provisions, without the necessity of either party executing any further instrument. The State of Georgia may provide written notification to Contractor of such revisions, but such notice shall not be a condition precedent to the effectiveness of such revisions.

**3. ARRA Contracts and Subcontracts.** Contractor shall include these Supplemental Provisions in all of its contracts and subcontracts using ARRA Funds, in whole or in part, and shall provide written notification of revisions hereto to all parties to such contracts or subcontracts in accordance with §2 above. Contractor shall ensure that all subcontractors comply with applicable provisions of ARRA.

**4. Debarred or Suspended Entities.** Contractor shall not enter into any contract or subcontract in connection with this Contract with a party that has been debarred or suspended from contracting with the Federal Government or the State of Georgia. See Excluded Parties List System at <https://www.epls.gov/>.

**5. Conflict of Laws.** In the event of a conflict between the laws of the State of Georgia or these Supplemental Provisions and ARRA, ARRA shall control.

**6. Whistle Blower Protection. ARRA §1553.** Contractor shall not discharge, demote or otherwise discriminate against an employee as a reprisal for disclosures by the employee of information that the employee reasonably believes is evidence of: (a) gross mismanagement of a contract or grant relating to ARRA Funds; (b) a gross waste of ARRA Funds; (c) a substantial and specific danger to public health or safety related to the implementation or use of ARRA Funds; (d) an abuse of authority related to implementation or use of ARRA Funds; or (e) a violation of law, rule, or regulation related to a contract, including the competition for or negotiation of a contract or grant, awarded or issued relating to ARRA Funds. Contractor shall post a notice of the rights and remedies available to employees under ARRA §1553 in all workplaces where employees perform work that is funded in whole or in part by money authorized under the ARRA. A sample notice can be found at [www.recovery.gov/?q=content/whistleblower-information](http://www.recovery.gov/?q=content/whistleblower-information). Contractor specifically acknowledges that Contractor and its employees are aware of and shall abide by the provisions of ARRA §1553. Contractor shall include the language and requirements of this subsection ("Whistleblower Protection under §1553 of the ARRA") in all of its contracts and agreements with employees, subcontractors and anyone else who performs work on behalf of Contractor.

**7. False Claims Act. 31 U.S.C. §§3729-3733.** Contractor shall refer promptly to an appropriate Federal Inspector General any credible evidence that a principal, employee, agent, contractor, subgrantee, subcontractor or other person has committed a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving ARRA funds.

**8. Reporting of Fraud, Waste, and Abuse.** Contractor shall also refer promptly to the Georgia Office of the Inspector General (OIG) any credible evidence that a principal, employee, agent, contractor, subgrantee, subcontractor, or other person has committed a criminal or civil violation of laws pertaining to fraud, waste, and abuse involving ARRA Funds. The OIG shall report such incidents of misconduct to the appropriate State Agency and appropriate Federal authority. Contact information for reporting fraud, waste, and abuse to the OSC is located at [http://www.georgia.gov/00/agency/contact\\_us/0,2688,134245182\\_134720642,00.html](http://www.georgia.gov/00/agency/contact_us/0,2688,134245182_134720642,00.html)

**9. Inspection of Records. ARRA §§902, 1515.** Contractor shall permit the United States Comptroller General and his or her representatives or any representative of an appropriate Inspector General appointed under §3 or §8G of

the Inspector General Act of 1978, as amended (5 U.S.C. App.) to: (a) examine any records of the Contractor or any of its Subcontractors that directly pertain to, and involve transactions relating to this Contract or any contract or subcontract using ARRA Funds; and (b) interview any officer or employee of Contractor or any of its Subcontractors regarding such transactions. Contractor shall permit the State of Georgia, the Federal Government or any other duly authorized agent of a governmental agency with jurisdiction to audit, inspect, examine, excerpt, copy and/or transcribe Contractor's or such Subcontractor's records during the term of this Contract and for a period of three years following termination of this Contract or final payment hereunder, whichever is later, to assure compliance with these terms or to evaluate Contractor's performance hereunder.

**10. Wage Rate Requirements – Davis-Bacon Wage Determinations. ARRA §1606.** Contractor and its Subcontractors shall pay all laborers and mechanics employed on ARRA Projects by Contractor or any of its Subcontractors at wage rates not less than those prevailing on projects of a character similar in the locality, as determined by the United States Secretary of Labor in accordance with Subchapter IV of Chapter 31 of Title 40 of the United States Code.

**11. Buy American Requirement - Construction. ARRA §1605.** All iron, steel and manufactured goods used in any ARRA Project for the construction, alteration, maintenance, or repair of a public building or public work shall be produced in the United States in a manner consistent with United States obligations under international agreements. This requirement can be waived only by the awarding Federal Agency in limited situations.

**12. Environmental and Preservation Requirements. ARRA §1609.** Contractor shall comply with all applicable Federal, State, and Local environmental and historic preservation requirements and shall provide any information requested by the awarding Federal Agency to ensure compliance with applicable laws, including National Environmental Policy Act, as amended (42 U.S.C. 4321-4347) and National Historic Preservation Act (16 U.S.C. 470 et seq.).

**13. Non-discrimination.** Contractor shall comply with Title VI and Title VII of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), Title IX of the Education Amendments of 1972 (20 U.S.C. 1681-1688), the Age Discrimination Act of 1975 (42 U.S.C. 6101-6107), and other civil rights laws applicable to recipients of Federal financial assistance.

**14. Identification and Registration Information.** If Contractor is a Subrecipient, Contractor shall obtain a Dun & Bradstreet DUNS number (or update the existing DUNS record), and register with the Central Contractor Registration (CCR), the primary registrant database for the Federal government.

**15. Fixed Price – Competitively Bid. ARRA §1554.** Contractor, to the maximum extent possible, shall award subcontracts as fixed-price subcontracts under this Contract using competitive bid procedures. Contractor shall provide to its Contracting Entity a summary of any contract or subcontract awarded using ARRA Funds that is not fixed-price or not awarded using competitive procedures.

**16. Prohibition on Use of Funds. ARRA §1604.** ARRA funds shall not be used for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

**17. Enforceability.** If Contractor fails to comply with all applicable Federal and State requirements governing the use of ARRA funds, the State of Georgia may withhold or suspend, in whole or in part, funds awarded under the ARRA project, or recover misspent funds following an audit pursuant to §9, above. The remedy under this provision shall be in addition to all other remedies provided to the State of Georgia for recovery of misspent funds available under all applicable State and Federal laws.

**19. One Time Funding.** Contractor acknowledges and understands that ARRA Projects will not be continued with funds appropriated by the State of Georgia after ARRA Funds are expended or are no longer available.

**20. Segregation of Costs.** Contractor shall segregate obligations with respect to and expenditures of ARRA Funds from other sources of funding. ARRA Funds shall not be comingled with any other funds or used for a purpose other than the payment of costs allowable under ARRA.

**21. Reporting. §1512, FFATA §2.** Contractor shall report to its Contracting Entity the data elements required in §23 if Contractor is a Subrecipient or in §24 if Contractor is a Recipient Vendor. No direct payment shall be made to Contractor for providing any reports required under these Supplemental Provisions, as the cost of producing such reports shall be deemed included in the Contract price. The reporting requirements in §§23 and 24 are based on guidance from the US Office of Management and Budget (OMB), and as such are subject to change at any time by OMB. Any such changes shall be automatically incorporated into this Contract and shall become part of Contractor's obligations under this Contract. The State may provide written notice to Contractor of any such change in accordance with §2 above, but such notice shall not be a condition precedent to Contractor's duty to comply with revised OMB reporting requirements.

**22. Subrecipient Reporting.** If Contractor is a Subrecipient, Contractor shall report to its Contracting Entity as set forth below.

**22.1 Initial Reporting.** A Subrecipient shall report the following data elements to its Contracting Entity upon the effective date of the contract:

**22.1.1** Subrecipient DUNS Number

**22.1.2** Congressional District of Subrecipient

**22.1.3** Primary Place of Performance Information, including: Street Address, State, Country, City, Zip code + 4

**22.1.4** Subrecipient Officers' Names (Top 5) if all three criteria are met: 1) 80% or more of Subrecipient's annual gross revenue is from Federal contracts, 2) Subrecipient's annual gross revenue from Federal contracts is \$25 million or more, and 3) Subrecipient's officer names are not publicly available.

**22.1.5** Subrecipient Officers' Total Compensation (Top 5) if criteria in §23.1.4 met

**22.2 Monthly Reporting.** A Subrecipient shall report to its Contracting Entity no later than the 25th day of each month the following inception-to-date data elements as of the end of the prior month:

**22.2.1** Job Creation Narrative for both the Subrecipient and the Subrecipient's Vendors

**22.2.2** Number of Jobs Created or Retained for both the Subrecipient and the Subrecipient's Vendors

**22.2.3** SubAward number or other identifying number assigned by the Subrecipient to each Subrecipient Vendor (this number *cannot* be a personal identifying number such as a social security number or federal employer identification number)

**22.2.4** Vendor name and Zip code + 4 of Vendor's Headquarters for each Subrecipient Vendor; the Subrecipient Vendor's DUNS number may also be provided if available

**22.2.5** Subrecipient shall establish reporting deadlines for its Subrecipient Vendors.

**23. Recipient Vendor Reporting.** A Recipient Vendor shall report to its Contracting Entity no later than the 25th day of each month the following inception-to-date data elements as of the end of the prior month:

**23.1.1** Job Creation Narrative

**23.1.2** Number of Jobs Created or Retained

**24. Event of Default.** Failure to comply with these Supplemental Provisions shall constitute an event of default under the Contract and the State of Georgia may terminate the Contract upon 30 days prior written notice if the default remains uncured five calendar days following the notice period. This remedy will be in addition to any other remedy available to the State of Georgia under the Contract, at law or in equity.

## Appendix II: Interim IRS Guidelines for Administration of QECBs

The terms and conditions of QECBs have been outlined by the IRS. A summary of IRS guidance is below.

- 26 USC § 54a . United States Code Title 26. Internal Revenue Code: Qualified Tax Credit Bonds.
  - <http://www.dsireusa.org/documents/Incentives/US51F.htm>
- 26 USC § 54D. United States Code Title 26. Internal Revenue Code: Qualified Tax Credit Bonds
  - <http://www.dsireusa.org/documents/Incentives/US51Fb.htm>
- IRS Notice 2009-29. Part III - Administrative, Procedural, and Miscellaneous: Qualified Energy Conservation Bond Allocations for 2009
  - <http://www.irs.gov/pub/irs-drop/n-09-29.pdf>
- IRS Notice 2010 – 35. Part III - Administrative, Procedural, and Miscellaneous: Direct Payment Subsidy Option for Certain Qualified Tax Credit Bonds and Build America Bonds
  - <http://www.irs.gov/pub/irs-drop/n-10-35.pdf>



<p><b>9. Application Attachments (Check):</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> a. Issuer's Designation Certification</li> <li><input type="checkbox"/> b. Opinion of Legal Counsel - State Law</li> <li><input type="checkbox"/> c. Opinion of Legal Counsel - Federal Law</li> <li><input type="checkbox"/> d. Financial Commitment Letter</li> <li><input type="checkbox"/> e. Proposal describing the project</li> <li><input type="checkbox"/> f. Financing Schedule</li> <li><input type="checkbox"/> g. \$250 Application Fee</li> </ul>	<p><b>GEFA Use</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/></li> <li><input type="checkbox"/></li> <li><input type="checkbox"/></li> <li><input type="checkbox"/></li> <li><input type="checkbox"/></li> <li><input type="checkbox"/></li> <li><input type="checkbox"/></li> </ul>	<p><b>10. Distribution Instructions</b></p> <p>a. The Notice of Allocation will be sent to Bond Counsel.</p> <p>b. Method of Delivery:</p> <p style="padding-left: 20px;"><input type="checkbox"/> Mail    <input type="checkbox"/> Pick-up (Notify Below)</p> <hr style="border: 0; border-top: 1px solid black; margin: 5px 0;"/> <p style="text-align: center; margin: 0;">Name <span style="float: right;">Telephone</span></p> <p style="text-align: center; margin: 0;">Overnight Mail Acct. # <span style="float: right;">_____</span></p> <hr style="border: 0; border-top: 1px solid black; margin: 5px 0;"/> <hr style="border: 0; border-top: 1px solid black; margin: 5px 0;"/> <hr style="border: 0; border-top: 1px solid black; margin: 5px 0;"/> <p style="text-align: center; margin: 0;">Complete Address</p>
<p><b>12. Borrower/Issuer Certification:</b>    The information contained in this Application for Bond Allocation and related attachments is understood to be true and accurate.</p>		
<p style="text-align: center; margin: 0;">_____ Signature (Borrower)</p>	<p style="text-align: center; margin: 0;">_____ Signature (Issuer)</p>	
<p style="text-align: center; margin: 0;">_____ Title</p>	<p style="text-align: center; margin: 0;">_____ Title</p>	
<p style="text-align: center; margin: 0;">_____ Date</p>	<p style="text-align: center; margin: 0;">_____ Date</p>	