

ADMINISTRATIVE AND LEGAL REQUIREMENTS DOCUMENT (ALRD)



**U.S. Department of Energy
Energy Efficiency and Renewable Energy
Golden Service Center**

State Energy Program (SEP) Program Year 2014 Formula Awards

SEP-ALRD-2014

CFDA Number: 81.041, State Energy Program

Issue Date: 3/19/2014

<u>SEP Program Year Ending</u>	<u>Application Due Date</u>
June 30, 2014	5/2/2014
August 31, 2014	5/15/2014
September 30, 2014	5/29/2014

The complete application package will be due in accordance with each applicant's program year as indicated above. To ensure timely processing of awards, Grantees must submit complete Applications by the above deadlines. Late or incomplete applications will jeopardize issuance of awards prior to the start of the Grantees' Program Year. If sufficient progress in negotiating the final State Plan Application is not being made, the Department of Energy (DOE) reserves the right to put a hold on the funds the Recipient can draw down under the Automated Standard Application for Payments (ASAP) System. The Department of Energy does not guarantee or assume any obligation to reimburse costs incurred in the performance of the agreement if the award is not approved.

REGISTRATION/SUBMISSION REQUIREMENTS

Registration Requirements: Allow at least 21 days to complete registrations.

If you haven't already registered, there are several one-time actions you must complete in order to receive an award:

Obtain a Dun and Bradstreet Data Universal Numbering System (DUNS) number at <http://fedgov.dnb.com/webform>. Subawardees at all tiers must also obtain DUNS numbers and provide the DUNS to the prime awardee before the subaward can be issued. For questions, email govt@dnb.com.

Register in the System for Award Management (SAM) at <https://www.sam.gov/portal/public/SAM/>. Applicants who are not registered with SAM should allow several days to complete this requirement. It is suggested that the process be started as soon as possible. **Prime awardees must update their SAM registration annually.** For questions, call 866-606-8220 or 334-206-7828.

Register in FedConnect to receive and acknowledge your award at <https://www.fedconnect.net/>. See the Quick Start Guide at https://www.fedconnect.net/FedConnect/PublicPages/FedConnect_Ready_Set_Go.pdf. For additional questions, email support@fedconnect.net or call 1-800-899-6665.

Have a Login for the Performance and Accountability for Grants in Energy (PAGE) System at <https://www.page.energy.gov/default.aspx> in order to submit your application. For questions regarding PAGE, refer to the Help Menu in PAGE or contact the PAGE hotline at PAGE-Hotline@ee.doe.gov or 1-866-492-4546.

States should contact their respective DOE Project Officer on State specific questions.

Electronic Signatures: Acknowledgement of award documents by the Grantee's authorized representative through electronic systems used by the Department of Energy, including FedConnect, constitutes the Grantee's acceptance of the terms and conditions of the award. Acknowledgement via FedConnect by the Grantee's authorized representative constitutes the Grantee's electronic signature.

IMPORTANT: The electronically signed Assistance Agreement with attached award documents distributed via FedConnect is the formal authorization and approval from the Contracting Officer. Grantees may not rely on PAGE as the formal authorization and approval. Award documents in the initial award and any modifications to the award must be reviewed and acknowledged by the Grantee in FedConnect.

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PART I AUTHORITY

Title III, Energy Policy and Conservation Act, as amended, authorizes the Department of Energy to administer the State Energy Program. All grant awards made under this program shall comply with applicable law including regulations contained in 10 CFR 600, 10 CFR Part 420 and other procedures applicable to this regulation as DOE may, from time-to-time, prescribe for the administration of financial assistance.

PART II AWARD INFORMATION

A. TYPE OF AWARD INSTRUMENT

DOE will award Grants.

B. ESTIMATED FUNDING

Availability of Funds: Funding for all awards and future budget periods is contingent upon the availability of funds appropriated by Congress for the purpose of this program and the availability of future-year budget authority.

The Grantee shall administer DOE funds received under the SEP in accordance with Federal rules and regulations and State policies and procedures. The Grantee is to manage Federal Funds in a prudent, effective and efficient manner to accomplish program objectives. States should expend all obligated funds within the annual budget period. If a State has unobligated balances to be authorized by a Contracting Officer for carryover from one budget period to another, the State must include an estimate of carry-over funds in its State Application.

Funding Level: Please see State Energy Program Notice 14-01, Attachment 1 for PY2014 Allocations.

C. PERIOD OF PERFORMANCE

Contingent on availability of funds, DOE anticipates making awards for the current program year funding period. States are encouraged to expend all obligated funds within the annual grant year. If a State has unobligated balances to be authorized by a Contracting Officer for carryover from one grant year to another, the State must include such carryover funds in the State Plan and Budget sections of its application.

In Program Year 2013 DOE started migrating States from 5 year awards to 3 year awards. This migration is being staged over several years to allow States with different end dates to run the full 5 year course of their award before being transitioned to a new 3 year award.

States still within the original 5 years will be permitted to complete their 5-year Project Period with a continuation application due each year reflecting that year's allocation and any carryover.

As States complete the 5th year of their current 5 year awards, DOE will issue new awards. The new awards will consist of a 3-year Project Period with three 1-year Budget Periods, contingent on availability of funds. A new application is required to be submitted the 1st year. The new application should reflect the first year's Federal Allocation, the first year's Cost Match, and

other first year contributions. Please note that the new awards must not include any carryover funds from the prior 5 year award. In subsequent years a continuation application will be required reflecting that year's allocation and any carryover.

PART III ELIGIBILITY INFORMATION

A. ELIGIBLE APPLICANTS

In accordance with 10 CFR 600.6(b), and DOE Program Rule 10 CFR Part 420, State Energy Program, eligibility for award is restricted 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).

B. COST MATCHING

States must contribute (in cash, in kind, or both) an amount no less than 20 percent of their Total Federal formula funds allocated each year. The 20 percent State match requirement must be met *each year*, not over the duration of the grant period. States must demonstrate the contribution (cash, in-kind or both) of an amount no less than 20 percent of every federal dollar that is spent each program year. Failure to meet this requirement each program year may result in disallowed costs.

Cost match contributions must be specified in the project budget and budget justification, verifiable from the Recipient's records, and necessary and reasonable for proper and efficient accomplishment of the project. All sources of cost match are considered part of total project cost, the cost match dollars will be scrutinized under the same Federal regulations as Federal dollars to the project. Every cost match contribution must be reviewed and approved in advance by the Contracting Officer and incorporated into the project budget before the expenditures are incurred.

Applicants are encouraged to refer to 10 C.F.R. Part 420 and the annual SEP Program Notice for additional guidance on cost matching.

Under the authority contained in 48 U.S.C. 1469a the cost matching requirement is waived for Insular Areas of the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Government of the Northern Mariana Islands. These Insular Areas may apply for funding and will not have to provide cost match to be eligible to receive funds.

PART IV APPLICATION AND SUBMISSION INFORMATION

A. CONTENT AND FORM OF APPLICATION

The State Plan Application must be submitted via the PAGE online system at <https://www.page.energy.gov/default.aspx>. DOE reserves the right to request additional or clarifying information for any reason deemed necessary. Applications will be reviewed for consistency with the SEP program objectives.

PART V AWARD ADMINISTRATION INFORMATION

A. AWARD NOTICES

An Assistance Agreement issued by the Contracting Officer is the authorizing award document. The Assistance Agreement normally includes, either as an attachment or by reference: (1) Special Terms and Conditions; (2) Program regulations 10 CFR 420; (3) Application as approved by DOE; (4) DOE assistance regulations at 10 CFR 600 and (5) National Policy Assurances To Be Incorporated As Award Terms; (6) Annual File; (7) Master File; (8) Budget Summary; and (9) Federal Assistance Reporting Checklist, which identifies the Reporting Requirements. These documents are sent to the Recipient via FedConnect.

B. FUNDING RESTRICTIONS

All expenditures must be allowable, allocable, and reasonable in accordance with the applicable Federal cost principles. Refer to the following applicable Federal cost principles for more information:

- 2 CFR 220 for Educational Institutions;
- 2 CFR 225 for State, Local, and Indian Tribal Governments;
- 2 CFR 230 for Non Profit Organizations; and
- FAR Part 31 for For-Profit entities.

C. REPORTING

Reporting requirements are identified on the Federal Assistance Reporting Checklist, DOE F 4600.2, attached to the award agreement.

Awards initiated since 10/1/2010 are subject to the requirement of Reporting Subawards and Executive Compensation to comply with the Federal Funding and Transparency Act of 2006 (FFATA). Additional information about this requirement can be found in the Special Terms and Conditions of the State's award, at <https://www.fsrs.gov>. and in 2 CFR, Part 170.

Several SEP Program Notices also contain information regarding reporting and can be located at http://www1.eere.energy.gov/wip/guidance.html#b_sep

D. ADMINISTRATIVE AND NATIONAL POLICY REQUIREMENTS

1. Administrative Requirements

- The administrative requirements for DOE grants and cooperative agreements are contained in:
 - 10 CFR 600 and [10 CFR 420](#)
 - 2 CFR, Part 25 – Universal Identifier and Central Contractor Registration
 - 2 CFR, Part 170 – Reporting Subaward and Executive Compensation

The Electronic Code of Federal Regulations is found at www.ecfr.gov).

2. National Policy Requirements

The National Policy Assurances To Be Incorporated As Award Terms are located at <http://energy.gov/management/downloads/national-policy-assurances-be-incorporated-award-terms>.

Intellectual Property Provisions. The standard DOE financial assistance intellectual property provisions applicable to the various types of recipients are located at <http://energy.gov/gc/standard-intellectual-property-ip-provisions-financial-assistance-awards>.

3. Environmental Review in Accordance with National Environmental Policy Act (NEPA)

EERE's decision whether and how to distribute federal funds is subject to the National Environmental Policy Act (42 USC 4321, *et seq.*). NEPA requires Federal agencies to integrate environmental values into their decision-making processes by considering the potential environmental impacts of their proposed actions. For additional background on NEPA, please see DOE's NEPA website, at <http://nepa.energy.gov/>. Further detail on NEPA requirements is located in the body of State Energy Program Notice 14-01

4. Applicant Representations and Certifications

Applicant Lighting Efficiency Certification (April 2012)

In submitting an application in response to this FOA the Applicant certifies that if chosen for a grant award and the award is in excess of \$1,000,000 it will, by the end of the Federal Government's fiscal year, upgrade the efficiency of its facilities by replacing any incandescent lighting of the type for which section 325 of the Energy Policy and Conservation Act (42 USC 6295) establishes a standard that does not meet or exceed the energy efficiency standard for incandescent light bulbs set forth in that section with a lamp that meets or exceeds the standards for lamps established in or pursuant to that section.

Incandescent reflector lamps shall meet or exceed the lamp efficacy standards shown in the table:

Rated lamp wattage	Lamp spectrum	Lamp diameter (inches)	Rated voltage	Minimum average lamp efficacy (lm/W)
40-205	Standard Spectrum	>2.5	≥125V	6.8*P ^{0.27}
			<125V	5.9*P ^{0.27}
40-205	Modified Spectrum	>2.5	≥125V	5.7*P ^{0.27}
			<125V	5.0*P ^{0.27}
		≤2.5	≥125V	4.9*P ^{0.27}
			<125V	4.2*P ^{0.27}

Note 1: P is equal to the rated lamp wattage, in watts.

Note 2: Standard Spectrum means any incandescent reflector lamp that does not meet the definition of modified spectrum in 10 CFR 430.2.

Subject to the exemption below, the standards specified in this section shall apply to ER incandescent reflector lamps, BR incandescent reflector lamps, BPAR incandescent reflector lamps, and similar bulb shapes.

Subject to the exemption below, the standards specified in this section shall apply to incandescent reflector lamps with a diameter of more than 2.25 inches, but not more than 2.75 inches.

Exemption: The standards specified in this section shall not apply to the following types of incandescent reflector lamps:

- (A) Lamps rated at 50 watts or less that are ER30, BR30, BR40, or ER40 lamps;
- (B) Lamps rated at 65 watts that are BR30, BR40, or ER40 lamps; or
- (C) R20 incandescent reflector lamps rated 45 watts or less.

For purposes of this Certification, the following definitions apply:

- (A) Facilities mean the room(s), area(s), or building(s) that are used to complete a majority of the work under the project.
- (B) In excess of \$1,000,000 means the total value of the grant including all budget periods funded with Federal funds and recipient cost match is greater than \$1,000,000.
- (C) Federal Government's fiscal year begins October 1st and ends September 30th.
- (D) Except as provided in subparagraph (4) below, the term "incandescent lamp" means a lamp in which light is produced by a filament heated to incandescence by an electric current, including only the following:
 - (1) Any lamp (commonly referred to as lower wattage non-reflector general service lamps, including any tungsten-halogen lamp) that has a rated wattage between 30 and 199 watts, has an E26 medium screw base, has a rated voltage or voltage range that lies at least partially within 115 and 130 volts, and is not a reflector lamp.
 - (2) Any lamp (commonly referred to as a reflector lamp) which is not colored or designed for rough or vibration service applications, that contains an inner reflective coating on the outer bulb to direct the light, an R, PAR, ER, BR, BPAR, or similar bulb shapes with E26 medium screw bases, a rated voltage or voltage range that lies at least partially within 115 and 130 volts, a diameter which exceeds 2.25 inches, and has a rated wattage that is 40 watts or higher.
 - (3) Any general service incandescent lamp (commonly referred to as a high- or higher-wattage lamp) that has a rated wattage above 199 watts (above 205 watts for a high wattage reflector lamp).
 - (4) The term "incandescent lamp" does not include any lamp excluded by the Secretary, by rule, as a result of a determination that standards for such lamp would not result in significant energy savings because such lamp is designed for special applications or has special characteristics not available in reasonably substitutable lamp types.

(E) The term “base” means the portion of the lamp which connects with the socket as described in ANSI C81.61–1990.

(F) The term “bulb shape” means the shape of lamp, especially the glass bulb with designations for bulb shapes found in ANSI C79.1–1980 (R1984).

(G) The term “lamp efficacy” means the lumen output of a lamp divided by its wattage, expressed in lumens per watt (LPW).

(H) The term “lamp wattage” means the total electrical power consumed by a lamp in watts, after the initial seasoning period referenced in the appropriate IES standard test procedure and including, for fluorescent, arc watts plus cathode.

Costs directly associated with complying with this requirement may be considered allowable and allocable in accordance with the applicable cost principles as set forth in 10 CFR 600. Costs associated with complying with this requirement may also be included in the calculation of recipient cost match.

Applicants shall identify the facility (the rooms or areas where the majority of the proposed project work will occur) and, identify and justify the costs associated with upgrading the light bulbs to meet or exceed the energy efficiency standard for incandescent light bulbs set forth in or pursuant to section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) prior to the end of the Federal fiscal year.

PART VI OTHER INFORMATION

A. INTERGOVERNMENTAL REVIEW

Program Subject to Executive Order 12372

This program is subject to Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations at 10 CFR Part 1005.

One of the objectives of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism. The Executive Order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

Applicants should contact the appropriate State Single Point of Contact (SPOC) to find out about, and to comply with, the State's process under Executive Order 12372. The names and addresses of the SPOCs are listed on the Web site of the Office of Management and Budget at http://www.whitehouse.gov/omb/grants_spoc/.

B. GOVERNMENT RIGHT TO REJECT OR NEGOTIATE

DOE reserves the right, without qualification, to reject any or all applications received in response to this ALRD and to select any application, in whole or in part, as a basis for negotiation and/or award.

C. COMMITMENT OF PUBLIC FUNDS

The Contracting Officer is the only individual who can make awards or commit the Government to the expenditure of public funds. A commitment by other than the Contracting Officer, either explicit or implied, is invalid.

D. LOBBYING RESTRICTIONS

By accepting funds under this award, you agree that none of the funds obligated on the award shall be expended, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C. 1913. This restriction is in addition to those prescribed elsewhere in statute and regulation.

E. MODIFICATIONS

Modifications to this Administrative and Legal Requirements Document will be processed and disseminated in the same manner as other State Energy Program Notices.

F. PROPRIETARY APPLICATION INFORMATION

DOE will use data and other information contained in applications strictly for evaluation purposes. Applicants should not include confidential, proprietary, or privileged information in their applications unless such information is necessary to convey an understanding of the proposed project.

Applications containing confidential, proprietary, or privileged information must be marked as described below. Failure to comply with these marking requirements may result in the disclosure of the unmarked information under the Freedom of Information Act or otherwise. The U.S. Government is not liable for the disclosure or use of unmarked information, and may use or disclose such information for any purpose.

The cover sheet of the application must be marked as follows and identify the specific pages containing confidential, proprietary, or privileged information:

Please be aware that all information provided to DOE (including confidential proprietary or confidential commercial information) is subject public release under the Freedom of Information Act (FOIA). (5 U.S.C. § 552(a)(3)(A) (2006), amended by OPEN Government Act of 2007, Pub. L. No. 110175, 121 Stat. 2524). When a FOIA request covers information submitted to DOE by an applicant, and the cognizant DOE FOIA Officer cannot make an independent determination regarding the public releasability of this information, the cognizant DOE FOIA Officer will contact the submitter and ask for comment regarding the redaction of information under one or more of the nine FOIA exemptions. However, the cognizant DOE FOIA Officer will make the final decision regarding FOIA redactions. Submitters are given a minimum of 7 days to provide redaction comments and if DOE disagrees with the submitter's comment, DOE will notify the submitter of the intended public release no less than seven (7) days prior to the public disclosure of the information in question.” (10 CFR Part 1004.11).

G. PROTECTED PERSONALLY IDENTIFIABLE INFORMATION

In responding to this FOA, Applicants must ensure that Protected Personally Identifiable Information (PII) is not included in the following documents: Project Abstract, Project Narrative, Biographical Sketches, Budget or Budget Justification. These documents will be used by the Merit Review Committee in the review process to evaluate each application. PII is defined by the Office of Management and Budget (OMB) and DOE as:

Any information about an individual maintained by an agency, including but not limited to, education, financial transactions, medical history, and criminal or employment history and information that can be used to distinguish or trace an individual's identity, such as their name, social security number, date and place of birth, mother's maiden name, biometric records, etc., including any other personal information that is linked or linkable to an individual.

This definition of PII can be further defined as: (1) Public PII and (2) Protected PII.

Public PII: PII found in public sources such as telephone books, public websites, business cards, university listing, etc. Public PII includes first and last name, address, work telephone number, email address, home telephone number, and general education credentials.

Protected PII: PII that requires enhanced protection. This information includes data that if compromised could cause harm to an individual such as identity theft.

Listed below are examples of Protected PII that Applicants must not include in the files listed above to be evaluated by the Merit Review Committee.

- Social Security Numbers in any form
- Place of Birth associated with an individual
- Date of Birth associated with an individual
- Mother's maiden name associated with an individual
- Biometric record associated with an individual
- Fingerprint
- Iris scan
- DNA
- Medical history information associated with an individual
- Medical conditions, including history of disease
- Metric information, e.g. weight, height, blood pressure
- Criminal history associated with an individual
- Employment history and other employment information associated with an individual
- Ratings
- Disciplinary actions
- Performance elements and standards (or work expectations) are PII when they are so intertwined with performance appraisals that their disclosure would reveal an individual's performance appraisal
- Financial information associated with an individual
- Credit card numbers
- Bank account numbers
- Security clearance history or related information (not including actual clearances held)

Listed below are examples of Public PII that Applicants may include in the files listed above to be evaluated by the Merit Review Committee:

- Phone numbers (work, home, cell)
- Street addresses (work and personal)
- Email addresses (work and personal)
- Digital pictures
- Medical information included in a health or safety report
- Employment information that is not PII even when associated with a name
- Resumes, unless they include a Social Security Number
- Present and past position titles and occupational series
- Present and past grades
- Present and past annual salary rates (including performance awards or bonuses, incentive awards, merit pay amount, Meritorious or Distinguished Executive Ranks, and allowances and differentials)
- Present and past duty stations and organization of assignment (includes room and phone numbers, organization designations, work email address, or other identifying information regarding buildings, room numbers, or places of employment)
- Position descriptions, identification of job elements, and those performance standards (but not actual performance appraisals) that the release of which would not interfere with law enforcement programs or severely inhibit agency effectiveness
- Security clearances held
- Written biographies (e.g. to be used in a program describing a speaker)
- Academic credentials
- Schools attended
- Major or area of study
- Personal information stored by individuals about themselves on their assigned workstation or laptop unless it contains a Social Security Number

PART VII REFERENCE MATERIAL

State Energy Program Notice 14-01 and its attachments:

Attachment 1: Program Year 2014 SEP Formula Allocations

Attachment 2: SEP Formula Grant Process Metrics List (SEP 10-006C)

Attachment 3: Administrative and Legal Requirements Document (ALRD) (This document)