

STATE ENERGY PROGRAM FORMULA GRANT GUIDANCE PROGRAM YEAR 2007

STATE ENERGY PROGRAM NOTICE 07-01
EFFECTIVE DATE: April 3, 2007

PURPOSE

To establish grant guidance and management information for the State Energy Program formula grants for program year (PY) 2007.

SCOPE

The provisions of this guidance apply to States, Territories and the District of Columbia (hereinafter “States”) applying for formula grant financial assistance under the Department of Energy’s (DOE’s) State Energy Program (SEP). Much of the information in this guidance is summarized from the volumes of the Code of Federal Regulations (CFR) applicable to SEP, namely 10 CFR part 420 (covering the State Energy Program) and 10 CFR part 600 (the DOE Financial Assistance Rules). The CFR can be accessed at:

<http://www.gpoaccess.gov/cfr/index.html>

These regulations are the official sources for program requirements.

PROGRAM PRIORITIES IN PY 2007

The Department of Energy is encouraging States to develop strategies that align their goals and objectives to the State Energy Program Strategic Plan; the EPAct goal of increasing energy efficiency by 25% by 2012; the Advanced Energy Initiative (AEI) and the “20-in-10” initiative. Additional information on AEI and “20-in-10” is available at:

<http://www.whitehouse.gov/news/releases/2007/03/20070320-2.html>, and

<http://www.whitehouse.gov/news/releases/2006/05/20060524-4.html>.

Aligning with these national goals — reduction of US oil dependency, enhanced resiliency of our energy system and the promotion of economic vitality — will help to establish SEP as a program that will be addressing national needs at the State and local level.

We request that States begin directing their PY07 planning efforts towards market transformation efforts and actions that align with national goals. Market transformation is defined as:

“Strategic interventions that cause lasting changes in the structure or function of a market or the behavior of market participants, resulting in an increase in adoption of energy efficiency and renewable energy products, services, and practices.”

DOE has established the following objectives that complement program goals articulated in the 2006 State Energy Program Strategic Plan:

- Transform energy markets in partnership with States to accelerate near-term deployment of energy efficiency and renewable technologies.
- Promote an integrated portfolio of energy efficiency and renewable energy solutions to meet U.S. energy security, economic vitality, and environmental quality objectives.
- Strengthen core State energy programs to develop and adopt leading market transformation initiatives.

This strategic direction will build on SEP successes and promote a stronger SEP national effort. DOE will enhance the effectiveness of State programs to promote and support market transformation, while maintaining support for formula grants. The restructuring will be guided by the following principles:

- Target strategic market intervention that can cause permanent structural change.
- Identify opportunities for better integration of SEP and State energy initiatives to other EERE technology deployment and market transformation activities.
- Replicate State innovation and best practices.
- Promote collaboration across public and private agencies.
- Foster regional cooperation among State and Federal agencies.
- Improve the way we measure program performance and communicate success.

Carryover Funds

Budgetary accountability will continue to be a program emphasis, with particular attention on reducing large amounts of carryover.

States carrying forward 25 percent or more of the prior year’s Federal formula allocation carryover funds will need to include within their PY 2007 State Plan, an estimate of carryover,

an explanation for the carryover and what measures will be taken to significantly decrease or to eliminate large unexpended balances. The EERE Project Management Center (PMC) will continue to monitor compliance with those carryover plans. DOE Headquarters (HQ) will work with the PMC to help ensure that those balances are reduced in a timely manner.

SEP Strategic Plan

The Strategic Plan for SEP was published in February 2007. The Plan which was developed in collaboration with States includes goals and recommendations that States should consider in developing their individual State plans. The plan is available at:
https://www.eere-pmc.energy.gov/PMC_Partners.aspx#partnernews

SEP Evaluation

SEP evaluation activities will move into a new phase in FY 2007. Over the next few months a group of nationally regarded energy program evaluators, state participants, and DOE will develop a comprehensive design for a multi-year evaluation of the program. This effort builds on and incorporates the SEP metrics methodology developed by Oak Ridge National Laboratory and reflected in their June 2005 report.

The new evaluation approach will be based on gathering direct information on a sampling of SEP program categories to analyze energy savings and other benefits, and measuring the net benefits from SEP activities over their useful life as compared to net costs. The current schedule calls for the new SEP evaluation plan to be completed in June 2007. DOE plans to begin implementation of the plan during FY 2007.

LEGISLATION

SEP is authorized under PL 94-385, PL 94-163, PL 95-619, PL 94-580, PL 101-440, PL 102-486, and PL 109-58. All grant awards made under this program must comply with applicable legislation.

The Energy Policy Act of 2005, PL 109-58, Title I, Subtitle B, Section 123, makes two revisions to the legislation governing SEP. The first amends the provisions regarding State Plans by adding a new subsection, as follows:

“(g) The Secretary shall, at least once every 3 years, invite the Governor of each State to review and, if necessary, revise the energy conservation plan of such State submitted under subsection (b) or (e) [*the annual State Plan*]. Such reviews should consider the energy conservation plans of other States within the region, and identify opportunities and actions carried out in pursuit of common energy conservation goals.”

DOE plans to issue such an invitation to the State Governors in FY 2007. The term “region” will be defined as mutually agreed by the PMC and the States. DOE will work with NASEO during FY 2007 to carry out activities designed to foster and support regional collaboration.

The second revision amends the provisions regarding the energy efficiency goals established by the States. The new legislation reads as follows:

“Each State energy conservation plan with respect to which assistance is made available under this part on or after the date of enactment of the Energy Policy Act of 2005 shall contain a goal, consisting of an improvement of 25 percent or more in the efficiency of use of energy in the State concerned in calendar year 2012 as compared to calendar year 1990, and may contain interim goals.”

In the 2007 State Plan, each State must describe how it intends to achieve the 25% (or more) improvement goal cited above. (The information shall be included in Item 5 of the Master File section in WinSAGA; see Section 3.0 below).

DOE is cognizant of the fact that many States have developed State Energy Strategic Plans that include energy efficiency and renewable energy goals. Goals that are less than EAct’s 25% requirement may be considered interim goals for meeting that requirement. States that are in the process of developing such plans may submit information on when the plans will be completed. States that have not received State government or legislative direction to develop such plans should provide information in the WinSAGA Master File on their strategies to involve State leadership in developing such plans to address this goal.

DOE requests that States report progress toward the EAct goal (for the State as a whole as well as the contribution of SEP activities toward the goal) on both energy use per capita and energy use per GDP basis. States are also encouraged to provide a breakdown of the SEP contribution to this EAct goal and the overall state progress to the goal on a sectoral basis to help understand differences in energy efficiency improvements across sectors. DOE will refine this guidance based on the outcome of the current effort being led by the NASEO Energy Data Subcommittee.

Attached for reference are two sets of tables, based on the most current information from the Energy Information Administration, forecasting current energy trends to 2012 for each State. One set shows trends in energy use per capita and the other, energy use per unit of GDP. Each set provides energy use for the 1990 baseline year, current energy use as of 2003, and projected energy use in 2012. Within 14 days of this Notice, DOE will provide to the States the same trend information by sector.

REGULATIONS

SEP is governed by program regulations (10 CFR part 420) published in the Federal Register on July 8, 1996, and amended in the Federal Registers dated May 14, 1997, August 24, 1999, and May 1, 2000, and the DOE Financial Assistance Rules (10 CFR part 600). DOE published a Final Rule on October 2, 2006 which amends 10 CFR 420 to incorporate the provisions of the Energy Policy Act of 2005, as described above.

1.0 FUNDING

1.1 General Funding

PY 2007 funding for SEP, requiring DOE approval for expenditure, can come from three sources: (1) Federally appropriated funds; (2) Warner, EXXON and similar petroleum violation escrow funds; and (3) Stripper Well and other oil overcharge funds (including Texaco) which are subject to Stripper settlement rules.

1.2 Formula Allocations

PY 2007 allocations for SEP consist of \$45,430,000 in Federal funds appropriated in FY 2007. State formula allocations are provided in the table attached to this guidance.

(See section 420.11 for the allocation process.)

1.3 Match

States must contribute (in cash, in kind, or both) an amount no less than 20 percent of their total Federal formula award.

(See section 420.12 regarding match.)

1.4 New and Modified Activities Funded Under SEP

Any new and modified SEP initiatives, including those funded through the use of Petroleum Violation Escrow (PVE) funds, must be approved in writing by the appropriate PMC staff prior to implementation. Recipients must ensure that all proposed use of Stripper Well funds have prior review and approval by DOE Headquarters.

2.0 APPLICATIONS FOR SEP GRANTS

Application Package

The application package for SEP grants consists of the State Plan and a number of required forms. The State Plan is the heart of the application package. It is divided into two sections – the Master File and the Annual File (see section 3.0 below).

Applications must be submitted in accordance with the 2007 SEP Funding Opportunity Announcement. Detailed information on the application package and application due dates can be found in Part IV of the Funding Opportunity Announcement, Application and Submission Information.

3.0 STATE PLAN

The State Plan consists of a Master File, covering items that generally do not change from year to year, which would need to be updated only when a change occurs, and an Annual File, covering the activities the State intends to undertake during the year of the grant, which must be updated each year to reflect the current year's activities.

3.1 Master File

The Master File should include, wherever practicable, an explanation of how implementing the plan will conserve energy, how the State will measure progress toward attaining the goal, how the program activities represent a strategy to achieve these goals; an explanation of how the plan satisfies the minimum criteria for the required (mandatory) activities; and a plan for State monitoring that describes how the State conducts the administrative and programmatic oversight for programs implemented by other agencies within the State, contractors employed by the State, or subrecipients of financial assistance from the State. If a State has completed certain mandatory activities, this may also be indicated in the Master File. A description of how the State will achieve the new energy efficiency goal of 25 percent by 2012 shall be included here. Key elements of the States Strategic Plan, if available , should be included .

3.2 Annual File

The Annual File section of the State Plan describes each market area and program activity for which the State requests financial assistance for a given year, including budget information and milestones for each activity, and the intended scope and goals to be attained either qualitatively or quantitatively. For States using WinSAGA, the SEP Narrative Information Worksheets capture this information.

(See section 420.13 for more specific requirements on State Plans.)

3.3 State Plan Activity Codes

States should identify program activities under the new market areas and topic categories developed in preparation for [Grants.gov](http://www.grants.gov). Use of the markets and topic categories assists DOE in tracking grant-funded activities and gathering information on SEP regionally and nationwide. DOE is often required to provide analyses, justifications and recommendations based on the information provided by the States. The use of these categories, which are included in the Narrative Information Worksheet, also assists in developing performance metrics for each activity. Definitions of the markets and topic areas can be found on the SEP website at the following address:

http://www.eere.energy.gov/state_energy_program/topic_definitions.cfm

3.4 Mandatory Requirements

The following activities and details on compliance are required in each State Plan:

- (a) establish mandatory lighting efficiency standards for public buildings;
- (b) promote carpools, vanpools; and public transportation;
- (c) incorporate energy efficiency criteria into procurement procedures;
- (d) implement mandatory thermal efficiency standards for new and renovated buildings, or in States that have delegated such matters to political subdivisions, adopt model codes for local governments to mandate such measures;
- (e) permit right turns at red traffic lights and left turns from a one-way street onto a one-way street at a red light after stopping; and
- (f) ensure effective coordination among various local, State and Federal energy efficiency, renewable energy and alternative transportation fuel programs within the State.

(See section 420.15 for more specific requirements on mandatory activities.)

3.5 Optional Program Activities

States may wish to consider the following program areas for inclusion in their State Plans:

- Programs of public education to promote energy conservation.
- Programs to increase transportation energy efficiency, including programs to accelerate the use of alternative transportation fuels and hybrid vehicles for State government fleets, taxis, mass transit, and privately owned vehicles.
- Programs that encourage the introduction of energy saving technologies in the industry, buildings, transportation and utility sectors and encourage State and industry partnerships that develop and demonstrate advances in energy efficiency and clean technologies.

- Programs for financing energy efficiency and renewable energy capital investments, and programs, which may include loan programs and performance contracting programs for leveraging additional public and private sector funds, and programs which allow rebates, grants, or other incentives for the purchase and installation of eligible energy efficiency and renewable energy measures in public or nonprofit buildings owned and operated by a State, a political subdivision of a State or an agency or instrumentality of a State, or an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, including public and private non-profit schools and hospitals, and local government buildings.
- Programs for encouraging and for carrying out energy audits with respect to buildings and industrial facilities (including industrial processes) within the State.
- Programs to promote the adoption of integrated energy plans which provide for periodic evaluation of a State's energy needs, available energy resources (including greater energy efficiency) and energy costs; and utilization of adequate and reliable energy supplies, including greater energy efficiency, that meet applicable safety, environmental, and policy requirements at the lowest cost.
- Programs to promote energy efficiency in residential housing, such as programs for development and promotion of energy efficiency rating systems for newly constructed housing and existing housing so that consumers can compare the energy efficiency of different housing; and programs for the adoption of incentives for builders, utilities, and mortgage lenders to build, service, or finance energy efficient housing.
- Programs to identify unfair or deceptive acts or practices which relate to the implementation of energy efficient and renewable resource energy measures and to educate consumers concerning such acts or practices.
- Programs to modify patterns of energy consumption so as to reduce peak demands for energy and improve the efficiency of energy supply systems, including electricity supply systems.
- Programs to promote energy efficiency as an integral part of economic development and environmental planning conducted by State, local, or other governmental entities or by energy utilities.
- Programs to provide training and education to building designers and contractors to promote building energy efficiency.
- Programs for the development of building retrofit standards and regulations.
- Programs to provide support for feasibility studies for the utilization of renewable energy and energy efficiency resource technologies.
- Programs to encourage the use of renewable energy technologies.
- Programs that partner with other State agencies to leverage additional funds, such as public benefits funds and State and local investments in Clear Air Act compliance.
- Collaborative programs for energy efficiency and renewable energy technologies that link a State's energy and environmental objectives. In order to meet the State air quality priorities, these programs could leverage air quality funding to invest in air quality measures such as energy efficiency and renewable energy technologies.

(See section 420.17 for more specific requirements on optional activities.)

3.6 State Energy Emergency Plans

In conjunction with the SEP State Plan, States are required to file, for information only, an energy emergency plan detailing implementation strategies for dealing with energy emergencies. DOE encourages States to make sure their plans are up to date, given today's environment, and especially in view of recent natural disasters. For States that desire to update their plan, model guidelines have been developed for incorporating energy efficiency and renewable energy technologies into a State's energy emergency plan. These guidelines can be viewed at:

<https://www.eere-pmc.energy.gov/Forms.aspx#state>

3.7 Expenditures Prohibitions and Limitations

Prohibitions: States are prohibited from using SEP financial assistance:

- (a) for construction, such as construction of mass transit systems and exclusive bus lanes, or for the construction or repair of buildings or structures;
- (b) to purchase land, a building or structure or any interest therein;
- (c) to subsidize fares for public transportation;
- (d) to subsidize utility rate demonstrations or State tax credits for energy conservation or renewable energy measures; or
- (e) to conduct or purchase equipment to conduct research, development or demonstration of energy efficiency or renewable energy techniques and technologies not commercially available.

Limitations: No more than 20 percent of the financial assistance awarded to the State for this program shall be used to purchase office supplies, library materials, or other equipment whose purchase is not otherwise prohibited.

Demonstrations of commercially-available energy efficiency or renewable energy techniques and technologies are permitted and are not subject to the construction prohibition or the 20 percent on equipment, and direct purchase limitations.

A State may use regular or revolving loan mechanisms to fund SEP services which are consistent with the SEP rule and which are included in the approved State plan. Loan repayments and interest on loan funds may be used only for activities which are consistent with the rule and are included in the State's approved plan.

A State may use funds for the purchase and installation of equipment and materials for energy efficiency measures and renewable energy measures, subject to the following:

- such use must be included in State's approved plan (and if PVE funds are used, the use must be consistent with any judicial or administrative terms and conditions imposed upon State use of such funds).
- such use is limited to no more than 50 percent of all funds allocated by the State to SEP in any given year, regardless of source, except that this limitation shall not include regular and revolving loan programs funded with PVE funds. States may request a waiver of the 50 percent limit from DOE for good cause. For regular and revolving loan funds, loan documents shall ensure repayment of principal and interest within a reasonable period of time, and shall not include provisions for loan forgiveness.

Funds may be used to supplement and no funds may be used to supplant weatherization activities under the Weatherization Assistance Program for Low-Income Persons.

(See section 420.18 for more detailed expenditure prohibitions and limitations.)

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Attachments