



# INFLATION REDUCTION ACT

Assistance for Latest and Zero Building Energy Code Adoption (Sec. 50131)

FREQUENTLY ASKED QUESTIONS (FAQs)

Version 2 - October 24, 2023

The following are questions and answers regarding the formula funding opportunity [Assistance for Latest and Zero Building Energy Code Adoption](#), released September 19, 2023. The opportunity is administered by the U.S. Department of Energy and funded by Section 50131 of the Inflation Reduction Act (IRA). For more information, please visit the [Program page](#).

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Not seeing the answer to your question? Submit questions to the IRA Codes team via email at [IRACodes@hq.doe.gov](mailto:IRACodes@hq.doe.gov). We will do our best to follow up promptly.

## 1. Program Information

**FAQ 1.1: What is the best way to stay up to date with information about this funding opportunity regarding technical assistance for the adoption of building energy codes?**

**A 1.1:** [Register to subscribe for email updates](#) coming out of the SCEP IRA Codes Program.

**FAQ 1.2: Are the percentages for each project phase the maximum that can be allocated to that phase? For example, could a State working on implementation use 100% of its funding (rather than 70%) for a code category for implementation activities?**

**A 1.2:** The percentages for each project phase are the maximum portion of that category of funding that can be allocated to that phase. A State may not reallocate funding to other buckets and alter the maximum portions as presented in the ALRD. Further guidance on how a State that has already adopted an eligible code might use adoption funding for future code adoption cycles is provided in Part III, Section D (ii) of the ALRD.

## 2. Eligible Entities

### **FAQ 2.1: Can DOE provide a definition of eligible entities?**

**A 2.1:** Section 50131 of the Inflation Reduction Act lists eligible Grantees as States and units of local government that have the authority to adopt building codes. The formula funding under this ALRD is only provided to eligible States - i.e., States that have the authority to adopt building codes. For the purpose of the ALRD, State is defined as a State, the District of Columbia, Puerto Rico, or any territory or possession of the United States.

### **FAQ 2.2: Who should submit the Letter of Intent on behalf of the State?**

**A 2.2:** The Letter of Intent must be submitted by the representative of the State office that has code making authority jurisdiction for the State. Given that the relevant office with code making authority may differ depending on the State, the ALRD does not specify whether it is the State Energy Office or another entity within the state government. The letter of intent must be signed by a representative or designee of the cognizant unit of government and who is authorized to commit the jurisdiction to contracts and agreements.

### **FAQ 2.3: What if committees or boards are responsible for adopting the code in my state, and they are not able to receive federal funding? What entity should apply?**

**A 2.3:** If a committee or board is responsible for adopting the code, an authorized representative from that committee or board must submit the Letter of Intent.

If the committee or board does not have the functional ability or authority to receive federal funds, the Letter of Intent must designate the State office or agency that implements and enforces the code as the receiving and implementing agency for funding. That designated State office or agency will then submit the full application to receive the State's formula allocation and implement the project, accordingly.

If no office or agency within the State currently implements and enforces the code, the Governor, to the extent authorized, may designate an office or agency to fulfill that role and submit the full application.

### **FAQ 2.4: What if the agency in my state that has adoption authority cannot receive federal funding? What entity should apply?**

**A 2.4:** If the State office or agency that is responsible for adopting and implementing the code does not have the functional ability or authority to receive federal funds, an authorized representative from that State office or agency must submit the Letter of Intent, and within the letter must designate the State office or agency that is able to receive funding. The designated office or agency will then submit the full application to receive the State's formula allocation. The State office or agency that is responsible for adopting and implementing the code must be included in the State's full application, and that application must describe how that office or agency will support the activities of the project.

**Q 2.5: What if my state is Home Rule? Can the state still use formula funding to assist localities in adopting and implementing eligible codes?**

**A 2.5:** Home rule states are eligible for this funding opportunity, provided that the entity with the authority to adopt codes adopts a qualifying code and the entity's implementation and compliance efforts are in line with achieving full compliance with the qualifying code Statewide.

**FAQ 2.6: What if the entity that has authority to adopt codes is different than the agency charged with implementing and enforcing codes? Which agency should apply?**

**A 2.6:** The office or agency that has the authority to adopt building codes should submit the Letter of Intent and application for the State. The Letter of Intent and application should describe how the applicant will work with the office or agency charged with implementing and enforcing the codes within the State, including division of responsibility for project activities and allocation of funding between the offices or agencies.

**FAQ 2.7: If the state legislature is the authorized code adoption entity in a state and the legislature is not in session between the date of the ALRD publication and November 21, 2023, may a state still submit a Letter of Intent to apply for these funds?**

**A 2.7** If the State legislature is the authorized code adoption entity and the legislature is not in session during the Letter of Intent window, the State's implementing office or agency may submit a Letter of Intent on the State's behalf to reserve funding. The full application would then need to include a letter from the adoption entity that designates the implementation entity for the State.

### 3. Eligible Codes

**FAQ 3.1: Will the Commercial 2021 International Energy Conservation Code (IECC) be considered eligible for this funding opportunity?**

**A 3.1:** Under Section 50131 of the IRA, the latest model commercial building energy code eligible for funding is ASHRAE 90.1-2019. The ALRD specifies the amendments that can be made to this code while maintaining funding eligibility. ASHRAE 90.1-2019 is one compliance pathway under the 2021 IECC Commercial, and the provisions of the 2021 IECC can be considered equivalent to ASHRAE 90.1-2019, as long as amendments, if any, made to the code are those specified in the ALRD.

**FAQ 3.2: Will future versions of the model codes (ASHRAE 90.1-2022 for Commercial and IECC 2024 for Residential) be considered eligible for this funding opportunity?**

**A 3.2:** Successor editions of ASHRAE 90.1 and IECC Residential for which the Secretary has published affirmative determination that the updated code will improve energy efficiency

compared to the previous edition of the corresponding standard or code are eligible for formula funding under the latest model code funding category.

**FAQ 3.3: What amendments can be made to the code to remain eligible for this funding opportunity?**

**A 3.3:** DOE has provided a list of amendments to the qualifying building energy codes and zero energy codes that will not reduce the energy savings of the those building energy codes when adopted by States. Only those specified amendments to a qualifying code may be included in a State’s code adoption to be considered eligible for this formula funding. The list of amendments may be found in Appendix A of the [Administrative and Legal Requirements Document \(ALRD\)](#).

## 4. Project Timing

**FAQ 4.1: What is the date after which a state is considered to “have adopted a qualifying code” and is no longer eligible for adoption and adoption bonus funding?**

**A 4.1:** The project period will be decided upon during award negotiations after a successful application has been received by DOE that meets the criteria specified in the ALRD. Pre-award costs are not allowed. To receive adoption and adoption bonus funding, the award must be in place - if adoption of an eligible code happens before an award is in place, the grantee is eligible for implementation and compliance funding for that code.

**FAQ 4.2: What does “adoption date” mean in the context of this ALRD? Is it the same as “effective date”?**

**A 4.2:** The adoption process varies from state to state and may require action by the legislature, a state committee, or a state agency or other unit of the state executive branch. The adoption date in the context of this ALRD is the date in which the code becomes effective law. This date may be distinct from the date in which buildings are required to comply with the code (i.e., the compliance date).

**FAQ 4.3: What happens if a state adopts the latest model energy code in the third year of their period of performance? How would the Code Implementation and Compliance and Enforcement funds be spent if adoption occurred at the end of the maximum three-year project cycle?**

**A 4.3:** The project period will be decided upon during award negotiations after a successful application has been received by DOE that meets the criteria specified in the ALRD. The three-year project cycle noted in the ALRD is the expected project period of performance for most awards based on a typical code adoption cycle. If a State adopts an eligible code in the final year of their period of performance and is unable to complete implementation and compliance activities before the close of the period of performance, the circumstance will be

evaluated on a case-by case basis and may warrant a no cost time extension to the project period of performance.