§ 8835. General requirements regarding financial assistance

(a) Priorities, terms, availability, etc.

(1) Priority for financial assistance under the provisions of sections 8832, 8833, and 8834 of this title and the most favorable financial terms available, shall be provided for any municipal waste energy project that will—

(A) produce a liquid fuel from municipal waste; or

(B) will displace petroleum or natural gas as a fuel.

(2) (A) With respect to projects producing biomass energy other than biomass fuel, financial assistance under the provisions of sections 8832, 8833, and 8834 of this title shall be available only if the Secretary of Energy finds that the project does not use petroleum or natural gas except for flame stabilization or start-up.

(B) With respect to projects producing biomass fuel, financial assistance under such provisions shall be available to such project only if the Secretary of Energy finds that the Btu content of the biomass fuel produced substantially exceeds the Btu content of any petroleum or natural gas used in the project to produce the biomass fuel.

(3) Financial assistance may not be provided under section 8832, 8833, or 8834 of this title unless the Secretary of Energy finds that necessary municipal waste feedstocks are available and it is reasonable to expect they will continue to be available for the expected economic life of the project.

(4) In providing financial assistance under section 8832, 8833, or 8834 of this title, the Secretary of Energy shall give due consideration to promoting competition.

(5) In determining the amount of financial assistance for any municipal waste energy project which will yield byproducts in addition to biomass energy, the Secretary shall consider the value of such byproducts and the costs attributable to their production.

(6) The Secretary of Energy shall not provide financial assistance under section 8832, 8833, or 8834 of this title for any municipal waste energy unless the Secretary determines—

(A) the project will be technically and economically viable;

(B) the financial assistance provided encourages and supplements, but does not compete with nor supplant, any private capital investment which otherwise would be available to the proposed municipal waste energy project on reasonable terms and conditions which would permit such project to be undertaken;

(C) assurances are provided that the project will not use, in any substantial quantities, waste paper which would otherwise be recycled for a use other than as a fuel and will not substantially compete with facilities in existence on the date of the financial assistance which are engaged in the separation or recov-
ery of reusable materials from municipal waste; and
(D) that the amount of financial assistance provided for the project is not greater than is necessary to achieve the purposes of this chapter.

(b) Terms, conditions, maturity, etc.
Financial assistance may not be provided under section 8832, 8833, or 8834 of this title unless the Secretary of Energy determines that—
(1) the terms, conditions, maturity, security and schedule and amounts of repayments with respect to such assistance are reasonable and meet such standards as the Secretary determines are sufficient to protect the financial interests of the United States; and
(2) the person receiving such financial assistance will bear a reasonable degree of risk with respect to the project.

(c) Application requirements
(1) No financial assistance may be provided to any person under section 8832, 8833, or 8834 of this title unless an application therefor—
(A) has been submitted to the Secretary of Energy by such person in such form and under such procedures as the Secretary shall prescribe, consistent with the requirements of this subchapter, and
(B) has been approved by the Secretary in accordance with such procedures.
(2) Each such application shall include information regarding the construction costs of the municipal waste energy project involved (if appropriate), and estimates of operating costs and income relating to that project (including the sale of any byproducts from that project). In addition, each applicant shall provide—
(A) access at reasonable times to such other information, and
(B) such assurances,
as the Secretary of Energy may require.

(d) Reports and recordkeeping
(1) Every person receiving financial assistance under section 8832, 8833, or 8834 of this title shall, as a condition precedent thereto, consent to such examinations and reports thereon regarding the municipal waste energy project involved as the Secretary of Energy may require.
(2) With respect to each municipal waste energy project for which financial assistance is provided under section 8832, 8833, or 8834 of this title, the Secretary shall—
(A) require from the recipient of financial assistance such reports and records relating to that project as the Secretary deems necessary;
(B) prescribe the manner in which such recipient shall keep such records; and
(C) have access to such records at reasonable times for the purpose of ensuring compliance with the terms and conditions upon which financial assistance is provided.

(e) Deposit of amounts received
All amounts received by the Secretary of Energy as fees, interest, repayment of principal, and any other moneys received by the Secretary from operations under section 8832, 8833, or 8834 of this title shall be deposited in the general fund of Treasury of the United States as miscellaneous receipts.

(f) Contracts and instruments backed by full faith and credit of United States
All contracts and instruments of the Secretary of Energy to provide, or providing, for financial assistance shall be general obligations of the United States backed by its full faith and credit.

(g) Contestability of contracts
Subject to the conditions of any contract for financial assistance, such contract shall be incontestable in the hands of the holder, except as to fraud or material misrepresentation on the part of the holder.

(h) Eligibility of debt obligations for purchase, sale, or issuance to Federal Financing Bank or any Federal agency
Notwithstanding the provisions of the Federal Financing Bank Act of 1973 (12 U.S.C. 2281 et seq.) or any other provision of law (except as may be specifically provided by reference to this subsection in any Act enacted after June 30, 1980), no debt obligation which is made or committed to be made, or which is guaranteed or committed to be guaranteed by the Secretary of Energy under section 8832, 8833, or 8834 of this title shall be eligible for purchase by, or commitment to purchase by, or sale or issuance to, the Federal Financing Bank or any Federal agency.


REFERENCES IN TEXT
This chapter, referred to in subsec. (a)(6)(D), was in the original “‘this title’,” meaning title II of Pub. L. 96–294, June 30, 1980, 94 Stat. 683, known as the Biomass Energy and Alcohol Fuels Act of 1980, which is classified principally to this chapter. For complete classification of title II to the Code, see Short Title note set out under section 8801 of this title and Tables.


§ 8836. Financial assistance program administration

The Secretary of Energy shall establish procedures and take such other actions as may be necessary regarding the solicitation, review, and evaluation of applications, and awarding of financial assistance under section 8832, 8833, or 8834 of this title as may be necessary to carry out the plan established under section 8831 of this title.


1 So in original. Probably should be “of the”.

References in Text
This chapter, referred to in subsec. (a)(6)(D), was in the original “‘this title’,” meaning title II of Pub. L. 96–294, June 30, 1980, 94 Stat. 683, known as the Biomass
Energy and Alcohol Fuels Act of 1980, which is classified principally to this chapter. For complete classification of title II to the Code, see Short Title note set out under section 8801 of this title and Tables.


§ 8836. Financial assistance program administration

The Secretary of Energy shall establish procedures and take such other actions as may be necessary regarding the solicitation, review, and evaluation of applications, and awarding of financial assistance under section 8832, 8833, or 8834 of this title as may be necessary to carry out the plan established under section 8831 of this title.


1 So in original. Probably should be “of the”.