

North Dakota Industrial Commission Clean Sustainable Energy Authority Program Guidelines

Table of Contents:

- CSEA – 1 General Provisions
- CSEA – 2 Eligibility
- CSEA – 3 Financial Assistance Limitations and Matching Funds Requirement
- CSEA – 4 Application Requirements
- CSEA – 5 Review and Award Process
- CSEA – 6 Public Information – Access to Records

CSEA – 01 GENERAL PROVISIONS

- CSEA – 1.01 Statutory Purpose Statement
- CSEA – 1.02 Definitions
- CSEA – 1.03 Membership
- CSEA – 1.04 Costs of Application Preparation
- CSEA – 1.05 Acceptance and Rejection of Applications
- CSEA – 1.06 Reservation of Funds

CSEA – 1.01 Purpose Statement. The Clean Sustainable Energy Authority is created to support research, development, and technological advancements through partnerships and financial support for the large-scale development and commercialization of projects, processes, activities, and technologies that reduce environmental impacts and increase sustainability of energy production and delivery. The purpose of the financial support is to enhance the production of clean sustainable energy, to make the State a world leader in the production of clean sustainable energy, and to diversify and grow the State’s economy.

CSEA – 1.02 Definitions. As used in these policies:

1. “Applicant” means any entity applying to the Commission for a grant or loan from the Clean Sustainable Energy Fund.
2. “Application” means the written document that is submitted to the Commission by an applicant seeking a grant or loan from the Fund.
3. “Authority” means the Clean Sustainable Energy Authority consisting of eighteen members, including nine voting members and nine nonvoting technical advisors.
4. “Bank” or “BND” means Bank of North Dakota.
5. “Borrower” means successful applicant for a loan or loan guarantee from the Fund.
6. “Chair” means Authority member appointed by Legislative Management.
7. “Clean” means a technology or concept that reduces emissions to the air, water, or land and meets or exceeds state and federal environmental regulations.
8. “Commercial” means full-scale, similar (prototypical) system demonstrated in a relevant environment or actual completed and qualified through test and demonstration.
9. “Commission” means the North Dakota Industrial Commission or its representative.
10. “Contract” means the signed agreement between the Commission and recipient which describes the rights and duties of the Commission and recipient with regard to the Program or the Loan Agreement.

11. "Financial Assistance" means grants, loans, loan guarantees, venture capital and interest rate buydowns, etc.
12. "Fund" means the Clean Sustainable Energy Fund available to the Commission to provide funding for the Program and as authorized in N.D.C.C. 54-63.1.
13. "Grant" means a monetary award made by the Commission under the Program.
14. "Grantee" means a successful applicant for a grant from the Fund.
15. "Loan Agreement" means a contract governing the extension of money from the Commission under the Program to another entity with the agreement that the money will be repaid and outlines the interest rate, the repayment period, the collateral (if any) and any special terms.
16. "Pilot Scale" means representative engineering scale model or prototype system which is well beyond the lab scale and tested in a relevant environment. Represents a major step up in the technology's demonstrated readiness and is followed by commercialization.
17. "Program" means the Clean Sustainable Energy Program administered by the Commission.
18. "Quorum" or "Majority" is defined as five voting members.
19. "Recommendation" the Authority may not forward a recommendation to the Commission unless the recommendation fulfills the Authority's purpose and is approved by a majority of the voting members of the Authority. All projects will first go through Independent Technical Advisor review, Bank of North Dakota review, and Technical Committee review.
20. "Recipient" means a grantee or borrower.
21. "Sustainable" means a technology or concept that allows the use of a natural resource to be maintained or enhanced through increased efficiency and life cycle benefits while either increasing or not adversely impacting energy security, affordability, reliability, resilience, or national security.
22. "Technical Advisor(s) or Technical Committee" means nine nonvoting Authority members as authorized in N.D.C.C. 54-63.1.
23. "Technical Reviewers" mean independent technical reviewers selected by the Commission to review the merits of applications.

CSEA – 1.03 Membership. The Clean Sustainable Energy Authority consists of eighteen members, including nine voting members and nine nonvoting technical advisors.

1. The nine voting members consist of:
 - a. Two members, one from the senate and one from the house of representatives, appointed by the legislative management to serve as co-chairmen;
 - b. Two members appointed by the lignite research council;
 - c. Two members appointed by the oil and gas research council;
 - d. Two members appointed by the renewable energy council; and
 - e. One member appointed by the western Dakota energy association.
2. The nine nonvoting technical advisors consist of:
 - a. One member appointed by the North Dakota outdoor heritage fund advisory board;
 - b. The commissioner of commerce or the commissioner's designee;

- c. The director of the department of environmental quality or the director's designee;
- d. The director of the department of water resources or the director's designee;
- e. The director of mineral resources or the director' designee;
- f. The director of the North Dakota pipeline authority or the director's designee;
- g. The director of the North Dakota transmission authority or the director's designee;
- h. The director of the state energy research center or the director's designee; and
- i. The president of the Bank of North Dakota or the president' designee.

CSEA – 1.04 Costs of application preparation. The Commission is not liable for any cost, including costs of preparation of applications, incurred by applicants prior to issuance of a Contract, Loan Agreement or other Financial Assistance. The Commission will be liable only for those costs and expenses expressly identified by contract/agreement.

CSEA – 1.05 Acceptance and rejection of applications. These guidelines do not commit the Commission to award funds. The Commission reserves the right to accept or reject any or all applications received as a result of the Program and to negotiate with any and all qualified applicants. An application must have received a favorable Clean Sustainable Energy Authority recommendation prior to consideration by the Industrial Commission.

REC – 1.06 Reservation of funds. The Commission is not obligated to award the total amount of funds made available under this Program. Funds not awarded will be reserved for future financial assistance under the Program.

CSEA – 02 ELIGIBILITY CRITERIA

CSEA – 2.01 Eligible Applicants

CSEA – 2.02 Eligible and Ineligible Projects

CSEA – 2.01 Eligible applicants. Any corporation, partnership, cooperative, association or other appropriate entity, or consortium of such parties, may apply for financial assistance under this Program. Applicants who do not own or control or have the clear and firm commitment of ownership or control are ineligible. Any interested person in doubt as to eligibility should contact the Commission.

CSEA – 2.02 Eligible and ineligible projects. Any project proposing research, development, and technological advancements for large-scale development and commercialization of projects, processes, activities and technologies that reduce environmental impacts and/or increase sustainability of energy production and delivery is eligible for financial assistance under this Program. Projects must demonstrate how financial support will enhance the production of clean sustainable energy, make the state a world leader in production of clean sustainable energy, and/or diversify and grow the state's economy. Projects must have other sources of financial support and not be duplicative of other research or development projects

or technology. The following are examples, in no particular order, of eligible projects.

- Investments that result in low-emission advancements that lead to increased economic benefits and positive environmental public health benefits.
- Have the highest potential for preserving and creating clean sustainable energy jobs, wealth, and tax revenues for North Dakota.
- Promote efficient, economic and environmentally sound development and use of North Dakota's energy resources, materials and products.
- Maximize the market potential for clean sustainable energy resources, materials and products and the associated byproducts.
- Minimize waste, including lower carbon-intensive agricultural products or processes and quantities of energy used.
- Increasing efficiencies that reduce emissions to the air, soil and water within North Dakota.
- Increase reliability and resiliency for sufficient dispatchable electrical generation capacity to avoid brownouts, blackouts or outages.

The following activities or uses are ineligible for funding under this Program:

- a. Business startup capital.
- b. Business working capital for grant awards.
- c. Business advertising or promotional expenses pertaining to a specific company or entity.
- d. Expenses not outlined in the proposed budget.
- e. Expenses incurred prior to submission of application. Note, applicants may incur expenses after submission of their proposal for which they intend to seek reimbursement; however, they do so at their own risk as the Authority/Commission may not award funding.

CSEA – 2.03 Projects eligible for a CSEA loan. A company applying for a loan from the Authority must meet the following criteria:

- The project must be ready to move into commercialization with a clear path towards profitability. Projects in any phase of a FEED study are not eligible for a loan.
- The project must also include private sector financing and equity from the company.
- There may be up to a maximum interest only period of 24 months, the company must be able to support monthly interest payments that will be due upon drawing on the loan. After the 24 months, principal and interest payments will be required.

CSEA – 3 FINANCIAL ASSISTANCE LIMITATIONS AND MATCHING FUNDS REQUIREMENT

CSEA – 3.01 Minimum and Maximum Financial Assistance

CSEA – 3.02 Matching Funds Requirement

CSEA – 3.01 Minimum and Maximum Financial Assistance. Grants may be awarded for up to 50% of project cost, with a minimum grant of \$1 million and a maximum grant of \$10 million per project unless extraordinary circumstances exist. These grants are primarily targeted for pilot and demonstration scale systems but can be used through commercialization. Loan or loan guarantees may be for up to 50% of project cost, with a minimum loan or guarantee amount of \$10 million. Loan guarantees may also be considered with the amount and terms set by the Authority but underwritten and recommended by the

Bank of North Dakota. Total Financial Assistance may not exceed 50% of the total project cost.

CSEA – 3.02 Matching Funds Requirement. Commission funding must be matched with industry or other sources (e.g., various federal government agencies, non-profit organizations) of cash. This includes any specific project related expenses in which actual funds were expended that are incurred and documented. Documentation demonstrating the matching funds must be provided prior to disbursement. Letters of commitment from other funding sources must be submitted to the Commission at the time of application. The Commission's approval is contingent upon receiving this documentation. If it is not received, the approval lapses and no funding may be made. A higher priority will be given to those applications having private industry investment equal to at least 50% or more of total cost.

CSEA – 4 APPLICATION REQUIREMENTS

CSEA – 4.01 Application Format

CSEA – 4.02 Application Deadline

CSEA – 4.01 Application format. An application must be direct, concise, and informative. The application form to be completed is available on the Commission's website or can be obtained from the Industrial Commission at the address noted below. Prior to submitting the application, a discussion with the Bank of North Dakota is encouraged. Each page shall be numbered, and the application shall not exceed 20 pages in length (including the transmittal letter but not appendices). A copy of the application should be submitted electronically to ndicgrants@nd.gov.

The application must contain the following as outlined in the application form:

1. Transmittal letter. A transmittal letter setting forth a binding commitment on behalf of the applicant to complete the project as described in the application if the Commission makes the award requested. The letter must be signed by someone authorized to contract on behalf of the applicant.
2. Title Page. A title page setting forth the project title, applicant, principal investigator, date of application, proposed project duration, mailing address, and amount of the request.
3. Table of contents.
4. Abstract. A one-page abstract of the project stating its objective, expected results, duration, total project cost, and participants.
5. Project description. A detailed description of the project, including its objectives; its methodology outlining what will be done with the funds and the tasks necessary to accomplish project goals; its anticipated results including project deliverables; the facilities, resources, to be used and their availability and capability; the environmental and economic impacts of the project while it is underway; its ultimate technological and economic impacts; and why the project is needed.
6. Standards of success. The standards by which the success of the project is to be measured. This may include:
 - a. Emissions reduction.
 - b. Reduced environmental impacts.
 - c. Increased energy sustainability.
 - d. Value to North Dakota.
 - e. Explanation of how the public and private sector will make use of the

- project's results, and when and in what way.
 - f. The potential commercialization of the project's results.
 - g. How the project will enhance the research, development and technologies that reduce environmental impacts and increase sustainability of energy production and delivery of North Dakota's energy resources.
 - h. How it will preserve existing jobs and create new ones.
 - i. How it will otherwise satisfy the purposes established in the mission of the Program.
7. Background/Qualifications. A summary of prior work related to the project conducted by the applicant and other participants as well as by other organizations. This should also include summary of the experience and qualifications pertinent to the project of the applicant, key personnel, and other participants in the project.
 8. Management. A description of how the applicant will manage and oversee the project to ensure it is being carried out on schedule and in a manner that best ensures its objectives will be met, and a description of the evaluation points to be used during the course of the project.
 9. Timetable. A project schedule setting forth the starting and completion dates, dates for completing major project tasks/activities, and proposed dates upon which the interim reports will be submitted.
 10. Budget. An itemized list of the project's capital costs; direct operating costs, including salaries; and indirect costs; and an explanation of which of these costs will be supported by the Program and in what amount. Identification of all other committed and prospective funding sources and the amount of funding from each source, differentiating between cash and indirect costs. An explanation why the funding requested is necessary to achieve the project's objectives and, if less funding is available than that requested, whether the project's objectives will be unattainable or delayed. The budget should identify all other committed and prospective funding sources and the amount of funding from each source. Higher priority will be given to those projects that have matching private industry investment equal to at least 50% or more of total cost. (Note ineligible activities or uses listed under CSEA 2-02.)
 11. Tax liability. An affidavit stating that the applicant does not have an outstanding tax liability owed to the State of North Dakota or any of its political subdivisions.
 12. Confidential information. Any information in the application that is entitled to confidentiality and which the applicant wants to be kept confidential should be placed in an appendix to protect the information from public disclosure while allowing public access to the rest of the application. Such information must be clearly labeled as confidential, and the applicant must explain why the information is entitled to confidentiality as described in North Dakota Century Code 54-63.1-06.
 13. Patents and Rights to Technical Data. Any patents or rights that the applicant wishes to reserve must be identified in the application.
 14. State Programs and Incentives. Any programs or incentives from the State that the applicant has participated in within the last five years must be identified, along with the timeframe and value.
 15. Business Plan, 3 years historical financial information, budgeted projections, organizational documents (Note item 12, if confidential).
 16. Appendices, Any necessary supporting documentation.

CSEA – 4.02 Application deadline. The Commission shall establish application rounds and set application deadlines. Applications must be submitted to the Industrial Commission on or before the deadlines set forth by the Commission.

The applicant may amend its application at any time before the application deadline. After the application deadline, the applicant may amend its application only upon the approval of the Commission.

CSEA – 05 REVIEW AND AWARD PROCESS

CSEA – 5.01 Application Evaluation – Criteria

CSEA – 5.02 Application Review – Initial Review

CSEA – 5.03 Application Review – Technical Reviewer

CSEA – 5.04 Application Review – Bank of North Dakota

CSEA – 5.05 Application Review – Authority Recommendation and Commission Decision

CSEA – 5.06 Loan Terms

CSEA – 5.07 Contracts

CSEA – 5.08 Loan Closing

CSEA – 5.09 Disbursement of Funds

CSEA – 5.10 Project Duration

CSEA – 5.11 Allocations

CSEA – 5.12 Partially Funded or Delayed Projects

CSEA – 5.13 Contract Modifications

CSEA – 5.14 Reporting Requirements

CSEA – 5.01 Application evaluation – Criteria. All applications will be evaluated according to the criteria set forth in North Dakota Century Code Chapter 54-63.1, and the criteria established by the Commission as stated in these program guidelines.

General Criteria. Program priority areas and have the outcome of accomplishing late-stage research, development, demonstration, commercialization include, in no particular order, but are not limited to the following:

- Concept enhances the production of clean sustainable energy, to make the State a world leader in the production of clean sustainable energy, and/or to diversify and grow the State's economy;
- Concept will lead to the large-scale development and commercialization of projects, processes, activities, and technologies that reduce environmental impacts and/or increase sustainability of energy production and delivery;
- The funds distributed from the financial assistance are to be applied to support in-state activities and must have significant involvement from other private sources.

The project's compatibility with the purpose of the Program will be evaluated on the following criteria:

- (1) The degree to which the project reduces environmental impacts and increases sustainability of energy production and delivery.
- (2) The timeliness of the project.
- (3) The impact on natural resource industries and value to the State.
- (4) The level of funding previously supplied by the State.
- (5) The level of matching funds, with higher priority given to those projects with private industry investment.
- (6) The short-term and long-term benefits to the State, including the diversification and

growth of the State's economy.

- (7) The likelihood that the project will achieve its technical and market goals.
- (8) The scientific soundness and innovation of any proposed technology.
- (9) The financial feasibility of the proposed project.
- (10) The technical qualifications and expertise of the applicant, key personnel, and the sponsors.

CSEA – 5.02 Application review – Initial review. Upon receipt of an application, the CSEA director and/or the Commission will determine if the application meets eligibility requirements and is complete. During this initial review the Commission or the CSEA Director may seek additional information from the applicant regarding the application including, but not limited to, application completeness, clarification of budget and matching funds, feasibility of the project meeting timelines, confidentiality request, and viability of the project. Any additional information provided during the initial review shall be included as part of the application. If the Commission determines that the application meets eligibility requirements and is complete, the application will be referred to the Bank of North Dakota and the Technical Reviewers selected by the Commission. The Commission may also refer any question it has about completeness and eligibility to the Technical Reviewers or the Bank of North Dakota and such question may then be a consideration throughout the review process.

CSEA – 5.03 Application review – Technical Reviewer.

- (1) Technical Reviewers are selected by the Commission. Technical Reviewers should possess the expertise and experience necessary to adequately review the application.
- (2) No independent Technical Reviewer with a direct financial interest in a proposed project may be involved in any way in the technical review of the application. If asked to review the application, the individual with the conflict of interest shall immediately inform the Commission of the conflict. Failure to notify the Commission disqualifies the individual from serving as a Technical Reviewer unless reinstated by the Commission, and the Commission may disqualify the application from being approved during the round of grants or loans within which the conflict occurred.
- (3) The Technical Reviewers shall assess the technical and fiscal merits of the application. Upon completion of the application review, the Technical Reviewers shall make their recommendation to the Authority Technical Committee.
- (4) Notification to applicant. The Commission shall promptly notify the applicant of the recommendations made by the Technical Reviewers to the Technical Committee.

CSEA – 5.04 Application review – Bank of North Dakota

- (1) Bank of North Dakota shall review the application to determine economic feasibility of the project.
- (2) Economic feasibility will be determined based on an evaluation of the following:
 - a. Business Plan
 - b. Historical Financial Statements
 - c. Budgeted Projections
 - d. Evaluation of project partners

CSEA – 5.05 Application review – Authority recommendation and Commission decision.

- (1) The Technical Committee shall assess the technical and fiscal merits of the application, the Technical Reviewers comments, the Bank of North Dakota comments, and must determine project feasibility. The Technical Committee shall then submit their recommendation to the Authority. If an applicant scores less than a total of 35 points on the 50-point scoring scale, they will not advance to present before the Authority.
- (2) The Authority shall then assess the technical and fiscal merits of the application based on the Technical Committee's review and submit their recommendations for funding to the Commission at the next available Commission meeting.

CSEA – 5.06 Loan Terms. Bank of North Dakota will review the provided documentation and make a recommendation to the Authority for a final determination of the proposed financing. The documentation shall demonstrate how the project will generate sufficient cash flow to repay the debt under the structure and terms determined by the Authority.

Bank of North Dakota is responsible for the administration of all loan and loan guarantees approved by the Authority.

CSEA – 5.07 Grant Contracts. A grantee must enter into a contract with the Commission and submit any supporting documentation required by the Commission. The application will form an integral part of the contract. The Commission shall provide a proposed contract to grantee. If a contract is not executed by the grantee within the sixty days, the award will be canceled unless an extension of time is granted by the Commission. Work carried out under a contract is the work of the grantee and not the Commission.

CSEA – 5.08 Loan Closing. Loan documents will be prepared by Bank of North Dakota. Bank of North Dakota will coordinate with applicant for execution of the loan documents and closing of the loans. Applicant will be responsible for all costs associated with the loan closing. Estimated fees must be paid at the time of loan funding.

CSEA – 5.09 Disbursements of funds. Funds will be disbursed only after a contract has been executed. All disbursements will be made on a reimbursement basis for the grant program as outlined in the contract. All disbursements may be withheld if the Commission deems the grantee or borrower has not complied with these policies or the contract.

CSEA – 5.10 Project duration. The project must be completed within the time specified in the contract. If the project cannot be completed within the time specified in the contract, the recipient may make a written request to the Commission for an extension of up to one year. The request must set forth the specific additional time requested and the reasons why an extension is needed. Upon receipt of the request, the Commission shall decide whether or not to grant the request. Additional extensions may be sought under the same procedure described above but may only be granted if the recipient proves that factors beyond the recipient's control are the cause of its inability to complete the project on time and that since receiving the first extension the recipient has been diligent in all respects in trying to complete the project on time.

CSEA – 5.11 Allocations. If the work under a contract extends beyond the State's fiscal biennium in which the contract is made, any further disbursements of the Financial Assistance by the Commission to the recipient cannot be guaranteed and will be made only if sufficient funds are appropriated in the new biennium to satisfy the contract.

CSEA – 5.12 Partially funded or delayed projects. If the Commission Financial Assistance is less than the amount requested, the applicant may decline the award or proceed with the project as proposed, notwithstanding the reduced award. Failure of a recipient to proceed

with the project in a timely manner or comply with contract terms or these guidelines entitles the Commission to cancel the Financial Assistance and contract and to receive from the recipient full reimbursement of all funds the Commission disbursed under the contract.

CSEA – 5.13 Contract modifications. If at any time after entering a contract the grantee or borrower desires to change any term of the contract, the grantee or borrower shall make a written request to the Commission. The request must set forth the specific change desired and the reasons why the change is needed. Upon receipt of the request the Commission shall review the request. The Commission shall determine if the requested change is substantive. If the requested change is substantive the Commission may use Technical Reviewers and the Bank of North Dakota to analyze the request. After completion of their review and consideration of any recommendation that may be provided by the Authority, the Commission shall decide whether or not to grant the request.

CSEA – 5.14 Reporting requirements. A grantee or borrower has the following reporting obligations:

- (1) Interim reports. A grantee or borrower shall submit to the Commission reports summarizing the project's accomplishments and expenditures to date. The timing of the reports will be specified in the contract.
- (2) Special reports. If substantial progress on a project occurs earlier than anticipated, the grantee or borrower shall immediately submit to the Commission a report explaining the accomplishment.
- (3) Final report. A comprehensive final report must be submitted to the Commission by all grantees or borrowers within the time specified in the contract. This report must include a single page project summary describing the purpose of the project, the work accomplished, the project's results, and the potential applications of the project. The final report shall include the project's financial impact on the State's revenues and the State's economy. The rest of the report must explain these subjects in detail as well as the total costs of the project, a summary fiscal accounting of the entire project, any plans for developing or putting to commercial use the results of the project, and whether and in what manner the project met or failed to meet the standards referred to in these guidelines.

CSEA – 6 PUBLIC INFORMATION – ACCESS TO RECORDS

CSEA – 6.01 Application Ownership

CSEA – 6.02 Rights to Technical Data

CSEA – 6-03 Invention Rights

CSEA – 6-04 Patent Rights

CSEA – 6-05 Designation of Confidential Material

CSEA – 6.06 Independent Technical Reviewers

CSEA – 6.01 Application ownership. Information contained in unsuccessful applications will remain the property of the applicant, but the Commission will retain file copies of all successful applications, findings, and reports. Except with regard to confidential information, applications are public information and are available to the public upon request and payment of copying charges.

CSEA – 6.02 Rights to technical data. To the extent the Commission determines the materials or data consist of trade secrets or commercial, financial, or proprietary information of individuals or entities applying to or contracting with the Commission or receiving Commission services under this program, materials and data submitted to, made by, or received by the Commission, Bank of North Dakota or Authority, are not public records subject to N.D.C.C. Section 44-04-18 and Section 6 of Article XI of the Constitution of North Dakota, and are subject to N.D.C.C. Section 44-04-18.4.

Rights to technical data shall remain with the grantee or borrower. The grantee or borrower may establish claim to copyright subsisting in such technical data first produced in the performance of a financial assistance contract. The State of North Dakota and its consultants, independent contractors, and suppliers, to the extent such are providing services to the State of North Dakota, shall have a nonexclusive, irrevocable, royalty-free license in such technical data to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly by or on behalf of the State of North Dakota. However, such license does not discharge the State's duty of confidentiality and nondisclosure with regard to the recipient's confidential information.

CSEA - 6.03 Invention Rights. Recipient may retain the principle worldwide rights, whether in patent or otherwise, to any invention made with financial support under this program. The State of North Dakota and its consultants, independent contractors, and suppliers, to the extent such are providing services to the State, shall have a nonexclusive, irrevocable royalty-free right to practice under any patents, patent applications, or other new technology developed under the Program. The intent of this section is to enable state agencies to use new technology products or processes for governmental purposes without having to pay the imputed development costs of the products or processes twice; first in the research and development state under Commission funding and then later in the purchase of the processes or products. The State may not use this provision to enter into the private marketplace through direct manufacture or production of goods and services.

CSEA - 6.04 Patent Rights. Recipient shall utilize commercially reasonable efforts to ensure that North Dakota manufacturers will be offered a nonexclusive, fair market value, royalty-bearing license to use any technology developed with funding from the Clean Sustainable Energy Fund. Unless prohibited by law or conflicting State of North Dakota policy, and as referenced in Sections 5.07 or 5.08, the Commission may include a clause within any Financial Assistance agreement that royalties collected from North Dakota manufacturers would be paid to the Industrial Commission until the entire amount of funding supplied by the Commission was returned in full.

CSEA – 6.05 Designation of Confidential Material. A person or entity may file a request with the Commission to have material designated as confidential. The request for confidentiality should be strictly limited to information that meets the criteria to be identified as trade secrets or commercial, financial, or proprietary information. The Commission shall examine the request and determine whether the information is relevant to the matter at hand and is a trade secret under the definitions in N.D.C.C. Sections 47-25.1-01 or 44-04-18.4. The request is confidential and must contain any information required by the Commission and must include at least the following:

- a. A general description of the nature of the information sought to be protected.
 - b. An explanation of why the information derives independent economic value, actual or potential, from not being generally known to other persons.
 - c. An explanation of why the information is not readily ascertainable by proper means of other persons.
 - d. A general description of any person that may obtain economic value from disclosure or use of the information, and how the person may obtain this value.
- e. A description of the efforts used to maintain the secrecy of the information.

If the Commission determines the information is either not relevant or not a trade secret, the Commission shall notify the requester and the requester may ask for the return of the information and the request within ten days of the notice. If no return is sought, the information and request are public record. Until such time as the Commission meets and reviews the request for confidentiality, the portions of the application for which confidentiality is being requested shall be held, on a provisional basis, as confidential.

CSEA - 6.06 Independent Technical Reviewers. The names or identities of Technical Reviewers on a project or program are confidential, may not be disclosed by the Commission, and are not public records subject to N.D.C.C. Section 44-04-18 or Section 6 of Article XI of the Constitution of North Dakota.

Approval dates:

Clean Sustainable Energy Authority: September 17, 2021, Revised August 4, 2025

North Dakota Industrial Commission: September 27, 2021, Revised October 19, 2021, Revised August 21, 2025