

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

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PUBLIC UTILITIES
COMMISSION

In the Matter of the Application of)
)
THE STATE OF HAWAII)
DEPARTMENT OF BUSINESS,)
ECONOMIC DEVELOPMENT,)
AND TOURISM)
)
For an Order Approving the Green)
Infrastructure Loan Program.)
)

Docket No. 2014-0135

**PROGRAM NOTIFICATION No. 4 FOR
THE GREEN INFRASTRUCTURE LOAN PROGRAM
AND
CERTIFICATE OF SERVICE**

DOUGLAS S. CHIN
Attorney General of Hawaii

DEBORAH DAY EMERSON
GREGG J. KINKLEY
Deputy Attorneys General
Department of the Attorney General
State of Hawaii
425 Queen Street
Honolulu, Hawaii 96813
Tel. 586-1180
Attorneys for the Department of Business,
Economic Development, and Tourism

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**PROGRAM NOTIFICATION No. 4 FOR
THE GREEN INFRASTRUCTURE LOAN PROGRAM**

TO THE HONORABLE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII:

The Hawaii Green Infrastructure Authority (“HGIA” or “Authority”) of the State of Hawaii¹, submits this Program Notification through its Deputy Attorney General.

I. Background

Decision and Order No. 32318, filed on September 30, 2014 in Docket No. 2014-0135 (the “Program Order”) approved the “Application of the Department of Business, Economic Development, and Tourism for an Order Approving the Green Infrastructure Loan Program,” filed on June 6, 2014 (“Application”) for the use of funds deposited in the Green Infrastructure Special Fund to establish and institute the Green Infrastructure Loan Program (“GEMS Program”), subject to the modifications described within the Program Order.² Within the

¹ HRS §196-63 provides that until the Authority is duly constituted, the Department of Business, Economic Development, and Tourism of the State of Hawaii (DBEDT) may exercise all powers reserved to the Authority pursuant to HRS §196-64, and shall perform all responsibilities of the Authority. As the Authority has now been duly constituted, the Authority assumes in its own right, pursuant to statute, all of the functions, powers, and obligations, including responsive or informational submissions in this Docket, which had heretofore been assigned to DBEDT.

² See “Decision and Order No. 32318,” filed in Docket No. 2014-0135 on September 30, 2014, at p. 1.

Application, a governance process was proposed for the GEMS Program that used mechanisms for updates to or modifications from the approved GEMS Program guidelines. In this process, Program Notifications are used to provide additional details on GEMS Program components including *project, program, financing, or other arrangements (clean energy technology, parties intended to benefit, loan program or other arrangements, and credit sources and funding); minimum lending, credit or investing criteria; and repayment mechanisms and processes.*³ The Application stated that DBEDT or the Authority⁴ will use Program Notifications to report and certify information on implementation of key GEMS Program components that are within the scope of the Program Order parameters and exhibits issued by the Public Utilities Commission (“Commission”).⁵

The Program Order approved the Program Notification process with a modification requiring that the Authority file any GEMS Program Notification with the Commission no less than fifteen (15) business days prior to implementation instead of the proposed ten (10) days stated in the Application.⁶

Thus far, the Authority has submitted Program Notifications for three products, the GEMS Nonprofit Loan Product,⁷ the GEMS Consumer Loan Product,⁸ and the GEMS Small Business Loan Product.⁹

³ Paraphrased from HRS §269-170 and 269-171, as referenced in “Application of Department of Business, Economic Development, and Tourism; Verification; Exhibits; and Certificate of Service,” filed in Docket No. 2014-0135 on June 6, 2014 at p. 15. Emphasis added.

⁴ Prior to the Authority’s establishment, DBEDT is authorized to exercise the Authority’s powers and is required to effectuate the Authority’s responsibilities (see HRS §196-63). Accordingly, references to the “Authority” and “HGIA” in this Program Notification include DBEDT acting on behalf of the Authority, as explained in footnote 1 above.

⁵ See “Application of Department of Business, Economic Development, and Tourism; Verification; Exhibits; and Certificate of Service,” filed in Docket No. 2014-0135 on June 6, 2014 at p. 15.

⁶ See “Decision and Order No. 32318,” filed in Docket No. 2014-0135 on September 30, 2014, at p. 84.

⁷ See “Initial Program Notification for the Green Infrastructure Loan Program Including Additional Details on GEMS Program Financing Design” filed in Docket No. 2014-0135 on December 31, 2014.

II. Program Notification

The purpose of this Program Notification is to provide additional information specifically ordered by the Commission in the Program Order. The Program Order required the Authority to:

- A. “[E]nsure that reasonable consumer protections are in place to guard participating customers. . . . [The] proposed Deployment Partner Eligibility Criteria Categories shall include specific criteria to protect against fraud and other improper conduct” and “provide full details of the GEMS Program consumer protection policies it develops to the [C]ommission”.¹⁰
- B. “File a Program Notification providing comprehensive details describing the processes for the initial deployment of funds prior to the initial deployment of GEMS Program funds”.¹¹
- C. File “finalized details of both the direct billing and [o]n-bill [m]echanism to be used in the GEMS Program. . . . as Program Notifications”.¹²

A. Consumer Protection Policies

The GEMS consumer protection policies are as follows:

- All capital partners should adhere to the capital partner requirements, as identified in Exhibit 10 of the Application. Capital partners are Deployment Partners associated with the deployments of GEMS capital including but not limited to investors, developers, lenders, servicers, and/or other service providers. The purpose of the capital partner requirements is to ensure that GEMS capital is handled by established and respected companies.
- All installers should adhere to the installer requirements, as identified in Exhibit 10 of the Application. The purpose of the installer requirements is to ensure that GEMS

⁸ See “Initial Program Notification for the Green Infrastructure Loan Program Including Additional Details on GEMS Program Financing Design” filed in Docket No. 2014-0135 on December 31, 2014.

⁹ See “Program Notification No. 3 for the Green Infrastructure Loan Program” filed in Docket No. 2014-0135 on April 8, 2015.

¹⁰ See “Decision and Order No. 32318,” filed in Docket No. 2014-0135 on September 30, 2014, at p. 65-66.

¹¹ See “Decision and Order No. 32318,” filed in Docket No. 2014-0135 on September 30, 2014, at p. 100.

¹² See “Decision and Order No. 32318,” filed in Docket No. 2014-0135 on September 30, 2014, at p. 71.

capital is paid to established installers. Specifically, these requirements protect GEMS Borrowers¹³ by reducing the likelihood of inexperienced installers, and the associated problems thereof.

- All lenders must abide by all state and federal lending laws and regulations. These laws and regulations are established to protect consumers from unfair or deceptive practices when entering into financial obligations.
- All loan servicers abide by all state and federal servicing and collection laws and regulations. These laws and regulations are established to protect consumers from unfair or deceptive practice when repaying financial obligations.
- All loans purchased must adhere to GEMS Program guidelines which include project and technology specific cost requirements, warranty parameters, and/or design specifications. These requirements and specifications protect Borrowers from the addition of unnecessary costs.
- A complaint and conflict resolution process is set up and maintained by the HGIA and/or its designee to address any issues regarding GEMS. In addition to disclosing contact information in the program documentation, contact information is provided online. Complaints will also be reported to the Commission in the GEMS Annual Plan for purposes of transparency and accountability.

B. Process for Initial Deployment of Funds

GEMS funds will be deployed for Commission-approved and HGIA-approved purposes for which all of the contractual documents and necessary agreements related to capital and funds

¹³ "Borrowers" are defined and named in the GEMS loan documentation.

have been executed. At the time of this filing, this includes the GEMS Nonprofit Loan Product, the GEMS Consumer Loan Product, and the GEMS Small Business Loan Product. The following process will occur for GEMS fund deployment:

- Loan Purchase – HGIA enters into agreements with lenders to purchase closed and funded loans. Lenders will originate, process, underwrite, close and fund loans in their name. In certain circumstances the HGIA will look at loans prior to credit approval. HGIA or its designee will review the closed and funded loans to ensure compliance to GEMS Program. If the loans are eligible for purchase, HGIA will send funds to the lender to purchase eligible loans. Upon receiving the loan proceeds, the lenders will assign and transfer the loan collateral to the HGIA.
- Loan Repayment to the Servicers – See Section C below.
- Fund Remittance to HGIA – Monthly loan payments will be deposited in an account in the State’s name accessible by both the servicer and the HGIA. Upon month-end closing, all payments in the servicing account will be reconciled and remitted to the HGIA’s custodial account.

C. Finalized Details of the Direct and On-Bill Mechanism

With respect to the use of direct bill repayment—described as full billing services provided directly to Borrowers, with remittance then being made by Deployment Partner to the GEMS Program administrators¹⁴—the Commission approved the use of DBEDT’s proposed direct billing repayment mechanism, but requested that the specific arrangements employed be subject to finalization and reporting to the Commission.¹⁵

¹⁴ See Program Order at 66.

¹⁵ See Program Order at 67.

HGIA contracts with entity(ies) who will act as loan servicers on behalf of HGIA in providing account management and administration services for the GEMS Nonprofit Loan Product,¹⁶ the GEMS Consumer Loan Product,¹⁷ and the GEMS Small Business Loan Product.¹⁸ All loan servicers abide by all state and federal servicing and collection laws and regulations. When applicable, payment services will encompass both direct bill payment services and on-bill repayment services. On-bill repayment information will be provided in a subsequent notification upon finalization of the Commission's On-bill mechanism.

Direct bill repayment details:

- The loan servicer(s) receives new loan file data from HGIA or its designee and sets up arrangements for Borrowers to make payments and for the loan servicer(s) to receive payments, including the system for processing payments in the Borrower's account, issuing monthly loan statements and/or the creation and distribution physical payment coupons for a Borrower.
- The loan servicer(s) is required to process checks, electronic fund payments, and other forms of payment appropriately and as stated in loan documents.
- Upon receipt of the Borrower's monthly payment, the loan servicer(s) applies Borrower's payment to the Borrower's account.
- In the case of non-payment, the loan servicer(s) may engage in delinquent account processing, collections, and account cancellations as agreed upon and directed by HGIA.

¹⁶ See "Initial Program Notification for the Green Infrastructure Loan Program Including Additional Details on GEMS Program Financing Design" filed in Docket No. 2014-0135 on December 31, 2014.

¹⁷ See "Initial Program Notification for the Green Infrastructure Loan Program Including Additional Details on GEMS Program Financing Design" filed in Docket No. 2014-0135 on December 31, 2014.

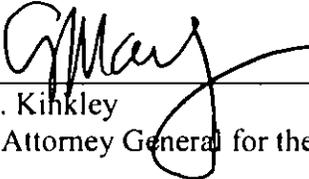
¹⁸ See "Program Notification No. 3 for the Green Infrastructure Loan Program" filed in Docket No. 2014-0135 on April 8, 2015.

- Upon Borrower payment processing, loan servicer(s) will aggregate and deposit payments.
- Loan servicer(s) provide monthly and annual reports to HGIA, as required in contracts. Reports are confidential and secure. Data may include transaction data, delinquency data, and balances. If necessary and requested by HGIA, loan servicer(s) may transmit information to national credit bureaus.

III. Subsequent Authority Action

Unless informed otherwise by the Commission, upon completion of the fifteen (15) business-day-term of Program Notification, HGIA may deploy funds in the GEMS Program. Any subsequent changes to or addition of details or policies described herein will be proposed through the GEMS Annual Plan.

Submitted this 1st day of July, 2015, in Honolulu, Hawaii.



Gregg J. Kinkley
Deputy Attorney General for the Authority

CERTIFICATE OF SERVICE

I hereby certify that I have this date, in addition to filing an original and three copies with the Commission, served one (1) or two (2) copies of the foregoing GEMS Program Notification, together with this Certificate of Service, by making personal service (P) or service by electronic mail (M), to the following and at the following addresses:

State of Hawaii (P)(3)
Public Utilities Commission
Department of Budget and Finance
465 S. King Street, #103
Honolulu, Hawaii 96813

Jeffrey T Ono (P)(2)
Executive Director
Department of Commerce and Consumer
Affairs
Division of Consumer Advocacy
P.O. Box 541
Honolulu, Hawaii 96809

Daniel G. Brown (P)(2)
Manager-Regulatory Non-Rate Proceedings
Hawaii Electric Company, Inc.
Hawaii Electric Light Company, Inc.
Maui Electric Company, Ltd.
P.O. Box 2750
Honolulu, Hawaii 96840-0001

Warren S. Bollmeier II (M)(1)
President
Hawaii Renewable Energy Association
46-040 Konane Place, #3816
Kaneohe, HI 96744

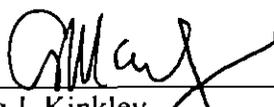
Douglas A. Codiga, Esq. (M)(1)
Schlack Ito
Topa Financial Center
745 Fort Street, Suite 1500
Honolulu, Hawaii 96813

Leslie-Cole Brooks (M)(1)
Executive Director
Hawaii Solar Energy Association
P.O. Box 37070
Honolulu, HI 96837

Henry Q. Curtis (M)(1)
Vice President for Consumer Issues
Life of the Land
P.O. Box 37158
Honolulu, HI 96837-0158

Dated: Honolulu, Hawaii, July 1, 2015.

HAWAII GREEN INFRASTRUCTURE
AUTHORITY



Gregg J. Kinkley
Deputy Attorney General