DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM

Adoption of Chapter 15-34
Hawaii Administrative Rules

January 7, 2016

Chapter 15-34, Hawaii Administrative Rules, entitled "Alternative Energy Research and Development Program" is adopted.

HAWAII ADMINISTRATIVE RULES

TITLE 15

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM

SUBTITLE 6

HIGH TECHNOLOGY DEVELOPMENT CORPORATION

CHAPTER 34

ALTERNATIVE ENERGY RESEARCH AND DEVELOPMENT PROGRAM

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SUBCHAPTER 1

RULES OF GENERAL APPLICABILITY

§15-34-1 Purpose. The purpose of this chapter is to provide rules governing implementation of the alternative energy research and development program authorized by Act 159, Session Laws of Hawaii 2015. [Eff MAR 11 2016] (Auth: Act 159, SLH 2015) (Imp: Act 159, SLH 2015)

§15-34-2 Definitions. As used in this chapter, unless a different meaning clearly appears in context:

"Board" means the board of directors of the development corporation.

"Development corporation" means the high technology development corporation established by chapter 206M, HRS.

"Grant" means financial assistance provided to qualified companies in the State of Hawaii conducting research of alternative energy and energy efficiency technologies in the fields of geothermal, solar, wind, ocean power, hydrodynamics, bioenergy, biomass, solid waste, smart grids, transportation, or demand response, evidenced by a contract from the United States Department of Defense Office of Naval Research, under the terms and conditions provided in this chapter.

"HRS" means the Hawaii Revised Statutes.

"Recipient" means any business receiving a grant under this chapter.

"State" means the State of Hawaii. [Eff MAR 11 2016] (Auth: Act 159, SLH 2015) (Imp: Act 159, SLH 2015)

§15-34-3 Purpose of program. The purpose of the alternative energy research and development program is to provide grants to businesses that are developing clean energy solutions in Hawaii with a high technology readiness level or high potential for implementation as evidenced by an award of a competitive contract from the United States Department of Defense Office of Naval Research. [Eff MAR 11 2016] (Auth: Act 159, SLH 2015) (Imp: Act 159, SLH 2015)

§15-34-4 Grants; purpose; use of. (a) The development corporation may provide grants in accordance with Act 159, Session Laws of Hawaii 2015.

(b) Grants may be used by any recipient for the following purpose:

(1) To purchase equipment or services, augment staff to add expertise required to expedite or enhance the quality of the program work or prepare for subsequent program activities leading to commercialization of the technology.

(c) Grants shall not be used by any recipient for any of the following purposes:

(1) Where the direct or indirect purpose or result of the grant would be to:
   (A) Repay a creditor or creditors of the recipient for any reason; or
   (B) Provide funds directly or indirectly as a loan to owners, partners, or shareholders of the recipient;
(2) Effect a change in ownership of the recipient;
(3) Provide or free up funds for acquisition of any kind of real property;
(4) Entertainment or lobbying activities; or
(5) Payment for goods or services for which moneys were granted under the Hawaii small business innovation research and small business technology transfer program pursuant to section 206M-15, HRS, or the manufacturing development program pursuant to section 206M-15.1, HRS. [Eff MAR 11 2016] (Auth: Act 159, SLH 2015) (Imp: Act 159, SLH 2015)

SUBCHAPTER 2

ELIGIBILITY AND SELECTION PROCESS

§15-34-5 Eligibility requirements. Any business applying for a grant shall meet all of the following qualifications:

(1) Has been awarded a competitive contract from the Department of Defense Office of Naval Research related to the research of alternative energy and energy efficiency technologies in the fields of geothermal, solar, wind, ocean power, hydrodynamics, bioenergy, biomass, solid waste, smart grids, transportation, or demand response;
(2) Is sixty per cent or more resident-owned. For purposes of this section, "resident" shall have the same meaning as defined in

section 235-1, HRS;

(3) Is a for-profit entity organized under the laws of the State;

(4) Has been doing business in the State for not less than one year;

(5) Agrees to expend all grant funds awarded under the alternative energy research and development program in the State;

(6) Conducts research in alternative energy that has a high technology readiness level or high potential for implementation as evidenced by a contract, funded by moneys designated by the United States Congress as funding for alternative energy and a national defense budget funding directive, with the Department of Defense Office of Naval Research that is active or was awarded after July 1, 2012;

(7) Has not obtained any other State grant for the same research at the time of or during the duration of the alternative energy research and development program grant;

(8) Has bylaws or policies that describe the manner in which the activities or services for which the grant is awarded shall be conducted or provided;

(9) Is licensed or accredited, in accordance with federal, state, or county statutes, rules, or ordinances, to conduct the activities or provide the services for which the grant is awarded;

(10) Complies with all applicable federal and state laws prohibiting discrimination against any person on the basis of race, color, national origin, religion, creed, sex, age, sexual orientation, or disability; and

(11) Allows the development corporation, legislative committees and their staff, and the auditor full access to its records, reports, files, and other related documents and information for purposes of monitoring, measuring the effectiveness, and ensuring the proper expenditures of the grant. [Eff MAR 11 2016] (Auth: Act 159, SLH 2015) (Imp: Act 159, SLH 2015)

§15-34-6 Application procedure. Any business applying for a grant shall provide as part of the application a copy of a contract awarded to the applicant by the United States Department of Defense Office of Naval Research relating to the research of alternative energy and energy efficiency technologies in the fields of geothermal, solar, wind, ocean power, hydrodynamics, bioenergy, biomass, solid waste, smart grids, transportation, or demand response. The contract, or accompanying documentation, shall show that it is existing and active or was

awarded after July 1, 2012, and that it was awarded by competitive means. [Eff MAR 11 2016] (Auth: Act 159, SLH 2015) (Imp: Act 159, SLH 2015)

§15-34-7 Consideration and review of applications. (a) The development corporation shall cause the review of the application and resolution of any questions relating to the application through contact with the grant applicant.

(b) Following such review and resolution, the board shall consider and make a decision on qualified applications. [Eff MAR 11 2016] (Auth: Act 159, SLH 2015) (Imp: Act 159, SLH 2015)

§15-34-8 Preferences and priorities in awarding grants. (a) In determining the distribution of funds, the development corporation shall be guided by the nature and significance of the activity of each grant application in relation to the research and development of renewable energy in the State, the importance of the grant to the activity's success, and the potential economic advantage or job creation prospects offered to the State.

(b) Preference shall be given to qualified businesses receiving their first alternative energy research and development program award;

(c) The development corporation shall not grant more than one award to any business in a fiscal year unless funding remains available in the last quarter of the fiscal year. [Eff MAR 11 2016] (Auth: Act 159, SLH 2015) (Imp: Act 159, SLH 2015)

§15-34-9 Maximum grant amount; disbursement. (a) Maximum grant amounts shall not exceed $500,000 or fifty percent of the amount of the grant awarded to the business by the United States Department of Defense Office of Naval Research, whichever is less.

(b) For awards greater than $150,000, the grant amount shall be disbursed as payments based on milestones approved by the chief executive officer of the development corporation. [Eff MAR 11 2016] (Auth: Act 159, SLH 2015) (Imp: Act 159, SLH 2015)

SUBCHAPTER 3

INSPECTION AND COMPLETION

§15-34-10 Inspection of premises and records. The development corporation shall have the right to inspect at reasonable hours, the plant, physical facilities, equipment, premises, books, and records of any grant applicant either in the processing of the grant application or in the administration of the grant to the recipient. [Eff MAR 11 2016] (Auth: Act 159, SLH 2015) (Imp: Act 159, SLH 2015)

§15-34-11 Completion of surveys. (a) Recipients shall complete surveys from the development corporation designed to measure the renewable energy, economic, and employment impact of this program and, as applicable, to assist the National Institute of Standards and Technology's Manufacturing Extension Partnership program. Recipients shall complete the surveys annually for five years following the award.

(b) The development corporation may request recipients to provide information regarding issues encountered with the alternative energy research and development program and recommendations for its improvement. [Eff MAR 11 2016] (Auth: Act 159, SLH 2015) (Imp: Act 159, SLH 2015)

§15-34-12 Acknowledgment. Recipients shall acknowledge the development corporation in a proper and appropriate manner as a funder in all promotional publications, press releases, and other informational materials relating to the recipient's award for a period of two years following the award. Recipients shall provide such materials to the development corporation prior to their release to the public. [Eff MAR 11 2016] (Auth: Act 159, SLH 2015) (Imp: Act 159, SLH 2015)

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM

Chapter 34, Title 15, Hawaii Administrative Rules, on the Summary Page dated January 7, 2016 were adopted on January 7, 2016 following a public hearing held on January 5, 2016, after public notice was given in the Star Advertiser, West Hawaii Today, The Garden Island, Hawaii Tribune Herald and the Maui News on December 3, 2015.

They shall take effect ten days after filing with the Office of the Lieutenant Governor.

RACE RANDLE, Chair
High Technology Development Corporation

LUIS P. SALAVERIA
Director, Department of Business, Economic Development, and Tourism

APPROVED:

DAVID Y. IGE
Governor
State of Hawaii

Dated: FEB 25 2016

APPROVED AS TO FORM:

Deputy Attorney General

Filed

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