

**Notice of Availability of Funds and 2008-01 Program Solicitation for  
The North Carolina Green Business Fund**

Announcement Type: New. Notice of Solicitation for Applications under the North Carolina Green Business Fund Program (the “Green Business Fund”), issued by the North Carolina Board of Science and Technology (the “Board”), a division of the North Carolina Department of Commerce.

Eligible Applicants: Businesses with fewer than one hundred (100) employees engaged in development and commercialization of certain innovative green technologies.

Funding Opportunity Number: NCBST–0801GBF, Rev. 1201

Statute and Guidelines: This Solicitation is issued pursuant to the Green Business Fund established under N.C.Gen. Stat. §143B-437.4(a), and the Guidelines issued pursuant to N.C.Gen. Stat. §143B-437.7, which govern the administration of this Program. **The Guidelines are set forth in Exhibit E hereto, and are incorporated into this Solicitation by reference** as though set forth in their entirety herein. The Guidelines may also be found on the North Carolina Board of Science & Technology’s website at: <http://www.ncscienceandtechnology.org/>. Capitalized terms in this Solicitation have the meanings ascribed to them in the Guidelines. All references to Applications, Awards, Project and Proposals herein are references to Applications, Awards, Projects and Proposals under this Solicitation.

Solicitation Period: February 1, 2008 through April 30, 2008, inclusive.

Closing Date: **The last date for receipt of Applications under this Solicitation is April 30, 2008.** The Board must receive all Application materials prior to the Closing Date. No Applications or supplemental materials submitted in response to this Solicitation will be accepted after this date.

Maximum Grant Amount: **\$100,000.**

Funding Available Under This Solicitation: The maximum amount of funding available for all Awards made under this Solicitation is nine-hundred and fifty thousand dollars (\$950,000).

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## I. SUMMARY

This Solicitation invites Eligible Entities that are Small Businesses to submit Proposals for the 2008-01 North Carolina Green Business Fund Program. Projects that will be considered under this Solicitation are limited to the development and commercialization of promising and innovative green technologies across the state in one of the Priority Areas specified in Section IV of this Solicitation. The intent of this Solicitation is to encourage conversion of research and development activity into innovative commercial applications, to fund activities that can lead to important new technologies, major breakthroughs, or innovative new or next-generation products, processes or services, by encouraging cutting-edge high-quality scientific, engineering, or development activities.

Projects eligible for award under this Solicitation must be undertaken primarily in North Carolina by North Carolina based firms.

Subject to the availability of funds, the Board plans to select Proposals at the end of the second calendar quarter of 2008 for Awards under this Solicitation. This Solicitation contains program background information, Applicant eligibility requirements, and information for submitting Proposals responsive to this Solicitation.

## II. ELIGIBILITY & LIMITATIONS ON AWARDS

An Applicant must satisfy the eligibility requirements and is subject to the limitations set forth in the Guidelines. An Applicant may receive no more than one (1) Award during this Solicitation Period.

**Applicants are strongly encouraged to read and understand the Guidelines to determine if they are eligible to submit an Application, and to gain familiarity with all provisions that govern Awards, as well as defined terms.**

## III. AWARD STRUCTURE

1. Grants under this Solicitation are only available for North Carolina based Small Businesses with fewer than one hundred (100) employees.
2. Applications will be accepted through the Closing Date. Awards will be made based on a review of all qualifying Applications received by Closing Date.

3. Matching Funds (as defined in Section IX of this Solicitation) are not required for this Program, but are encouraged, and will be considered as a factor in the evaluation of Proposals. Proposals with Matching Funds will receive enhanced consideration commensurate with the amount of the match.
4. Prior to receiving an Award disbursement, Grantees will be required to enter into a Grant Agreement with the State of North Carolina as outlined in Section XI below.
5. Awards may be used in conjunction with other financing or grant activities; however, the Board will not provide duplicate funds for essentially equivalent work funded under another program.

**No Green Business Fund Award may exceed \$100,000.**

6. It is the intent of this Solicitation to maximize the Program’s impact across a broad array of promising projects. Therefore,

**Applications requesting significantly less than the \$100,000 maximum amount are strongly encouraged.**

#### **IV. ELIGIBLE PROJECTS AND COSTS**

**Projects.** The Board invites Proposals for Projects with specific application in one of the following Priority Areas:

1. The development of the biofuels industry in North Carolina. Grants made in this category will target projects that maximize the development and production of biofuels.
2. The development of the green building industry in North Carolina. Grants made in this category will be made to assist in the development of environmentally conscious and energy efficient green building technologies and processes.
3. Attracting and leveraging private sector investment and entrepreneurial growth in environmentally conscious clean technologies, including alternative energy and renewable energy products and businesses. Grants in this category will be made to provide funding for renewable energy technology development and deployment; biomass energy projects; waste reclamation for energy; liquefaction; implementation of innovative energy efficiency technologies; or clean distributed generation infrastructure improvements.

**Examples of applications** across all three categories include but are not limited to:

- Biofuels and Renewable fuels
- Building design, control systems
- Alternative energy (e.g. hydrogen, solar, wind, wave, tidal, biomass, etc.)
- Fuel processing
- Fuel cells, batteries
- Power Generation
- Combustion processes
- New Power Generation technologies
- Hybrid vehicles
- Energy efficiency

- Industrial processes (e.g. chemical production, pulp and paper)
- Advanced materials
- Sequestration technologies
- Biomass processing systems
- Soil quality improvement technologies

**Eligible Costs.** The types of expenses listed below may be paid with Award funds:

**1. Direct Project Expenses.** Examples of eligible Project-related costs include the following, but **only to the extent directly incurred for and related to the Project:**

- Market research and competitive intelligence studies,
- Intellectual property clarification,
- Licensing agreement structuring,
- Salary and fringe benefits for key project personnel (for personnel serving in both administrative and key Project capacities, these funds may be requested only for the level of effort actually devoted to non-administrative activities),
- Consultants, sub-grantees, and contractual services (subject to the limitations in Section IX),
- Materials and supplies,
- Equipment (including installation, freight, or preparation of equipment),
- Rental or modification of buildings or facilities within North Carolina, and
- Vehicle or vessel rental.

**2. Administrative Costs** such as personnel management, and fiscal and legal support, up to a maximum of five percent (5%) of the amount of the requested Award amount. If the actual Award is less than the requested amount, such administrative costs shall be limited to five percent (5%) of the actual Award amount. Examples of eligible Administrative Costs are:

- Salaries & benefits for personnel managers, legal advice (other than that covered under Direct Project Expenses), accountants, secretaries, and staff time related to managing the Award,
- Fees for professional certification,
- Field equipment not dedicated to the Project,
- Office equipment not dedicated to the Project,
- General equipment maintenance costs,
- Office supplies not dedicated to the Project (paper, pencils, pens),
- Small tools not dedicated to the Project,
- Educational materials not unique to the Project,
- Registration fees for training purposes,
- Office printing costs,
- Postage for general purposes, and
- Other office costs not dedicated to the Project

**Ineligible Costs.** Ineligible costs include but are not limited to:

- Travel, except as specified in Section IX,
- Equipment, instrumentation, or facilities not directly related to specific Project needs,
- Salary and fringe benefits for other than key Project personnel,
- Overhead or indirect costs,
- Facility improvements not directly related to specific Project needs,
- Rental or modification of buildings or facilities outside of North Carolina whether or not directly related to specific Project needs,
- Legal fees or patent preparation costs exclusive of intellectual property clarification,
- Land acquisition,
- Moving expenses,

- Costs due to negligence,
- Insurance,
- Licenses and permits,
- Purchase, rental, construction or modification of facilities not directly related to specific Project needs,
- Purchase of vehicles or vessels,
- Profit,
- Costs associated with lobbying,
- Entertainment,
- Alcoholic beverages,
- Contributions - charitable or political,
- Expenses incurred prior to the Award,
- Expenditures not specifically listed in the Project budget,
- Expenses that are not adequately documented,
- Food not associated with approved travel, and
- Clothing.

## V. APPLICATION REQUIREMENTS, SUBMISSION

Applicants must use the required Application forms and methods provided in this Solicitation and must comply with all requirements of this Solicitation (including the Guidelines) in order to be eligible for funding.

All Applications must be submitted electronically using the Board's "*sciGrants*" system accessible through its website at: <http://www.ncscienceandtechnology.com>. Applications that do not include ALL required responses, documents, and information will be considered incomplete and will not be considered for funding.

Applications must be submitted and all required supporting materials received in full no later than 5:00 PM Eastern Standard Time on the Closing Date. No Applications or supplemental materials shall be accepted after the Closing Date, unless the Board has requested that additional supplemental materials be delivered at a later time. Applicants are strongly encouraged to secure proof of submission and delivery for materials that must be transmitted in hard copy form. The Board is not responsible for Applications or materials lost in transmission.

In addition to completing all required sections of the online Application, each Applicant will be required to submit the following documents and information during the online Application process:

1. A completed **Application Certification and Signature Document**. This document is generated by the **sciGrants** system during the Application process.
2. A copy of the Applicant's Articles of Incorporation and by-laws, trust indenture, or partnership agreement.
3. A *Certificate of Existence* or *Certificate of Authority* for the Applicant issued within ninety (90) days of the date of Application by the North Carolina Secretary of State pursuant to G.S. 55-1-28, and 57C-1-28.
4. A full Proposal as described in Section IX of this Solicitation.
5. A notarized statement signed by an authorized official of the Applicant, attesting that, at a minimum, seventy-five percent (75%) of the Project activity will be performed in North Carolina.

**Final Disposition of Proposals.** All Applications accepted for evaluation are public records under North Carolina law, and such Applications will not be returned to Applicants. Copies of all evaluated Applications will be retained or destroyed in accordance with the Board’s records retention policies and state regulations.

## **VI. APPLICATION SUBMISSION - ELECTRONIC FILING WAIVER**

All Applications must be submitted electronically through *sciGrants*. Applicants not able to obtain Internet access or for whom the electronic filing requirement causes an undue hardship may request a waiver from the electronic filing requirement in writing to:

North Carolina Board of Science & Technology  
301 N. Wilmington Street  
1326 Mail Service Center  
Raleigh, NC 27699-1326  
*ATTN:* Green Business Fund, FY0708 Solicitation, Electronic Submission Waiver Request

In the waiver request, Applicant must clearly indicate why the electronic filing requirement causes undue hardship and provide a list of all factors that make compliance difficult, expensive or cumbersome. All waiver requests will be handled on a case-by-case basis.

## **VII. PROPOSAL PREPARATION - FUNDAMENTAL CONSIDERATIONS**

### **Responsiveness to Solicitation**

A Proposal must present an innovation that addresses a Priority Area or it will be rejected without evaluation.

### **Projects**

Projects are those that focus on the development and commercialization of a promising and innovative green technology under a Priority Area. Proposals must describe the effort needed to develop the proposed innovation, product, or process.

This Program is designed to encourage the conversion of R&D into innovative commercial applications. The Program is intended to fund activities that can lead to important new technologies, major breakthroughs, or innovative new or next-generation products, processes, or services, by encouraging cutting-edge, high quality, scientific, engineering, or development activities. Projects must be undertaken primarily in North Carolina by North Carolina based firms.

### **Unacceptable Objectives**

Proposed efforts directed toward straightforward engineering design for packaging or adaptation to specific applications, laboratory evaluations, and modifications of existing products without innovative changes are not Projects acceptable under this Solicitation.

### **Multiple Proposal Submissions**

An Applicant may submit different Proposals in response to different Priority Areas, but every Proposal must be based on a unique innovation, must be limited in scope to just one Priority Area. An Applicant may, however, receive no more than one Award during the Solicitation Period. If more than one Proposal from an Applicant is selected as meriting Award under Section XI, the Applicant will be required to designate a single Proposal to receive an Award.

#### **Similar Proposals**

An Applicant may not submit substantially equivalent Proposals for a single Priority Area. Doing so may result in all such Proposals being rejected without evaluation.

#### **Deliverables**

At the end of the Performance Period, Applicants will be required to submit a professional quality report (a “Final Report” in the form of Appendix B) that justifies, validates, and defends the work accomplished, connecting the results of the Project to commercial applications. This report must state the basis for judgments made about the merits and commercial feasibility of the innovation developed under the Project.

## **VIII. PROPOSAL PREPARATION - GENERAL REQUIREMENTS**

#### **Page Limitation**

A Proposal shall not exceed a total of 25 standard 8 1/2 x 11 inch (21.6 x 27.9 cm) pages, including cover page, budget, and all enclosures or attachments. All margins should be 1.0 inch (2.5 cm). *All material submitted will be included in the page count.* Samples, videotapes, slides, or other ancillary items will not be accepted. Applicants are strongly requested not to use the entire 25-page allowance unless necessary. Proposals exceeding the 25-page limitation will be rejected during administrative screening. Proposals should be formatted for two-sided printing.

#### **Type Size**

No type size smaller than 10 point is to be used for text or tables, except as legends on reduced drawings. Proposals prepared with smaller font sizes will be rejected without consideration.

#### **Brevity and Organization**

Proposals should be focused, concise, and organized in accordance with the Solicitation requirements.

#### **Format Requirements**

All required items of information must be covered in the order set forth in Section IX.

#### **Word Processor / File Format**

Proposals should be submitted in PDF format. Other acceptable formats for PC or Macintosh are MS Word, Postscript, and Adobe Acrobat. Unix and TeX users please note that due to PDF difficulties with non-standard fonts, please output Proposal files in DVI format. All Proposal files not submitted in PDF format will be converted to PDF format by the Board for evaluation purposes; the Board is not responsible for any PDF conversion/translation errors for Proposals so submitted.

#### **Graphics**

Applicants are encouraged, but not required, for reasons of space conservation and simplicity, to embed graphics within their Proposal. For graphics submitted as separate files, the acceptable file formats (and their respective extensions) are: Graphics Interchange Format (.gif), JPEG (.jpg), and Tagged-Image Format (.tif). *Note:* Each graphic submitted as a separate file will count as one page in the Proposal page count irrespective of size.

**Virus Check**

The Applicant is responsible for performing a virus check on its Proposal. As a standard part of entering the Proposal into its processing system, the Board will scan each electronic Proposal for viruses. A Proposal may be rejected if a virus is detected.

**Proprietary Material**

Applications that attempt to restrict the dissemination of large amounts of information are unacceptable and may be rejected.

**IX. PROPOSAL PREPARATION - SPECIFIC REQUIREMENTS**

Each Proposal must contain the following, in the order presented, composed as a single document:

1. Proposal Cover (Form NCGBF-01) executed in ink, as page 1.
2. Project Summary (Form NCGBF-02), as page 2.
3. Technical Proposal (12 Parts), including all graphics, and starting at page 3 with a Table of Contents.
4. Summary Budget (Form NCGBF-SBF), executed in ink.

**Page 1: Proposal Cover (Form NCGBF-01)**

A copy of the Proposal Cover sheet (Form NCGBF-01) is generated by the **sciGrants** system for the Applicant during the initial Application process. Each Applicant shall provide complete information for each item on the form and submit the form as required. The Proposal title shall be concise and descriptive of the Project. The title should not use acronyms or words like "Development of" or "Study of."

**Page 2: Project Summary (Form NCGBF-02)**

A copy of the Project Summary sheet is generated by the **sciGrants** system for the Applicant during the initial Application process. Applicants shall provide complete information for each item and submit the form as required. The Project summary serves as an abstract (limited to 200 words) and shall summarize the implications of the Project and its anticipated results. Potential commercial applications should also be presented.

**The Proposal Cover and the Project Summary (Abstract) are public information, and they may be disclosed to the public, the media, or the web. Do not include proprietary information on these forms.**

**Page 3 et seq.: Technical Proposal**

The technical part of the Proposal shall not contain any budget data and must consist of all twelve parts described below, numbered and in the prescribed order. A Proposal omitting any part will be considered non-responsive to this Solicitation and may be rejected during administrative screening. Parts that are not applicable must be noted as "Not Applicable." Applicants are advised to avoid including proprietary information (see Exhibit A); any materials that qualify as confidential under North Carolina law must be designated in accordance with the requirements of Section L of the Guidelines.

**Part 1: Table of Contents.** Page 3 of the Proposal shall begin with a brief table of contents indicating the page numbers of each of the sections.

**Part 2: Identification and Significance of the Innovation.** The first paragraph of Part 2 shall contain:

1. A clear and succinct statement of the Project and why it is an innovation, and,
2. A brief explanation of how the innovation is relevant and important to meeting the need described in the relevant Priority Area.

The initial paragraph shall contain no more than 200 words. The Board will reject proposals that lack this introductory paragraph. In subsequent paragraphs, Part 2 may also include appropriate background and elaboration to explain the proposed innovation.

**Part 3: Objectives.** State the specific objectives of the proposed effort including the technical questions that must be answered to determine the technical and commercial feasibility of the proposed innovation or program.

**Part 4: Work Plan.** This should address the objectives and questions cited in Part 3. The work plan should indicate what will be done, where it will be done, and how it will be done. The methods planned to achieve each objective or task should be discussed in detail. Schedules, task descriptions and assignments, resource allocations, estimated task hours for key personnel, and planned accomplishments including Project milestones shall be included.

**Part 5: Related Work.** Describe significant current and/or previous efforts that are directly related to the Proposal including any conducted by the principal investigator or by the Applicant. Describe how this relates to the Project and any planned coordination with outside sources. The Applicant must persuade reviewers of his or her awareness of recent developments conducted by others in the specific Priority Area. At the Applicant's option, this section may include concise bibliographic references in support of the Proposal if they are confined to activities directly related to the proposed Project.

**Part 6: Key Personnel and Bibliography of Directly Related Work.** Identify key personnel involved in the proposed Project, with a description of the role of each person, and indicate the amount of time per week each such individual will conduct non-administrative Project activity. Key personnel are the Program Manager and other individuals whose expertise and functions are essential to the success of the Project. The Program Manager shall plan and direct the Project, and shall be the Board's contact with the Applicant. Provide

bibliographic information including directly related education and experience for all essential personnel. This part shall also establish and confirm the eligibility of the Program Manager, and indicate the extent to which other proposals or existing or planned projects commit the time of the Program Manager concurrently with the proposed Project activity. The Project must be the Program Manager's primary employment, and the number of hours to be devoted to the Project by the Program Manager must be acceptable to the Board.

**Part 7: Relationship with Future Development.** State the anticipated results of the Project, if successful. Discuss the significance of the Project in providing a foundation for commercial application, if successful.

**Part 8: Company Information and Facilities.** Provide adequate information to allow the evaluators to assess the ability of the Applicant to carry out the Project. The Applicant should describe the relevant facilities and equipment currently available, and those to be purchased, to support the Project. An Award may not be used to fund the acquisition of capital equipment, instrumentation, or facilities. The capability of the Applicant to complete the Project and bring a resulting product or service to market must be indicated. Qualifications of the Applicant and its principals in developing and marketing related products or services or in raising capital should be presented.

**Part 9: Subcontracts and Consultants.** Up to one-quarter (25%) of the proposed Project may be conducted under subcontract or other business arrangements. If the Applicant intends such arrangements, they should be described in detail including functions, services, number of hours and labor rates, and extent of effort to be provided. In such case, the Proposal must include a signed statement by each participating organization or individual that they will be available at the times required for the purposes and extent of effort described in the Proposal. Failure to provide certification(s) may result in rejection of the Proposal.

**Part 10: Commercial Applications Potential and Capital Commitments.** The commercial potential of the Project is a significant evaluation factor. This section should discuss the broad commercial applications for Project results and Applicant's plans to bring the technology to commercial application. Applicants should discuss the following, as applicable:

1. **Product or Service Commercial Feasibility:** A description of the (a) contemplated or actual commercial product and/or service, the nature of the corresponding commercial venture, and the unique competitive advantage of both; and (b) technical obstacles to commercial applications, as well as plans to address them.
2. **Market Feasibility and Competition:** Describe: (a) the target market niche including the distinction between markets; (b) estimated potential market size in terms of revenues to be realized by the Applicant in North Carolina and, revenues from other markets, indicated separately; (c) the competitive environment in terms of present and likely competing similar and alternative technologies, and corresponding competing domestic and foreign entities; (d) significant developments within the targeted business sector; and (e) the Applicant's ability, if any, to protect relevant technology with patents or rights to exclusive access.

3. Strategic Relevance to the Applicant: Describe the relevance of the targeted commercial venture to the Applicant's: (a) current business segments; (b) relative position with respect to its competitors; and (c) strategic planning for the next 5 years.
4. Key Management, Technical Personnel and Organizational Structure: Describe: (a) the Applicant's capability and plan to bring the necessary physical, personnel, and financial resources to bear, in a timely way, to achieve a viable commercial application, product, or service, including a description of the skills and experience of key management and technical personnel, (b) current organizational structure, and (c) plans and timeline for obtaining the balance of all necessary key business development expertise and other staffing requirements
5. Production and Operations: Describe: (a) business development progress to date regarding the contemplated commercial venture; (b) obstacles, plans, and associated milestones regarding all key business development elements; and (c) sources and components of private physical resources committed to date and plans for obtaining the balance of the necessary physical resources.

**Part 11: Similar Proposals and Awards.** An Applicant may elect to submit proposals for essentially equivalent work under other grant programs. However, **the Board will not provide duplicate funding for essentially equivalent work funded under another program.** The Applicant will inform the Board of related proposals and awards and must certify on the Proposal Cover (Form NCGBF-01) whether the Applicant: (a) has received Federal or State Government awards for related work; or (b) has submitted currently active proposals for similar work under other Federal or State Government program solicitations; or (c) intends to submit proposals for such work to other agencies during the Solicitation Period. For all such cases, the following information is required:

1. The name and address of the agencies to which proposals have been or will be submitted, or from which awards have been received;
2. Dates of such proposal submissions or awards;
3. Title, number, and date of solicitations under which proposals have been or will be submitted or awards received, and the amount of such award(s);
4. The specific applicable research topic for each such proposal submitted or award received;
5. Titles of research projects;
6. Name and title of the principal investigator/project manager for each proposal that has been or will be submitted or award received.

Lack of the required certification on Form NCGBF-01 or failure to declare the existence of related, similar or duplicate awards or proposals will result in rejection of the offer or loss of an award. If no such awards have been received or no such proposals have been submitted or are intended, the Applicant shall so state in this part of the Proposal.

**Part 12: Previous Awards.** Applicant must provide a list of awards received under any grant program administered by the North Carolina Department of Commerce, showing contract numbers, the year of award and project titles and description, and whether Applicant fulfilled the requirements of such award. If no prior awards have been received, the Applicant shall so state in this part of the Proposal.

**Final Page(s): Proposed Budget**

**Summary Budget** (Form NCGBF-SBF). Applicants shall complete the Summary Budget, following the instructions provided with the form and include it and any explanation sheets, if needed, as the last page(s) of the Proposal. Information shall be submitted to explain the Applicant’s plans for use of the requested funds to enable the Board to determine whether the proposed budget is fair and reasonable. The following sections refer to elements of the Summary Budget Form.

**Property.** The Board will not fund facility acquisition under the Program. Proposed costs for materials may be included. “Materials” means property that may be incorporated or attached to an end item or that may be consumed or expended in performing the Grant Agreement. It includes assemblies, components, parts, raw materials, and small tools that may be consumed in normal use. Any purchase of equipment or products under a Grant Agreement should be American-made and of North Carolina origin to the extent possible.

**Travel.** Travel is not normally allowed. However, where the Applicant deems travel to be essential for the purposes of the Project, it shall be limited to one person and one trip. Proposed travel must be described as to purpose and benefits, and is subject to approval by the Board. Trips to conferences are not allowed.

**Profit.** A profit or fee may not be included in the proposed budget.

**Overhead or Indirect Costs.** Overhead or Indirect costs may not be included in the proposed budget.

**Matching Funds (Cost Sharing).** Matching Funds are permitted but not required for Proposals, and may be used as a factor in evaluating the Proposal; Projects with Matching Funds will receive enhanced consideration commensurate with the amount of the match. If included, Matching Funds should be shown in the summary budget but not included in items labeled “Amount Requested.”

For the purposes of this section “Matching Funds” means:

1. Actual cash outlays contributed, including, but not limited to, cash outlays for wages, rental expenses, travel expenses, unrecovered indirect costs, and purchases of material and supplies, as a direct benefit to the Project, or;
2. Non-cash contributions necessary and reasonable for proper and efficient accomplishment of Project objectives, the value of which must be established using the following guidelines:
  - (a) Rates for donated or volunteer services of any person must be consistent with their regular rate of pay, or the rate of pay of those paid for similar work at a similar level of experience in the labor market, including the value of fringe benefits.

- (b) The value of donated expendable property such as office supplies or workshop supplies must not exceed the fair market value of the property.
- (c) The value of donated real property such as land must not exceed the fair market value of the property.
- (d) Donated space must be valued at fair rental value of comparable space and facilities in a privately-owned building in the same locale.
- (e) The value of loaned equipment can not exceed its fair rental value.

All Matching Funds (including in-kind contributions), shall meet the definition above, be verifiable from the Applicant's records, and not be included as contributions for any other state-assisted project or program. No third-party in-kind contributions shall meet the definition above.

**Expenses related to a proposed Project incurred prior to an Award are NOT eligible as Matching Funds or in-kind contributions.**

## **X. APPLICATION REVIEW AND APPROVAL**

Applications will be reviewed to ascertain compliance with the requirements of this Solicitation after the Closing Date. Incomplete, non-compliant, or untimely Applications will be rejected without further review. At its discretion, the Board may request supplemental materials from the Applicant and such materials must be received within fifteen (15) days of the date of the request or the Application may be rejected without further review.

After the Closing Date, all Applications that meet all the requirements set forth herein and which have a reasonable potential for meeting a Priority Area need, will be reviewed on a competitive basis based on an assessment of which Projects have the best potential for commercialization of a good or service in a Priority Area. The Board will determine which Applications will be selected for an Award.

### **Evaluation Process**

Proposals should provide all information needed for complete evaluation as evaluators are not expected to seek additional information. Evaluations will be performed by an advisory committee composed of scientists, engineers, and qualified experts drawn from both inside and outside of the Board (including industry, academia, and other Government agencies) as required to determine or verify the merit of a Proposal. In selecting reviewers, the Board shall take into consideration requirements for the avoidance of organizational or personal conflicts of interest and the competitive relationship, if any, between the Applicant and the prospective outside evaluator. Any such evaluation will be under agreement with the evaluator that the information (data) contained in the Proposal will be used only for evaluation purposes and will not be further disclosed. Applicants should not assume that evaluators are acquainted with their firm, key individuals, or with any other information. Any pertinent references or publications should be noted in Part 5 of the Proposal.

### **Evaluation Criteria**

The Board will give primary consideration to the commercial and technical merit and feasibility of the Proposal and its benefit to the State of North Carolina. Each Proposal will be judged and scored on its own merits using the factors described below:

**Factor 1. Technical Merit and Feasibility.** The Project will be evaluated on whether it offers a clearly innovative and feasible approach to the development of a Priority Area industry. Specific objectives, approaches and plans for developing and verifying the innovation must demonstrate a clear understanding of the problem or opportunity, the current state-of-the-art, and the significance of the risks involved in the proposed innovation.

**Factor 2. Experience, Qualifications and Facilities.** The technical capabilities and experience of the Program Manager, key personnel, staff, consultants and subcontractors, if any, will be evaluated for consistency with the proposed effort and their degree of commitment and availability. The necessary instrumentation or facilities required must be shown to be adequate and any reliance on external sources addressed.

**Factor 3. Effectiveness of the Proposed Work Plan.** The proposed work plan will be reviewed for its comprehensiveness, effective use of available resources, cost management and proposed schedule for meeting the Proposal objectives. The methods planned to achieve each objective should be discussed in detail.

**Factor 4. Commercial Merit and Market Opportunity.** The Proposal will be evaluated for its commercial potential and impact, the size of potential market and market growth potential; the ability of the Applicant to reach the target market if applicable; and the quality of competitive market analysis presented.

**Factor 5. Budget Realism.** The proposed budget will be assessed for its realism and whether or not it can be implemented as intended in a predictable manner.

**Factor 6. Economic Development Merit.** The degree to which the Project is expected to stimulate in-state capital investment and economic development in metropolitan and rural areas, including the creation of jobs and the future development of a commercial market for green technologies.

### **Scoring of Factors and Weighting**

The sum of the scores for Factors 1, 2, 3 and 5 constitutes the numerical value for the Technical Merit of a proposal. Factor 1 will be weighted at twice the weight of Factors 2, 3, and 5. The score for Commercial Merit (Factor 4) will be in the form of an adjectival rating (Excellent, Very Good, Average, Below Average, Poor, and Insufficient Data). The score for Economic Development Merit will also be in the form of an adjectival rating (Excellent, Very Good, Average, Below Average, Poor, and Insufficient Data). The Technical Merit score is most significant. In Proposals of equal Technical Merit, Commercial Merit or Economic Development Merit can be deciding factors. Other factors, such as the Project duration and timeline, the locations or regions served, the degree to which the proposed Project is a publicly visible application in a Priority Area, the existence of Matching Funds, or the degree to which a Project incorporates multiple green technologies may also be used as deciding factors in the evaluation of Proposals.

### **Selection**

After an Application is evaluated, it will be ranked relative to other Proposals received. Selection decisions will consider the recommendations of all evaluators with consideration given to Program balance. The Executive Director of the Board has the final authority for choosing the specific Projects that will receive Awards.

Firms selected for Award will be notified by e-mail. The list of selections will be announced in a Board press release and will also be posted on the Board web site at (<http://www.ncscienceandtechnoogy.com>). Selected firms will receive a formal notification letter that identifies the Contracting Officer at the North Carolina Department of Commerce responsible for delivering the Grant Agreement that must be signed by all Grantees.

## **XI. GRANT AGREEMENT, MILESTONES & PAYMENT OF AWARDS**

The North Carolina Office of State Budget and Management (OSBM) has established specific performance and reporting requirements relative to the manner in which grants of State funds are to be made to and accounted for by Grantees. Prior to receiving an Award disbursement under this Program, Grantees will be required to enter into a Grant Agreement with the State of North Carolina, which will specify payment and Project milestones as well as OSBM and specific Green Business Fund requirements. The Performance Period for the Award will be reflected in the Grant Agreement and will be determined on a Project specific basis.

Disbursement of Awards will normally be authorized as follows:

1. Fifty percent (50%) at the time of Award;
2. Twenty-five percent (25%) at Project mid-point; and,
3. Twenty-five percent (25%) upon acceptance of the Final Report by the Board.

The first two disbursements will be made thirty (30) days after receipt of valid invoices from the Grantee, reflecting Eligible Cost expenditures made by the Grantee. Grantees will be required to document and identify Matching Funds when submitting invoices. The final disbursement will be made thirty (30) days after acceptance of the Final Report and other deliverables as required by the Grant Agreement.

In addition, prior to the initial disbursement, Grantees will also be required to supply additional company information, including:

1. A notarized copy of the Grantee's policy addressing conflicts of interest. (See Exhibit D for more information);
2. A list of the Grantee's Board of Directors/Trustees;
3. A sworn statement certifying that there are no overdue tax debts owed by the Grantee; and,
4. A Request for Electronic Payment.

After the execution and return of the Grant Agreement and submission of the required additional information, the State of North Carolina will issue Award disbursements electronically to Grantees against milestones defined in the Grant Agreement. Grantees will be required to submit electronic payment account data. Payments will be deposited into the checking or savings account of the Grantee's choice. Notification of the deposit will be made either by fax or by e-mail.

## **XII. REPORTING REQUIREMENTS**

Grantees are responsible for managing the day-to-day operations of their Projects using their established controls and policies, as long as they are consistent with State and Federal requirements.

However, in order to fulfill its role in regard to the stewardship of State funds, the Board monitors its grants to identify potential problems and areas where assistance might be necessary. This active monitoring is accomplished through review of reports and correspondence from Grantees and other information available to the Board.

All Grantees must submit electronically via *sciGrants*:

1. **Interim Progress Reports** in the form and manner described in **Appendix A**;
2. **Final Report** in the form and manner described in **Appendix B**; and,
3. All reports described in **Appendix C** within six (6) months after the end of the Grantee's fiscal year in which an Award disbursement was received. All Grantees that receive, use, or expend funds from an Award within the Grantee's fiscal year must comply with all applicable State Grant Compliance Reporting Requirements as described in **Appendix C**.

## **XIII. DEBRIEFING OF UNSUCCESSFUL APPLICANTS**

After selection decisions have been announced, debriefings for unsuccessful Applicants will be available to the Applicant's corporate official or designee. Any request for a debriefing must be made via e-mail to [ncbst@nccommerce.com](mailto:ncbst@nccommerce.com) within sixty (60) days after the selection announcement. Late requests will not be honored. Telephone requests for debriefings will not be accepted.

Debriefings will be conducted by telephone. Debriefings are **not** opportunities to reopen selection decisions. They are intended to acquaint the Applicant with perceived strengths and weaknesses of its Proposal and perhaps identify constructive future action by the Applicant. Debriefings will not disclose the identity of the Proposal evaluators nor provide Proposal scores, rankings in the competition, or the content of, or comparisons with other Proposals.

## **XIV. GENERAL INFORMATION**

### ***Inquiries***

Inquiries about the Green Business Fund should be addressed to:

North Carolina Board of Science & Technology  
301 N. Wilmington Street  
1326 Mail Service Center  
Raleigh, NC 27699-1326  
*ATTN: Information Request - Green Business Fund 2008-01*

Current solicitation information for all Board funding programs is available on the Board website at:

<http://www.ncscienceandtechnology.com>.

***Workshops***

The Board may conduct workshops on Application preparation during the Solicitation Period in collaboration with the Small Business Technology Development Centers and other organizations across the state. For additional information about the workshops or the Board program in general, please visit the Board website at

<http://www.ncscienceandtechnology.com>, the North Carolina Small Business Technology Development Centers at:

<http://www.sbtdc.org>, and the Small Business Center Networks of the NC Community College System at:

<http://www.nccommunitycolleges.edu>.

***Questions about This Solicitation***

To ensure fairness, questions relating to the intent and/or content of Priority Areas cannot be answered during the Solicitation Period. Only questions requesting clarification of Application instructions and administrative matters will be answered.

***Questions Regarding Proposal Status***

Except for an acknowledgment of an Application receipt (to be e-mailed within thirty (30) days of the date of receipt), information about Applications will not be available until final selections are announced.

## **XV. APPENDICES**

### **Appendix A – Status Report Requirements**

#### **NORTH CAROLINA GREEN BUSINESS FUND INTERIM PROGRESS REPORT REQUIREMENTS**

All required Interim Progress Reports must be submitted via *sciGrants* using the tools and forms provided therein for this purpose.

An Interim Progress Report is required when an invoice is submitted by a Grantee at project mid-point in accordance with the payment schedule outlined in the Grant Agreement, and **at a minimum, every six months after receipt of the Award, regardless of the Award disbursement schedule**, until submission of the Final Report. The Board, in its discretion, may require these reports more frequently.

The Interim Progress Report shall provide a thorough and complete report of progress made on the Project to-date and activities required for completion, and, if submitted at mid-point, shall clearly demonstrate that a payment is warranted.

If the company is unable to continue operations, even with the Award, it must provide a detailed explanation.

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### **Appendix B – Final Report Requirements**

#### **NORTH CAROLINA GREEN BUSINESS FUND FINAL REPORT REQUIREMENTS**

All Final Reports must be submitted via *sciGrants* using the tools and forms provided therein for this purpose. The Final Report shall be a professional quality report that justifies, validates, and defends the work accomplished. Furthermore, this report must demonstrate the basis for judgments about merit and feasibility of the innovation presented in the Proposal. It should connect the results of the Project to commercial applications and in doing so must address and provide the basis for validating the innovation, its commercial potential, and its economic development impact. Final Reports must be filed within thirty (30) days of the date specified in the Grant Agreement.

The final report shall include a single page Project summary as the first page, identifying the purpose of the Project and describing the findings and results, including the degree to which the proposed objectives were achieved. The commercial potential of the Project shall also be described. The Project summary is to be submitted without without publication restrictions.

## Appendix C – State Grant Compliance Reporting Requirements

A firm, corporation, partnership, association, unit of local government, public authority, or any other person, organization, group, or governmental entity that is not a State agency, department, or institution that receives, uses, or expends at least \$25,000 but less than \$500,000 in NC state funds within its fiscal year must file annually with the State agency that disbursed the funds a:

1. Certification completed by the grantee Board and management stating that the funds were received, used, or expended for the purpose intended;
2. Schedule of Grantee Receipts and Expenditures accounting for those funds; and, a
3. Description of activities and accomplishments undertaken with those State funds.

For purposes of the required reports, the grantee's fiscal year is used in determining the amounts received, used, or expended.

The **due date** for filing the required report is **six months after the grantee organization's year-end**, and the **accounting must be certified and sworn to by the Treasurer and one other authorized officer of the grantee**. This certification is a representation by management and is not intended to be an independent assessment.

The Office of the State Auditor has developed, in coordination with the Office of State Budget and Management and other key State agencies, standard reporting formats for meeting the reporting requirements outlined in G.S. 143-6.2 and Title 9, Subchapter 3 of the North Carolina Administrative Code. There are no exceptions to using financial reporting formats specified by the State Auditor.

The standard reporting formats for grantees receiving at least \$25,000 but less than \$500,000 include:

- Certification and sworn statement by the Treasurer and a second authorized officer on the entity's letterhead;
- State Grants Compliance report, which includes supplemental compliance information;
- Schedule of Grantee Receipts and Expenditures (cash basis) and
- Program Activities and Accomplishments Report

These reports must be submitted via *sciGrants* using the tools and forms provided therein for this purpose. Links to the forms developed by the Office of the State Auditor are provided within *sciGrants*.

## **XVI. EXHIBITS**

### **Exhibit A – N.C. General Statute Provisions Addressing Public Records**

#### **Exhibit A to the North Carolina Green Business Fund Program 2008-01 Solicitation**

#### **Provisions of N.C. General Statutes Addressing Public Records, Confidential Information, and Economic Development Projects**

##### **§ 132-1. "Public records" defined**

(a) "Public record" or "public records" shall mean all documents, papers, letters, maps, books, photographs, films, sound recordings, magnetic or other tapes, electronic data-processing records, artifacts, or other documentary material, regardless of physical form or characteristics, made or received pursuant to law or ordinance in connection with the transaction of public business by any agency of North Carolina government or its subdivisions. Agency of North Carolina government or its subdivisions shall mean and include every public office, public officer or official (State or local, elected or appointed), institution, board, commission, bureau, council, department, authority or other unit of government of the State or of any county, unit, special district or other political subdivision of government.

(b) The public records and public information compiled by the agencies of North Carolina government or its subdivisions are the property of the people. . .

##### **§ 132-1.1. State tax information**

(b) **State and Local Tax Information.** – Tax information may not be disclosed except as provided in G.S. 105-259. As used in this subsection, "tax information" has the same meaning as in G.S. 105-259. Local tax records that contain information about a taxpayer's income or receipts may not be disclosed except as provided in G.S. 153A-148.1 and G.S. 160A-208.1.

##### **§ 132-1.2. Confidential information.**

Nothing in this Chapter shall be construed to require or authorize a public agency or its subdivision to disclose any information that:

- (1) Meets all of the following conditions:
  - a. Constitutes a "trade secret" as defined in G.S. 66-152(3).
  - b. Is the property of a private "person" as defined in G.S. 66-152(2).
  - c. Is disclosed or furnished to the public agency in connection with the owner's performance of a public contract or in connection with a bid, application, proposal, industrial development project, or in compliance with laws, regulations, rules, or ordinances of the United States, the State, or political subdivisions of the State.
  - d. Is designated or indicated as "confidential" or as a "trade secret" at the time of its initial disclosure to the public agency.

##### **§ 66-152. Definitions (Trade Secrets Protection Act)**

As used in this Article, unless the context requires otherwise:

- (2) "Person" means an individual, corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership, association, joint venture, or any other legal or commercial entity.
- (3) "Trade secret" means business or technical information, including but not limited to a formula, pattern, program, device, compilation of information, method, technique, or process that:
  - a. Derives independent actual or potential commercial value from not being generally known or readily ascertainable through independent development or reverse engineering by persons who can obtain economic value from its disclosure or use; and
  - b. Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

The existence of a trade secret shall not be negated merely because the information comprising the trade secret has also been developed, used, or owned independently by more than one person, or licensed to other persons.

**§ 132-1.8. Economic development incentives**

(a) **Assumptions and Methodologies.** – Subject to the provisions of this Chapter regarding confidential information and the withholding of public records relating to the proposed expansion or location of specific business or industrial projects when the release of those records would frustrate the purpose for which they were created, whenever a public agency or its subdivision performs a cost-benefit analysis or similar assessment with respect to economic development incentives offered to a specific business or industrial project, the agency or its subdivision must describe in detail the assumptions and methodologies used in completing the analysis or assessment. This description is a public record and is subject to all provisions of this Chapter and other law regarding public records.

(b) **Disclosure of Public Records Requirements.** – Whenever an agency or its subdivision first proposes, negotiates, or accepts an application for economic development incentives with respect to a specific industrial or business project, the agency or subdivision must disclose that any information obtained by the agency or subdivision is subject to laws regarding disclosure of public records. In addition, the agency or subdivision must fully and accurately describe the instances in which confidential information may be withheld from disclosure, the types of information that qualify as confidential information, and the methods for ensuring that confidential information is not disclosed."

**§ 132-6. Inspection and examination of records**

(a) Every custodian of public records shall permit any record in the custodian's custody to be inspected and examined at reasonable times and under reasonable supervision by any person, and shall, as promptly as possible, furnish copies thereof upon payment of any fees as may be prescribed by law. . .

(c) No request to inspect, examine, or obtain copies of public records shall be denied on the grounds that confidential information is commingled with the requested nonconfidential information. If it is necessary to separate confidential from nonconfidential information in order to permit the inspection, examination, or copying of the public records, the public agency shall bear the cost of such separation. . .

(d) Notwithstanding the provisions of subsections (a) and (b) of this section, public records relating to the proposed expansion or location of specific business or industrial projects may be withheld so long as their inspection, examination or copying would frustrate the purpose for which such public records were created; provided, however, that nothing herein shall be construed to permit the withholding of public records relating to general economic development policies or activities.

Once the State, a local government, or the specific business has announced a commitment by the business to expand or locate a specific project in this State or a final decision not to do so and the business has communicated that commitment or decision to the State or local government agency involved with the project, the provisions of this subsection allowing public records to be withheld by the agency no longer apply.

Once the provisions of this subsection no longer apply, the agency shall disclose as soon as practicable, and within 25 business days, public records requested for the announced project that are not otherwise made confidential by law.

An announcement that a business or industrial project has committed to expand or locate in the State shall not require disclosure of local government records relating to the project if the business has not selected a specific location within the State for the project. Once a specific location for the project has been determined, local government records must be disclosed, upon request, in accordance with the provisions of this section. For purposes of this section, "local government records" include records maintained by the State that relate to a local government's efforts to attract the project."

**§ 132-9. Access to records**

(b) In an action to compel disclosure of public records which have been withheld pursuant to the provisions of G.S. 132-6 concerning public records relating to the proposed expansion or location of particular businesses and industrial projects, the burden shall be on the custodian withholding the records to show that disclosure would frustrate the purpose of attracting that particular business or industrial project.

## Exhibit B – N.C. General Statute Provisions Addressing the Use of State Funds by Non-State Entities

### Exhibit B to the North Carolina Green Business Fund Program 2008-01 Solicitation

#### § 143-6.2. Use of State funds by non-State entities.

(a) **(Effective July 1, 2005)** Disbursement and Use of State Funds. – Every non-State entity that receives, uses, or expends any State funds shall use or expend the funds only for the purposes for which they were appropriated by the General Assembly. State funds include federal funds that flow through the State. For the purposes of this section, the term "non-State entity" means a firm, corporation, partnership, association, unit of local government, public authority, or any other person, organization, group, or governmental entity that is not a State agency, department, or institution. For the purposes of this section, "unit of local government" has the meaning set out in G.S. 159-7(15) and "public authority" has the meaning set out in G.S. 159-7(10). The following definitions apply:

- (1) Non-State entity. – A firm, corporation, partnership, association, county, unit of local government, public authority, or any other person, organization, group, or governmental entity that is not a State agency, department, or institution.
- (2) Unit of local government. – A municipal corporation that has the power to levy taxes, including a consolidated city-county as defined by G.S. 160B-2(1), and all boards, agencies, commissions, authorities, and institutions thereof that are not municipal corporations.
- (3) Public authority. – A municipal corporation that is not a unit of local government or a local governmental authority, board, commission, council, or agency that (i) is not a municipal corporation and (ii) operates on an area, regional, or multiunit basis, and the budgeting and accounting systems of which are not fully a part of the budgeting and accounting systems of a unit of local government.

(b) **(Effective July 1, 2005)** For the purposes of this section, the term "grantee" means a non-State entity that receives a grant of State funds from a State agency, department, or institution but does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission. The term "subgrantee" means a non-State entity that receives a grant of State funds from a grantee or from another subgrantee but does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission. The terms "State grant funds" and "State grants" do not include any payment made by the Medicaid program, the Teachers' and State Employees'

Comprehensive Major Medical Plan, or other similar medical programs.

(b1) Conflict of Interest Policy. – Every grantee shall file with the State agency or department disbursing funds to the grantee a copy of that grantee's policy addressing conflicts of interest that may arise involving the grantee's management employees and the members of its board of directors or other governing body. The policy shall address situations in which any of these individuals may directly or indirectly benefit, except as the grantee's employees or members of its board or other governing body, from the grantee's disbursing of State funds and shall include actions to be taken by the grantee or the individual, or both to avoid conflicts of interest and the appearance of impropriety. **The policy shall be filed before the disbursing State department or agency may disburse the grant funds.**

(b2) No Overdue Tax Debts. – Every grantee shall file with the State agency or department disbursing funds to the grantee a written statement completed by that grantee's board of directors or other governing body stating that the grantee does not have any overdue tax debts, as defined by G.S. 105-243.1, at the federal, State, or local level. **The written statement shall be made under oath and shall be filed before the disbursing State agency or department may disburse the grant funds.** A person who makes a false statement in violation of this subsection is guilty of a criminal offense punishable as provided by G.S. 143-34(b).

(c) **(Effective July 1, 2005)** Compliance by Non-State Entities. – If the Director of the Budget finds that a non-State entity has spent or encumbered State funds for an unauthorized purpose or fails to submit or falsifies any information required by this section or any other provision of law, the Director shall take appropriate administrative action to ensure that no further irregularities or violations of law occur and shall report to the Attorney General any facts that pertain to an apparent violation of a criminal law or an apparent instance of malfeasance, misfeasance, or nonfeasance in connection with the use of State funds. Appropriate administrative action includes suspending or withholding the disbursement of State funds and recovering State funds previously disbursed.

(d) The Office of State Budget and Management shall adopt rules to ensure the uniform administration of State grants by all grantor State agencies and grantees or subgrantees. The rules shall establish policies and procedures for disbursements of grants and for State agency oversight, monitoring, and evaluation of grantees and subgrantees. Such policies and procedures shall:

- (1) Ensure that the purpose and reporting requirements of each grant are specified to the grantee.
- (2) Ensure that grantees specify the purpose and reporting requirements for grants made to subgrantees.

- (3) Ensure that funds are spent in accordance with the purposes for which they were granted.
  - (4) Hold the grantees and subgrantees accountable for the legal and appropriate expenditure of State grant funds.
  - (5) Provide for adequate oversight and monitoring to prevent the misuse of State funds.
  - (6) Establish mandatory periodic reporting requirements for grantees and subgrantees, including methods of reporting, to provide financial and program performance information. The mandatory periodic reporting requirements shall require grantees and subgrantees to file with the State Auditor copies of reports and statements that are filed with State agencies pursuant to this subsection. Compliance with the mandatory periodic reporting requirements of this subdivision shall not require grantees and subgrantees to file with the State Auditor the information described in subsections (b1) and (b2) of this section.
  - (7) Require grantees and subgrantees to maintain reports, records, and other information to properly account for the expenditure of all State grant funds and to make such reports, records, and other information available to the grantor State agency for oversight, monitoring, and evaluation purposes.
  - (8) Require grantees and subgrantees to ensure that work papers in the possession of their auditors are available to the State Auditor for the purposes set out in subsection (h) of this section.
  - (9) Require grantees to be responsible for managing and monitoring each project, program, or activity supported by State grant funds and each subgrantee project, program, or activity supported by State grant funds.
  - (10) Provide procedures for the suspension of further disbursements or use of State grant funds for noncompliance with these rules or other inappropriate use of the funds.
  - (11) Provide procedures for use in appropriate circumstances for reinstatement of disbursements that have been suspended for noncompliance with these rules or other inappropriate use of State grant funds.
  - (12) Provide procedures for the recovery and return to the grantor State agency of unexpended State grant funds from a grantee or subgrantee if the grantee or subgrantee is unable to fulfill the purposes of the grant.
- (e) Notwithstanding the provisions of G.S. 150B-2(8a)b, rules adopted pursuant to subsection (d) of this section are subject to the provisions of Chapter 150B of the General Statutes.
- (f) The Office of State Budget and Management shall consult with the Office of the State Auditor and the Attorney General in establishing the rules required by subsection (d) of this section.
- (g) **(Effective July 1, 2005)** The Office of State Budget and Management, after consultation with the administering agency, shall have the power to suspend disbursement of State grant funds to grantees or subgrantees, to prevent further use of State grant funds already disbursed, and to recover State grant funds already disbursed for noncompliance with rules adopted pursuant to subsection (d) of this section. If the grant funds are a pass-through of funds granted by an agency of the United States, then the Office of State Budget and Management must consult with the granting agency of the United States and the State agency that is the recipient of the pass-through funds prior to taking the actions authorized by this subsection.
- (h) **(Effective July 1, 2005)** Audit Oversight. – The State Auditor has audit oversight, with respect to State grant funds received by the grantee or subgrantee, pursuant to Article 5A of Chapter 147 of the General Statutes, of every grantee or subgrantee that receives, uses, or expends State grant funds. A grantee or subgrantee must, upon request, furnish to the State Auditor for audit all books, records, and other information necessary for the State Auditor to account fully for the use and expenditure of State grant funds received by the grantee or subgrantee. The grantee or subgrantee must furnish any additional financial or budgetary information requested by the State Auditor, including audit work papers in the possession of any auditor of a grantee or subgrantee directly related to the use and expenditure of State grant funds.
- (i) **(Effective July 1, 2005)** Not later than May 1, 2007, and by May 1 of every succeeding year, the Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on all grantees or subgrantees that failed to comply with this section during the prior fiscal year, including the amount of State funds that were disbursed to each of those grantees or subgrantees during that fiscal year and the amount of State funds that were withheld.
- (j) **(Effective July 1, 2005)** Grantor State agencies shall submit a list to the State Auditor, in the format prescribed by the State Auditor, by October 31 each year of every grantee to which the agency disbursed State funds in the prior fiscal year, the amount disbursed, the amount disbursed to each grantee, and other such information as required by the State Auditor to comply with the requirements set forth in this section.
- (k) **(Effective July 1, 2005)** Civil Actions. – Civil actions to recover State funds or to obtain other mandatory orders in the name of the State on relation of the Attorney General, or in the name of the Office of State Budget and Management, shall be filed in the General Court of Justice in Wake County. (2004-196, s. 2.)

**SECTION 6.9.(b)** G.S. 143-34 reads as rewritten:

**"§ 143-34. Penalties and punishment for violations.**

(a) Except as provided by subsection (b) of this section, a refusal to perform any of the requirements of this Article, and the refusal to perform any rule or requirement or request of the Director of the Budget made pursuant to, or under authority of, the Executive Budget Act, shall subject the offender to penalty of two hundred fifty dollars (\$250.00), to be recovered in an action instituted either in Wake County Superior Court, or any other county, by the Attorney General for the use of the State of North Carolina, and shall also constitute a Class 1 misdemeanor. If such the offender be is not an officer elected by vote of the people, such the offense shall be sufficient cause for removal from office or dismissal from employment by the Governor upon 30 days' notice in writing to such the offender.

(b) A false statement made in violation of G.S. 143-6.2(b2) is a Class A1 misdemeanor offense."

**SECTION 6.9.(c)** This section shall apply to all State grant funds appropriated or awarded on or after July 1, 2005. Grants awarded prior to July 1, 2005, shall be subject to the reporting requirements in effect at the time the grant was made.

## Exhibit C – N.C. General Statute Provisions Addressing the Collection of Tax Debts

### Exhibit C to the North Carolina Green Business Fund Program 2008-01 Solicitation

#### § 105-243.1. Collection of tax debts.

(a) Definitions. – The following definitions apply in this section:

- (1) Overdue tax debt. – Any part of a tax debt that remains unpaid 90 days or more after the notice of final assessment was mailed to the taxpayer. The term does not include a tax debt, however, if the taxpayer entered into an installment agreement for the tax debt under G.S. 105-237 within 90 days after the notice of final assessment was mailed and has not failed to make any payments due under the installment agreement.
- (2) Tax debt. – The total amount of tax, penalty, and interest due for which a notice of final assessment has been mailed to a taxpayer after the taxpayer no longer has the right to contest the debt.

(b) **(Effective until October 1, 2005)** Outsourcing. – The Secretary may contract for the collection of tax debts. At least 30 days before the Department submits a tax debt to a contractor for collection, the Department must notify the taxpayer by mail that the debt may be submitted for collection if payment is not received within 30 days after the notice was mailed.

(b) **(Effective October 1, 2005)** Outsourcing. – The Secretary may contract for the collection of tax debts owed by nonresidents and foreign entities. At least 30 days before the Department submits a tax debt to a contractor for collection, the Department must notify the taxpayer by mail that the debt may be submitted for collection if payment is not received within 30 days after the notice was mailed.

(c) Secrecy. – A contract for the collection of tax debts is conditioned on compliance with G.S. 105-259. If a contractor violates G.S. 105-259, the contract is terminated, and the Secretary must notify the contractor of the termination. A contractor whose contract is terminated for violation of G.S. 105-259 is not eligible for an award of another contract under this section for a period of five years from the termination. These sanctions are in addition to the criminal penalties set out in G.S. 105-259.

(d) Fee. – A collection assistance fee is imposed on an overdue tax debt that remains unpaid 30 days or more after the fee notice required by this subsection is mailed to the taxpayer. In order to impose a collection assistance fee on a tax debt, the Department must notify the taxpayer that the fee will be imposed if the tax debt is not paid in full within 30 days after the date the fee notice was mailed to the taxpayer. The Department may not mail the fee notice earlier than 60 days after the notice of final assessment for the tax debt was mailed to the taxpayer. The fee is collectible as part of the debt. The Secretary may waive the fee pursuant to G.S. 105-237 to the same extent as if it were a penalty.

The amount of the collection assistance fee is twenty percent (20%) of the amount of the overdue tax debt. If a taxpayer pays only part of an overdue tax debt, the payment is credited proportionally to fee revenue and tax revenue.

(e) Use. – The fee is a receipt of the Department and must be applied to the costs of collecting overdue tax debts. The proceeds of the fee must be credited to a special account within the Department and may be expended only as provided in this subsection. The proceeds of the fee may not be used for any purpose that is not directly and primarily related to collecting overdue tax debts. The Department may apply the proceeds of the fee for the purposes listed in this subsection. The remaining proceeds of the fee may be spent only pursuant to appropriation by the General Assembly. The fee proceeds do not revert but remain in the special account until spent for the costs of collecting overdue tax debts. The Department may apply the fee proceeds for the following purposes:

- (1) To pay contractors for collecting overdue tax debts under subsection (b) of this section.
- (2) To pay the fee the United States Department of the Treasury charges for setoff to recover tax owed to North Carolina.
- (3) To pay for taxpayer locator services, not to exceed one hundred thousand dollars (\$100,000) a year.

(f) Reports. – The Department must report semiannually to the Joint Legislative Commission on Governmental Operations and to the Revenue Laws Study Committee on its efforts to collect tax debts. Each report must include a breakdown of the amount and age of tax debts collected by collection agencies on contract, the amount and age of tax debts collected by the Department through warning letters, and the amount and age of tax debts otherwise collected by Department personnel. The report must itemize collections by type of tax. Each report must also include a long-term collection plan, a timeline for implementing each step of the plan, a summary of steps taken since the last report and their results, and any other data requested by the Commission or the Committee. (2001-380, ss. 2, 8; 2002-126, s. 22.2; 2003-349, s. 3; 2004-124, ss. 23.2(a), 23.3(c); 2004-170, s. 22.5.)

## Exhibit D – Sample Policy Addressing Conflicts of Interest

Prior to the release of Award funds, all Grantees will be required to file with the Board a copy of Grantee's policy addressing conflicts of interest that may arise involving the grantee's management employees and the members of its board of directors or other governing body. The policy shall address situations in which any of these individuals may directly or indirectly benefit, except as the Grantee's employees or members of its board or other governing body, from the Grantee's disbursing of State funds and shall include actions to be taken by the Grantee or the individual, or both to avoid conflicts of interest and the appearance of impropriety. **The policy shall be filed before the Board may disburse the grant funds.** (N.C.G.S. 143-6.2(b1)(2005))

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### ***Sample Policy Addressing Conflicts of Interest:***

A conflict of interest is defined as an actual or perceived interest by a (Staff member/Board member) in an action that results in, or has the appearance of resulting in, personal, organizational or professional gain. A conflict of interest occurs when an Employee/Board member has a direct or fiduciary interest, which includes:

- Ownership with
- Employment of or by
- Contractual relationship with
- Creditor or debtor to
- Consultative or consumer relationship with:

a member of the Board of Directors/Trustees or an employee where one or the other has supervisory authority over the other or with a client who receives services. The definition of conflict of interest includes any bias or the appearance of bias in a decision-making process that would reflect a dual role played by a member of the organization or group. An example, for instance, might involve a person who is an employee and a Board member, or a person who is an employee and who hires family members as consultants.

It is in the interest of the organization, individual staff and Board members to strengthen trust and confidence in each other, to expedite resolution of problems, to mitigate the effect and to minimize organizational and individual stress that can be caused by a conflict of interest.

Employees are to avoid any conflict of interest, even the appearance of a conflict of interest. This organization serves the community as a whole rather than only serving a special interest group. The appearance of a conflict of interest can cause embarrassment to the organization and jeopardize the credibility of the organization. Any conflict of interest, potential conflict of interest, or the appearance of a conflict of interest is to be reported to your supervisor immediately. Employees are to maintain independence and objectivity with clients, the community, and organization. Employees are called to maintain a sense of fairness, civility, ethics and personal integrity even though law, regulation or custom does not require them.

Employees, members of employee's immediate family, and members of the Board are prohibited from accepting gifts, money or gratuities from the following:

- a. Persons receiving benefits or services from the organization;
- b. Any person or organization performing or seeking to perform services under contract with the organization; and
- c. Persons who are otherwise in a position to benefit from the actions of any employee of the organization.

Employees may, with the prior written approval of their supervisor, receive honoraria for lectures and other such activities while on personal days, compensatory time, annual leave or leave without pay. If the employee is acting in any official capacity, honoraria received by an employee in connection with activities relating to employment with the organization are to be paid to the organization.

**Exhibit E – Program Guidelines**