



October 21, 2009

Steve Church
ETAAC Staff
Air Resources Board

Dear Steve:

Calera Corporation appreciates the opportunity to comment on the ETAAC Advanced Technology Development Proposed Final Report. Calera is one of many California companies confronting with the challenges of developing the advanced technologies needed to meet green house gas reduction goals. We appreciate the Air Resources Board and the Economic and Technology Advancement Committees (ETAAC) role in addressing some of the hurdles that we face.

One issue that we have a few minor suggestions for improving is with the model grant application process. Our first comment relates to intellectual property language in the contract agreement for the PIER program.

In the patent rights section of the PIER contract language reads: "if a patent application for any "Subject Inventions is submitted within three (3) years of the start date of Invention" whether actually patented or unpatented, will be the Grant Agreement, property of the Awardee will fill out a Uniform Commercial Code (UCC.1) Financing Statement that documents whose employees or researchers are inventors of such inventions pursuant to U.S. Patent law, subject to the license retained by the State of California in Article XVII (2a) This is an automatic license to the State of California to IP developed by the company, with no restriction on the use license, of the IP. This effectively nullifies the value of IP that emerges from the project, as it will no longer be exclusive to the company and submit the UCC.1 to the EISG Program Administrator for processing." the company will not be able to control or influence the use that the state puts it to.

For subject patents, Awardees must obtain Agreements to effectuate the California government use license with all persons or entities obtaining ownership interest in such patent rights It is unlikely that entities who partner with a company in a venture where joint IP might emerge will be comfortable with a requirement that they give up rights to the State of California and that the IP not be exclusive to the company. This would be an impediment to partnering agreements.

In addition to this it states that the Awardee will also need disclose to the SDSU Foundation on a confidential basis all Subject Inventions, software and copyrightable material that was first conceived or first actually reduced to practice in performance of this Grant.”

Another issue with funding support for start-up organizations is the request for details related to spell out the total project capital requirements for all phases of a grant application. Demonstration of this funding is often in addition to meeting a significant cost share requirement. Letters of commitment are often required as part of the grant application. These letters must detail out where this funding is coming from and forbid funding that may not be contingent on other sources of funding. This is a huge burden for green tech start-up organizations, which represent so much promise for California.

A company’s ability to raise new corporate equity is often tied to that company’s ability to obtain state and federal grant support. A company that demonstrates public funding interest on that level is often well-positioned to obtain additional funding. Venture capital- funded organizations such as Calera have a very difficult time obtaining funding commitments for operating costs several years out as is required by the agency proposal guidelines.

Aside from these issues we feel that you have done an excellent job of capturing the many project barriers that advanced technology development organizations face as we move towards commercialization.

Sincerely,

Kristin Cooper Carter
Director of Sustainability, Calera Corporation

cc: Tom Carter, Vice President Government Affairs,
Calera Corporation