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Everybody into the \$1B biotech pool: Bay Area companies compete for tax credits, grants

Silicon Valley / San Jose Business Journal - by [Mary Duan](#)

Bay Area biotech companies will soon battle for a share of \$1 billion in tax credits and grants that are expected to start flowing across the country in the next two months.

“It’s going to be hypercompetitive,” said Jeremy Leffler, chief operating officer for the life sciences trade organization [BayBio](#). “But there are a number of initiatives taking place to try to apportion the dollars so each company will have a fair chance at them.”

The recently passed health care reform bill established a new investment tax credit for certain expenditures made in 2009 and 2010 related to so-called “Qualifying Therapeutic Discovery Projects.” Companies that don’t need or currently can’t use the tax credits can apply for cash grants in the same amount. There is no prohibition on public companies applying, but nonprofits do not qualify.

Hoon Lee, the western regional leader at accounting firm [BDO Seidman LLP](#), said nearly all of the 50 companies he’s spoken to about the program plan to seek money via a grant rather than a tax credit. Most say they plan to seek between \$5 million and \$15 million, but at least one company plans on seeking \$42 million.

“The way I look at it, for those companies not flush with cash, they will be able to not worry about funding for up to a year, depending on how much they’re burning through a month,” Lee said. “In terms of actual decisions these companies are making, they can have funding in the door with potentially no strings attached.”

Companies with fewer than 250 employees working on projects to treat unmet medical needs and chronic diseases, reduce long-term health care costs or advance the goal of curing cancer by 2040 can apply for the funds. Companies expected to create long-term jobs in the U.S. as a result of their projects have a greater shot at success as well.

Publicly traded biopharmaceutical company [Pharmacyclics](#) develops small-molecule drugs for cancer treatment and has five drugs in various stages of clinical trials. CEO Robert Duggan said the Sunnyvale company will “file timely and present our case,” and will be going after a grant of between \$5 million and \$10 million rather than a tax credit.

The 60-employee company has spent \$350 million developing its molecules, and it has added \$47 million in investments since Duggan became CEO in 2008.

“We’re in good shape relative to our burn rate, but the government contribution would be meaningful to us,” Duggan said. “Our potential employment levels could rise to 500 people in just a few years with the commercial success of any one of our four molecules in the clinic.”

Experts say the government program could mean the difference between making it and going bust for some companies, as it could give them enough cash to get through the final stages of product approval and getting to market.

Guidelines for the application process for the funds, allocated under a provision of the Patient Protection and Affordable Care Act signed into law March 23, are expected to be published on May 21.

[The Internal Revenue Service](#) and the [U.S. Department of Health and Human Services](#) will review the applications; if a company is successful, it will receive the funds within 30 days of final approval.

Given that the rules haven’t been released, Lee at BDO Seidman said it’s hard to know what companies have to do to get ready to apply, and there’s little sense of which companies will be successful.

“Word on the street is that companies will have a limited window to make their points, and make them well. We’re recommending that clients choose the projects they will apply for carefully. Our typical client base will be applying for more than one project,” Lee said. “We know the main points are the unmet needs, the potential for high value and high-paying jobs, and so companies are getting all of their application stuff pulled together. It’s the No. 1 conversation right now at any biotech gathering.”

At [StemCells Inc.](#), the company is gathering information about the program and the criteria for participating. The company uses adult neural stem cells to treat and potentially cure diseases currently considered incurable, Palo Alto-based StemCells has completed the initial phase of a study on Batten disease, a genetic disorder that affects the nervous system starting in childhood, and also is currently in safety trials for children with Pelizaeus-Merzbacher disease, a rare

genetic disorder that affects the central nervous system. Both diseases lack effective treatment and are always fatal.

“We have one clinical trial under way today, and we have just submitted a protocol to the [FDA](#) to initiate another trial. And we have several active preclinical programs that have shown significant promise,” said Megan Meloni, StemCells’ director of investor relations and communications. “Based on the information available today, it appears we would be eligible and plan to pursue the opportunity to submit an application.”

What it is:

As part of the Patient Protection and Affordable Care Act, Internal Revenue Code Section 48D was created. The act establishes a new investment tax credit for certain expenditures related to “Qualifying Therapeutic Discovery Projects” made in 2009 and 2010. It provides a tax credit equal to 50 percent of the “qualified investment” of an “eligible taxpayer.”

Who qualifies:

Eligible companies are those that employ 250 employees or less — in all their related businesses — at the time they submit an application. But complex rules determine related businesses.

Eligible taxpayers include C corporations as well as pass-through entities such as S corporations, LLCs and partnerships. Most nonprofit entities are not eligible for grants.

What it takes:

The amount of the credit depends on a company’s investment in a Qualifying Therapeutic Discovery Project. The government-defined objectives for those projects are:What it takes:
The amount of the credit depends on a company’s investment in a Qualifying Therapeutic Discovery Project. The government-defined objectives for those projects are:

- The development of a product, process or technology to further the delivery or administration of therapeutics
- The diagnosis of diseases or conditions, or determination of molecular factors related to diseases or conditions, by developing molecular diagnostics to guide therapeutic decisions
- The treatment or prevention of diseases or conditions by:
 - Conducting pre-clinical activities, clinical trials, and clinical studies
 - Carrying out research protocols, for the purpose of securing approval of a product

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