



Australian Government

# SOLAR FLAGSHIPS

## Program Administrative Guidelines – Round One

I, Martin Ferguson, Minister for Resources and Energy, issue the following guidelines to the Department of Resources, Energy and Tourism.

Dated:

7 DEC 2009

A handwritten signature in blue ink, appearing to read 'M Ferguson', written over a horizontal line.

Minister for Resources and Energy



Australian Government

## SOLAR FLAGSHIPS PROGRAM ADMINISTRATIVE GUIDELINES

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## DEFINITIONS

In these guidelines, unless the contrary intention applies:

***applicant*** means any entity, or the lead proponent of a consortium, that has submitted a *proposal* to the *program*.

***Commonwealth*** means the Australian Government, as represented by the *Department*.

***conflict of interest*** means a conflict of interest as defined by the *Commonwealth Grant Guidelines*. A conflict of interest arises where a person makes a decision or exercises a power in a way that may be, or may be perceived to be, influenced by either material personal interests (financial or non-financial) or material personal associations. A conflict of interest could arise where decision makers or officials involved in grants administration have a direct or indirect interest in the selection of a particular project or activity for funding.

***Deed*** means the *Solar Flagships Deed of Agreement* between a *grantee* and the *Commonwealth* for *grant* funding, known as the deed of agreement, under the *program*, as amended from time to time in accordance with the rules of the *program*. The *agreement* consists of two parts, the *General Conditions* and the *Schedule*.

- *General Conditions* means the predetermined standard contract approved by the *Department*.
- *Schedule* means the specific information and conditions that are consistent with the *grant offer*. These conditions can be negotiated by a request for variation, which will be considered by the *Program Delegate*.

***Department*** means the Department of Resources, Energy and Tourism.

***DIISR*** means the Department of Innovation, Industry, Science and Research.

***Education Investment Fund***, abbreviated as ***EIF***, means the fund established under the *Nation-building Funds Act 2008* for projects that create or develop significant infrastructure for higher education institutions, research institutions and vocational education and training providers.

***EIF Advisory Board*** means the Education Investment Fund Advisory Board.

***EIF Evaluation Criteria*** means the EIF evaluation criteria set out in the Education Investment Fund (EIF) Evaluation Criteria No. 2 of 2009.

***EIF Guidelines*** means the Education Investment Fund Program Guidelines – EIF Round 3 and Sustainability Round.

***eligible supplementary energy sources*** means natural gas or any energy source eligible for the creation of Renewable Energy Certificates under the *Renewable Energy (Electricity) Act 2000*.

**full application** means the full project proposal, including, but not limited to, a *Solar Flagships Program Proposal Form*, feasibility and design studies, *Solar Flagships Program Research Infrastructure Component Application Form*, Project Australian Industry Participation Plan, and details of conformance with the *Deed*, submitted for funding under the *program* by an *applicant* on the *shortlist*.

**grant** means an amount awarded for a particular *project* in return for the completion of specified milestones. A *grant* is not to be confused with a gift or a loan. In the case of the Solar Flagships program, the *grant* is the amount identified in the *Deed*. Grants are subject to normal taxation treatment and no special arrangements will apply to Solar Flagships grants. All potential applicants are strongly advised to seek independent taxation advice on the tax implications of receiving a grant under the *program*.

**grant offer** means the letter that identifies the amount of funding the *Department* is willing to provide, the conditions under which the *grant* is offered and the specific company and *project* details of the *grant* that has been approved. The *grant offer* has an expiry date of 180 days, unless extended by the *Program Delegate*.

**grantee** means an entity that was successful as a result of the assessment process and is entitled to receive a *grant* under the program pursuant to a *Deed* between the entity and the *Commonwealth*.

**guidelines** means the Solar Flagships Program Administrative Guidelines.

**Information Guide** means a document issued by the *Department* to provide potential *applicants* with information about the *program*.

**Minister** means the Minister for Resources and Energy.

**photovoltaic** means those technologies that generate a current or voltage when exposed to visible light or other electromagnetic radiation from the sun.

**program** means the Solar Flagships program, which is an eligibility and merit-based program to support the demonstration within a competitive electricity market of the operation of large scale solar power plants.

**Program Delegate** means an employee of the *Department* who has been authorised by the Secretary of the Department of Resources, Energy and Tourism to carry out the functions specified in these guidelines.

**program funds** means the funding made available by the Commonwealth of Australia for the *program* in any given financial year, being the funding specified in the Portfolio Budget Statement (as varied by any Portfolio Additional Estimates Statement or by the *Minister* or the *Research Minister*) for that year. There is no authority to enter into agreements to provide the grant beyond the limit of available funding for the *program*.

**project** means an applicant's proposed development, construction and operation of a large scale solar power plant and associated research infrastructure and network connection infrastructure, as well as any associated activities, including research.

**proposal** means an application for the Solar Flagships program including, but not limited to, a *Solar Flagships Program Proposal Form*, which is submitted and received by the *Department* prior to the closing date.

**Research Minister** means the Minister for Innovation, Industry, Science and Research.

**Research Minister's Delegate** means an employee of *DIISR* who has been authorised by the *Research Minister* to carry out the functions associated with the administration of *EIF*.

**research partner** means an eligible EIF Research Institution as defined in the *Specification of Higher Education Institutions, research Institutions and Vocational Education and Training Providers No. 2 of 2009*, which is responsible for the research infrastructure component of the project.

**Solar Flagships Council** means the body described in clause 12 of these guidelines.

**Standard Operating Procedures** are the documents that have been developed for the *program* and which are reviewed from time to time and maintained by the *Department* and which detail the tasks associated with delivery of the *program*.

**shortlist** means the selection of applicants approved by the Australian Government who are invited to submit a *full application* in Stage 2 for funding from the Solar Flagships program.

**solar thermal** means those technologies that use heat derived from the sun's radiation to generate electricity.

## PART ONE – PRELIMINARIES

### 1 Background to the Program

- 1.1 The Solar Flagships program is part of the Australian Government's \$4.5 billion Clean Energy Initiative (CEI) announced in the May 2009 Budget. The CEI complements the Carbon Pollution Reduction Scheme (CPRS) and the expanded Renewable Energy Target (RET) by supporting the research, development and demonstration of low-emission energy technologies.
- 1.2 The Government has allocated \$1.5 billion from the CEI to the Solar Flagships program. This \$1.5 billion includes \$200 million sourced from the *Education Investment Fund (EIF)*, which is established under the *Nation-building Funds Act 2008*.

### 2 Objective of the Program

- 2.1 The objectives of the Solar Flagships program are:
  - a. primarily, to provide the foundation for large scale, grid connected, solar power to play a significant role in Australia's electricity supply and to operate within a competitive electricity market with the aim of up to 1,000 megawatts (MW) of solar power generation; and
  - b. secondarily, to develop a solar industry in Australia, encourage regional development, provide research infrastructure, develop Australian intellectual property in solar power generation and develop and share technical and economic knowledge from the program.

### 3 Eligible Technologies

- 3.1 Solar technologies eligible for the Solar Flagships program include both *photovoltaic* and *solar thermal* based technologies.

### 4 Research Infrastructure

- 4.1 The solar power plants established under the Solar Flagships program will include a research infrastructure component. The research infrastructure component will relate to the construction, commissioning or early operation of the solar power plant and must satisfy the *EIF Evaluation Criteria* (see Part 3, Section 11, of the *EIF Evaluation Criteria*).

## 5 Outcomes of the Program

- 5.1 The intended outcomes of the Solar Flagships program (referred to in this document as “the *program*”) are to:
- Demonstrate that large scale solar power plants can be constructed and operated within major electricity grids in Australia;
  - Optimise the business models for constructing, generating and delivering electricity generated from large-scale solar power plants;
  - Develop the solar power industry in Australia;
  - Provide research infrastructure for solar power generation;
  - Encourage regional development;
  - Build initial infrastructure for further development of solar power;
  - Develop Australian intellectual property and know-how in solar power; and
  - Develop and share technical and economic knowledge of the operation of large scale solar power plants in a competitive energy market.

## 6 Name of these Guidelines

- 6.1 This document is the *Solar Flagships Program Administrative Guidelines* (referred to in this document as the “*guidelines*”).

## 7 Object of these Guidelines

- 7.1 The object of these *guidelines* is to provide a framework for the operation of the *program*.
- 7.2 These *guidelines* provide the basis for supporting program documentation which may include the *Information Guide*, the *Solar Flagships Deed of Agreement (Deed)*, the *Solar Flagships Proposal Form* and the *Standard Operating Procedures*.
- 7.3 While these *guidelines* will be available publicly, the *Information Guide* will include more detailed information for *applicants* regarding the practical aspects of the application process and to assist them in the preparation of their *proposals*.

## 8 Duration and Operation of the Guidelines

- 8.1 These guidelines commence on the date of their release by the *Minister* and expire on 30 June 2021 or when superseded by a revised edition.
- 8.2 The Solar Flagships program will operate over two rounds. These guidelines apply to Round 1 of the *program*.

## 9 Conduct of Program

- 9.1 The program will be conducted in two rounds:
- a. Round 1 will open in 2009, with successful *projects* expected to be announced in the second half of 2010. Round 1 will aim to establish up to 400MW (megawatts) of electricity generation capacity using eligible solar technologies.
  - b. Following a review of Round 1, it is intended that Round 2 will be held in 2013-14 and will aim to establish up to 600MW of electricity generation capacity using eligible solar technologies.
  - c. *Applicants* in Round 1 will not be precluded from applying for Round 2.
- 9.2 Round 1 will be conducted in two stages:
- a. Stage 1 is expected to be completed in the first half of 2010 and will consist of a call for *proposals* and *shortlisting* of *proposals* for Stage 2. *Proposals*, to be eligible for *shortlisting*, must be lodged with the *Department* by the closing date advertised on the *Department's* website ([www.ret.gov.au](http://www.ret.gov.au)).
  - b. Stage 2 is the final selection stage where project *proposals* *shortlisted* in Stage 1 will be invited to submit a *full application* and the Government will select two *full applications* (one *photovoltaic* and one *solar thermal*) to be offered grants.
- 9.3 Projects *shortlisted* for Stage 2 will be required to submit a separate *Solar Flagships Program Research Infrastructure Component Application Form* describing the research infrastructure component of the project and how it meets the *EIF Evaluation Criteria*.

## PART TWO – GOVERNANCE

### 10 Minister

10.1 The *Minister* is responsible for the *program*.

### 11 Department

11.1 The *program funds* are appropriated to the *Department*, other than the funding appropriated through the *Nation-building Funds Act 2008* to *DIISR*. The *Department's* financial responsibilities include:

- a. assessing the availability of *program funds*, managing commitments and arranging and issuing any relevant approvals under the *Financial Management and Accountability Act 1997* and *Financial Management and Accountability Regulations 1997* for Solar Flagships projects;
- b. payment of grant funds upon the *Department's* satisfaction that agreed milestones have been met and are in accordance with the *Financial Management and Accountability Act 1997*;
- c. undertaking debt recovery action against *grantees* that have not complied with their obligations under the *Deed*; and
- d. being accountable for financial expenses and responsibility for reporting including the annual Portfolio Budget Statements process, reporting to Parliamentary committees and monthly financial reporting.

11.2 The *Department* has policy and implementation responsibility for the *program* including:

- a. providing advice to the *Minister* and the *Solar Flagships Council*;
- b. providing direction on the administration of the *program* to ensure policy objectives for the *program* are met;
- c. providing a first point of contact on the *program* for stakeholders;
- e. eligibility assessment of *proposals* and *full applications*;
- f. facilitating the process of merit assessment of *proposals* and *full applications*;
- g. providing information to the *DIISR* on research infrastructure components of *proposals* and *full applications*;
- h. negotiating and entering into *Deeds* as required;
- i. monitoring *grantees'* compliance with their contractual obligations, and monitoring expenditure;
- j. administering variations to *Deeds*;
- k. issuing notices to rectify breaches of *Deeds*;
- l. initiating action in response to breaches of *Deeds*, including taking formal action to unilaterally terminate *Deeds*;
- m. issuing repayment notices and pursuing any unmet demands for repayment of *grant funds*;
- n. managing fraud investigations and any civil or criminal prosecutions arising out of these investigations under the *program*;

- o. providing specified data on financial and non-financial reporting requirements including, but not limited to, information on achievements for annual report requirements, and data on Portfolio Budget Statement performance indicators;
- p. providing specified data to meet auditing or external scrutiny requirements;
- q. providing secretariat support to the *Solar Flagships Council* and ongoing administrative and financial support to members to fulfil their functions;
- r. establishing and managing panels of technical and financial advisors;
- s. assisting with any review of the program required by the Government or by Commonwealth agencies, such as the Australian National Audit Office, the *Department's* Internal Auditor; and
- t. any other actions required for the efficient and effective administration of the *program*.

11.3 The *Department* must administer the program in accordance with the Australian Government's financial management and accountability framework including the *Commonwealth Grant Guidelines*.

## 12 Solar Flagships Council

- 12.1 The *Solar Flagships Council* will be comprised of members having relevant expertise and experience to advise on selection and implementation of projects of this scope and nature.
- 12.2 The *Minister* will appoint members and a chair to the *Solar Flagships Council*.
- 12.3 The *Solar Flagships Council* will, as requested by the *Minister* or the *Program Delegate*:
- a. assess *proposals* and *full applications* in accordance with clauses 17 and 18;
  - b. assess the merit of requests for material variations to *projects* in accordance with clause 27;
  - c. conduct reviews of individual *project* activities, as provided for in the *Deed* and for the purpose of assessing the progress of the *project*; and
  - d. provide advice on other matters related to the implementation or administration of the *program*.
- 12.4 Members of the *Solar Flagships Council* will be required to complete the "Conflict of Interest Declaration and Confidentiality Undertaking".
- 12.5 If the *Solar Flagships Council* receives a request from the *Minister* or *Program Delegate* under clause 12.3, it will assess the proposal, conduct the review or provide the advice as soon as is practicable, or within the timeframe agreed between the *Solar Flagships Council* and the *Program Delegate* or the *Minister*.

### **13 EIF Advisory Board**

- 13.1 Section 170 of the *Nation-building Funds Act 2008* establishes the *EIF Advisory Board*.
- 13.2 The *EIF Advisory Board* is responsible for assessing the research infrastructure component of *shortlisted projects*, as described in the *Solar Flagships Program – Research Infrastructure Component Application Form*, against the *EIF Evaluation Criteria*.
- 13.3 The *EIF Advisory Board* will advise the *Research Minister* as to whether or not the research infrastructure component of *shortlisted projects* satisfies the *EIF Evaluation Criteria*.

### **14 Documentation**

- 14.1 The administrative framework for the program is derived from:
  - a. these *guidelines*; and
  - b. the appropriate Delegations from the Secretary of the Department of Resources, Energy and Tourism.

## PART THREE – ASSESSMENT PROCESS

### 15 Proposal Process

- 15.1 *Proposals and full applications for the program will be sought through public announcement by the Minister.*
- 15.2 *Solar Flagships Proposal Forms for the program will be available from the Department.*

### 16 Assessment Process for Stage 1

- 16.1 *Upon receiving a proposal and any supporting evidence, the Department will assess the proposal to determine its eligibility against the Eligibility Criteria specified in clause 17.*
- 16.2 *The Department may engage relevant technical, financial and legal expertise to assist with the assessment of eligibility.*
- 16.3 *The Program Delegate may seek clarification from the applicant in relation to any matter, to assist with the assessment of a proposal.*
- 16.4 *If the Program Delegate determines that a proposal is eligible in accordance with the criteria specified in clause 17, it will be referred to the Solar Flagships Council for assessment against the Merit Criteria in clause 18.*

### 17 Eligibility Criteria

- 17.1 *To be eligible for consideration for a grant provided in Round 1 of the program, an applicant must:*
  - 17.1.1 *complete and lodge a Solar Flagships Proposal Form with the Department by the specified closing date;*
  - 17.1.2 *demonstrate that the nominated research partner is an eligible EIF Research Institution as defined by the Specification of Higher Education Institutions, Research Institutions and Vocational education and Training Providers No. 2 of 2009;*
  - 17.1.3 *provide evidence that the applicant's proposed project is endorsed by the State or Territory governments governing the jurisdictions in which the project is proposed to be built.*
  - 17.1.4 *be a non-tax exempt Australian company incorporated under the Corporations Act 2001 or a wholly or majority owned Commonwealth or State Government body;*
  - 17.1.5 *not be insolvent, bankrupt, in liquidation, or under administration or receivership;*
  - 17.1.6 *be able to demonstrate access to, or right to the beneficial use of, any intellectual property necessary to carry out the project;*

- 17.1.7 be able to demonstrate that they have sought funding at a ratio of at least two dollars from private, State or Territory government sources for every dollar from the Solar Flagships program, and have exhausted private, State or Territory government funding sources;
  - 17.1.8 not have had a judicial decision relating to employee entitlements made against it (not including decisions under appeal) and have not paid the claim; and
  - 17.1.9 not be named as an organisation that has not complied with the *Equal Opportunity for Women in the Workplace Act 1999*.
- 17.2 To be eligible for consideration for a *grant* in Round 1 of the *program*, a *project* must:
- 17.2.1 have a net solar electricity generation capacity of at least 150MW;
  - 17.2.2 be connected to the National Electricity Market or the South West Interconnected System by 31 December 2015;
  - 17.2.3 use an eligible solar technology, either *photovoltaic* or *solar thermal*;
  - 17.2.4 provide evidence that the technology to be used in the project:
    - 17.2.4.1 has been demonstrated in operation at a scale of at least 30MW generation capacity for 12 months; or
    - 17.2.4.2 is a replicable module that has been demonstrated in operation for at least 12 months and the *applicant* has proposed scale up plans that are supported by financial and construction firms.
  - 17.2.5 undertake project development in stages of no less than 30MW of net electricity generation capacity;
  - 17.2.6 be located on a single site, if it is a proposal using a *solar thermal* technology;
  - 17.2.7 be located on no more than five sites, each of which would be connected to the same electricity grid, if it is a proposal using a *photovoltaic* technology;
  - 17.2.8 use only solar energy or *eligible supplementary energy sources*, where those *supplementary energy sources* are operated as an integrated part of a *solar thermal project*;
  - 17.2.9 limit the output of electricity from *eligible supplementary energy sources* to 15 percent of the net electricity output from the plant;
  - 17.2.10 be scheduled to complete construction and commissioning of the plant by 31 December 2015; and
  - 17.2.11 include an off-take agreement between the project proponent and a market participant, either contractually or through ownership.

## 18 Merit Criteria

- 18.1 The merit of eligible *proposals* for the *program* will be assessed for value for money against the following criteria:
  - 18.1.1 The funding sought from the *program* for the *project*, compared with:
    - 18.1.1.1 the expected electricity output of the plant, excluding output from energy sources other than solar energy; and
    - 18.1.1.2 the funding being contributed to the *project* by the *applicant* and other sources, including State and Territory governments.
  - 18.1.2 Commercial viability of the *project* including the cost of the project compared with the expected electricity output of the plant from solar energy and *eligible supplementary energy sources*, noting that *eligible supplementary energy sources* may contribute no more than 15 percent of the net electricity output from the plant.
  - 18.1.3 The risk associated with the *project* including:
    - 18.1.3.1 the technical risk of scale up of the technology to be used in the *project*;
    - 18.1.3.2 the implementation risk associated with the capability of the applicant to deliver the proposed plant to specification at the proposed location and within the time proposed;
    - 18.1.3.3 the risk associated with the ability of the proposed plant to operate at the planned specifications over the life of the *project*;
    - 18.1.3.4 the risk associated with the ability of the proposed plant to operate within the range forecast in the financial plan for the *project*; and
    - 18.1.3.5 the risks that the project will be able to secure finance to deliver the *project*.
  - 18.1.4 Inclusion of energy storage as an element in the *project*, with *projects* including some significant use of energy storage having higher merit.
  - 18.1.5 Inclusion of Australian industry participation, including participation by small and medium size enterprises, with such participation indicating higher merit.
  - 18.1.6 The opportunities the *project* may create for regional development with such opportunities indicating higher merit.
  - 18.1.7 Management capability of the *applicant*, with *applicants* assessed to have greater capacity to manage the development of a major infrastructure project having higher merit.
  - 18.1.8 Financial capacity of the *applicant* and the proposed supporting consortium including the ability of the *applicant* to fund the costs of the *project* as they fall due.

- 18.1.9 Technical strength of the *project* and the technical capability and resources available to the *applicant* and the proposed supporting consortium.
- 18.1.10 The potential of the *project* to build and retain local, and attract international solar energy expertise to Australia and increase Australia's share of the global market for solar energy technologies.
- 18.1.11 Degree of acceptance by the applicant of the terms and conditions of the *Deed*.

## **19 Shortlisting of Proposals**

- 19.1 At the request of the *Minister*, the *Solar Flagships Council* will assess each eligible *proposal* according to the extent to which the *proposal* meets the merit criteria specified in clause 18.
- 19.2 The *Program Delegate* may engage relevant technical and financial expertise to assist the *Solar Flagships Council* with the assessment of the merit of *proposals*.
- 19.3 The *Solar Flagships Council* will provide its merit assessment of eligible *proposals* to the *Minister*.
- 19.4 On the basis of its merit assessment, the *Solar Flagships Council* will recommend to the *Minister* a *shortlist* of *photovoltaic projects* to be invited to submit a *full application* in Stage 2 and a *shortlist* of *solar thermal projects* to be invited to submit a *full application* in Stage 2.
- 19.5 *Applicants* will be advised in writing by the *Program Delegate* whether their *project* has been invited to submit a *full application*. The *Program Delegate* will also advise applicants of any offer of funding for feasibility and design studies under clause 20.
- 19.6 *Applicants* whose proposals have been shortlisted will be invited to submit a *full application* which must include a research infrastructure component that satisfies the *EIF Evaluation Criteria* set out in the *Education Investment Fund (EIF) Evaluation Criteria No. 2 of 2009*, and which will be managed by the project's *research partner*.

## **20 Funding of feasibility and design studies for Stage 2**

- 20.1 On the recommendation of the *Solar Flagships Council*, the *Minister* or the *Minister's* delegate may offer funding for the preparation of feasibility and design studies to *applicants* invited to submit *full applications*.

- 20.2 Funding provided under clause 20.1 will be limited to an amount recommended by the *Solar Flagships Council* for each *applicant* with a *project* on the *shortlist*.
- 20.3 *Applicants* will be required to submit the feasibility and design studies funded under clause 20.1 as part of their *full applications* for assessment by the *Solar Flagships Council*.
- 20.4 Notwithstanding clause 20.2, funding of feasibility and design studies will be limited to a maximum of 50 percent of agreed costs and will be paid in arrears on receipt of evidence satisfactory to the *Department* of relevant costs incurred.
- 20.5 The total funding that may be provided for feasibility and design studies in Round 1 is limited to \$15 million for all shortlisted applicants.
- 20.6 To be eligible for funding, applicants must enter into a *Feasibility and Design Studies Funding Deed*.

## **21 Assessment of full proposals (Stage 2)**

- 21.1 *Full applications* will be required to comply with the Eligibility Criteria in clause 17 to be awarded a *grant*.
- 21.2 At the request of the *Minister* or the *Minister's* delegate, the *Solar Flagships Council* will assess all *full applications* according to the extent to which each *full application* meets the Merit Criteria specified in clause 18.
- 21.3 The *Program Delegate* may engage relevant technical, financial and legal expertise to assist the *Solar Flagships Council* with the assessment of the merit of *full applications*.
- 21.4 On behalf of the *Solar Flagships Council*, the *Program Delegate* may seek clarification from the *applicant* in relation to any matter, to assist with the assessment of a *full application*.
- 21.5 *DIISR* will assess the eligibility of the *research partner* and ensure the completed *Solar Flagships Program – Research Infrastructure Component Application Form* complies with all instructions contained in the application form.
- 21.6 The *EIF Advisory Board* will assess the research infrastructure component of *full applications*, as described in the *Solar Flagships Program – Research Infrastructure Component Application Form*, against the *EIF Evaluation Criteria*.

- 21.7 The *EIF Advisory Board* will advise the *Research Minister* whether or not the research infrastructure component of endorsed shortlisted projects satisfies the *EIF Evaluation Criteria*.
- 21.8 On the basis of its merit assessment and the *EIF Advisory Board's* assessment of the research infrastructure component, the *Solar Flagships Council* will provide its ranking of the merit of projects and recommend to the *Minister* one *photovoltaic project* and one *solar thermal project* to be offered a *grant* in Round 1.
- 21.9 The *Solar Flagships Council* will not recommend any *project* where the *EIF Advisory Board* has assessed the research infrastructure component as not meeting the *EIF Evaluation Criteria*.

## **22 Grant Approval and Notification**

- 22.1 The *Minister* will award *grants*.
- 22.2 On receiving advice from the *Minister*, the *Program Delegate* will write to all applicants on the *shortlist* to advise whether they will be offered a *grant* for their *project*, the amount of the *grant offer* and any conditions attached to that *grant offer*.
- 22.3 The decision on whether or not to award a *grant* will be final.

## **23 Negotiations**

- 23.1 Successful *applicants* will have 180 days (negotiation period) from the date a *grant offer* is made to execute the *Deed* with the *Commonwealth*. Failure to execute the *Deed* in this time may result in the withdrawal of the *grant offer*.
- 23.2 Requests relating to an extension of the negotiation period must be made in writing to the *Program Delegate*.
- 23.3 Decisions on *project* variations during the scheduled negotiation period will be handled as outlined in clause 27.
- 23.4 Decisions relating to financial and budgetary issues will be made by the *Program Delegate*, subject to consultation with the *Minister* as required.

## PART FOUR – GRANT ADMINISTRATION

### 24 Grant Offer

- 24.1 The *Program Delegate* must negotiate the *Schedules* of the *Deed* with *grantees* according to the conditions detailed in the written offer of funding.

### 25 Deed of Agreement

- 25.1 An *applicant* receiving a *grant offer* must enter into a *Deed* with the *Department* before *program funds* will be paid to the *grantee*. This *Deed* may cover the funds to be paid to the *project* from the *EIF* or a separate agreement with *DIISR* may be required for *EIF* funding of the research infrastructure component of the *project*.
- 25.2 The *Deed* will provide the legal framework for the making of *grant* payments and the conduct of the *project* and must:
- a. be consistent with these guidelines;
  - b. specify the amount of *grant* assistance for the *project* to which the *full application* relates and the timing and method of delivery of the *grant*;
  - c. specify that payment of *grant* assistance will be conditional upon satisfactory progress against agreed milestones;
  - d. require the *grantee* to conduct the *project* to which the *full application* relates;
  - e. require the *grantee* to provide agreed access to the solar power plant to the *research partner*;
  - f. require the *grantee* to enter into a legal agreement for information dissemination as described in clause 26;
  - g. require the *grantee* to keep records relating to the conduct and management of the *project*;
  - h. require the *grantee* to cooperate with any independent evaluation of the *program* undertaken by the *Program Delegate*;
  - i. provide for inspection by or for the *Program Delegate* of any premises where the *project* is undertaken and records relating to the conduct and management of the *project*;
  - j. require the *grantee* to regularly report to the *Program Delegate* on the conduct and management of the *project*;
  - k. provide for variation and termination of the *Deed*;
  - l. provide for recovery of *grant* funds in certain circumstances; and
  - m. require the *grantee* to comply with all applicable Commonwealth, State and Territory laws.
- 25.3 The *Deed* will provide that a successful *applicant* must not contract with a builder who will carry out building work as defined in section 5 of the *Building Construction Industry Improvement Act 2005*, if the builder is not accredited under the Australian Government Building Construction Occupational Health and Safety Accreditation Scheme at

## 26 Information Dissemination

- 26.1 *Grantees* will be required to provide information on the performance and operation within the electricity market of their *project* for dissemination in Australia and overseas by the Australian Solar Institute or another government body designated by the *Department*.
- 26.2 Information to be disseminated under clause 26.1 will be negotiated between the *Department*, the *grantee* and the *research partner* as part of the Schedules to the *Deed*.

## 27 Project Variations

- 27.1 A request to vary a *project* or the *Deed* during the negotiation period or after a *Deed* has been executed must be submitted in writing by the *grantee* to the *Program Delegate*.
- 27.2 Where a variation request is, in the opinion of the *Program Delegate*, not likely to affect the achievement of the *project's* stated outcomes and does not involve a variation to funding arrangements as set out in the *Deed*, the *Program Delegate* may approve or reject the request.
- 27.3 Where a variation request is, in the opinion of the *Program Delegate*, likely to affect the achievement of the *project's* stated outcomes, or involves a variation to funding arrangements as set out in the *Deed*, or otherwise warrants the attention of the *Minister*, the *Program Delegate* must submit the variation request and an assessment in accordance with clause 27.9 to the *Minister* for decision.
- 27.4 Where a variation request is, in the opinion of the *Program Delegate*, likely to affect the achievement of the project's stated *research infrastructure* outcomes, the *Program Delegate* must inform *DIISR* of the request, who will seek the *Research Minister's Delegate's* approval to vary the Deed of Agreement.
- 27.5 Where a variation request is, in the opinion of the *Research Minister's Delegate*, likely to result in the changed *project* no longer meeting the *EIF Evaluation Criteria*, the *Research Minister's Delegate* may reject the request.
- 27.6 A variation to funding arrangements with the project's *research partner* will require the *Research Minister's Delegate's* approval for *DIISR* to vary the *Deed* or Deed of Agreement with the *research partner*.

- 27.7 The *Program Delegate* may seek the advice of the *Solar Flagships Council* in providing an assessment regarding a variation request.
- 27.8 The *Program Delegate* may also seek advice from technical, financial, due diligence or other experts in providing an assessment of a variation request.
- 27.9 In undertaking an assessment of a request to vary the *project* or *Deed*, the *Program Delegate* will assess:
- a. the extent to which the changed *project* meets the Eligibility Criteria in clause 17 and the Merit Criteria specified in clause 18, and
  - b. whether the change to the *project* would:
    - i. significantly improve the outcomes of the *project*; and
    - ii. be consistent with the objective of the *program* stated in clause 2 and the outcomes expected from the *program* in clause 5.
- 27.10 Where the *Minister* is to make a decision under clause 27.3, the *Minister* will consider the *Program Delegate's* assessment and decide whether to approve or reject the request.

## PART FIVE – MISCELLANEOUS

### 28 Confidentiality

- 28.1 Information supplied by *applicants* and *grantees* as part of the *proposal*, negotiation and contract management process will be treated as commercial-in-confidence by the Australian Government.
- 28.2 Australian Government agencies are subject to the legislative and administrative accountability and transparency requirements of the *Commonwealth*, including disclosures to the Parliament and its Committees. The *Department* may disclose, or allow at any time the disclosure of, any information contained in or relating to any *proposal* or *project*:
- a. to its advisers or employees solely in order to evaluate or otherwise assess the *proposal* or *project* issue including variations;
  - b. to its internal management personnel for purposes related to the *proposal* process or *project* issues including variations;
  - c. to its Internal Auditor;
  - d. to relevant Ministers;
  - e. to the Australian National Audit Office;
  - f. in response to a request by a House or a Committee of the Parliament of the Commonwealth of Australia;
  - g. within the relevant departments, or with another agency, where this serves the Australian Government's legitimate interests;
  - h. where the information is authorised or required by law to be disclosed; or
  - i. where the information is in the public domain otherwise than by the Australian Government's disclosure.

### 29 Intellectual Property

- 29.1 The *grantee* must have sufficient rights to use *project* intellectual property for the purposes of performing obligations under the *Deed*.
- 29.2 The *Commonwealth* will have a perpetual non-exclusive right to use, reproduce and adapt the *project* reports and other information provided for the purposes of administering and promoting the objectives of the *program*.
- 29.3 The Commonwealth does not propose to seek intellectual property rights in relation to technology being demonstrated under the *Deed*.

### 30 Program Delegate to Provide Guidance to Applicants

- 30.1 The *Program Delegate* may prepare additional documentation to provide guidance to *applicants* and *grantees* (*Solar Flagships Program Information Guide* and *Solar Flagships Eligible Expenditure Guidelines*) in relation to the administration of the *program* provided

- 30.2 When making guidelines in relation to the administration of the *program*, the *Program Delegate* may seek the advice of the *Solar Flagships Council*.

### **31 Eligible Expenditure**

- 31.1 *Grant* funding must be paid only in respect of eligible expenditure on the *project*.
- 31.2 Expenditure on plant and equipment associated with the project will not be considered eligible expenditure for the purposes of clause 31.1 (except as provided for in 31.5), where the purpose of that plant or equipment is not to generate and supply electricity from solar energy or from *eligible supplementary energy sources* up to 15 percent of the total output from the plant.
- 31.3 Subject to clause 31.4, only expenditure that has been incurred on activities that occur after a *Deed* has been executed can be deemed to be eligible expenditure.
- 31.4 The guidelines setting out the kinds of expenditure that constitute eligible expenditure and the kinds of expenditure that constitute ineligible expenditure are included in the *Solar Flagships Eligible Expenditure Guidelines*.
- 31.5 *EIF* funding for the research infrastructure component of the *project* can only be used to:
- construct a new building or purchase, refurbish or extend existing infrastructure;
  - purchase, refurbish or install equipment essential to a *project* and any subsequent commissioning of that equipment; or
  - purchase or refurbish equipment that supports and enables research.
- 32.6 *EIF* funding is not available for operational costs or minor capital works, maintenance projects or recurrent funding.

### **32 Requests for and the Treatment of Information**

- 32.1 The *Program Delegate* will have primary responsibility for responding to requests for information on all aspects of the delivery of the *program*.

- 32.2 The treatment, exchange and sharing of information must recognise the confidentiality of that information and must be in accordance with relevant legislative requirements and agency-specific confidentiality policies, which include, but are not limited to, the following:
- a. *Privacy Act 1988*;
  - b. *Freedom of Information Act 1982*;
  - c. *Public Service Act 1999*;
  - d. Public Service Regulations;
  - e. *Crimes Act 1914*;
  - f. *Copyright Act 1968*;
  - g. *Auditor-General Act 1997*; and
  - h. *Archives Act 1983*.
- 32.3 Any information must not be used or further disclosed except for the purpose for which that information has been supplied or as otherwise required or permitted by law, subject to the distribution of responsibilities in relation to the *program* as provided for by these guidelines.