

SUBJECT: PROGRAM YEAR 2019 STATE ENERGY PROGRAM FORMULA GRANT GUIDANCE

1.0 PURPOSE

To establish Grant Guidance and management information for the State Energy Program (SEP) formula grants for program year (PY) 2019, including PY 2019 Allocations, Administrative and Legal Requirements Document (ALRD), the Application Checklist, and the Annual Summary template. The Program Year 2019 SEP Formula Grant Guidance (“Guidance”) and the attached Reference Materials apply to SEP grant funds received through regular federal appropriations.

SEP emphasizes the state’s role as the decision maker and administrator for program activities within the state that are tailored to their unique resources, delivery capacity, and energy goals. Project Officers maintain a partnership with states resulting in a deep understanding of project performance.

2.0 SCOPE

The provisions of this Guidance apply to states, territories, and the District of Columbia applying for formula grant financial assistance under DOE’s 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 SEP), and 2 CFR Part 200 as amended by 2 CFR Part 910 (the DOE Financial Assistance Rules). The CFR can be accessed at:

http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl

These regulations are the official sources for program requirements.

2.1 ELIGIBLE APPLICANTS

In accordance with 2 CFR 910.126 and DOE Program Rule 10 CFR Part 420, eligibility for award is restricted to States, Territories, and the District of Columbia (hereinafter “States”) applying for formula grant financial assistance under SEP.

3.0 LEGAL AUTHORITY

SEP is authorized under the Energy Policy and Conservation Act, as amended (42 U.S.C. 6321 et seq.). All grant awards made under this program shall comply with applicable laws including, but not limited to, the SEP statutory authority (42 U.S.C. § 6321 et seq.), 10 CFR 420, and 2 CFR 200 as amended by 2 CFR 910.

4.0 PROGRAM OVERVIEW & GOALS

SEP provides 50 states, the District of Columbia, and the five U.S. Territories annual funding through formula grants to enhance energy security, advance state-led energy initiatives, and maximize the benefits of decreasing energy waste. SEP emphasizes the state's role as the decision-maker and administrator for program activities within the state that are tailored to their unique resources, delivery capacity, and energy goals.

SEP works with State Energy Offices (SEOs) to address the following goals:

- Increase the energy efficiency of the U.S. economy;
- Implement energy security, resiliency, and emergency preparedness plans;
- Reduce energy costs and energy waste;
- Support local governments in targeting underserved sectors (e.g. public housing, multifamily housing, small businesses, rural communities, hospital or healthcare facilities, wastewater treatment facilities, or community facilities) for energy efficiency improvements;
- Increase investments to expand the use of energy resources abundant in states; and
- Promote economic growth with improved environmental quality.

SEP seeks to promote the efficient use of energy and reduce the rate of growth of energy demand through the development and implementation of specific state energy programs. Of particular interest are state-led efforts that address energy affordability, reliability, and resilience. For example, projects that make distributed generation more affordable could enable continuous operation of communities after extreme weather or other events that could or have already disrupted their power systems, thereby creating a more energy resilient community whenever such extreme weather events occur.

4.1 PROGRAM ACTIVITIES & OUTCOMES

SEOs play a vital role in establishing plans and strategies to achieve state-led energy goals and priorities, reduce energy costs, and increase economic competitiveness. State-led efforts also increase resilience by enhancing grid reliability through energy savings technologies or distributed generation. Examples of state-led activities include:

- State Energy Planning;
- Energy Emergency Planning and Response;
- Low-Cost Financing Programs for Energy Efficiency;
- Energy Savings Performance Contracting;
- Innovative Energy Technology Demonstration Projects;
- Partnerships with Local Governments for Energy Efficiency Improvements; and
- School and Public Building Retrofit Programs.

Since 2010, SEP has provided states and territories with more than \$335.6 million in financial assistance, resulting in a wide range of benefits to states, including:

- Reduction of energy waste in more than 38,000 buildings (176 million square feet) through energy efficiency upgrades;
- Installation of more than 91,000 renewable energy systems;
- Education of more than 2.8 million people in performing energy audits and upgrades;
- Implementation of energy security, resiliency, and emergency preparedness plans;
- Development of state-led strategic energy initiatives;
- Investments to expand use of energy resources abundant in a state;
- Successful piloting of innovative energy projects with the private sector, K-12 schools, and universities;
- Execution of Energy Savings Performance Contracts to undertake retrofit projects in public facilities; and
- Development of implementation models that serve as “how-to” guides for other states who wish to replicate the programs that are achieving energy efficiency savings.

4.2 TECHNICAL ASSISTANCE

DOE will continue to provide technical assistance to states in PY2019. DOE provides states with technical assistance and guidance in a collaborative effort to assist with implementation of efficient and effective programs. For example, states share information with DOE and each other in a peer-to-peer facilitated dialogue about the challenges they encounter and how they overcame those challenges. Technical assistance is available in many areas, including developing and implementing energy plans; paying for energy initiatives; designing and implementing energy programs, and accessing and using energy data. Requests for technical assistance should be made through the state’s DOE Project Officer.

DOE conducted an SEP National Training Forum in Golden, Colorado in October 2017. SEP is planning on holding a similar training in Denver, Colorado, August 13-14, 2019. States are strongly encouraged to budget funds in their SEP Applications to attend the training.

5.0 FUNDING

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.

5.1 FORMULA ALLOCATIONS

The federal appropriation for FY 2019 is \$55,000,000. Grantees should develop their State plans using the attached PY19 SEP allocations.

See 10 CFR Part 420.11 for the allocation process.

5.2 COST MATCH

States must contribute matching funds (cash, in-kind, or both) in an amount no less than 20 percent of their total federal formula award each year. 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. The 20 percent state match requirement must be met each

year, not over the duration of the grant award. Failure to meet this requirement *each* program year may result in disallowed costs.

States with Petroleum Violation Escrow (PVE) funds may in some cases use these funds as cost match. Stripper Well funds and Diamond Shamrock funds may be used toward the 20 percent non-Federal cost match requirement. Chevron, Warner Amendment, and Exxon funds may not be used towards the 20 percent non-Federal cost match requirement, but may be included in the project budget.

The Recipient may not use certain sources of funding to meet its cost match obligations including, but not limited to:

- Revenues or royalties from the prospective operation of an activity beyond the project period;
- Proceeds from the prospective sale of an asset of an activity;
- Federal funding or property (e.g., Federal grants, equipment owned by the Federal Government);
- Expenditures that were reimbursed under a separate Federal program; or
- Bank loans from financial institutions (funds borrowed from a financial institution, which will later be paid back in full).

States must include in their applications a letter from each third party contributing cost match (i.e., a party other than the state submitting the application) indicating that the third party is committed to providing a specific minimum dollar amount of cost match. The following information must be provided for each third party contributing cost match: (1) the name of the organization; (2) the proposed dollar amount to be provided; (3) the amount as a percentage of total Federal funds allocated; and (4) the proposed type of cost match – cash, services, or property.

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.

5.3 NEW ACTIVITIES FUNDED UNDER SEP

Any new SEP initiatives, including those funded through the use of PVE funds, must be approved in writing prior to implementation by the appropriate Contracting Officer via amendment to the current grant award.

Recipients must ensure that all proposed uses of Stripper Well funds outside of the State Energy Program have prior review and approval by DOE Headquarters. Proposals should be submitted through the following email address: sep-pve@ee.doe.gov. Please send a copy of the request to your Project Officer. This proposal should include a description of the work along

with the timeframe and associated budget. Any use of Stripper Well funds within the State Energy Program must be included in a market title.

5.4 PROGRAM INCOME

DOE encourages states to earn income in connection with SEP activities to defray program costs. If the State Plan includes such activities, states should include an estimated amount of earned income in the budget portion of the Grant Application. Program income is defined in federal regulations as gross income earned by the recipient that is directly generated by a supported activity or earned as a result of the award. Program income includes but is not limited to:

- Income from fees for services performed.
- The use or rental of real or personal property acquired with grant funds.
- The sale of commodities or items fabricated under a grant agreement.
- License fees and royalties on patents and copyrights.
- Payments of principal and interest on loans made with grant funds.

Program income does not include interest on grant funds except as otherwise provided in this subpart, program regulations, or the terms and conditions of the award. Nor does it include rebates, credits, discounts, refunds, etc., or interest earned on any of them. Interest earned through loan fund programs generated by grant-supported activities is treated as program income.

(See 2 CFR 200.80 and 2 CFR Part 200.307 for further information.)

5.5 REVOLVING LOAN FUNDS

When a state uses funds for an established revolving loan fund, they are treated as obligated or encumbered. Once such a program is in place, returned principal and interest collected may be used to make additional loans or to fund the operations of the revolving loan program.

When DOE approves funds for a revolving loan fund, the state assumes responsibility for the stewardship and ultimate recapture of the principal and any interest at the end of the approved life of the program. These funds must eventually be closed out and a final accounting submitted to DOE. The report should include the amounts of interest collected and principal repayment. The state must apply the remaining principal and interest to other uses in the program for which they were originally authorized, including a decision on a reasonable timeframe for expenditure. Re-authorization of funds used in the revolving loan program will be based on state proposals and program rules and regulations. The interest would be considered program income when the program ends, and the final accounting report would reflect the balance of funds remaining over and above the original principal after subtracting any operating expenses.

5.6 LOAN LOSS RESERVES AND OTHER FINANCING PROGRAMS

On May 20, 2016 DOE issued revised program guidance on the use of Loan Loss Reserves (LLR) attached to revolving loan programs under SEP.

The guidance outlines conditions that must be met for LLR eligibility, and also describes eligible uses of several other financing mechanisms. For complete information, see SEP Program Notice10-008E, “Guidance for State Energy Program Grantees on Financing Programs.” <http://www.energy.gov/sites/prod/files/2016/07/f33/SEP%20Program%20Notice%2010-008E.pdf>

6.0 APPLICATION INSTRUCTIONS FOR SEP ANNUAL FORMULA GRANTS

6.1 OVERVIEW

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 three sections – the Budget, the Master File, and the Annual File (see section 6.3 below).

Applications must be submitted in accordance with the PY 2019 SEP Administrative and Legal Requirements Document (ALRD). Application due dates are identified on the cover page of the ALRD.

As a reminder, application documents, forms, and data submitted to SEP may be made available to the public at DOE’s discretion following all applicable laws and regulations that protect confidential or proprietary information.

6.2 NEW AWARDS

All new awards will continue to be 3-year 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 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 goes to personnel; 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.

6.3 STATE APPLICATION

The State Application consists of a Standard Form 424, Standard Form 424A, Budget Justification, Master File, Annual File, various certifications, a link to the state’s latest single or program-specific audit as required by 2 CFR 200 Subpart F, an indirect rate agreement (if applicable), and an environmental questionnaire (if applicable).

Program regulations govern all funds assigned to SEP activity use, whatever their source. Appropriated funds, PVE funds, an estimated amount for program income, and the state share must all be listed in the budget portion of the Grant Application. All funds must then be spent on the activities described in the Grant Application and addressed in the financial and performance reports required under the grant.

6.3. A. STANDARD FORM 424

A completed and signed Standard Form 424 containing current information must be submitted. Please ensure all sections have been updated to reflect any changes. Section 18 of this form should reflect new funds only (not carryover). Please verify compliance with Section 19 Executive Order 12372. <https://www.whitehouse.gov/wp-content/uploads/2017/11/Intergovernmental-Review-SPOC-01-2018-OFFM.pdf>

The list of certifications and assurances referenced in Field 21 may be found at: <http://energy.gov/management/downloads/certifications-and-assurances-use-sf-424>. Once the SF424 is completed, **add an attachment to the document and provide the name, phone number and email address for the Principal Investigator and the Business Officer. These should be re-validated every year.**

6.3. B. BUDGET

The budget includes Standard Form 424A and a Budget Justification. Each of these forms should be completed following the guidelines set out below.

6.3. B.1. Standard Form 424A: Applications must include a budget for all funds applied for including federal, PVE, and state match. Standard Form 424A should be completed as follows:

- Section A: Budget Summary Lines 1-4, Columns (a) through (g). On line 1, enter new and unexpended DOE funds. Estimated carryover funds should be listed in the unobligated columns. Use a separate line for each funding source, e.g., PVE funds, state match, etc.
- Section B: Budget Categories. Separate column headings should be utilized for each funding source. The total in column g, Section A, must equal the total of all columns in Section B.

6.3. B.2 Budget Justification: The Budget Justification consists of a detailed explanation of the object class categories listed in line 6, Section B, of Standard Form 424A. In preparing the Budget Justification, states should address the following as requested for each budget category.

- Personnel: Identify all positions to be supported by title and the amounts of time (e.g. % of time) to be expended on SEP, the base pay rate, and the total direct personnel compensation.

- **Fringe Benefits:** If fringe cost rates are approved by a federal agency, identify the agency and date of latest rate agreement and include a copy of the rate agreement with the application. If fringe cost rates are not approved by a federal agency, explain how total fringe benefit costs were calculated. Your calculations should identify all rates used along with the base they were applied to (and how the base was derived), and a total for each (along with the grand total). If there is an established computation methodology approved for state-wide use, provide a copy with the application.
- **Travel:** Provide the purpose of travel, such as professional conference(s), DOE sponsored meeting(s), project monitoring, etc. Identify the number of trips, and the destination/location if known. If there is any foreign travel it should be identified. Provide the basis for the travel estimate such as past trips, current quotations, federal or state travel regulations, etc. All listed travel must be necessary or beneficial to the performance of the State Energy Program.
- **Equipment:** Equipment is defined as an item with an acquisition cost greater than \$5,000 and a useful life expectancy of more than one year. List all proposed equipment and briefly justify its need as it applies to the objectives of this award. Provide a basis of cost such as vendor quotes, catalog prices, prior invoices, etc. If the equipment is being proposed as cost match and was previously acquired, provide the value of its contribution to the project and a rationale for the estimated value shown. If it is new equipment that will retain a useful life upon completion of the project, provide a rationale for the estimated value shown. Also, indicate whether the equipment is being used for other projects or is 100% dedicated to this project.
- **Supplies:** Supplies are defined as items with an acquisition cost of \$5,000 or less or a useful life expectancy of less than one year. Supplies are generally consumed during the project performance. List all proposed supplies and the estimated cost and briefly justify the need for the supplies as they apply to the objectives of this award. Supply items must be direct costs to the project and not duplicative of supply costs included in the indirect pool that is the basis of any indirect rate applied for this project. Provide a basis of cost for each item listed. Examples include vendor quotes, prior purchases of similar or like items, published price list, etc.
- **Contractual:** Sub-recipients, vendors, contractors and consultants – All sub-recipients, vendors, contractors and consultants and their estimated costs should be identified. Use TBD if the entity is unknown. Provide a brief description of the work to be performed or the service to be provided and reference the individual market title the work or service falls under. Include the basis of cost for each item listed (competitive, historical, quote, catalog, etc.)
- **Other Direct Costs:** Other direct costs are direct cost items required for the project that do not fit clearly into other categories. These direct costs must not be included in the

indirect costs (if indirect costs are proposed for this project). Examples are: conference fees, meetings within the scope of work, subscription costs, printing costs, etc., that can be directly charged to the project and are not duplicated in indirect costs (overhead costs). Provide a general description, cost and justification of need for each direct cost item. Provide a basis of cost for each item. Examples include vendor quotes, prior purchases of similar or like items, published price list, etc.

- Indirect Costs: If the indirect cost rate has been approved by a federal agency, identify the agency and the date of the latest rate agreement and submit a copy of the agreement with the application. If the indirect cost rate has not been approved by a federal agency, provide the basis for computation of rates including the types of benefits to be provided, the rate(s) used and the cost basis for each rate.

6.3. C. MASTER FILE

The Master File should include, wherever practicable, information on the state's overall strategic energy plan and its key elements, its strategic goals and objectives, and how its SEP activities fit into that overall plan. The Master File should be updated annually as appropriate. The Master File should:

- Explain how implementing the plan will conserve energy;
- Explain how the state will measure progress toward attaining its goals;
- Explain how the plan satisfies the minimum criteria for the required (mandatory) activities; and
- Provide 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 sub-recipients of financial assistance from the state.

If a state has completed certain mandatory activities, this may also be indicated in the Master File.

6.3. C.1. Measuring Progress toward the EAct 2005 Goal:

The Energy Policy Act of 2005 (EAct), PL 109-58, Title I, Subtitle B, Section 123, made two revisions to the legislation governing SEP.

The first amends the provisions regarding State Plans by adding a 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.”

With the issuance of this Program Guidance, states are invited to review their SEP State Plans with a view toward regional/multi-state collaboration. DOE will continue to work with the NASEO, the National Governors Association, REEOs and other state and local stakeholders to foster and support regional/multi-state cooperation and collaboration.

The second EAct revision amended the provisions regarding the energy efficiency goals established by the states, 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.”

States must indicate within Section 5 of the Master File in the 2019 State Plan whether it has met or exceeded its 25 percent goal. If a state has not met or exceeded its 25 percent goal, it must describe how it plans to improve its efficiency, as described in EAct, by 25%, and provide a target date by which this goal will be met.

Energy usage by states is available from the Energy Information (EIA). The Annual Energy Outlook (AEO), from which state energy data can be gathered, is typically released in late April or early May. Information on Gross Domestic Product by state can be gathered from the U.S. Department of Commerce Bureau of Economic Analysis (BEA) at the following website: <http://www.bea.gov/regional/index.htm>.

The Energy Information Administration (EIA) State Energy Data System (SEDS) database provides a common data source for all states working toward the EAct goal. A state should use the relevant SEDS data for 1990 as a baseline to calculate its goals, and then link each element of its State Plan to the appropriate goal. SEDS data can be found at: <http://www.eia.doe.gov/emeu/states/seds.html>

Excellent state-specific information on energy consumption can also be found in EIA’s State Profiles, at: <http://www.eia.gov/state/>

6.3. C.2. Ongoing ARRA Financing Programs

The following template language should be included in Box 12, Monitoring Approach, of the Master File for any states continuing an ARRA Financing Program:

“Following the end of [State Energy Office’s Name]’s SEP ARRA grant [ARRA Grant Number], [State Energy Office’s Name] chose to continue financing program(s) established under our SEP ARRA Grant per SEP guidance series 10-008. This guidance series outlines the continuing administration and reporting required. No dollars have been transferred from the ARRA award to the Annual award as the dollars were expended during the period of performance of the ARRA award. Monitoring information on the programs, including the scope and quarterly

financial information, can be found in the Financial Programs Report, submitted quarterly as part of [State Energy Office's Name]'s SEP Annual grant quarterly reporting requirements.”

For those states with active ARRA-funded RLFs, either self or third-party administered, please address the following items in Box 12, Monitoring Approach, of the Master File:

- Provide citations to any applicable state regulations or legislation regarding defaults or write-offs.
- Define what constitutes a loan being in default, including the period of time needed to pass since a payment was made for a loan to be considered in default status.
- Describe the policies and procedures used to collect loan payments and / or reclaim defaulted loans (in order of occurrence).
- Describe the policies and procedures to determine when a loan in default is written off.
- Include any other pertinent information that applies to your loan default and write-off process.

If a state is interested in repurposing funds within an ARRA-funded financing program to a grant program or a new financing program, the state must send a repurposing request to its Project Officer and to the email inbox at SEPFInancingPrograms@ee.doe.gov. The repurposing request should indicate how the state would reword the “description section” of its PAGE Financial Programs Report (FPR), outline the additional metrics that would be added to the “metrics section” of the FPR, and detail the revised dollar amounts. Written approval must be obtained by the Contracting Officer before a state can implement the new program. Repurposing requests may be submitted January 1-31 and July 1-31. States may submit repurposing requests outside of these time frames in emergency situations, but must include a statement as to why it is necessary to request repurposing outside of the January 1-31 and July 1-31 windows. Please consult pages 10-11 of SEP Program Notice 10-008E, Guidance for State Energy Program Grantees on Financing Programs, for additional information on submitting repurposing requests.

<http://www.energy.gov/sites/prod/files/2016/07/f33/SEP%20Program%20Notice%2010-008E.pdf>

If a state is interested in moving ARRA financing program funds from one financing program to another financing program within the FPR, the state should enter an Inter-Program Transfer in the FPR, provide an explanation in the FPR Remarks section, and notify its Project Officer of the transfer. Contracting Officer approval is not required for Inter-Program Transfers.

A Financial Programs Report (FPR) must be submitted quarterly, but a Quarterly Progress Report and SF-425 are not required for ARRA Financing Program activities. The FPR is available in PAGE and must be completed quarterly. The FPR requires the state to report metrics for each financing program.

For further guidance, see SEP Program Notice 10-006D “DOE Reporting Requirements for the State Energy Program”. The guidance can be found at:

<http://energy.gov/eere/wipo/downloads/state-energy-program-notice-10-006d-reporting-requirements>

6.3. D. 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. The SEP Narrative Information Worksheets capture this information. *States are strongly encouraged to structure the activities within the market areas narrowly such that each market area represents only a single state-implemented program or activity.* The Annual File must account for all funds budgeted within the program year, including funds for administrative activities. This includes match and PVE funds. The Annual File must include at least one process metric for each market title. Market titles that are administrative only are exempt from this requirement.

The description section of the Annual File should consist of a concise description of the activities that will be completed under each market title, including goals and objectives, with enough specificity to allow DOE to determine that the proposed work meets SEP requirements and includes no prohibited activities. Specific projects and programs known at the time of application should be identified and described.

Process metrics are an important element of formula grant reporting, and are described in detail in the reporting guidance SEP Program Notice Series 10-006D.

<http://energy.gov/eere/wipo/downloads/state-energy-program-notice-10-006d-reporting-requirements>

Some activities funded by SEP formula grants cannot be measured meaningfully with the process metrics identified in PAGE. States are encouraged to consult their Project Officers to develop user-defined metrics that better capture the work they will be performing. SEP activities that do not fit well into the metrics section should be reported in the Milestone section. States should list planned milestones in the Program Year Milestones section in their applications. Finally, states are encouraged to use the narrative description sections when preparing PAGE quarterly reports to provide additional information.

For each market title, states should identify all funding sources and the dollar amounts allocated. The sum of the budgets of each market title must equal the totals in Section A of the SF424A. See 10 CFR Part 420.13 for more specific requirements on State Plans.

STATE PLAN ACTIVITY CODES

States should identify program activities under the market areas and topic categories. 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.

MANDATORY REQUIREMENTS

10 CFR Part 420.15 details the mandatory requirements that must be addressed in a State Plan; These include, but are not limited to:

- Establish mandatory lighting efficiency standards for public buildings;
- Promote carpools, vanpools, and public transportation;
- Incorporate energy efficiency criteria into procurement procedures; and
- 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.

See 10 CFR Part 420.15 for more specific requirements on mandatory activities.

OPTIONAL PROGRAM ACTIVITIES

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

- Program activities of public education to promote energy efficiency and renewable energy;
- Program activities for financing energy efficiency measures and renewable energy measures, which may include loan programs and performance contracting programs for leveraging of additional public and private sector funds and program activities that allow rebates, grants, or other incentives for the purchase of energy efficiency measures and renewable energy measures;
- Program activities for encouraging and for carrying out energy audits with respect to buildings and industrial facilities (including industrial processes) within the state;
- Program activities to promote the adoption of integrated energy plans that provide for (a) periodic evaluation of a state's energy needs, available energy resources (including greater energy efficiency), and energy costs; and (b) utilization of adequate and reliable energy supplies, including greater energy efficiency, that meet applicable safety, environmental, and policy requirements at the lowest cost;
- Program activities to identify unfair or deceptive acts or practices that relate to the implementation of energy efficiency measures and renewable energy measures and to educate consumers concerning such acts or practices;
- Program activities 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;
- Program activities to promote energy efficiency as an integral component of economic development planning conducted by state, local, or other governmental entities or by energy utilities;
- Program activities (enlisting appropriate trade and professional organizations in the development and financing of such programs) to provide training and education

(including, if appropriate, training workshops, practice manuals, and testing for each area of energy efficiency technology) to building designers and contractors involved in building design and construction or in the sale, installation, and maintenance of energy systems and equipment to promote building energy efficiency;

- Program activities to provide support for prefeasibility and feasibility studies for projects that utilize renewable energy and energy efficiency resource technologies in order to facilitate access to capital and credit for such projects; and
- Program activities to support industrial energy efficiency and combined heat and power.

See 10 CFR Part 420.17 for more specific requirements on optional activities.

STATE ENERGY EMERGENCY PLANS

States shall submit a certification (via a letter) as an attachment to their application that they have an energy emergency/assurance plan on file and that it is available to DOE upon request. Please attach this letter to your application using the SF424 form. 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.naseo.org/eaguidelines>

6.3. E. EXPENDITURE PROHIBITIONS AND LIMITATIONS

Prohibitions: States are prohibited from using SEP financial assistance to:

- Fund construction, such as construction of mass transit systems and exclusive bus lanes, or for the construction or repair of buildings or structures;
- Purchase land, a building or structure, or any interest therein;
- Subsidize fares for public transportation;
- Subsidize utility rate demonstrations or State tax credits for energy conservation or renewable energy measures; or
- 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 activities that are consistent with SEP rules and that are included in the approved State plan. Loan repayments and interest on loan funds may be used only for activities that are consistent with the rules 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 the 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.
- States must document their NEPA and Section 106 determinations for DOE review.

See 10 CFR Part 420.18 for more detailed expenditure prohibitions and limitations.

6.3. F. OTHER FORMS

The following files should be submitted as attachments with your application if applicable:

- Indirect Rate Agreement or Rate Proposal.
- Certifications regarding Lobbying (SF-LLL Disclosure Form to report lobbying).
<http://energy.gov/sites/prod/files/CERTSASSURANCESSF424.pdf>
- A document containing a link to the State's latest single or program-specific audit as required by 2 CFR 200 Subpart F.
- A document providing the name, phone number and email address of the Principal Investigator and Business Officer.

6.3. G. National Environmental Policy Act Information

DOE must comply with the National Environmental Policy Act (NEPA) prior to authorizing the use of Federal funds. DOE must also consider the effects on historic properties, pursuant to Section 106 of the National Historic Preservation Act (NHPA). Additionally, DOE must consider the impacts to floodplains and wetlands, pursuant to 10 CFR Part 1022 – Compliance with Floodplain and Wetland Environmental Review Requirements. To streamline these required reviews, DOE carries out each of these reviews under the umbrella of its NEPA review.

DOE has determined the following bounded categories of activities that are funded under the SEP- ALRD 2019 are categorically excluded from further NEPA review, absent extraordinary circumstances, cumulative impacts, or connected actions that may lead to significant impacts on the environment, or any inconsistency with “integral elements” (as contained in 10 C.F.R. Part 1021, Appendix B) as they relate to a particular project. To fall under the categorical exclusion, the activities must also, adhere to the requirements of the respective state's

programmatic agreement with its State Historic Preservation Office (SHPO) and not have short-term or long-term adverse impacts to floodplain or wetland areas.

The Bounded Categories below only apply to projects funded under SEP-ALRD 2019.

Bounded Categories:

1. Administrative activities associated with management of the designated State Energy Office and management of programs and strategies to encourage energy efficiency and renewable energy, including energy audits.
2. Development and implementation of programs and strategies to encourage energy efficiency and renewable energy such as policy development and stakeholder engagement.
3. Development and implementation of training programs.
4. Development and implementation of building codes including inspection services, and associated activities to support code compliance and promote building energy efficiency.
5. Implementing financial incentive programs including rebates and energy savings performance contracts for existing facilities; grants and loans to support energy efficiency, renewable energy and energy/water saving projects. All project activities funded under a financial incentive program must be listed within the Bounded Categories.
6. Funding commercially available energy or energy/water efficiency or renewable energy upgrades, provided that projects adhere to the requirements of the respective state's programmatic agreement with its SHPO, if applicable, and are installed in existing buildings, and are limited to:
 - a. Installation of insulation;
 - b. Installation of energy efficient lighting;
 - c. HVAC upgrades (to existing systems);
 - d. Weather sealing;
 - e. Purchase and installation of energy efficient or energy/water efficient home appliances and equipment (including, but not limited to, energy or water monitoring and control systems, thermostats, furnaces and air conditioners);
 - f. Retrofit of energy efficient pumps and motors, for such uses as but, not limited to, waste water treatment plants, where it would not alter the capacity, use, mission or operation of an existing facility.
 - g. Retrofit and replacement of windows and doors; and
 - h. Installation of Combined Heat and Power System - systems sized appropriately for the buildings in which they are located, not to exceed peak electrical production at 300kW.
7. Development, implementation, and installation of onsite renewable energy technology from renewable resources, provided that projects are installed in or on an existing structure or within the boundaries of a facility and limited to:

- a. Solar Electricity/Photovoltaic - appropriately sized system or unit not to exceed 60 kW.
 - b. Wind Turbine - 20 kW or smaller.
 - c. Solar Thermal (including solar thermal hot water) - system must be 200,000 BTU per hour or smaller.
 - d. Ground Source Heat Pump - 5.5 tons of capacity or smaller, horizontal/vertical, ground, closed-loop system.
 - e. Biomass Thermal - 3 MMBTUs per hour or smaller system with appropriate Best Available Control Technologies (BACT) installed and operated.
8. Installation of fueling pumps and systems for fuels such as compressed natural gas, hydrogen, ethanol and other commercially available biofuels, (but not storage tanks) installed on the site of a current fueling station.
 9. Purchase of alternative fuel vehicles.
 10. Installation of electric vehicle charging stations installed on existing facilities.

The state is responsible for identifying and promptly notifying DOE of extraordinary circumstances, cumulative impacts, or connected actions that may lead to significant impacts on the environment, or any inconsistency with the “integral elements” (as contained in 10 C.F.R. Part 1021, Appendix B) as they relate to a particular Project; compliance with Section 106 of the National Historic Preservation Act (NHPA), and 10 CFR Part 1022.4 –Compliance with Floodplain and Wetland Environmental Review Requirements, as applicable. Additionally, the documentation of the above reviews for NEPA and Section 106 must be available for DOE review at all times.

DOE is required to consider floodplain management and wetland protection as part of its environmental review process (Subpart B of 10 CFR 1022). As part of this required review, DOE determined requirements set forth in Subpart B of 10 CFR 1022 are not applicable to the activities described in Bounded Categories 1-6g above that would occur in a floodplain or wetland because the activities would not have short-term or long-term adverse impacts to the floodplain or wetland. These activities are administrative or minor modifications of existing facilities to improve environmental conditions. All other integral elements and environmental review requirements are still applicable. **All projects (except those under Bounded Categories 1-6g) must document that project activities do not occur in a floodplain or wetland. If the project activities do occur in a floodplain or wetland (except those under Bounded Categories 1-6g), those project activities are subject to additional NEPA review and approval by DOE.**

Activities/projects not within the bounded categories listed above are not included under the ALRD categorical exclusion and are subject to additional NEPA review and approval by DOE, provided they are funded using formula, match or Petroleum Violation (PVE) funds and are included within the State Annual Plan. For activities/projects requiring additional NEPA review, states must complete the environmental questionnaire <https://www.eere-pmc.energy.gov/NEPA.aspx> and receive notification from DOE that the NEPA review has been completed and approved by the Contracting Officer prior to initiating the project or activities.

Due to recent security updates, all NEPA users must create an Applicant-Recipient sign-in account for the above web site. **It is important that the new account be created using the same email address for all EQ-1 NEPA Environmental submissions submitted for review.** If another email address is used, previous submissions will not be accessible.

Recipients are restricted from taking any action using Federal funds or PVE funds, which would have an adverse effect on the environment or limit the choice of reasonable alternatives prior to DOE providing a final NEPA determination. If the recipient moves forward with activities that are not authorized for Federal or PVE funding by the DOE Contracting Officer in advance of the NEPA determination, the recipient is doing so at risk of not receiving Federal funding and such costs may not be recognized as allowable cost match.

6.3. H. EXPENDITURES WITHIN A GRANT PERIOD

States should expend all obligated funds within the annual budget period. If a state has unobligated carryover balances from one budget period to another, the state should include an estimate of carry-over funds in its State Application.

It is imperative for states to spend all funds prior to the end of the period of performance of the grant. Any remaining unobligated funds will not be transferred to a subsequent award.

Requests to modify awards ending in calendar year 2019 must be submitted at least 90 days prior to an award's end date. This will help provide an adequate amount of time for processing the request prior to the award expiration date. Notwithstanding, DOE cannot guarantee that all requests submitted at least 90 days prior to the award end date will be approved prior to the award's expiration date.

6.4. APPLICATION FORMAT AND CHANGES

6.4. 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>

The PAGE Help System has detailed instructions for creating and submitting an annual application. The Help instructions can be found in PAGE by selecting 'help' from the blue horizontal menu bar, and under the Contents in the left panel selecting 'SEP' and the subtopic for 'New Grant Application'.

From the Home PAGE, select 'Create New Application' then select the 'Add New Application Package'. After creating the new application, be sure to use the 'copy' icons on the checklist screen to copy information from your 2018 application documents. The copy icon is in the status column next to each document listed on the checklist screen. Once the plan has been completed, be sure to validate and submit the plan.

6.4. B. OTHER SUBMISSION AND REGISTRATION REQUIREMENTS

Submission of application documents and award documents, including modifications, through electronic systems used by the Department of Energy, including PAGE and FedConnect, constitutes the authorized representative's approval and acceptance of the terms and conditions of the award. Award acknowledgement via FedConnect constitutes the authorized representative's electronic signature.

6.4. C. QUESTIONS/AGENCY CONTACTS

Questions relating to the registration process, system requirements, how an application form works, or the submittal process must be directed to the PAGE hotline at 866-492-4546, or page-hotline@ee.doe.gov. States should contact their respective Project Officer on state-specific questions. Below is a list of current DOE Project Officers assigned to each state or territory.

<u>States</u>	<u>Project Officer</u>	<u>E-Mail</u>	<u>Telephone</u>
Wyoming	Pete Davis	pete.davis@ee.doe.gov	720-356-1606
Alaska, Guam, Hawaii, Idaho, Northern Marianas, Washington	Kelsie Bell	kelsie.bell@ee.doe.gov	720-356-1643
Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, Vermont	Henry Fowler	henry.fowler@ee.doe.gov	720-356-1595
Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Wisconsin	Sharon Gill	sharon.gill@ee.doe.gov	720-356-1593
Kentucky, North Carolina, Ohio, Puerto Rico, South Carolina, Tennessee	Pete Gingrass	pete.gingrass@ee.doe.gov	720-356-1314
Delaware, District of Columbia, Maryland, New Jersey, Pennsylvania, Virginia, West Virginia	Gordon Gore	gordon.gore@ee.doe.gov	720-356-1592
American Samoa, Arizona, California, Colorado, Nevada, New Mexico, Utah	Julie Howe	julie.howe@ee.doe.gov	720-356-1628
Kansas, Louisiana, Montana, Nebraska, North Dakota, Oklahoma, Oregon, South Dakota, Texas	Randall Lamp	randall.lamp@ee.doe.gov	720-356-1631
Alabama, Arkansas, Florida, Georgia, Mississippi, Virgin Islands	John Merenda	john.merenda@ee.doe.gov	720-356-1620

6.5 REPORTING REQUIREMENTS

Guidance has been published that provides the scope and purpose of reporting for SEP formula grants. SEP Program Notice Series 10-006, most recently published as 10-006D on September 19, 2014, is available at:

<http://energy.gov/eere/wipo/downloads/state-energy-program-notice-10-006d-reporting-requirements>

Reporting requirements are identified on the Financial Assistance Reporting Checklist (FARC), DOE EERE 355, attached to the award agreement.

Additional policy documents may be found at:

<https://energy.gov/eere/wipo/state-energy-program-guidance>

The awards initiated since 10/1/2010 are subject to the requirement of Reporting Subawards and Executive Compensation at <https://www.fsr.gov>. Please see Part V.C. of the Administrative and Legal Requirements Document (ALRD) for additional information.

6.5. A. ANNUAL SUMMARY

An Annual Summary must be submitted to the assigned Project Officer at the end of each program year. The Annual Summary should describe high-impact or exceptionally innovative activities undertaken during the program year and include information related to: quantitative energy savings, grant funds allocated to activity, barriers and solutions, and lessons learned. The Annual Summary should also describe any significant energy related legislative actions or policies enacted due, at least in part, to DOE formula funds. The Annual Summary must be submitted no later than 90 days following the end of the budget period. Please see the Annual Summary Template, which accompanies this Guidance.

6.6. STATE ENERGY PROGRAM OPERATIONS MANUAL

The State Energy Program Operations Manual is a reference tool for states and program officials within DOE. The Manual was released in 2016 and is updated periodically.

<http://energy.gov/sites/prod/files/2016/07/f33/SEP-operations-manual.pdf>

CONCLUSION

As the State Energy Program (SEP) and its partners continue to draw both on regular federal appropriations and the valuable lessons and benefits from the Recovery Act, DOE looks forward to continuing to work with its state partners to implement effective SEP programs.



AnnaMaria Garcia, Program Director
Weatherization and Intergovernmental Programs Office
U.S. Department of Energy
Office of Energy Efficiency and Renewable Energy

REFERENCE MATERIAL

2019 Administrative and Legal Requirements Document
Program Year 2019 SEP Formula Allocations
2019 Formula Award Application Checklist
Annual Summary Template