

(D) development and publication of annual reports to the population served by the eligible entity describing—

- (i) the strategies and goals; and
- (ii) the progress made in achieving the strategies and goals during the preceding calendar year; and

(E) other services to assist in the implementation of the energy efficiency and conservation strategy;

(3) conducting residential and commercial building energy audits;

(4) establishment of financial incentive programs for energy efficiency improvements;

(5) the provision of grants to nonprofit organizations and governmental agencies for the purpose of performing energy efficiency retrofits;

(6) development and implementation of energy efficiency and conservation programs for buildings and facilities within the jurisdiction of the eligible entity, including—

- (A) design and operation of the programs;
- (B) identifying the most effective methods for achieving maximum participation and efficiency rates;
- (C) public education;
- (D) measurement and verification protocols; and
- (E) identification of energy efficient technologies;

(7) development and implementation of programs to conserve energy used in transportation, including—

- (A) use of flex time by employers;
- (B) satellite work centers;
- (C) development and promotion of zoning guidelines or requirements that promote energy efficient development;
- (D) development of infrastructure, such as bike lanes and pathways and pedestrian walkways;
- (E) synchronization of traffic signals; and
- (F) other measures that increase energy efficiency and decrease energy consumption;

(8) development and implementation of building codes and inspection services to promote building energy efficiency;

(9) application and implementation of energy distribution technologies that significantly increase energy efficiency, including—

- (A) distributed resources; and
- (B) district heating and cooling systems;

(10) activities to increase participation and efficiency rates for material conservation programs, including source reduction, recycling, and recycled content procurement programs that lead to increases in energy efficiency;

(11) the purchase and implementation of technologies to reduce, capture, and, to the maximum extent practicable, use methane and other greenhouse gases generated by landfills or similar sources;

(12) replacement of traffic signals and street lighting with energy efficient lighting technologies, including—

- (A) light emitting diodes; and
- (B) any other technology of equal or greater energy efficiency;

(13) development, implementation, and installation on or in any government building of the eligible entity of onsite renewable energy technology that generates electricity from renewable resources, including—

- (A) solar energy;
- (B) wind energy;
- (C) fuel cells; and
- (D) biomass; and

(14) any other appropriate activity, as determined by the Secretary, in consultation with—

- (A) the Administrator of the Environmental Protection Agency;
- (B) the Secretary of Transportation; and
- (C) the Secretary of Housing and Urban Development.

(Pub. L. 110-140, title V, § 544, Dec. 19, 2007, 121 Stat. 1669.)

## § 17155. Requirements for eligible entities

### (a) Construction requirement

#### (1) In general

To be eligible to receive a grant under the program, each eligible applicant shall submit to the Secretary a written assurance that all laborers and mechanics employed by any contractor or subcontractor of the eligible entity during any construction, alteration, or repair activity funded, in whole or in part, by the grant shall be paid wages at rates not less than the prevailing wages for similar construction activities in the locality, as determined by the Secretary of Labor, in accordance with sections 3141 through 3144, 3146, and 3147 of title 40.

#### (2) Secretary of Labor

With respect to the labor standards referred to in paragraph (1), the Secretary of Labor shall have the authority and functions described in—

- (A) Reorganization Plan Numbered 14 of 1950 (5 U.S.C. 903 note);<sup>1</sup> and
- (B) section 3145 of title 40.

### (b) Eligible units of local government and Indian tribes

#### (1) Proposed strategy

##### (A) In general

Not later than 1 year after the date on which an eligible unit of local government or Indian tribe receives a grant under this part, the eligible unit of local government or Indian tribe shall submit to the Secretary a proposed energy efficiency and conservation strategy in accordance with this paragraph.

##### (B) Inclusions

The proposed strategy under subparagraph (A) shall include—

- (i) a description of the goals of the eligible unit of local government or Indian tribe, in accordance with the purposes of this part, for increased energy efficiency and conservation in the jurisdiction of the eligible unit of local government or Indian tribe; and

<sup>1</sup> See References in Text note below.

(ii) a plan for the use of the grant to assist the eligible unit of local government or Indian tribe in achieving those goals, in accordance with section 17154 of this title.

**(C) Requirements for eligible units of local government**

In developing the strategy under subparagraph (A), an eligible unit of local government shall—

- (i) take into account any plans for the use of funds by adjacent eligible units of local governments that receive grants under the program; and
- (ii) coordinate and share information with the State in which the eligible unit of local government is located regarding activities carried out using the grant to maximize the energy efficiency and conservation benefits under this part.

**(2) Approval by Secretary**

**(A) In general**

The Secretary shall approve or disapprove a proposed strategy under paragraph (1) by not later than 120 days after the date of submission of the proposed strategy.

**(B) Disapproval**

If the Secretary disapproves a proposed strategy under subparagraph (A)—

- (i) the Secretary shall provide to the eligible unit of local government or Indian tribe the reasons for the disapproval; and
- (ii) the eligible unit of local government or Indian tribe may revise and resubmit the proposed strategy as many times as necessary until the Secretary approves a proposed strategy.

**(C) Requirement**

The Secretary shall not provide to an eligible unit of local government or Indian tribe any grant under the program until a proposed strategy of the eligible unit of local government or Indian tribe is approved by the Secretary under this paragraph.

**(3) Limitations on use of funds**

Of amounts provided to an eligible unit of local government or Indian tribe under the program, an eligible unit of local government or Indian tribe may use—

- (A) for administrative expenses, excluding the cost of meeting the reporting requirements of this part, an amount equal to the greater of—
  - (i) 10 percent; and<sup>2</sup>
  - (ii) \$75,000;
- (B) for the establishment of revolving loan funds, an amount equal to the greater of—
  - (i) 20 percent; and<sup>2</sup>
  - (ii) \$250,000; and
- (C) for the provision of subgrants to non-governmental organizations for the purpose of assisting in the implementation of the energy efficiency and conservation strategy of the eligible unit of local government or Indian tribe, an amount equal to the greater of—

- (i) 20 percent; and<sup>2</sup>
- (ii) \$250,000.

**(4) Annual report**

Not later than 2 years after the date on which funds are initially provided to an eligible unit of local government or Indian tribe under the program, and annually thereafter, the eligible unit of local government or Indian tribe shall submit to the Secretary a report describing—

- (A) the status of development and implementation of the energy efficiency and conservation strategy of the eligible unit of local government or Indian tribe; and
- (B) as practicable, an assessment of energy efficiency gains within the jurisdiction of the eligible unit of local government or Indian tribe.

**(c) States**

**(1) Distribution of funds**

**(A) In general**

A State that receives a grant under the program shall use not less than 60 percent of the amount received to provide subgrants to units of local government in the State that are not eligible units of local government.

**(B) Deadline**

The State shall provide the subgrants required under subparagraph (A) by not later than 180 days after the date on which the Secretary approves a proposed energy efficiency and conservation strategy of the State under paragraph (3).

**(2) Revision of conservation plan; proposed strategy**

Not later than 120 days after December 19, 2007, each State shall—

- (A) modify the State energy conservation plan of the State under section 6322 of this title to establish additional goals for increased energy efficiency and conservation in the State; and
- (B) submit to the Secretary a proposed energy efficiency and conservation strategy that—
  - (i) establishes a process for providing subgrants as required under paragraph (1); and
  - (ii) includes a plan of the State for the use of funds received under the program to assist the State in achieving the goals established under subparagraph (A), in accordance with sections 17152(b) and 17154 of this title.

**(3) Approval by Secretary**

**(A) In general**

The Secretary shall approve or disapprove a proposed strategy under paragraph (2)(B) by not later than 120 days after the date of submission of the proposed strategy.

**(B) Disapproval**

If the Secretary disapproves a proposed strategy under subparagraph (A)—

- (i) the Secretary shall provide to the State the reasons for the disapproval; and
- (ii) the State may revise and resubmit the proposed strategy as many times as

<sup>2</sup> So in original. Probably should be “or”.

necessary until the Secretary approves a proposed strategy.

**(C) Requirement**

The Secretary shall not provide to a State any grant under the program until a proposed strategy of the State is approved by the Secretary under this paragraph.

**(4) Limitations on use of funds**

A State may use not more than 10 percent of amounts provided under the program for administrative expenses.

**(5) Annual reports**

Each State that receives a grant under the program shall submit to the Secretary an annual report that describes—

(A) the status of development and implementation of the energy efficiency and conservation strategy of the State during the preceding calendar year;

(B) the status of the subgrant program of the State under paragraph (1);

(C) the energy efficiency gains achieved through the energy efficiency and conservation strategy of the State during the preceding calendar year; and

(D) specific energy efficiency and conservation goals of the State for subsequent calendar years.

(Pub. L. 110-140, title V, § 545, Dec. 19, 2007, 121 Stat. 1670.)

REFERENCES IN TEXT

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (a)(2)(A), is set out in the Appendix to Title 5, Government Organization and Employees. Section 903 of Title 5 relates to Presidential authority regarding reorganization plans.

**§ 17156. Competitive grants**

**(a) In general**

Of the total amount made available for each fiscal year to carry out this part, the Secretary shall use not less than 2 percent to provide grants under this section, on a competitive basis, to—

(1) units of local government (including Indian tribes) that are not eligible entities; and

(2) consortia of units of local government described in paragraph (1).

**(b) Applications**

To be eligible to receive a grant under this section, a unit of local government or consortia shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a plan of the unit of local government to carry out an activity described in section 17154 of this title.

**(c) Priority**

In providing grants under this section, the Secretary shall give priority to units of local government—

(1) located in States with populations of less than 2,000,000; or

(2) that plan to carry out projects that would result in significant energy efficiency improvements or reductions in fossil fuel use.

(Pub. L. 110-140, title V, § 546, Dec. 19, 2007, 121 Stat. 1673.)

**§ 17157. Review and evaluation**

**(a) In general**

The Secretary may review and evaluate the performance of any eligible entity that receives a grant under the program, including by conducting an audit, as the Secretary determines to be appropriate.

**(b) Withholding of funds**

The Secretary may withhold from an eligible entity any portion of a grant to be provided to the eligible entity under the program if the Secretary determines that the eligible entity has failed to achieve compliance with—

(1) any applicable guideline or regulation of the Secretary relating to the program, including the misuse or misappropriation of funds provided under the program; or

(2) the energy efficiency and conservation strategy of the eligible entity.

(Pub. L. 110-140, title V, § 547, Dec. 19, 2007, 121 Stat. 1674.)

**§ 17158. Funding**

**(a) Authorization of appropriations**

**(1) Grants**

There is authorized to be appropriated to the Secretary for the provision of grants under the program \$2,000,000,000 for each of fiscal years 2008 through 2012.

**(2) Administrative costs**

There are authorized to be appropriated to the Secretary for administrative expenses of the program—

(A) \$20,000,000 for each of fiscal years 2008 and 2009;

(B) \$25,000,000 for each of fiscal years 2010 and 2011; and

(C) \$30,000,000 for fiscal year 2012.

**(b) Maintenance of funding**

The funding provided under this section shall supplement (and not supplant) other Federal funding provided under—

(1) a State energy conservation plan established under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.); or

(2) the Weatherization Assistance Program for Low-Income Persons established under part A of title IV of the Energy Conservation and Production Act (42 U.S.C. 6861 et seq.).

(Pub. L. 110-140, title V, § 548, Dec. 19, 2007, 121 Stat. 1674; Pub. L. 111-5, div. A, title IV, § 404(c), Feb. 17, 2009, 123 Stat. 143.)

REFERENCES IN TEXT

The Energy Policy and Conservation Act, referred to in subsec. (b)(1), is Pub. L. 94-163, Dec. 22, 1975, 89 Stat. 871. Part D of title III of the Act is classified generally to part B (§ 6321 et seq.) of subchapter III of chapter 77 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6201 of this title and Tables.

The Energy Conservation and Production Act, referred to in subsec. (b)(2), is Pub. L. 94-385, Aug. 14, 1976,