

DEPARTMENT OF ENERGY

CFDA 81.041 STATE ENERGY PROGRAM

I. PROGRAM OBJECTIVES

The objective of the State Energy Program (SEP) is to work with the States, Territories, and the District of Columbia (hereinafter “States”) to increase the use of energy efficiency and renewable energy across all sectors of the economy nationwide. States use SEP funds to design and implement State-wide energy plans and programs that best meet their individual energy needs. SEP also provides a wide range of technical assistance and support to the States to increase key skills and enhance their ability to design and carry out effective programs.

II. PROGRAM PROCEDURES

Program Administration

To be eligible for a SEP award, a State must submit a SEP State Plan to the Department of Energy (DOE). The State Plan comprises three elements:

- A Master File, which includes information on the State’s overall strategic energy plan, the key elements, goals, and objectives of that plan, and how specific SEP activities fit into that overall plan. It must also include a plan for State subrecipient monitoring.
- An Annual File, or application, which includes a description of the energy efficiency and renewable energy programs and activities that the State intends to carry out during the year, with budget information and milestones for each project/activity, and an overall budget broken out by object class.
- A State-wide Energy Emergency Plan, detailing implementation strategies for dealing with energy emergencies.

Upon approval of the annual application, States receive funds from DOE and proceed to implement the programs therein. If States indicate in their annual application the intent to pass-through SEP funds, they are authorized to pass through those funds to a variety of subrecipients including, but not limited to, homeowners, businesses, local governments, institutions, and other State agencies.

In addition to Federal appropriated funds, other sources of funding under this program may include oil overcharge funds, also known as petroleum violation escrow (PVE) funds. If PVE funds are allocated to a State SEP Program, the State is required to follow all program requirements as if those were SEP funds.

Source of Governing Requirements

SEP is authorized under the Energy Policy and Conservation Act, as amended (42 USC 6321 *et seq.*).

Pub. L. No. 111-5, the American Recovery and Reinvestment Act of 2009 (ARRA), provided additional funds for SEP, which were made available to States in grant agreements separate from their regular grant allocations. SEP awards funded by ARRA are authorized under the Energy Policy and Conservation Act, as amended (42 USC 6321 *et seq.*).

SEP's implementing program regulations are found at 10 CFR part 420.

Availability of Other Program Information

Additional details on SEP requirements (ARRA and non-ARRA) can be found in the following State Energy Program Funding Opportunity Announcements:

1. DE-FOA-0000052 (ARRA)
http://www1.eere.energy.gov/wip/pdfs/sep_arra_foa.pdf
2. DE-FOA-0000308 (non-ARRA) FY 2010
https://www.fedconnect.net/FedConnect/PublicPages/PublicSearch/Public_Opportunities.aspx
3. DE-FOA-0000507 FY 2011
https://www.fedconnect.net/FedConnect/PublicPages/PublicSearch/Public_Opportunities.aspx
4. DE-FOA-0000643 FY 2012
https://www.fedconnect.net/FedConnect/PublicPages/PublicSearch/Public_Opportunities.aspx

SEP also issues periodic Program Notices which outline new policies and requirements. Program Notices are available at <http://www1.eere.energy.gov/wip/guidance.html>.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. *Activities Allowed* (for all SEP funds, both ARRA and regular appropriations)
 - a. A broad range of energy efficiency and renewable energy activities are eligible for funding under SEP. The following types of activities are allowable:
 - (1) mandatory lighting efficiency standards for public buildings;

- (2) carpool, vanpool, and public transportation initiatives;
- (3) energy efficient procurement procedures;
- (4) mandatory thermal efficiency standards for new and renovated buildings;
- (5) right turn on red, and left turn from one-way streets onto one-way streets;
- (6) coordination among local, state and federal energy efficiency, renewable energy and public transportation programs;
- (7) public education to promote energy conservation;
- (8) transportation efficiency, such as accelerating use of alternative transportation fuels and hybrid vehicles;
- (9) encouraging use of energy efficiency technologies in industry, buildings, transportation and utilities;
- (10) financing for energy efficiency and renewable energy capital investments and programs, including loans, performance contracting, rebates and grants, which includes establishment of revolving loan funds (RLF) and loan loss reserves (LLR) to the extent that the activities supported by the loans are eligible activities under the program (see III.A.1.b below) (10 CFR 420.18(d)).
- (11) energy audits for buildings and industrial facilities (including industrial processes) within the state;
- (12) adoption of integrated energy plans which provide for periodic evaluation of a state's energy needs, available energy resources and energy costs;
- (13) promoting the use of adequate and reliable energy supplies, including greater energy efficiency, that meet applicable safety, environmental, and policy requirements at the lowest cost;
- (14) energy efficiency in residential housing;
- (15) identifying and educating consumers about deceptive practices related to implementation of energy efficient and renewable resource energy measures;
- (16) reducing utility companies' peak demand;

- (17) promoting energy efficiency as an integral part of economic development and environmental planning conducted by state and local governments or utilities;
 - (18) training and education for building designers and contractors to promote buildings that are energy efficient;
 - (19) building retrofit standards and regulations;
 - (20) feasibility studies of renewable energy and energy efficiency technologies;
 - (21) partnerships with other state agencies to leverage additional funds, such as public benefit funds and state and local investments in Clean Air Act compliance; and
 - (22) collaborative programs for energy efficiency and renewable energy technologies that link a state's energy and environmental objectives (10 CFR sections 420.15 and 420.17).
- b. Loan repayments and interest earned on loans can be used **only** on activities that are included in the state's annual application (10 CFR section 420.18(d)).
 - c. SEP funds may be used for administrative costs associated with the continued operation of an ARRA-funded RLF or LLR.

2. *Activities Unallowed*

Neither **ARRA** nor non-ARRA SEP funds may be used for the following:

- a. Construction, such as construction of mass transit systems and exclusive bus lanes, or for construction or repair of buildings or structures;
- b. Purchase of land, a building or structure or any interest therein;;
- c. Subsidizing fares for public transportation;
- d. Subsidizing utility rate demonstrations or State tax credits for energy conservation measures or renewable energy measures;
- e. The conduct of, or purchase equipment to conduct, research, development or demonstration of energy efficiency or renewable energy techniques and technologies not commercially available;
- f. Rebates in excess of 50 percent of the total cost of purchasing and installing materials and equipment; or
- g. Loan guarantees or loan forgiveness (10 CFR section 420.18).

D. Davis-Bacon Act

The SEP authorizing statute contains no Davis-Bacon Act requirements; therefore, SEP awards funded from annual appropriations are exempt from the requirements of the Davis-Bacon Act. **However, ARRA-funded SEP building retrofit activities are subject to Davis-Bacon Act requirements.**

G. Matching, Level of Effort, Earmarking

1. Matching

States must provide a 20 percent match of the federal funds provided each program year for their SEP grants, either in cash or in-kind (10 CFR section 420.12). **Pursuant to ARRA Title IV, Section 410 (b), the matching requirement is waived for ARRA funds.**

2. Level of Effort – Not Applicable

3. Earmarking

- a. Not more than 50 percent of Federal SEP funds in a State's SEP grant may be used for the purchase and installation of equipment and materials for energy efficiency and renewable energy. (This provision does not apply to PVE funds **or ARRA funds.**) (10 CFR section 420.18(e); DE-FOA-0000052)
- b. Not more than 20 percent of Federal SEP funds in a State's SEP grant may be used to purchase office supplies, library materials, or otherwise allowable types of equipment (10 CFR section 420.18(b)). (This provision does not apply to PVE funds).

H. Period of Availability of Federal Funds

1. SEP grants typically are awarded for a 5-year period and are amended each year. States are permitted to carry forward unobligated funds from one year to the next within the 5-year grant period, provided the subsequent annual application includes activities to be funded with those unobligated funds.
2. **ARRA SEP funds must be expended in accordance with the project period end dated listed in the award document.**

L. Reporting

1. Financial Reporting

- a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

- b. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
 - c. SF-425, *Federal Financial Report* – Applicable
2. **Performance Reporting** – Not Applicable
 3. **Special Reporting** – Not Applicable
 4. **Section 1512 ARRA Reporting** – Applicable for ARRA SEP funds
 5. **Subaward Reporting under the Transparency Act** – Applicable for non-ARRA SEP funds

IV. OTHER INFORMATION

Federal funds used to capitalize a RLF or fund an LLR are not subject to the limitation on the period of availability of Federal funds for the ARRA award, but continue to retain their Federal character for the entire period of time that the funds are used for such purpose (i.e., at each revolution of funds). To ensure continuation of required reporting and DOE oversight of the Federal requirements that apply to the RLF or LLR activity in perpetuity or as long as the grantee continues the activity, the responsibility for the RLF or LLR activities attributable to ARRA funds will fall under the annual SEP formula award. Grantees are required to amend their Annual State Energy Plans to include the market title for continued operation of financing mechanisms prior to the expiration of the ARRA award. Additionally, grantees are required to continue to use the funds in accordance with the applicable Federal requirements of the ARRA award. Therefore, if a grantee has established a RLF or LLR, auditors are encouraged to include in their samples loans made from the fund during the audit period. Such transactions should be reviewed in the same manner as any other expenditure under the program.

If the grantee elects to end a RLF or LLR, the grantee must move the funds out of the RLF or LLR and the funds must be used for an eligible activity under the annual award or be returned to the Federal Government.

Applicable guidance is available at

http://www1.eere.energy.gov/wip/pdfs/sep_financing_guidance_2011-03-15.pdf and
http://www1.eere.energy.gov/wip/pdfs/sep_rlf.pdf.

DEPARTMENT OF ENERGY

CFDA 81.042 WEATHERIZATION ASSISTANCE FOR LOW-INCOME PERSONS

I. PROGRAM OBJECTIVES

The objective of the Weatherization Assistance for Low-Income Persons (WAP) program is to increase the energy efficiency of dwellings owned or occupied by low-income persons, reduce their total expenditures on energy, and improve their health and safety. WAP has a special interest in addressing these needs for low-income persons who are particularly vulnerable, such as the elderly, disabled persons, and families with children, as well as those with high energy usage and high energy burdens.

II. PROGRAM PROCEDURES

Program Administration

States may submit an application and plan to the Department of Energy (DOE). The submission describes the proposed weatherization projects and contains a budget, a production schedule of dwelling units to be weatherized with grant funds, a monitoring plan, a training and technical assistance plan, and rental procedures. Upon approval, States receive funds from DOE and may enter into sub-agreements with local administering agencies having approved plans. If a State does not submit an application or if the State plan is rejected, a local applicant may submit a plan to carry out weatherization projects. Section 411(c) of the Energy Independence and Security Act of 2007 added Puerto Rico and the U.S. Territories to the definition of "State." As a result, beginning in Fiscal Year 2009, DOE will make WAP awards to American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands. References to "State" in this program supplement include these entities. DOE also provides direct grants to select Native American Tribes each year.

In addition to Federal appropriated funds, other sources of funding under this program may include oil overcharge funds, also known as petroleum violation escrow (PVE) funds. If PVE funds are allocated to a WAP recipient, the recipient is required to follow all program requirements as if those were WAP funds.

Source of Governing Requirements

WAP is authorized under Title IV, Part A, of the Energy Conservation and Production Act (Act), as amended (42 USC 6861 through 6872), **including amendments made by the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5). ARRA also provided additional funding for WAP, which was made available to recipients in grant agreements separate from their regular annual allocations.** Implementing regulations are published at 10 CFR part 440.

Availability of Other Program Information

Program notices are available at <http://www.waptac.org>.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. *Allowable activities include only:*
 - a. The cost of purchase and delivery of weatherization materials (10 CFR section 440.18(d)(1)). Funds may only be expended on weatherization materials listed in Appendix A of 10 CFR part 440 or as approved by DOE.
 - b. Labor costs in accordance with 10 CFR section 440.19.
 - c. Transportation of weatherization materials, tools, and equipment, and work crews to a storage site and/or to the site of weatherization work (10 CFR section 440.18(d)(3)).
 - d. Maintenance, operation, and insurance of vehicles used to transport weatherization materials (10 CFR section 440.18(d)(4)).
 - e. Maintenance of tools and equipment (10 CFR section 440.18(d)(5)).
 - f. Purchase or annual lease of tools, equipment and/or vehicles, except that any purchase of vehicles shall be referred to DOE in every instance (10 CFR section 440.18(d)(6)).
 - g. Employment of on-site supervisory personnel (10 CFR section 440.18(d)(7)).
 - h. Storage of weatherization materials, tools, and equipment (10 CFR section 440.18(d)(8)).
 - i. The costs of incidental repairs to make the installation of weatherization materials effective (10 CFR section 440.18(d)(9)).
 - j. The cost of liability insurance for weatherization projects for personal injury and property damage (10 CFR section 440.18(d)(10)).
 - k. The cost of carrying out low cost/no cost weatherization assistance (10 CFR section 440.20).
 - l. The cost of WAP financial audits in accordance with 10 CFR section 440.23.

- m. Administrative costs (10 CFR section 440.18(d)(13)).
- n. The costs of eliminating health hazards, necessary to ensure the safe installation of weatherization materials (10 CFR section 440.18(d)(15)).
- o. Leveraging activities, as specified in leveraging section of the State Plan and grant agreement (10 CFR section 440.18(d)(14)). Leveraging entails a State obtaining additional program-targeted non-Federal or in-kind contributions as a result of WAP-funded activities. Leveraging should be limited to contributions that can be clearly attributed to a State's weatherization activities, and that are used to augment those activities. As of Program Year (PY) 2007, the maximum percentage of Weatherization funds that can be diverted for leveraging activities is 15 percent of the grantee's total allocation.
- p. Expenditures for labor, weatherization materials, and related matters for a renewable energy system, as defined in 10 CFR section 440.3, shall not exceed an average of \$3,000 per dwelling unit or adjusted amount as published in WAP program notices (42 USC 6865(c)(4); 10 CFR section 440.18(b)).

2. *Unallowable activities*

- a. Funds shall not be used to weatherize a dwelling unit which is designated for acquisition or clearance by a Federal, State or local program within 12 months from the date of the weatherization (10 CFR section 440.18(f)(1)).
- b. Funds may not be used to install or otherwise provide weatherization materials for a dwelling unit weatherized previously with grant funds, unless:
 - (1) The weatherization activities may be considered "low cost/no cost" as described in 10 CFR section 440.20: inexpensive weatherization materials are used; no labor paid with funds provided is used to install weatherization materials referred to here; and a maximum of 10 percent of the amount allocated to a subgrantee, not to exceed \$50 in materials costs per dwelling unit, is expended (10 CFR section 440.18(f)(2)(i));
 - (2) Such a dwelling has been damaged by fire, flood or other act of God and the repair of the damage is not paid for by insurance (10 CFR section 440.18(f)(2)(ii)); or
 - (3) The dwelling unit was weatherized under the Act or other Federal program during the period September 30, 1975 through September 30, 1985 (10 CFR section 440.18(f)(2)(iii)).

D. Davis-Bacon Act

The WAP statute contains no Davis-Bacon Act requirements; therefore, WAP awards funded from annual appropriations are exempt from the requirements of the Davis-Bacon Act; **however, ARRA-funded WAP construction activities are subject to Davis-Bacon Act requirements.**

E. Eligibility

1. Eligibility for Individuals

- a. A dwelling unit is eligible for weatherization assistance if it is occupied by a family unit:
 - (1) Whose income is at or below 200 percent of the poverty level determined in accordance with the criteria established by the Director of the Office of Management and Budget;
 - (2) That contains a member who has received cash assistance payments under Title IV or XVI of the Social Security Act or applicable State or local law at any time during the 12-month period preceding the determination of eligibility for weatherization assistance; or
 - (3) If the State elects, is eligible for assistance under the Low-Income Home Energy Assistance Act of 1981, provided that such basis is at least 200 percent of the poverty level (42 USC 6862(7), **as amended by Section 407(a), ARRA, 123 State 146**).

The poverty guidelines are issued each year in the *Federal Register* and HHS maintains a web page that provides the poverty guidelines (<http://aspe.hhs.gov/poverty/index.shtml>).

- b. In addition, the following requirements apply:
 - (1) Written permission has been obtained from the owner of the dwelling or his/her agent (10 CFR section 440.22(b)(1)).
 - (2) Not less than 66 percent (50 percent for duplexes and four-unit buildings and certain types of eligible large multifamily buildings) of the dwelling units in the building:
 - (a) Are eligible dwelling units in the manner defined in III.E.1.a, Eligibility for Individuals, above (10 CFR section 440.22(b)(2)(i)); or

- (b) Will become eligible within 180 days under a Federal, State, or local program for rehabilitating the building or making similar improvements to the building (10 CFR section 440.22(b)(2)(ii)).
 - (3) If the dwelling to be weatherized is rented, a formal agreement between landlord and tenant has been reached addressing issues of eviction from and sale of property receiving weatherization materials (10 CFR section 440.22(c)).

2. Eligibility for Group of Individuals or Area of Service Delivery – Not Applicable

3. Eligibility for Subrecipients

A subrecipient is eligible to provide weatherization services under WAP provided that:

- a. It is a public or non-profit entity, or a Community Action Agency (CAA) (i.e., a private corporation or public agency established under the Economic Opportunity Act of 1964, which is authorized to administer funds received from Federal, State, or local entities to assess, design, operate, finance, and oversee antipoverty programs) (10 CFR section 440.15(a)(1)); and
- b. It has been selected as a participant in the weatherization program on the basis of public comment received during a public hearing (10 CFR section 440.15(a)(2)).

G. Matching, Level of Effort, Earmarking

1. Matching – Not Applicable

2. Level of Effort – Not Applicable

3. Earmarking

- a. Not more than 10 percent of funds may be used in total or in part for administrative costs. A State shall not expend more than 5 percent for such administrative costs, with at least 5 percent going to subrecipients for administration. Subrecipients may spend no more than 10 percent of the grant for administration; however, for subrecipients receiving grants of less than \$350,000, a State may permit that entity to expend up to an additional 5 percent of its subgrant for administrative purposes (10 CFR section 440.18(e)).

- b. Not more than 20 percent of the funds may be used to provide, directly or indirectly, training and/or technical assistance to any grantee or subgrantee (42 USC 6866, **as amended by Section 407(d), ARRA, 123 Stat 146**; 10 CFR section 440.23(e)).

L. Reporting

1. Financial Reporting

- a. SF-270, *Request for Advance or Reimbursement* – Not Applicable
- b. SF-271, *Outlay Report and Request for Reimbursement and Construction Programs* – Not Applicable
- c. SF-425, *Federal Financial Report* – Applicable

2. Performance Reporting – Not Applicable

3. Special Reporting – Not Applicable

4. Section 1512 ARRA Reporting – Applicable

5. Subaward Reporting under the Transparency Act – Applicable to non-ARRA funds

DEPARTMENT OF ENERGY

CFDA 81.128 ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT PROGRAM

I. PROGRAM OBJECTIVES

The Energy Efficiency and Conservation Block Grant (EECBG) Program, funded for the first time by the American Recovery and Reinvestment Act of 2009 (ARRA) (Pub. L. No. 111-5) directs the Department of Energy (DOE) to assist State, local, and tribal governments in implementing strategies to (1) reduce fossil fuel emissions created as a result of activities within the jurisdiction of eligible entities in a manner that is environmentally sustainable and, to maximum extent practicable, maximize benefits for local and regional communities; (2) reduce total energy use of the eligible entities; and (3) improve energy efficiency in the transportation, building, and other appropriate sectors.

II. PROGRAM PROCEDURES

Program Administration

The EECBG program is structured similarly to the Community Development Block Grant program, which is administered by the Department of Housing and Urban Development (HUD). Over 2,300 State, local, and tribal governments are eligible for direct formula grants from DOE. Competitive grants are also available under the program.

Funding for the EECBG program under ARRA totals approximately \$3.2 billion. Of this amount, approximately \$2.7 billion have been awarded through formula grants. In addition, approximately \$454 million have been allocated through competitive grants. Cities, counties, and tribes that are ineligible for direct formula grants may be able to receive funds from their respective State Energy Offices through subawards.

The competitive grants under the EECBG program are awarded in two topic areas. **Topic 1, the Retrofit Ramp-up program applies to programs of \$5 to \$75 million. DOE is specifically targeting these funds for high-impact awards that will enable large scale programs of ongoing energy efficiency retrofits on residential, commercial, industrial, and public buildings in geographically focused areas.** Topic 2, the General Innovation Fund, is based on the EECBG statute, which provides that cities, counties, and tribes that are ineligible for direct formula grants may apply for competitive funds. Topic 2 awards generally are for projects of \$1 to \$5 million.

Source of Governing Requirements

DOE's authorization for this program is set forth in Title V, Subtitle E of the Energy Independence and Security Act (EISA) (Pub. L. No.110-140), 42 USC 17152 through 17158. **ARRA provided funding for the program.**

Availability of Other Program Information

For the formula grants funded under the Recovery Act, the Funding Opportunity Announcement (FOA) (Number DE-FOA-0000013) for the EECBG Program is available at http://www1.eere.energy.gov/wip/pdfs/eecbg_foa.pdf.

The FOA for the competitive grants funded under the Recovery Act (Number DE-FOA-0000148) can be found at http://www1.eere.energy.gov/wip/pdfs/eecbg_competitive_foa148_amendment3.pdf.

In addition to the two FOAs referenced above, EECBG Program Notice 10-011, dated April 21, 2010, http://www1.eere.energy.gov/wip/pdfs/eecbg_recovery_act_program_guidance_10-011.pdf, provides additional details on ARRA funding under this program.

Additional information concerning the EECBG program is available at <http://www1.eere.energy.gov/wip/eecbg.html>.

Additional EECBG Program information is available at <http://www1.eere.energy.gov/wip/guidance.html>.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

Activities allowed for both the formula and competitive grants include the following:

1. Developing/implementing an energy efficiency and conservation strategy;
2. Retaining technical consultant services to assist in the development of such a strategy;
3. Conducting residential and commercial building energy audits;
4. Establishing financial incentive programs for energy efficiency improvements, including revolving loan funds (RLF) and loan loss reserves (LLR) (Section 544 of the Energy Independence and Security Act of 2007) to the extent that the activities supported by the loans are eligible activities under the program.
5. Providing subgrants to nonprofit organizations and governmental agencies to perform energy efficiency retrofits (see III.E.3, "Eligibility for Subrecipients," and III.G.3.a, "Earmarking");

6. Developing/implementing energy efficiency and conservation programs for buildings and facilities within the jurisdiction of the eligible entity;
7. Developing/implementing programs to conserve energy used in transportation;
8. Developing/implementing building codes and inspection services to promote building energy efficiency;
9. Applying/implementing energy distribution technologies that significantly increase energy efficiency;
10. Increasing participation and efficiency rates for material conservation programs, including source reduction, recycling, and recycled content procurement programs that lead to increases in energy efficiency;
11. Purchasing/implementing technologies to reduce, capture, and use methane and other greenhouse gases generated by landfills or similar sources;
12. Replacing traffic signals and street lighting with energy efficient technologies;
13. Developing, implementing, and installing on or in any government building of the eligible entity of onsite renewable technology that generates electricity from renewable resources; and
14. Any other activity as determined by the Secretary of Energy in consultation with the Secretaries of Transportation and Housing and Urban Development and the Administrator of the Environmental Protection Agency (Note that the authority under this category has been used only to determine as eligible the use of funds to leverage public and private sector funds in support of activities identified as eligible uses under the EECBG authority.) (42 USC 17154).

D. Davis-Bacon Act

All laborers and mechanics employed by any contractor or subcontractor of the grantee during any construction, alteration, or repair activity funded, in whole or in part, by the grant shall be paid wages at rates not less than the prevailing wages for similar construction activities in the locality, as determined by the Secretary of Labor, in accordance with sections 3141 through 3144, 3146, and 3147 of Title 40, United States Code (42 USC 17155 and ARRA, Section 1606).

E. Eligibility

1. **Eligibility for Recipients** – Not Applicable
2. **Eligibility of Group of Individuals or Area of Service Delivery** – Not Applicable

3. Eligibility for Subrecipients

a. *Cities*

For the purposes of the EECBG Program, “city” includes a city-equivalent unit of local government as defined by the U.S. Census of Governments. For example, a city-equivalent unit of local government such as town, village, or other municipality shall be considered eligible if it meets the required population thresholds. Consolidated city-county governments will be considered as cities.

Cities that are eligible for direct formula grants from the DOE are those that have a population of at least 35,000, or that are one of the 10 highest populated cities of the state in which the city is located. In states that have incorporated eligible municipalities (villages) within the boundaries of other incorporated eligible municipalities (towns), the village population will be subtracted from the town’s population.

Cities that do not meet the eligibility requirements for direct formula grants from DOE may be eligible for formula program funds through subgrants (42 USC 17154(a)(5)).

b. *Counties*

For the purposes of the EECBG Program, “county” includes county-equivalent units of local government as defined by the U.S. Census of Governments. Counties are eligible for direct formula grants from the DOE if the county population is at least 200,000 or if the county is one of the 10 highest populated counties of the state in which it is located. County populations calculated for eligibility for direct formula grants from the DOE do not include the populations of any and all cities within them that are eligible for direct formula grants from the DOE. Counties that do not meet the eligibility requirements for direct formula grants from DOE may be eligible for formula program funds through subgrants (42 USC 17154(a)(5)).

c. *Non-governmental entities*

Nongovernmental organizations are eligible to receive subgrants for the purpose of assisting in the implementation of the energy efficiency and conservation strategy of the eligible unit of local government or Indian tribe (42 USC 17154(a)(5)).

G. Matching, Level of Effort, Earmarking

1. **Matching** – Not Applicable

2. **Level of Effort** – Not Applicable

3. Earmarking

- a. A State shall use not less than 60 percent of the amount received to provide subgrants to units of local government in the State that are not eligible units of local government for direct DOE funding (42 USC 17155(c)(1)(A)).
- b. A grantee may use not more than 10 percent of amounts provided under the program for administrative expenses (42 USC 17155(c)(4)).
- c. Of amounts provided by DOE directly to an eligible unit of local government or Indian tribe under the EECBG formula program, the recipient may use—
 - (1) for administrative expenses, excluding the cost of meeting the program's reporting requirements, not more than the greater of 10 percent of the value of the award or \$75,000;
 - (2) for the establishment of revolving loan funds, an amount equal to the greater of 20 percent of the value of the award or \$250,000; and
 - (3) for subgrants to non-governmental organizations, the greater of 20 percent of the amount of the award or \$250,000 (42 USC 17155(b)(2)).

L. Reporting

1. Financial Reporting

- a. SF-270, *Request for Advance or Reimbursement* – Not Applicable
- b. SF-271, *Outlay Report and Request for Reimbursement and Construction Programs* – Not Applicable
- c. SF-425, *Federal Financial Report* – Applicable

2. Performance Reporting – Not Applicable

3. Special Reporting – Not Applicable

4. Section 1512 ARRA Reporting – Applicable

5. Subaward Reporting under the Transparency Act – Not Applicable

IV. OTHER INFORMATION

Federal funds used to capitalize RLFs or fund LLRs under an EECBG award retain their Federal character for the entire period of time that the funds are used for such purpose (i.e., at each revolution of funds) and are subject to the compliance requirements that apply to the expenditure of program funds even after the period of performance of the award. If the grantee elects to end a RLF or LLR, the grantee must move the funds out of the RLF or LLR as funds are returned to the grantee (e.g., as loan payments are made) and the funds must be used for an eligible activity under the annual award or be returned to the Federal Government.

If a grantee has established a RLF, auditors are encouraged to include in their samples loans made from the fund during the audit period. Such transactions should be reviewed in the same manner as any other expenditure under the program.

Information concerning use of financing programs, including RLFs, under the EECBG program is available in EECBG Program Notice 09-002D, revised October 17, 2012, which can be found at <http://www1.eere.energy.gov/wip/guidance.html#eecbg> and http://www1.eere.energy.gov/wip/pdfs/eecbg_financing_guidance_09-002D_signed.pdf.