

DOCKET

09-OII-1

DATE, July 08 2009

RECD. July 09 2009



California Energy Commission

PRELIMINARY BLOCK GRANT GUIDELINES

(FORMULA-BASED GRANTS)

ENERGY EFFICIENCY CONSERVATION BLOCK GRANT PROGRAM



JULY 8, 2009

CEC-150-2009-002-D

American Recovery and Reinvestment Act 2009

Table of Contents

1. <u>Background</u>	3
2. <u>Funding</u>	4
3. <u>State Law</u>	5
4. <u>Cost-Effectiveness</u>	5
5. <u>Period of Performance</u>	7
6. <u>Eligibility</u>	7
7. <u>Administrative Expenses</u>	10
8. <u>Application Process</u>	10
9. <u>Selection Method</u>	12
10. <u>Approval of Awards</u>	12
11. <u>Interpretation</u>	12
12. <u>Effective Date of Guidelines</u>	13
13. <u>Substantive Changes in Guidelines</u>	13
14. <u>Non-Substantive Changes in Guidelines</u>	13
15. <u>Confidentiality</u>	14
16. <u>Cancellation of Awards</u>	14
17. <u>Funding Award Packages</u>	14
18. <u>Award Payments and Invoicing</u>	14
19. <u>Tracking and Reporting</u>	15
20. <u>Reports and Documentation</u>	15
21. <u>Project Changes</u>	15
22. <u>Program Evaluation, Project Monitoring, and Verification</u>	16
23. <u>Random Audits, Record Retention and Access to Facilities</u>	16
24. <u>Use and Disclosure of Information and Reports</u>	16
25. <u>Reconsideration and Appeal</u>	17
26. <u>Enforcement Action</u>	18
<u>GLOSSARY</u>	19

Energy Efficiency and Conservation Block Grant (EECBG) Program Guidelines

1. Background

The **California Energy Commission**¹ (Energy Commission) has developed these Guidelines to help implement and administer the **Energy Efficiency and Conservation Block Grant Program** (EECBG Program). The purpose of the EECBG Program is to help cities and counties implement projects and programs that will:

- Reduce fossil fuel emissions in a manner that is environmentally sustainable, and to the maximum extent practicable maximize benefits for local and regional communities.
- Reduce total energy use.
- Improve energy efficiency in the building sector, the transportation sector, and other appropriate sectors.

The EECBG Program was created by the **Energy Independence and Security Act of 2007 (EISA)**. It is funded by the **American Recovery and Reinvestment Act of 2009 (ARRA)**, which provides \$787 billion in economic investment nationally for the purpose of stimulating the economy. ARRA appropriates funding to the U.S. Department of Energy (DOE) for the issuance of formula-based block grants to states, U.S. territories, large cities and counties,² and Indian tribes.

These Guidelines summarize the manner in which the Energy Commission plans to implement the EECBG Program. Specifically, the Guidelines perform the following functions:

- Provide direction to potential applicants on the types of proposals sought by the Energy Commission for the EECBG Program.
- Explain screening and evaluation criteria.
- Outline the award process.
- Describe reporting and documentation requirements.
- Describe payments to recipients.

¹ Terms that appear in bold are defined in the Glossary at the end of this document.

² DOE allocates the majority of the funds available through the EECBG Program to cities with populations over 35,000 and counties with populations over 200,000. These large cities and counties must apply directly to DOE for program funding.

2. Funding

DOE has allocated the Energy Commission \$49.6 million for the EECBG Program. The Energy Commission must distribute not less than 60 percent or approximately \$29.7 million of these funds to **small cities and counties** that are not eligible for direct grants from DOE. There are approximately 265 small cities and 44 small counties eligible for this funding. Attachment A provides a complete listing of eligible cities and counties. For purposes of these guidelines, “eligible” means eligible for Energy Commission-administered grants.

A formula-based allocation methodology distributes the funding to all eligible applicants. The minimum funding award allocation is \$25,000.

- a) Minimum Funding Awards: Cities with a population less than **5,000** will receive a fixed \$25,000 funding award. Counties with a population less than **10,000** will receive a fixed \$50,000 funding award.
- b) Population-Based Formula: For all other eligible cities and counties, the formula funding allocation methodology is calculated by \$5.00 per total population, plus an unemployment calculation adder as follows:

Base Population Calculation = Population * \$5.00³

Unemployment Adder = Base population calculation * Unemployment rate ⁴

For example: If City X has a population of 10,000 with an unemployment rate of 11.2 percent, the formula is as follows:

Base Population Calculation	(10,000 * \$5.00) = \$ 50,000
Unemployment Adder	(\$50,000 * 0.112) = \$ 5,600
Total Funding Award	\$ 55,600

Jurisdictions may pool their funding allocations and submit a joint grant application (See “Eligibility” section). Applicants may apply for funding up to the maximum amount specified in Attachment A for projects that meet the Eligibility Criteria specified in these Guidelines.

Energy Efficiency Loan Program Funding

Eligible applicants may combine an EECBG award with an Energy Commission loan⁵ for all or a portion of the balance of the project cost. The Energy Commission’s Energy

³ Federal Register, Volume 74, Number 71, April 15, 2009

⁴ The unemployment rate is based on the Employment Development Department Labor Market Information Division, Report 400 for the Month of June 2009. See <http://www.labormarketinfo.edd.ca.gov>.

⁵ For additional information on the Energy Commission’s Energy Efficiency Financing Program please see <http://www.energy.ca.gov/efficiency/financing/index.html>.

Efficiency Loan Program provides low interest loans for the installation of energy efficiency projects.

ARRA State Energy Program Funding

An award agreement through the EECBG Program may be combined with ARRA State Energy Program Funding⁶ for all or a portion of the balance of the project cost. Jurisdictions may be eligible for funding and are encouraged to combine all funding resources when available.

Leveraging ARRA Funding

Jurisdictions should pursue local utility rebates for energy and water efficiency projects to leverage the funds applied for through EECBG Program. Rebates can be researched at www.flexyourpower.com or by calling the local electric, gas and water utilities.

3. State Law

The California legislature passed **Assembly Bill 2176** (California Public Resources Code §§ 2450-25453) in 2008 to grant the Energy Commission authority to administer the EECBG Program. AB 2176 requires the Energy Commission to prioritize cost-effective energy efficiency projects, and places a 5 percent cap on administrative expenses. The cap applies to all funding recipients (See “Administrative Expenses” section).

4. Cost-Effectiveness

As explained above, AB 2176 requires the Energy Commission to prioritize cost-effective projects. The Energy Commission defines cost-effectiveness as achievement of minimum energy savings per dollar spent (10 million source **British Thermal Units** (Bs) per each \$1000 spent). Dollars spent/project costs include only EECBG funds. No utility rebates or incentives, loan funding, or other potential sources of matching funds may be considered in the dollars spent/project cost when calculating this cost-effectiveness ratio.

As a reference to the 10 million source Btu’s per \$1000 spent criterion, Table 1 below illustrates energy sources and the equivalent energy unit per dollar spent. This represents another method of determining if a project is cost-effective using the Btu criteria.

⁶ For additional information on the ARRA State Energy Program please see <http://www.energy.ca.gov/recovery/sep.html>.

Table 1

Energy Source	Energy Saving Units	Dollars Spent
Electricity	1 kWh	\$1.00
Natural Gas	1 Therm	\$10.00
Propane	1 Gallon	\$9.50
#2 Fuel Oil	1 Gallon	\$14.00

Engineering Assumptions: Source Btu calculations

- 1) *Electricity (10,239 Btu's per kWh)*
- 2) *Natural Gas (100,000 Btu's per therm)*
- 3) *Propane (95,000 Btu's per gallon)*
- 4) *#2 Fuel Oil (140,000 Btu's per gallon)*

The Energy Commission will create an on-line calculator to assist with calculation of cost-effectiveness.

Typically, the most cost-effective projects include, but are not limited to:

- Lighting retrofits and controls.
- Street lighting and traffic signal retrofits.
- Heating, ventilation and air conditioning (HVAC) modifications and controls.
- Automated energy management systems, motors, variable speed drives and pumps.
- Water/wastewater system process and control retrofits.

Each applicant must provide a feasibility study with costs and energy savings estimates on the project(s) proposed for EECBG funding awards, and certify that they are the most cost-effective energy efficiency project opportunities. A feasibility study must include the following:

- A description of the proposed energy efficiency projects and the buildings or facilities that will be affected by these projects.
- A discussion of baseline energy use for the affected facilities, including annual energy-related utility bills.
- All calculations and assumptions to support the technical feasibility and energy savings of the recommended projects.
- A proposed budget detailing all project cost.
- A proposed schedule for implementation of the projects.

5. Period of Performance

Pursuant to the federal EECBG guidelines,⁷ all projects must be completed and operational by September 30, 2012.

An applicant may not begin work on that portion of a project awarded funding under these Guidelines prior to the Energy Commission's approval and execution of the applicant's award agreement. Project expenses incurred prior to the approval and execution of an award agreement are not eligible for reimbursement under the award agreement.

6. Eligibility

a) Eligible Applicants

Individual applicants

EECBG funding is available to: (1) incorporated cities within the State of California that did not receive direct EECBG funding from DOE; and (2) counties within the State of California that did not receive direct EECBG funding from DOE. Attachment A lists all eligible applicants.

Collaborative applicants

Pending DOE approval, applicants may collaborate with each other to share and leverage their internal resources. The lead collaborator, with written authorization from the other collaborating applicants, may apply for and receive a funding award on behalf of all collaborating applicants. The lead collaborator must be an eligible applicant.

All eligible applicants may apply. Only one application per eligible applicant is allowed.

Eligible Projects

Pursuant to AB 2176, all eligible projects must focus on energy efficiency, and must be cost-effective. Typically, the most cost-effective projects include but are not limited to:

Lighting:

- 1) T-12 lamps and magnetic ballasts to T-8 lamps and electronic ballasts conversion.

⁷ See Financial Assistance Funding Opportunity Announcement for Energy Efficiency and Conservation Block Grants (DE-FOA-0000013) at: <http://www.grants.gov/search/search.do?mode=VIEW&oppld=46340>.

- 2) T-8 lamps (32 watt) to T-8 lamps (28 or 25 watt) conversion.
- 3) HID and Incandescent street lighting to induction or LED Street Lighting conversion.
- 4) HID lighting for parking garages or lots to induction or LED Lighting conversion.
- 5) Incandescent or Fluorescent exit signs to LED exit signs.
- 6) Incandescent lamps to Fluorescent lamps retrofit.
- 7) Installation of lighting controls such as occupancy sensors, dimming, photocell, etc.

Mechanical:

- 1) Pneumatic controls to Direct Digital Control (DDC) conversion.
- 2) Constant Volume Air Handlers to Variable Air Volume Controls conversion.
- 3) Variable Frequency Drives installations on pumps and motors.
- 4) Upgrades on heat pumps and chiller systems.
- 5) Demand Control Ventilation.
- 6) Chilled Water and hot water loop outside air reset.
- 7) Premium efficiency motors retrofits.
- 8) Condensing boilers.

Controls:

- 1) Installation of Energy Management System.
- 2) Installation of SCADA system.
- 3) Vending machine controllers.
- 4) CO sensors for parking garages fans.

Projects that do not meet the cost-effectiveness criterion alone may be coupled with one or more strategies to ensure that the overall project is cost-effective. Accordingly, an eligible project may be a package of energy efficiency technologies and/or practices. Table 2 illustrates this approach. Projects 1 and 2 are cost effective as stand-alone projects, while Project 3 is not. When these three projects are averaged together, Project 3 becomes a cost-effective project.

Table 2

Project	Energy Savings (kWh)	Source Btu Savings	Project Cost
Project 1	19,461	199,261,179	\$17,826
Project 2	32,089	328,559,271	\$22,058
Project 3	30,512	312,412,368	\$38,283
Total Project	82,062	840,232,818	\$78,167

Direct Equipment Purchase Project Option

Some eligible applicants may not have the resources and/or expertise to develop complex energy efficiency projects. In these cases, eligible applicants may choose to use their awards to make a direct purchase of pre-selected energy efficiency measures. This direct purchase option can take advantage of bulk purchase discounts through the State of California or other local jurisdiction-approved vendor(s), or be a direct purchase from a local distributor/vendor. The solicitation document will include additional criteria and a list of preselected energy efficiency measures.

Competitive Grant Option

The Energy Commission may allocate EECBG funds for competitive grants, which would be used to fund innovative projects. Successful applicants would receive a competitive grant in addition to a formula-based grant. The solicitation document will include further information regarding this option.

b) Eligibility Criteria

In order to be eligible for funding under the EECBG Program, projects must meet the minimum criteria listed below. The solicitation document may include additional criteria. The minimum criteria for funding eligibility include:

- Applicants must be eligible to apply as previously defined.
- Projects must focus on energy efficiency.
- Projects must be cost-effective.
- Projects must include a feasibility study that provides estimates of costs and energy savings.
- Applicants must demonstrate that projects will be completed by September 30, 2012.
- Project administration cost must be below 2 ½ percent of the funding award received from the Energy Commission.⁸
- Applicants must demonstrate ability to comply with state and federal reporting obligations, including documentation of jobs created and greenhouse gas impacts.
- No grant funds may be used for energy efficiency projects related to swimming pools, gambling establishments, aquariums, zoos, or golf courses.

For jurisdictions using the Direct Equipment Purchase Project Option, the application must certify that: equipment will be used in specific locations and applications, less than

⁸ This requirement derives from AB 2176, which places a 5% limit on administrative costs for the state and all recipients of EECBG funding.

2 ½ percent of funds will be used for administrative expenses, the jurisdiction will comply with state and federal reporting obligations, and the jurisdiction will not use funds for the purposes prohibited in the last bullet above.

7. Administrative Expenses

AB 2176 places a 5 percent cap on the administrative expenses of all public and private entities associated with the disbursement and expenditure of EECBG funds. As the cap applies cumulatively and the Energy Commission must use some funding for program administration, applicants must limit project administrative costs to below 2 ½ percent of the funding received from the Energy Commission. AB 2176 defines administrative expenses as follows:

- Administrative program costs
- Indirect costs
- Overhead

The solicitation document will include additional information regarding administrative expenses.

8. Application Process

a) Solicitation Document

The Energy Commission will issue a solicitation document to initiate the application process. Eligible applicants who want to receive funding for projects pursuant to these Guidelines must apply to the Energy Commission as specified in the solicitation document. The document will identify the following:

- The program or program element for which the solicitation is issued.
- Eligibility requirements.
- Maximum amount of funds available under the solicitation, including any maximum or minimum amounts for individual funding awards.
- Schedule or timetable for conducting the solicitation.
- Administrative requirements for submitting applications, including forms and instructions.
- Criteria used to screen and evaluate funding applications.
- A sample funding award agreement that the recipient will be expected to execute. The agreement will identify the terms and conditions applicable to an award and will include provisions that address matters such as funding award payments and invoicing, project management, progress reports, dispute resolution, award termination, and any provisions required by law.

Unless otherwise specified in a solicitation document, the Energy Commission or Committee may cancel a solicitation at any time prior to the final date applications are due under the solicitation.

b) Request for Funding

Eligible applicants who want to receive program funding must apply for funding pursuant to the solicitation document described above. Applications must be received in the Energy Commission's Grants and Loans Office by the date and time specified in the solicitation document.

Unless indicated otherwise in the solicitation document, applications for funding must include the following, at a minimum:

- Name, address, and business contact information of applicant.
- Name, address, and business contact information of the project contact.
- Description of project(s) for which funding is sought and supporting engineering analysis.
- An itemized budget for the project that identifies all related costs and expenses.
- A certification by an authorized representative of the applicant that the information included in the application is true and correct to the best of the individual's knowledge.

Applications may require additional information as required by law or the Energy Commission, and as specified in the solicitation document.

c) Governing Board Documentation

All county and city recipients must provide an original signed resolution (or copy with original signed certification), order, motion, or ordinance of the local governing body which by law has authority to enter into the funding award agreement. This document must authorize the recipient to enter into the funding award agreement and designate an authorized representative to execute all necessary agreements to implement and carry out the purposes of the award. The recipient cannot be reimbursed for expenditures from the Energy Commission until the resolution, order, motion, or ordinance has been fully executed and submitted to the Energy Commission. In addition, reimbursable expenditures cannot be incurred until after the Energy Commission has approved the funding award agreement. A sample governing board resolution will be provided in the solicitation document.

9. Selection Method

Projects will be screened for completeness and then evaluated for eligibility and technical accuracy only. No other criteria or scoring will be used to evaluate applications. The selection process is as follows:

- Energy Commission staff will review the application for completeness. All applications must contain an analysis of project cost and estimated annual energy savings. The analysis must clearly state all assumptions used and the basis for the assumptions. If the application is not complete, staff will request additional information in writing. The Energy Commission will return the application unprocessed if additional information is not received within the time frame specified in the written request, or if the application contains confidential information. When the application is complete, it will be recorded as “received,” and will continue in the review process.
- Complete applications will be reviewed to determine if they meet the minimum project eligibility criteria.
- Applications meeting the minimum project eligibility criteria will be screened for technical accuracy. All supporting engineering analysis will be reviewed to ensure accuracy of cost and savings estimates and reasonableness of assumptions used in calculations.
- The application will be recommended for funding only if it passes the completeness screening, minimum eligibility criteria, and technical accuracy screening.

10. Approval of Awards

The ARRA Ad Hoc Committee will make recommendations for all funding awards. The Energy Commission may approve the awards at an Energy Commission Business Meeting. Upon approval by the Energy Commission, a funding award agreement will be generated. The agreement will include the project description, work statement tasks and milestones, budget, and schedule. Failure to meet any work statement tasks and milestones within the schedule or budget specified in the agreement may result in cancellation of the agreement by the Energy Commission.

11. Interpretation

Nothing in these Guidelines shall be construed to abridge the powers or authority of the Energy Commission or any Energy Commission-designated Committee as specified in Division 15 of the Public Resources Code, commencing with Section 25000, or Division 2 of Title 20 of the California Code of Regulations, commencing with Section 1001.

12. Effective Date of Guidelines

The Guidelines shall not be effective until adopted by the Energy Commission at a publicly-noticed meeting. The Energy Commission will post the adopted Guidelines on its web site:

<http://www.energy.ca.gov/recovery/blockgrant.html>

Applicants may also obtain the Guidelines by contacting:

California Energy Commission
EECBG Program
1516 Ninth Street, MS-39
Sacramento, CA 95814
E-mail: EECBG@energy.state.ca.us

13. Substantive Changes in Guidelines

Substantive changes to these Guidelines may be made upon the recommendation of the Committee with the approval of the Energy Commission. Substantive changes shall take effect once adopted by the Energy Commission at a publicly noticed meeting with no less than 15-days public notice. Substantive changes include but are not limited to the following:

- Changes in screening for eligibility.
- Changes in minimum or maximum dollar amount or energy use reduction required for individual grants, applicants or projects.
- Changes in funding criteria or incentive levels for determining award amount.
- Addition of new EECBG Program elements.

14. Non-Substantive Changes in Guidelines

Non-substantive changes to these Guidelines may be made upon the recommendation and approval of the Committee. Non-substantive changes shall take effect 15 days after the Committee has approved and publicly noticed the non-substantive changes. Non-substantive changes include, but are not limited to the following:

- Changes to the formatting of any application, invoicing, reporting, or other form.
- Changes in the information required in any application, invoicing, reporting, or other form.

15. Confidentiality

Unless the program solicitation permits submission of confidential information, applications that contain confidential material will be disregarded and returned to the applicant. All applications submitted to the Energy Commission will be available for public inspection once the project selections are made, with the exception of confidential materials that may be permitted under a solicitation.

16. Cancellation of Awards

An applicant may withdraw its application for funding at any time prior to the Energy Commission's approval of an award agreement. After the award agreement has been executed, the Energy Commission may terminate it under those circumstances and terms specified in the award agreement.

17. Funding Award Packages

Unless indicated otherwise in the solicitation document, the award package will include at a minimum the following:

- A grant award agreement that includes the terms and conditions applicable to the award, and signature blocks for the recipient and Energy Commission;
- A detailed description of project activities;
- A schedule of project activities and corresponding due dates; and
- An itemized budget for the project that identifies all related costs and expenses.

18. Award Payments and Invoicing

Unless indicated otherwise in the solicitation document or the award agreement, award payments shall be subject to the following conditions:

- a) Payments will be made on a reimbursement basis, after the recipient submits the appropriate invoice(s) to the Energy Commission. (If an applicant is receiving funds from other funding sources(s), total funds requested by all sources shall not exceed the total cost of the project.)
- b) Ten percent (10%) of the award agreement amount will be withheld as retention until the final report is received from the applicant and the Commission's Project Manager determines the Project has been satisfactorily completed.
- c) All invoices must be submitted with a completed payment request form, as specified by the Energy Commission, and accompanied by all backup

documentation. The backup documentation must include copies of paid invoices and receipts detailing the specific equipment and purchases, the services produced, and personnel time records where appropriate.

- d) Prior to final payment, the Energy Commission reserves the right to verify that the amount of the award agreement, when combined with all other sources of funding for the project, including any utility rebates or incentives, does not exceed 100 percent of the total project cost.
- e) Energy Commission staff must approve all invoices. Such approval is subject to the recipient's acceptable submittal of the required progress reports, other specified products, and the appropriateness of the invoiced expenses under the funding award agreement.

19. Tracking and Reporting

Though recipients may use EECBG funding in conjunction with other funding, **tracking and reporting of EECBG funding must be separate** to meet federal and state reporting requirements. The terms and conditions of the award will specify the format, tools and information required for reporting programmatic and energy metrics as identified by the DOE and the federal government.

20. Reports and Documentation

All recipients will be required to submit regular progress reports and a final report to Energy Commission staff as specified in the applicable solicitation document and/or award agreement.

21. Project Changes

Changes to the project's work statement, to specific line items in the project budget, or both may be made under the following conditions:

- Such changes must not alter the original scope or purpose of the project as proposed in the application and as approved by the Committee and/or full Commission; and
- Such changes must not appreciably affect the value of the project. Unless indicated otherwise in the award agreement, all changes are subject to necessary approval by the Committee. The recipient shall notify Energy Commission staff in writing and in advance of implementing any such changes.

22. Program Evaluation, Project Monitoring, and Verification

The Energy Commission may audit a sample of funding recipients to verify compliance with these Guidelines and the solicitation document, and to measure and verify electricity and fuel reductions. In addition, the Energy Commission will monitor the progress of award agreements and evaluate the effectiveness of the particular program or program element.

23. Random Audits, Record Retention, and Access to Facilities

Upon written request from the Energy Commission, the recipient shall provide detailed documentation of all expenses, allow the Energy Commission or its agent access to facilities and records, and allow the Energy Commission or its agent to collect data needed to measure and verify electricity and fuel reductions (this may include but is not limited to utility bills, metering data, facility equipment surveys, information on operational practices and site occupancy levels). Further, if requested, the recipient must provide the Energy Commission or its agent associated data from a period prior to the start of the project as necessary to establish baseline energy and/or fuel use.

In addition, the recipient must allow the Energy Commission or any other agency of the state, upon written request, to have reasonable access to and the right of inspection of all records that pertain to the project and to the recipients' energy use during the term of the agreement and for a period of three years after the ending term of the agreement. Further, the recipient must agree to incorporate an audit of this project within any scheduled audits, when specifically requested by the state.

The recipient must agree to include a similar right to audit in any subcontract or subgrant. The recipient shall retain all project records (including financial records, progress reports, payment requests, and electricity and fuel reduction documentation) for a minimum of three years after the project has been formally concluded, or final payment received, whichever is later, unless otherwise specified in the award agreement.

24. Use and Disclosure of Information and Reports

The Energy Commission or its authorized agents may use any information or records submitted to the Energy Commission or obtained as part of any audit pursuant to these Guidelines to determine eligibility and compliance with these Guidelines, applicable law, or a particular award agreement, to evaluate the pertinent program or program elements, and to prepare necessary reports as required by law. The information and records include, but are not limited to, applications for funding, invoices for funding award payments, and any documentation submitted in support of said applications or invoices.

Information and records submitted pursuant to these Guidelines will be disclosed to other governmental entities and policing authorities for civil and criminal investigation and enforcement purposes. This information and records may also be disclosed to the public pursuant to the California Public Records Act (Government Code Section 6250, et seq.). Personal information, such as taxpayer identification or social security numbers, will not be disclosed to the public.

Information concerning the identity of recipients and the amount or payment of funding awards is public information. This information, along with other public information describing funding recipients, may be disclosed to members of the public to educate them and encourage further program participation. The information may be disclosed through the Energy Commission's website or other means, as the Energy Commission deems appropriate.

If, as part of any audit, the Energy Commission requires a recipient to provide copies of records that the recipient believes contain proprietary information entitled to protection under the California Public Records Act or other law, the recipient may request that such records be designated confidential pursuant to the Energy Commission's regulations for confidential designation, Title 20, California Code of Regulations, Section 2505.

25. Reconsideration and Appeal

Applicants may appeal the denial of a funding award pursuant to this section upon a showing that factors other than those described in these Guidelines were applied by the Energy Commission in denying a funding award.

a) Committee Reconsideration

Any applicant who applied for but did not receive a funding award may petition the Committee for reconsideration. The petition for reconsideration shall be in writing and shall be submitted, together with any supporting documentation, to the Committee at the following address within 15 days of the date of the notice of funding denial:

California Energy Commission
ARRA Ad Hoc Committee
1516 Ninth Street, MS-31
Sacramento, CA 95814-5512

The petition shall specify the basis for the appeal, state why the applicant believes the funding denial is improper given the eligibility criteria for the funding as specified in these Guidelines and the applicable solicitation, explain any supporting documentation filed with the petition, identify the legal authority or other basis supporting the petitioning party's position, and identify the remedy sought.

Within 45 days of receipt of a complete petition, the Committee, in its discretion, shall either issue a decision based on its consideration of the petition and a response by Energy Commission staff, or schedule a hearing to consider the petition. If a hearing is scheduled, the applicant shall be notified of the hearing date and any additional information the petitioner is directed to submit. This notice shall be given at least 15 days before the Committee hearing date. The Committee may direct the applicant and Energy Commission staff to attend the Committee hearing.

The Committee shall provide the applicant with a written decision on the petition within 45 days of holding the hearing. If the applicant disagrees with the Committee's decision, the applicant may appeal the decision to the Energy Commission. The solicitation document will specify the procedure for appeal.

26. Enforcement Action

a) Recovery of Overpayment

The Committee, with the concurrence of the Commission, may direct the Commission's Office of Chief Counsel to commence formal legal action against any recipient or former recipient to recover any portion of a funding award the Committee determines the recipient or former recipient was not otherwise entitled to receive.

b) Fraud and Misrepresentation

The Committee may initiate an investigation of any recipient which the Committee has reason to believe may have misstated, falsified, or misrepresented information in applying for a funding award, invoicing for a funding award payment, or in reporting any information as required by the Guidelines. Based on the results of the investigation, the Committee may take any action it deems appropriate, including, but not limited to, cancellation of the funding award, recovery of any overpayment, and with the concurrence of the Commission, recommending the initiation of an Attorney General investigation and prosecution pursuant to Government Code sections 12650, et seq., or other provisions of law.

GLOSSARY

AB 2176

Assembly Bill 2167 is a law passed by the California legislature in 2008 that grants the Energy Commission authority to administer the EECBG Program.

American Recovery and Reinvestment Act of 2009 (ARRA)

A Federal law signed by President Barack Obama in February 2009 that appropriates funds for job preservation and creation, promotion of economic recovery, investment in environmental protection and science, and stabilization of State and local government budgets.

Applicant

A city or county that has applied for an award pursuant to these Guidelines.

British Thermal Unit

A measurement of energy. The amount of heat required to raise the temperature of one pound of water from 60 degrees Fahrenheit to 61 degrees Fahrenheit at a constant pressure of one atmosphere.

California Energy Commission (Energy Commission)

The State of California's primary energy policy and planning agency. The Energy Commission is responsible for administration of the State's EECBG Program.

Committee

The Energy Commission's American Recovery and Reinvestment Act of 2009, Ad Hoc Committee, or other Energy Commission committee subsequently charged with implementing the American Recovery and Reinvestment Act of 2009.

Cost-effectiveness

Achievement of minimum energy savings per dollars spent (10 million source BTUs per each \$1000 spent). AB 2176 requires that the Energy Commission to prioritize cost-effective projects.

Energy Efficiency and Conservation Block Grant Program (EECBG Program)

A federally-funded program that provides states, U.S. territories, cities, counties, and Indian tribes funding to reduce fossil fuel emissions and total energy use, and to improve energy efficiency in the building sector, the transportation sector, and other appropriate sectors. The EECBG Program was created by the Energy Independence and Security Act of 2007. It is funded by the American Recovery and Reinvestment Act of 2009.

Energy Independence and Security Act of 2007 (EISA)

A federal law that established the EECBG Program.

Recipient

An individual or entity awarded funding pursuant to these Guidelines.

Small City

An incorporated city within the State of California with a population of 35,000 or less, as determined by the U.S. Department of Energy. Attachment A includes a list of cities meeting this definition.

Small County

A county within the State of California with a population of 200,000 or less in the unincorporated area of the county, as determined by the U.S. Department of Energy. Attachment A includes a list of counties meeting this definition.