

ADMINISTRATIVE AND LEGAL REQUIREMENTS DOCUMENT (ALRD)



**U.S. Department of Energy
Energy Efficiency and Renewable Energy
Golden Field Office**

State Energy Program (SEP) Program Year 2018 Formula Awards

SEP-ALRD-2018

CFDA Number: 81.041, State Energy Program

Issue Date: 2/7/2018

<u>SEP Program Year Ending</u>	<u>Application Due Date</u>
June 30, 2018	4/19/2018
August 31, 2018	5/10/2018
September 30, 2018	5/24/2018

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/Marketing/Documents/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 (SEP). All Grant awards made under this program shall comply with applicable law, including regulations contained in 2 CFR Part 200 as amended by 2 CFR Part 910, 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: SEP is currently operating under a Continuing Resolution for Fiscal Year (FY) 2018. Grantees should develop their State Plans using FY17 SEP allocations as a placeholder until DOE issues final FY18 allocations. Once a FY18 budget is passed and signed by the President, DOE will issue State Energy Program Notice 18-2, Program Year 2018 Grantee Allocations, and begin the budget modification process, if necessary.

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.

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 cannot include any carryover funds from prior awards. In subsequent years a continuation application will be required reflecting that year's allocation and any carryover.

Extensions to existing awards will not be authorized except in cases of extraordinary circumstances. It is DOE's expectation that States will spend out their entire DOE award by the end of the 3rd year. However, DOE will consider extension requests for extraordinary circumstances. Extraordinary circumstances include the loss of personnel for an extended period of time where a significant portion of the budget is allocated to personnel costs; a change in leadership that necessitates, or a decision by leadership resulting in, a significant change in program plans that significantly delays, or significantly alters, spending; a significant (over three months) freeze on spending; or a natural disaster. No more than one extension per award will be considered.

PART III ELIGIBILITY INFORMATION

A. ELIGIBLE APPLICANTS

In accordance with 2 CFR 910.126 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 (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, and 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 CFR 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 2 CFR Part 200 as amended by 2 CFR Part 910 (5) National Policy Assurances To Be Incorporated As Award Terms; (6) Annual File; (7) Master File; (8) Budget Summary; (9) Intellectual Property Provisions; (10) Federal Assistance Reporting Checklist, which identifies the Reporting Requirements; and (11) National Environmental Policy Act (NEPA) Determination. 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 Federal cost principles for more information: 2 CFR 200 as amended by 2 CFR 910.

Under 2 CFR 200 as amended by 2 CFR 910 regulations, the cost principles are contained in Subpart E – Cost Principles within 2 CFR 200.

C. REPORTING

Reporting requirements are identified on the Federal Assistance Reporting Checklist, EERE 355, 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 <https://energy.gov/eere/wipo/state-energy-program-guidance>

D. ADMINISTRATIVE AND NATIONAL POLICY REQUIREMENTS

1. Administrative Requirements

- The administrative requirements for DOE grants and cooperative agreements are contained in:
 - 2 CFR Part 200 as amended by 2 CFR Part 910 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://www.nsf.gov/awards/managing/rtc.jsp>.

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/>. DOE has developed a list of bounded categories that are categorically excluded from further NEPA review, and may require the recipient to complete documentation to demonstrate their proposed actions are covered by the bounded categories. Additional detail on NEPA requirements may be found in State Energy Program Notice 18-01.

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_s poc/.

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 to 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 (ALRD), Applicants must ensure that Protected Personally Identifiable Information (PII) is not included in the application documents. 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 their application.

- 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)

PART VII REFERENCE MATERIAL

State Energy Program Notice 18-01
Program Year 2017 SEP Formula Allocations
SEP Formula Grant Process Metrics List (SEP 10-006D)
2018 Annual Summary Template
2018 Formula Award Application Checklist