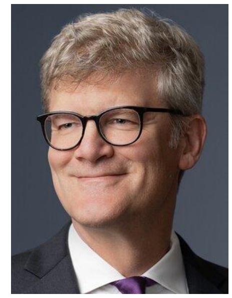
What Cos. Should Know About DOE Energy Dominance Loans

By **Sven Hodges, Meaghan Connors and John Tormey** (September 2, 2026)



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This year, federal financing programs across key federal agencies have moved into high gear, with an emphasis on scale and a focus on transactions that significantly advance the administration's policy priorities — especially across the energy, critical minerals, semiconductor, defense and advanced manufacturing sectors.

But companies may face uncertainty as they navigate the complex and fluid landscape of federal financing programs.

This two-part article provides a broad overview of the U.S. Department of Energy's Office of Energy Dominance Financing, or EDF, which is now positioned to be a key source of debt financing for energy and critical minerals projects in the U.S.

The first installment discussed EDF's program guidance, issued in May, and reviewed what applicants should know about the eligibility criteria for specific programs.

This installment discusses various aspects of direct loans under Title 17 of the Energy Policy Act, including loan amounts, tenors, disbursements, amortization and interest rates, as well as key financial, technical, legal, and regulatory requirements and considerations.

Title 17 Direct Loan Features

EDF financing is offered in two loan products for projects that are deemed eligible under the Title 17 program, whether as a Section 1703 or Section 1706 project.

These products are: (1) a direct loan from the U.S. Department of the Treasury's Federal Financing Bank that is subject to a 100% loan guarantee from the DOE; and (2) a partial loan guarantee from the DOE of up to 90% of the principal amount of a commercial loan from an eligible commercial lender.

This section provides an overview of key financial features of EDF's direct loan product. Applicants are generally considered most likely to request direct loans, rather than partial loan guarantees, which differ in important respects.

Loan Amount

Direct loan amounts are not subject to a fixed minimum or maximum under EDF's statute, interim final rule or policy.

However, they cannot exceed 80% of eligible project costs, as such term is defined in EDF's interim final rule. EDF is also required to determine that there is a reasonable prospect of repayment with respect to any direct loan amount.

In practice, EDF takes project cash flows and other credit considerations into account when sizing direct loan amounts. As a result, the May guidance indicates that leverage ratios often end up below 80% of eligible project costs, and are typically in the 40% to 60% range.

The guidance also indicates that direct loans are typically $500 million or more, given some of the fixed costs associated with the application process.

Applicants should take several considerations into account when scoping projects and sizing loan amount requests.

First, when scoping projects, applicants should consider scale and, where appropriate, aggregate smaller projects to maximize impact, especially in light of EDF's ongoing resource constraints and the priority that EDF is placing on high-impact projects.

Second, when sizing loan amount requests, applicants proposing project finance structures with limited or no recourse to project sponsors should note that EDF's risk appetite for merchant risk is uncertain.

Such applicants are therefore strongly advised to consider long-term offtake agreements or other forms of contracted cash flows, in lieu of relying on market projections.

Loan Tenor, Disbursements and Amortization

By statute, direct loan tenors are limited to 30 years after closing, and, in the case of Section 1703 projects, cannot exceed 90% of the useful life of the project.

The statute and interim final rule otherwise give EDF flexibility to set disbursement periods, amortization schedules and maturity dates.

In practice, disbursement periods are typically set based on construction schedules, and may include reasonable cushions to account for potential construction delays.

Amortization schedules can be straight-line, or sculpted to maintain a targeted debt service coverage ratio based on projected cash flows. Maturity dates are typically shorter than the statutory maximum based on the term of project offtake agreements or other contracted cash flows.

Interest Rate

Interest rates for direct loans are determined differently than interest rates for commercial loans.

Instead of the entire direct loan being subject to a single interest rate determined on the closing date, each individual direct loan disbursement is subject to its own interest rate that is determined based on the U.S. Treasury curve as of the relevant disbursement date, plus 0.375% and a risk-based charge.

The risk-based charge is intended to make the overall interest rate close to commercially available rates.

Companies should take the following considerations into account when considering direct loans.

Interest Rate Risk

Since the interest rate for direct loans is set at each loan disbursement, rather than at closing, applicants will need to make assumptions in their financial models regarding the U.S. Treasury curve on each disbursement date.

Applicants with multiyear construction timelines will be subject to interest rate risk that may be significant. Some applicants may therefore wish to consider hedging their interest rate exposure.

However, it should be noted that, similar to most secured financings, any secured interest rate hedge agreement would likely raise significant intercreditor and other complexities for EDF.

Credit Subsidy

EDF has the statutory authority to use appropriated credit subsidy to pay some or all of any risk-based charge assessed for direct loans, thereby lowering the effective interest rate payable by borrowers.

For Section 1706 projects, EDF was appropriated $1 billion in credit subsidy under the One Big Beautiful Bill Act to support up to $250 billion in loans through Sept. 30, 2028. This should enable EDF to lower the effective interest rate for a large number of Section 1706 projects.

On the other hand, for Section 1703 projects, EDF was appropriated $150 million in credit subsidy under the Commerce, Justice, Science; Energy and Water Development; and Interior and Environment Appropriations Act, enacted on Jan. 23 of this year, to support loans for small modular reactors and advanced nuclear reactors.

However, it is unclear how much credit subsidy remains available to EDF for loans under Section 1703 from prior appropriations that was not rescinded by the OBBBA.

Considerations for Applicants

Before proceeding with a loan application, companies are encouraged to review the May guidance, and consider the financial, technical, legal and regulatory issues discussed below.

Financial Considerations

Fees and Expenses

Sponsors should plan for the following fees and expenses before applying for a direct loan:

- A nonrefundable facility fee, payable at closing, equal to 0.6% of the direct loan amount up to $1 billion, plus 0.1% on the portion of the direct loan amount above $1 billion;

- A maintenance fee, payable annually of up to $500,000, depending on complexity of the direct loan;

- Fees and expenses of legal counsel and other advisers engaged by EDF in connection with the direct loan, payable at closing (though they can be paid from Federal Financing Bank loan proceeds); and

- Fees and expenses of collateral agents, payable annually.

Sponsor Equity

Sponsors are required to make significant equity contributions to projects that receive EDF financing.

Applicants should expect EDF's credit assessment of an application to consider the sponsor's financial capacity and the strength of sponsor equity commitments.

Warrants

The DOE may require warrants to purchase equity or other forms of upside participation in borrowers or sponsors as consideration for the provision of a direct loan.

This is consistent with a broader trend across several federal agencies of securing upside participation for federal taxpayers in federally funded projects.

Technical Considerations

Category Mapping

As soon as possible prior to submitting an application, companies should map projects to the appropriate category under Section 1703 or Section 1706, to determine whether any changes to the project scope are required in order to meet the relevant technical eligibility requirements.

Commercially Ready Technology

All projects must employ technically viable and commercially ready technology, with a preferred technology readiness level of TRL 8. But EDF will consider projects at lower levels.

Projects for research, product development, pilot or demonstration will be denied. Sponsors should be prepared to demonstrate that the proposed technology is technically viable and has advanced beyond the pilot or demonstration stage.

Procurement, EPC and Supply Chain

The DOE will evaluate the project's engineering, procurement and construction arrangements; procurement strategy; and supply chain risks.

For projects involving long-lead items, early procurement commitment and supply chain derisking may be viewed favorably in EDF's due diligence process.

Legal and Regulatory Considerations

Intercreditor and Nonsubordination Issues

Under Title 17, direct loans cannot be subordinated in right of payment or lien priority to other financing, though they may be pari passu with other creditors' debt on a case-by-case basis.

Companies with existing or contemplated project-level debt from other sources should be prepared for intercreditor negotiations, and should understand the DOE's nonsubordination requirements and lien priority expectations.

Federal Law Compliance

Projects receiving direct loans are subject to certain federal laws and regulations, including Davis-Bacon Act prevailing wage requirements, the Cargo Preference Act and, in some cases, Build America, Buy America Act provisions.

Companies should assess compliance requirements as early as possible for projects with significant construction labor or imported components, especially if transported by sea.

Environmental Requirements

The May guidance indicates that projects may need to comply with certain environmental statutes, such as the Endangered Species Act and the National Historic Preservation Act.

However, the guidance is silent as to whether projects are required to comply with the National Environmental Policy Act. This is consistent with the DOE's flexible approach to NEPA as codified in the department's implementing procedures.

In particular, the implementing procedures place greater reliance on categorical exclusions than under prior administrations. More importantly, they depart from the position of the prior administration that all federal loans and loan guarantees automatically constitute federal agency actions subject to NEPA.

This flexible approach to NEPA should significantly reduce the administrative burden and delay risk to applicants associated with environmental compliance.

Foreign Ownership and Collaboration

Applicants are not subject to the foreign-entity-of-concern provisions that otherwise apply to certain federal tax credits and federal financing programs such as the CHIPS Incentives Program administered by the U.S. Department of Commerce.

However, applicants will be subject to an assessment of any direct and indirect foreign ownership as part of EDF's customary know-your-customer review.

In addition, borrowers are required to be formed in the U.S. and have a physical location in the U.S. — though EDF may waive this requirement upon request under certain specified circumstances. Sponsors, however, may be formed or domiciled outside the U.S.

Title 17 does not impose statutory restrictions on the ability of borrowers or sponsors to engage in certain activities with foreign entities, unlike certain other federal financing programs.

However, the guidance does indicate that, after closing, borrowers will be required to seek guidance from EDF prior to any nonroutine collaboration with foreign organizations or governments in connection with a Title 17 loan or loan guarantee.

This reflects a heightened sensitivity to risks from technology transfers and theft from federally funded projects. This restriction is in addition to any change of control provisions in loan agreements that may apply to a sponsor's proposed sales of equity interests in a borrower to a foreign entity.

Conclusion

Since being authorized in 2005, the Title 17 program has undergone significant evolutions under each administration.

After an extended period of uncertainty under the Trump administration, EDF is now moving with urgency to implement the Title 17 program under the new authorities and funding granted under the OBBBA.

EDF's approach emphasizes support for U.S. projects that significantly advance the administration's energy priorities, especially large-scale nuclear, critical minerals and grid modernization projects.

This creates opportunities for developers seeking financing for U.S. projects in relevant industry sectors.

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