



California Energy Commission

BLOCK GRANT GUIDELINES

(FORMULA-BASED GRANTS)

ENERGY EFFICIENCY CONSERVATION BLOCK GRANT PROGRAM

DRAFT ~~FIFTH~~SIXTH EDITION

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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 EECBG Program helps cities and counties implement projects and programs that will:

- Reduce fossil fuel emissions in a manner that is environmentally sustainable, and to the greatest 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 to stimulate the economy. ARRA appropriates funding to the U.S. Department of Energy (DOE) to issue formula-based block grants to states, U.S. territories, large cities and counties,² and Indian tribes. Under this program, states are required to use not less than 60 percent of the EECBG Program funds for **small cities and counties**.

In addition, the EECBG Program is subject to the requirements of Public Resources Code sections 25450 – 25450.5, as enacted by Assembly Bill 2176³ and amended by Assembly Bill X4 11⁴. This state law requires the Energy Commission to prioritize grants based on cost-effective energy efficiency.

These *Guidelines* describe how the Energy Commission plans to implement the EECBG Program. Specifically, the *Guidelines*:

- Provide direction to potential applicants on the types of proposals sought by the Energy Commission for the EECBG Program.

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, counties with populations over 200,000 and Indian tribes. These large cities and counties and tribes must apply directly to DOE for program funding.

³ AB 2176, Stats. 2008, ch.229.

⁴ ABX4 11, Stats. 2009, 4th Ex. Sess., ch11, sec. 16-21.

- Explain screening and evaluation criteria.
- Outline the award process.
- Describe reporting and documentation requirements.
- Describe payments to recipients.

2. Funding

DOE has allocated the Energy Commission \$49.6 million for the EECBG Program pursuant to DOE Award No. DE-EE0000905. The Energy Commission must distribute not less than 60 percent or approximately \$29.8 million of these funds to **small cities and counties** that are not eligible for direct grants from DOE. There are 265 small cities and 44 small counties eligible for this funding. Attachment A provides a complete listing of the eligible small cities and counties and the funding award allocation. For purposes of these *Guidelines*, “eligible” means eligible for an Energy Commission administered grant through a funding award agreement.

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

- a) **Population-Based Formula: The formula funding allocation methodology is calculated by total population, plus an unemployment calculation adder:**⁵

Base Allocation Calculation = Population * \$5.00⁶

Unemployment Adder = Base population calculation * Unemployment rate ⁷

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

Base Allocation Calculation	(10,000 X \$5.00) = \$ 50,000
Unemployment Adder	(\$50,000 X 0.112) = <u>\$ 5,600</u>
Total Funding Award	\$ 55,600

⁵ If an eligible small city or county does not apply for its EECBG funding allocation or is unable to utilize its EECBG funding allocation, the Energy Commission may use the unsubscribed funds to increase the \$5.00 per capita allocation for participating cities and counties to the extent needed to satisfy the 60 percent funding requirement. The increased allocation will be made on a per capita basis relative to the total population of participating small cities and counties.

⁶ Federal Register, Volume 74, Number 71, April 15, 2009

⁷ 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>.

- b) **Minimum Funding Awards: Cities that receive less than \$25,000 under the formula qualify for an award of \$25,000. Counties that receive less than \$50,000 under the formula qualify for an award of \$50,000.**

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*.

Other Grant Programs Awarding Remaining EECBG Funding

The Energy Commission may award remaining EECBG funding through other grant programs, e.g., subsequent phases of the EECBG. Award of a formula-based EECBG grant will not affect eligibility to apply for any such grant programs, which are considered independent funding opportunities. The Energy Commission will provide information on additional grant opportunities with EECBG funding through future *Solicitations*.

Energy Efficiency Loan Program Funding

Eligible applicants may combine an EECBG funding award with an Energy Commission loan⁸ for all or a portion of the balance of the project cost. The Energy Commission’s Energy Efficiency Financing Program provides low interest loans to install energy efficiency projects.

ARRA State Energy Program Funding

Eligible applicants may combine an EECBG funding award with ARRA State Energy Program (SEP) funding⁹ for all or a portion of the balance of the project cost. Eligible applicants may qualify for SEP funding and are encouraged to combine all funding resources when available. Eligible applicants may not, however, use EECBG funding to supplant SEP funding for the project or supplant funding for the project from the Weatherization Assistance Program for Low-Income Persons.¹⁰

Leveraging ARRA Funding

Eligible applicants should pursue local utility rebates and incentives for energy and water efficiency projects to leverage the EECBG funds. Utility rebates and incentives can be researched at www.flexyourpower.com or by calling the local electric, gas and water utilities.

⁸ For additional information on the Energy Commission’s Energy Efficiency Financing Program please see <http://www.energy.ca.gov/efficiency/financing/index.html>.

⁹ For additional information on the ARRA State Energy Program please see <http://www.energy.ca.gov/recovery/sep.html>.

¹⁰ 42 USC sec. 17158(b).

3. Cost-Effectiveness

State law requires the Energy Commission to prioritize the use of program funds for cost-effective energy efficiency projects. The Energy Commission defines cost-effectiveness as achievement of minimum annual energy savings per dollar spent (10 million source **British Thermal Units** (Btus) saved per year for each \$1,000 of EECBG funds spent).¹¹

As a reference to the 10 million source Btu's per \$1,000 spent criterion, Table 1 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 criterion.

Table 1

Energy Source	Energy Saving Units	Award Dollars Spent
Electricity	1 kWh/year	\$1.00
Natural Gas	1 Therm/year	\$10.00
Propane	1 Gallon/year	\$9.50
#2 Fuel Oil	1 Gallon/year	\$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 intends to create an on-line calculator to assist in calculating 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 Program funding awards, and certify that they

¹¹ When calculating the energy savings per dollar spent for a project, the Energy Commission will consider the energy savings for the entire project, including saving attributed to other funding sources such as utility rebates or incentives, project loans or other matching funds. As a result, projects with matching funds may appear to be more cost effective.

are the most cost-effective energy efficiency project opportunities. The Energy Commission reserves the right to assess the reasonableness of any project cost estimates and may request additional information to support the EECBG funding award request.

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.

4. Period of Performance

All projects must be completed and funds fully disbursed by September 13, 2013, as specified in DOE Award No. DE-EE0000905, or by such later date as may be permitted by the DOE. ~~March~~September 13, 2013.

An applicant may not begin work on that portion of a project awarded funding under these *Guidelines* before the Energy Commission's approval of the applicant's award agreement. Project expenses incurred before the approval of a funding award agreement are not eligible for reimbursement under the funding award agreement, except in the case of collaborative applicants where extensive coordination is necessary to effectively implement the project-(s). A collaborative applicant may be reimbursed for its application development costs up to a total of \$40,000 or one-percent of the funding award amount, whichever is less.

5. 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

Applicants may collaborate with one another 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 may be an eligible applicant, or other public or nonprofit agency. Lead collaborators that are not cities or counties may only use EECEBG funds on behalf of collaborating cities and counties.

All eligible applicants may apply. Only one application per eligible applicant is allowed. An eligible applicant must choose to apply either as an individual applicant or as a partner under a collaborative application. If multiple applications are received that contain funding requests from a single eligible small city or county (as an individual applicant, a collaborative applicant or both), those applications will be returned unprocessed to the applicant(s).

b) Eligible Projects Examples

According to state law, 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.
- 2) T-8 lamps (32 watt) to T-8 lamps (28 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. An eligible project may also be a package of energy efficiency technologies and/or practices (Table 2). Projects 1 and 2 are cost-effective as stand-alone projects; Project 3 is not. When these three projects are averaged together, the entire package becomes a cost-effective project.

Table 2

Project	Energy Savings (kWh)	Source Btu Savings	Award Dollars Spent¹²
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

c) Eligible Projects

1) Direct Equipment Purchase Project Option

Some eligible applicants may not have the resources and/or expertise to identify and develop complex energy efficiency projects. In these cases, eligible applicants may choose to use their funding awards to make a direct purchase of energy efficiency equipment, preselected by the Energy Commission. Attachment B provides the list of preselected energy efficiency equipment qualified for funding under this project option. All projects listed on Attachment B are considered to be cost effective for the purposes of these *Guidelines*. Attachment B requires some projects to operate a specified minimum number of hours per year. For projects not meeting the minimum specified annual operating hours, the EECBG funds allocated to those measures may be prorated, thereby funding less than 100% of the project cost.

¹² Award Dollars Spent is defined as only the amount of EECBG grant dollars spent towards the total project cost.

All projects funded under this Direct Equipment Purchase Option must provide material/equipment and installation cost estimates. Installation costs that exceed 50% of the total costs for any direct equipment purchases will require additional justification as described in the solicitation document. The Energy Commission reserves the right to assess the reasonableness of any project cost estimates and may request additional information to support the EECEBG funding award request.

This direct purchase option may also take advantage of bulk purchase discounts through the State of California or other local jurisdiction-approved vendor(s), if available, or be a direct purchase from a local distributor/vendor.

The Energy Commission may consider adding additional equipment to the approved list, as a substantive change to these *Guidelines*.

2) Energy Retrofit Financing Option

EECEBG applicants may use grants to finance or support the finance of energy retrofits through the following loan activities:

- Property-Assessed Clean Energy (PACE) programs¹³ that place assessments in junior position to previously recorded liens
- PACE programs that place assessments in senior position to previously recorded liens (this option is subject to resolution of the PACE implementation challenges described below)
- Unsecured loans or lines of credit
- Loan loss reserve funds
- Loan loss insurance
- Interest rate buy-downs
- On-bill financing
- Bonds
- Other activities approved by the Energy Commission

Applicants may also use grants for retrofit financing support activities such as program marketing and administration. As the EECEBG Program is focused on cost-effective energy efficiency, the activities listed above must comprise a substantial portion of activities funded by each EECEBG award.

PACE Programs

DOE encourages grantees to pursue PACE programs that place assessments in junior position to previously recorded liens,¹⁴ due to the Federal Housing Finance Agency's

¹³ PACE programs allow property owners to enter into contractual assessments to finance the installation of energy efficiency or distributed renewable energy generation improvements permanently fixed to real property (including residential, commercial, and industrial), and to repay the assessments through property taxes.

¹⁴ See DOE's ~~July 2010 7/10~~ *Status Update on Pilot PACE Financing Programs*, located at: <http://www1.eere.energy.gov/wip/pace.html>.

(FHFA's) opposition to programs that give assessments priority over previously recorded liens.¹⁵ The Energy Commission remains strongly in support of PACE programs. However, pending resolution of the PACE senior lien priority issue, applicants that wish to pursue PACE programs must ensure that such programs place assessments in junior lien position. Applicants that cannot meet this requirement must pursue the financing activities listed above.

An applicant may use its grant to collaborate with one or more large jurisdictions in a PACE financing program that is focused on energy efficiency and places assessments in junior lien position (pending resolution of the senior lien priority issue), provided that it:

- 1) Provides a resolution, signed by its governing body, stating its intent to use its grant for this purpose, and stating that this use of the funds will result in cost-effective energy efficiency projects.
- 2) Files a statement explaining the basis of its determination that this use of the funds will result in cost-effective energy efficiency projects.
- 3) The large jurisdiction, with which the small jurisdiction is partnering, provides a resolution, signed by its governing body, stating that the two jurisdictions agree that the grant funds will be used to participate in the financing program.
- 4) The small jurisdiction provides a statement of work, detailing how the funds will be used and the anticipated schedule for expenses.
- 5) Any jurisdiction applying for this exception must submit its application to the Energy Commission by the date specified in the solicitation document.
- 6) The jurisdiction, and grant funds, will be subject to all of the other program requirements, including but not limited to reporting, payment of prevailing wages and all other program deadlines, including the application date and project completion date deadlines.

d) 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.

¹⁵ See the FHFA's 7/6/10 *Statement on Certain Energy Retrofit Loan Programs*, located at: <http://www.fhfa.gov/webfiles/15884/PACESTMT7610.pdf>.

- 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 on or before the project completion deadline to be specified in the funding solicitation(s) and/or funding awards.
- 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.
- Applicants must be in compliance with requirements of the Single Audit Act.

For jurisdictions using the Direct Equipment Purchase Project Option, the application must specify that: equipment will be used in specific locations and applications, the jurisdiction will comply with state and federal reporting obligations, the jurisdiction will not use funds for prohibited purposes listed above, and the jurisdiction is in compliance with the Single Audit Act requirements.

6. Administrative Expenses

To the greatest extent practicable, applicants are encouraged to keep administrative expenses to a minimum. Administrative expenses are defined as allowable, reasonable, and allocable direct and indirect costs related to overall management of each grant. Administrative expenses charged under this program must be for actual costs incurred, fully documented, and auditable. The solicitation document may include additional information regarding administrative expenses.

7. 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 according to these *Guidelines* must apply to the Energy Commission as specified in the solicitation document. The solicitation document will identify the following:

- The program 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. The agreement will also include provisions required by the state and federal government on matters such as accountability, transparency, project reporting, audits, record retention, access to facilities and projects, and prevailing wage.

The solicitation document may require applicants to submit a Letter of Intent to apply for program funding prior to the submission of an application. The Letter of Intent will be used to determine interest in program funding and the need to allocate or reallocate program funds. Applicants that fail to submit a Letter of Intent as specified by the solicitation document may be precluded from subsequently submitting an application for program funding.

Unless otherwise specified in a solicitation document, the Energy Commission or its Executive Director Committee may cancel a solicitation at any time before 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 by the Energy Commission by the date and time specified in the solicitation document.

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

- 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 or supporting documentation for the Direct Equipment Purchase Project Option.
- An itemized budget for the project that identifies all related costs and expenses.
- A description of the processes and measures the applicant has implemented to safeguard against fraud and the misuse of EECBG funds.

- A certification that the EECBG funds will not be used to supplant SEP or any other federal funding for the project.
- A certification that the applicant has complied with requirements of the Single Audit Act.
- 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 applicants 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 applicant 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. If an eligible applicant is applying under a collaborative partnership, the governing board resolution must state the applicant is allowing the collaborative lead to apply for and receive funding on its behalf. 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 executed the funding award agreement. A sample governing board resolution is provided in the solicitation document.

d) Data Universal Numbering System Number and Central Contractor Registration

Recipients of EECBG funding must obtain a Dun and Bradstreet (D & B) Data Universal Numbering System (DUNS) number and register in the federal Central Contractor Registration (CCR) database.

DUNS Number

A DUNS number is a unique identifier used by the federal government to track distribution of federal funds. To obtain a DUNS number, visit <http://fedgov.dnb.com/webform> or contact the D&B Government Customer Response Center 1-866-705-5711. A DUNS number is required to register in the CCR database.

CCR Database

The CCR database is the federal government's primary registrant database. It collects, validates, stores and disseminates data in support of federal grants, cooperative agreements, and other forms of assistance. To register, please visit CCR's website at

<http://www.ccr.gov>. Registrants must update or renew their registration at least once per year to maintain an active status.

8. 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:

- Energy Commission staff will review the application for completeness. All applications must contain an analysis of project cost and estimated annual energy savings or supporting documentation for the Direct Equipment Purchase Project Option. 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 unless confidential information is specifically allowed in the solicitation document. 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. All equipment requested through the Direct Equipment Purchase Project Option will be reviewed for eligibility. The Energy Commission reserves the right to assess the reasonableness of any project cost estimates and may request additional information to support the EECBG funding award request.
- The application will be recommended for funding only if it passes the completeness screening, minimum eligibility criteria, and technical accuracy screening.

9. Approval of Awards

The ~~Executive Director Committee~~ will make recommendations for all funding awards. The Energy Commission may approve the awards at an Energy Commission Business Meeting. After approval by the Energy Commission, a funding award agreement will be generated and will include the project description, work statement tasks, milestones and corresponding due dates, 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.

10. 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 publicly available once the project selections are made, with the exception of confidential materials that may be permitted under a solicitation.

11. Cancellation of Awards

Applications may be withdrawn by the applicant at any time before the Energy Commission's approval of a funding award agreement. After the funding award agreement has been executed, the Energy Commission may terminate the agreement under those circumstances and terms and conditions specified in the funding award agreement.

12. Funding Award Packages

Unless indicated otherwise in the solicitation document, the award package must include 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 and milestones with corresponding due dates;
- A schedule of project activities and corresponding due dates; and
- An itemized budget for the project that identifies all related costs and expenses.

13. Award Payments and Invoicing

Unless indicated otherwise in the solicitation document or the award agreement, award payments will be subject to these 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 will not exceed the total cost of the project.) Advance Payments may be considered as authorized by Federal law. The solicitation document will

specify the requirements and conditions under which advance payments may be considered.

- 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 Energy 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) Before final payment, the Energy Commission reserves the right to verify that the amount of the funding 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. This 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.

14. Tracking and Reporting

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

15. 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 funding award agreement.

16. 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 ~~Executive Director Committee~~ and/or full Energy 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 ~~Executive Director Committee~~ and/or full Energy Commission. The recipient shall notify Energy Commission staff in writing and in advance of implementing any such changes in accordance with the terms and conditions of the funding award.

17. Reallocation of Funds

The Energy Commission is required to award at least 60percent of California's EECBG funds to California cities and counties not receiving direct EECBG Program allocations from DOE. Funding may be reallocated as necessary to best achieve this ARRA mandatory condition.

The Energy Commission may increase the \$5.00 base per capita allocation amount to participating EECBG eligible applicants if an eligible applicant is unwilling or unable to use its EECBG funding allocation.

18. Project Extensions

Project extensions are not permitted, except as may be authorized by the DOE. Projects funded according to these *Guidelines* must be completed and operational by the date specified in the funding award agreement. If a project cannot be completed by this date, the funding award agreement will be terminated and if time allows, the funds will be reallocated.

19. Program Evaluation, Project Monitoring, and Verification

The Energy Commission, DOE, or their respective agents 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 funding award agreements and evaluate the effectiveness of the particular program or program element.

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

Upon written request from the Energy Commission, the recipient and any sub-recipients 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 required 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 and any sub-recipients must provide the Energy Commission or its agent associated data from a period before the start of the project as necessary to establish baseline energy and/or fuel use.

In addition, the recipient and any sub-recipient must allow any representative of the Energy Commission, any other agency of the state, or the federal government to have reasonable access to and the right of inspection of all records and transactions that pertain to the project and to the recipients' or sub-recipient's energy use and to interview any officer or employee of the recipient or sub-recipient or vendor regarding such transactions during the term of the agreement and for a period of three years after the ending term of the Energy Commission's federal grant agreement, which funds the project, or the end of the funding award agreement, whichever is longer. Further, the recipient must agree to incorporate an audit of this project within any scheduled audits, when specifically requested by the state.

The recipient and sub-recipients shall retain all project records (including financial records, progress reports, payment requests, and electricity and fuel use reduction documentation) for a minimum of three years after the ending term of the Energy Commission's federal grant agreement that funds the project.

The recipient must agree to include these audit rights in any subcontract or subgrant.

21. Use and Disclosure of Information and Reports

The Energy Commission, other state agencies, the federal government, or their authorized agents may use any information or records submitted to the Energy Commission or obtained as part of any audit according to these *Guidelines*. Any information may be used to determine eligibility and compliance with these *Guidelines*, applicable law, or a particular award agreement, to evaluate the related or relevant 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 according to these *Guidelines* can 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.

Applicants should note that ARRA funds are subject to information disclosure requirements through the federal Office of Management and Budget as well as other federal agencies to ensure transparency. Information concerning the identity of recipients and the amount or payment of funding awards is public information, and will be disclosed as part of the ARRA transparency requirements and in accordance with the California Public Records Act. 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, another State of California agency website, a federal government website, or through other means.

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 according to the Energy Commission's regulations for confidential designation, Title 20, California Code of Regulations, Section 2505.

22. Reconsideration and Appeal

Pursuant to Public Resources Code Section 25450.5, subdivision (b), a Applicants may appeal the denial of a grant or loan 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) Executive Director~~Committee~~ Reconsideration

Any applicant who applied for but did not receive a funding award may petition the Commission's Executive Director~~Committee~~ for reconsideration. The petition for reconsideration shall be in writing and shall be submitted, together with any supporting documentation, to the Office of the Executive Director~~Committee~~ at the following address within 30~~15~~ days of the date of the notice of funding denial:

California Energy Commission
Office of the Executive Director~~ARRA Ad Hoc Committee~~
1516 Ninth Street, MS-3139
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 petitioner's~~party's~~ position, and identify the remedy sought.

Within ~~30~~ 45 days of receiving a complete petition, the Office of the Executive Director Committee, in its discretion, shall either issue a decision based on its consideration of the petition and the written a response of 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 petitioner applicant disagrees with the Committee's decision of the Office of the Executive Director, the petitioner applicant may appeal the decision to the Energy Commission as specified in subsection b) of this section.

b) Commission Appeal

The applicant may appeal the Executive Director's Committee's decision by filing a letter of appeal with the Energy Commission within ~~30~~ 45 days of the date of the Executive Director's Committee's decision. The letter of appeal shall be submitted to the Energy Commission and processed as a request for investigation pursuant to the Energy Commission's regulations for complaints and investigations, Title 20, California Code of Regulations, Section 1230, et seq. In place of the information specified in Section 1231 (b)(2), (b)(4), and (b)(6), the letter of appeal shall identify the eligibility criteria in the guidelines that the appealing party believes were applied incorrectly in denying funding. Energy Commission staff shall be designated the respondent in the letter of appeal.

In addition to the information required by Title 20, California Code of Regulations, Section 1231, the letter of appeal shall include a copy of the petition for reconsideration and all supporting documentation, and the Executive Director's written determination.

~~The letter of appeal shall state the basis of the applicant's appeal, explain why the Committee's decision is unacceptable, and provide any supporting documentation. The letter of appeal, supporting documentation, and a copy of the Committee's decision shall be sent to the Energy Commission's Public Adviser at the address:~~

California Energy Commission
Public Adviser's Office
1516 9th Street, MS-12
Sacramento, CA 95814-5512

~~Within 30 days of receipt of the letter of appeal, the Public Adviser shall coordinate with Energy Commission staff and arrange for the appeal to be presented to the Energy Commission at a regularly scheduled Business Meeting. The Public Adviser shall inform the applicant in writing of the Business Meeting date and the procedures~~

~~for participating in the Business Meeting. The applicant shall be responsible for presenting the appeal to the Energy Commission during the Business Meeting. Unless the Energy Commission determines otherwise during the course of the Business Meeting, a determination on the appeal shall be rendered during the Business Meeting.~~

An applicant seeking to file a petition for reconsideration or appeal pursuant to this section may contact the Public Adviser's Office for information on the filing process. The contact information for the Public Adviser's Office is:

California Energy Commission
Public Adviser's Office
1516 9th Street, MS-12
Sacramento, CA 95814-5512
email: PublicAdviser@energy.ca.gov

23. Enforcement Action

a) Recovery of Overpayment

The ~~Committee, with the concurrence of the~~ Energy Commission, may direct the Energy 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~~Executive Director determines the recipient or former recipient was not entitled to receive.

b) Fraud and Misrepresentation

The ~~Committee~~Executive Director may initiate an investigation of any recipient that ~~which~~ the ~~Committee~~Executive Director 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 these *Guidelines*. Based on the results of the investigation, the ~~Committee~~Executive Director may take any action deemed appropriate, including, but not limited to, cancelling the funding award, recovering any overpayment, and with the concurrence of the Energy Commission, recommending the initiation of an Attorney General investigation and prosecution pursuant to Government Code sections 12650, et seq., or other provisions of law.

c) Federal Action

The Federal government, through various departments, including, but not limited to, the U.S. DOE and the U.S. Department of Justice, may independently investigate any recipient and bring actions for fraud, misrepresentation, or misuse of EECBG program funds as appropriate.

24. Guideline Authority

These *Guidelines* are adopted pursuant to Public Resources Code Section 25450.5, subdivision (a), which authorizes the Energy Commission to adopt guidelines governing the award, eligibility, and administration of funding for the EECBG Program under ARRA. The guidelines adopted pursuant to this authority are exempt from the rulemaking requirements of the Administrative Procedures Act, as specified in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. These *Guidelines* may be revised pursuant to Public Resources Code Section 25450.5, subdivision (a).

25. Guideline Interpretation

Nothing in these *Guidelines* shall be construed to abridge the powers or authority of the Energy Commission or any Energy Commission-designated ~~c~~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.

26. Effective Date of Guidelines

These *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 website:

<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

27. Substantive Changes in Guidelines

~~The Energy Commission may make sSubstantive changes to these *Guidelines* pursuant to Public Resources Code Section 25450.5, subdivision (a). 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:

- 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.

~~28. 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:~~

- ~~• 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.~~

GLOSSARY

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. Public Law 111-5 (2009).

Applicant

A city, county, or lead collaborative agency that has applied for a funding award pursuant to these Guidelines.

British Thermal Unit (Btu)

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 Btu's per each \$1000 of award 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. 42 USC sec. 17001 et seq.

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.