

**FINANCIAL ASSISTANCE
FUNDING OPPORTUNITY ANNOUNCEMENT**



U. S. Department of Energy

National Energy Technology Laboratory

State Energy Program Formula Grants

American Recovery and Reinvestment Act (ARRA)

Funding Opportunity Number: DE-FOA-000052

Announcement Type: Initial

CFDA Number: 81.041, State Energy Program

Issue Date: 03/12/2009

Initial Application Due Date: 03/23/2009 at 8:00:00 PM Eastern Time

Comprehensive Application Due Date: 05/12/2009 at 8:00:00 PM Eastern Time

NOTE: REGISTRATION REQUIREMENTS

Registration Requirements

There are several one-time actions you must complete in order to submit an application in response to this Announcement (e.g., obtain a Dun and Bradstreet Data Universal Numbering System (DUNS) number, register with the Central Contractor Registration (CCR), and register with FedConnect). Applicants who are not registered with CCR and FedConnect, should allow at least 10 days to complete these requirements. It is suggested that the process be started as soon as possible.

Applicants must obtain a DUNS number. DUNS website: http://www.dnb.com/US/duns_update/

Applicants must register with the CCR. CCR website: <http://www.ccr.gov/>

Applicants must register with FedConnect to submit their application. FedConnect website: www.fedconnect.net

Questions

Questions relating to the **system requirements or how an application form works** must be directed to Grants.gov at 1-800-518-4726 or support@grants.gov.

Questions regarding the **content** of the announcement must be submitted through the FedConnect portal. You must register with FedConnect to respond as an interested party to submit questions, and to view responses to questions. It is recommended that you register as soon after release of the FOA as possible to have the benefit of all responses. More information is available at <http://www.compusearch.com/products/fedconnect/fedconnect.asp>. DOE/NNSA will try to respond to a question within 3 business days, unless a similar question and answer have already been posted on the website.

Questions pertaining to the **submission** of applications through FedConnect should be directed by e-mail to support@FedConnect.net or by phone to FedConnect Support at 800-899-6665.

Comprehensive Application Preparation and Submission

Applicants must download the application package, application forms and instructions, from Grants.gov. Grants.gov website: <http://www.grants.gov/>

(Additional instructions are provided in Section IV A of this FOA.)

Applicants must submit their application through the FedConnect portal. FedConnect website: www.fedconnect.net
(Additional instructions are provided in Section IV H of this FOA.)

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PART I – FUNDING OPPORTUNITY DESCRIPTION

SUMMARY

American Recovery and Reinvestment Act of 2009.

The American Recovery and Reinvestment Act of 2009, Public Law 111-5, appropriates funding for the Department of Energy (DOE) to issue/award formula-based grants under the State Energy Program. Program Guidance for administering Recovery Act funds under the State Energy Program is included as Attachment 1 to this announcement.

Projects under this FOA will be funded, in whole or in part, with funds appropriated by the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, (Recovery Act or Act). The Recovery Act's purposes are to stimulate the economy and to create and retain jobs. The Act gives preference to activities that can be started and completed expeditiously, including a goal of using at least 50 percent of the funds made available by it for activities that can be initiated not later than June 17, 2009. Accordingly, special consideration will be given to projects that promote and enhance the objectives of the Act, especially job creation, preservation and economic recovery, in an expeditious manner.

Be advised that special terms and conditions may apply to projects funded by the Act relating to:

- Reporting, tracking and segregation of incurred costs;
- Reporting on job creation and preservation;
- Publication of information on the Internet;
- Access to records by Inspectors General and the Government Accountability Office;
- Prohibition on use of funds for gambling establishments, aquariums, zoos, golf courses or swimming pools;
- Ensuring that iron, steel and manufactured goods are produced in the United States;
- Ensuring wage rates are comparable to those prevailing on projects of a similar character;
- Protecting whistleblowers and requiring prompt referral of evidence of a false claim to an appropriate inspector general; and
- Certification and Registration.

These special terms and conditions will be based on provisions included in Titles XV and XVI of the Act. The exact terms and conditions will be provided as soon as available.

The Office of Management and Budget (OMB) has issued Initial Implementing Guidance for the Recovery Act. See M-09-10, Initial Implementing Guidance for the American Recovery and Reinvestment Act of 2009. OMB will be issuing additional guidance concerning the Act in the near future. Applicants should consult the DOE website, www.energy.gov, the OMB website <http://www.whitehouse.gov/omb/>, and the Recovery website, www.recovery.gov regularly to keep abreast of guidance and information as it evolves.

Recipients of funding appropriated by the Act shall comply with requirements of applicable Federal, State, and local laws, regulations, DOE policy and guidance, and instructions in this FOA, unless relief has been granted by DOE. Recipients shall flow down the requirements of applicable Federal, State and local laws, regulations, DOE policy and guidance, and instructions in this FOA to subrecipients at any tier to the extent necessary to ensure the recipient's compliance with the requirements.

Be advised that Recovery Act funds can be used in conjunction with other funding as necessary to complete projects, but tracking and reporting must be separate to meet the reporting requirements of the Recovery Act and related OMB Guidance. Applicants for projects funded by sources other than the Recovery Act should plan to keep separate records for Recovery Act funds and ensure those records comply with the requirements of the Act. Funding provided through the Recovery Act that is supplemental to an existing grant is one-time funding.

Applicants should begin planning activities for their first tier subawardees, including obtaining a DUNS number (or updating the existing DUNS record) and registering with the Central Contractor Registration (CCR). The extent to which subawardees will be required to register in CCR will be determined by OMB at a later date.

BACKGROUND

The goals established for the State Energy Program (SEP) are:

1. Increase energy efficiency to reduce energy costs and consumption for consumers, businesses and government.
2. Reduce reliance on imported energy.
3. Improve the reliability of electricity and fuel supply and the delivery of energy services.
4. Reduce the impacts of energy production and use on the environment.

The American Recovery and Reinvestment Act (ARRA) was enacted to preserve and create jobs and promote economic recovery; to assist those most impacted by the recession; to provide investments needed to increase economic efficiency by spurring technological advances in science and health; to invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits; and, to stabilize State and local government budgets, in order to minimize and avoid reductions in essential services and counterproductive state and local tax increases.

APPROPRIATIONS

On February 17, 2009, the President signed the American Recovery and Reinvestment Act, which provided funding to the State Energy Program for Fiscal Year 2009 at \$3.1 Billion. The final State allocations are included in the State Energy Program Notice 09-01, PY 2009 State Energy Program Formula Grant Guidance for American Recovery and Reinvestment Act. States should develop their 2009 State Plans based on these allocations.

PART II – AWARD INFORMATION

A. TYPE OF AWARD INSTRUMENT

DOE anticipates awarding grants under this program announcement.

B. ESTIMATED FUNDING

Approximately \$3.1 Billion is expected to be available for new awards under this announcement.

PY 2009 American Recovery and Reinvestment Act (ARRA) allocations consists of Federal funds appropriated with the American Recovery and Reinvestment Act (ARRA). State allocations are listed within Attachment 1, State Energy Program Notice 09-01 for American Recovery and Reinvestment Act (ARRA) Funding.

C. EXPECTED NUMBER OF AWARDS

DOE anticipates making approximately 56 grant awards under this announcement.

D. PERIOD OF PERFORMANCE

DOE anticipates making grant awards that will have a three (3) year period of performance.

E. TYPE OF APPLICATION

DOE will accept only new applications under this announcement.

PART III - ELIGIBILITY INFORMATION

ELIGIBLE APPLICANTS

In accordance with 10 CFR 600.6(b), and DOE Program Rule 10 CFR Part 420, State Energy Program, eligibility for award is restricted to States, Territories and the District of Columbia (hereinafter "States") applying for formula grant financial assistance under the Department of Energy's (DOE's) State Energy Program (SEP).

COST MATCHING

The State Energy Program's (SEP) 20 percent cost match is not required for grants made with Recovery Act funds. DOE encourages plans that achieve a high degree of leveraging, and/or projects that extend the impact of the funds.

PART IV – APPLICATION AND SUBMISSION INFORMATION

A. INITIAL APPLICATION

Initial Application Package includes a Standard Form 424, Governor's Assurance, and Planned Activities. **The Initial Application shall be submitted to the following email address: sep-recovery@netl.doe.gov no later than March 23, 2009.**

1. SF 424 – Application for Federal Assistance

Applicants must complete the Standard Form 424 (SF 424). Complete all required fields in accordance with the instructions on the form. The list of certifications and assurances referenced in Field 21 can be found on the DOE Financial Assistance Forms Page at http://management.energy.gov/business_doe/business_forms.htm under Certifications and Assurances. The SF 424 can be downloaded from <http://www.netl.doe.gov/business/forms.html#FUNDING>.

PLEASE NOTE: By signing the SF 424, Applicants are providing their written assurance that they will comply with ALL requirements set forth in the American Reinvestment and Recovery Act.

2. Governor's Assurance

Prior to receiving Recovery Act funds, the Governor of each state is required to certify in writing their compliance with the assurances set forth in Section 410 of the Recovery Act. To meet this requirement States must submit one of the following with their initial application: a) a signed Governor's Assurance Certification contained in Attachment 3 to this announcement or b) or a written assurance by the Governor covering materially the same requirements. This information shall be saved in a file named "GovernorsAssurance(State Identifier).pdf". SEP ARRA funds cannot be provided to a state until a signed certification has been received.

3. Planned Activities

Consistent with applicable regulations and Program Guidance, please provide a preliminary list of planned project activities that will be conducted using SEP Recovery Act funds. This information shall be saved in a file name: "Activities.pdf"

B. ADDRESS TO REQUEST COMPREHENSIVE APPLICATION PACKAGE

Application forms and instructions are available at Grants.gov. To access these materials, go to <http://www.grants.gov>, select "Apply for Grants," and then select "Download Application Package." Enter the CFDA and/or the funding opportunity number located on the cover of this announcement and then follow the prompts to download the application package. Once you have SAVED the application package and completed all the required documentation, you will submit your application via the Fedconnect portal. **DO NOT use the Save & Submit selection in Grants.gov.**

C. CONTENT AND FORM OF COMPREHENSIVE APPLICATION – SF 424

You must complete the mandatory forms and any applicable optional forms (e.g., SF-LLL- Disclosure of Lobbying Activities) in accordance with the instructions on the forms and the additional instructions below. **Files that are attached to the forms must be in Adobe Portable Document Format (PDF) unless otherwise specified in this announcement.**

1. SF 424 - Application for Federal Assistance

Complete this form first to populate data in other forms. Complete all required fields in accordance with the pop-up instructions on the form. To activate the instructions, turn on the “Help Mode” (Icon with the pointer and question mark at the top of the form). The list of certifications and assurances referenced in Field 21 can be found on the DOE Financial Assistance Forms Page at http://management.energy.gov/business_doe/business_forms.htm under Certifications and Assurances.

2. Project/Performance Site Location(s)

Indicate the primary site where the work will be performed. If a portion of the project will be performed at any other site(s), identify the site location(s) in the blocks provided.

Note that the Project/Performance Site Congressional District is entered in the format of the 2 digit state code followed by a dash and a 3 digit Congressional district code, for example VA-001. Hover over this field for additional instructions.

Use the Next Site button to expand the form to add additional Project/Performance Site Locations.

3. Other Attachments Form

Submit the following files with your application and attach them to the Other Attachments Form. Click on “Add Mandatory Other Attachment” to attach the Project Narrative. Click on “Add Optional Other Attachment,” to attach the other files.

- **State Plan File - Mandatory Other Attachment**

The State Plan file consists of a Master File, covering items that generally do not change from year to year, which would need to be updated only when a change occurs, and an Annual File covering the activities the State intends to undertake during the year of the grant, which must be updated each year to reflect the current activities.

Save the information in a file named “StatePlan.pdf,” and click on “Add Mandatory Other Attachment” to attach.

Master File – The Master File should include, wherever practicable, an explanation of how implementing the plan will conserve energy, how the State will measure progress toward attaining the goal, how the program activities represent a strategy to achieve these goals; an explanation of how the plan satisfies the minimum criteria for the required (mandatory) activities; and a plan for State monitoring that describes how the State conducts the administrative and programmatic oversight for programs implemented by other agencies within the State, contractors employed by the State, or subrecipients of financial assistance from the State. If a State has completed certain mandatory activities, this may also be indicated in the Master File. A description of how the State will achieve the new energy efficiency goal of 25 percent by 2012 shall be included here. Key elements of the States Strategic Plan, if available, should be included.

Annual File – The Annual File section of the State Plan describes each market area and program activity for which the State requests financial assistance for a given year, including budget information and milestones for each activity, and the intended scope and goals to be attained either qualitatively or quantitatively. For States using WinSAGA, the SEP Narrative Information Worksheets capture this information.

(See 10 CFR Part 420.13 for more specific requirements on State Plans)

For additional State Plan requirements/information, see Section 9.0 of the Grant Guidance.

- **Recovery Ramp Up File**

Applications shall include a discussion which clearly addresses the Recipient’s and Subrecipient’s ability to

stimulate the creation or retention of jobs; saving energy; increase energy generation from renewable sources; and reduce greenhouse gas emissions with Recovery Act funds on an expedited schedule. The Recovery Ramp Up File must also include a discussion of the following as outlined in the SEP Guidance under Section 9.2B:

- A commitment that SEP funding will be used to create new programs or expand existing programs, including ratepayer-funded programs, and not to supplant or replace existing state, ratepayer or other funding;
- A list of the existing efficiency and renewable energy programs which the State plans to expand, including programs funded by ratepayer-funded programs operated by both investor-owned and consumer-owned utilities;
- The 2008 funding level for each existing program, including ratepayer-funded programs;
- The 2009 and 2010 planned funding level for each existing energy efficiency and renewable energy program, to demonstrate that the State is planning to use additional SEP ARRA funding for the expansion of existing programs

Save the information in a file named "RecoveryRampUp.pdf," and click on "Add Mandatory Other Attachment" to attach.

- **Governor's Assurance File**

You must provide a discussion on the progress you have made in meeting the assurances set forth in Section 410 of the Recovery Act and referenced in Section 5.0 of the attached Program Guidance. Please address in detail how each of these assurances are to be implemented by the State. Discuss plans that have been initiated and/or adopted, timelines with implementing assurance, and results/status to date. Save the information in a file named "Assurances.pdf" and click on "Add Mandatory Other Attachment" to attach.

- **SF 424 A Excel, Budget Information – Non-Construction Programs File**

You must provide a separate budget for each year of support requested and a cumulative budget for the total project period. Use the SF 424 A Excel, "Budget Information – Non Construction Programs" form on the DOE Financial Assistance Forms Page at http://management.energy.gov/business_doe/business_forms.htm. You may request funds under any of the Object Class Categories as long as the item and amount are necessary to perform the proposed work, meet all the criteria for allowability under the applicable Federal cost principles, and are not prohibited by the funding restrictions in this announcement (See PART IV, G). Save the information in a single file named "SF424A.xls," and click on "Add Optional Other Attachment" to attach.

- **Budget Justification File**

You must justify the costs proposed in each Object Class Category/Cost Classification category (e.g., identify key persons and personnel categories and the estimated costs for each person or category; provide a list of equipment and cost of each item; identify proposed subaward/consultant work and cost of each subaward/consultant; describe purpose of proposed travel, number of travelers, and number of travel days; list general categories of supplies and amount for each category; and provide any other information you wish to support your budget). Provide the name of your cognizant/oversight agency, if you have one, and the name and phone number of the individual responsible for negotiating your indirect rates. If cost sharing is required, you must have a letter from each third party contributing cost sharing (i.e., a party other than the organization submitting the application) stating that the third party is committed to providing a specific minimum dollar amount of cost sharing. In the budget justification, identify the following information for each third party contributing cost sharing: (1) the name of the organization; (2) the proposed dollar amount to be provided; (3) the amount as a percentage of the total project cost; and (4) the proposed cost sharing – cash, services, or property. By submitting your application, you are providing assurance that you have signed letters of commitment. Successful applicants will be required to submit these signed letters of commitments. Save the budget justification information in a single file named "Budget.pdf," and click on "Add Optional Other Attachment" to attach.

ARRA 2009 Additional Budget Justification Information

Applications shall provide information which validates that all laborers and mechanics on projects funded directly by or assisted in whole or in part by and through funding appropriated by the Act are paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by subchapter IV of Chapter 31 of title 40, United States Code (Davis-Bacon Act). For guidance on how to comply with this provision, see <http://www.dol.gov/esa/whd/contracts/dbra.htm>.

Save the information in a file named "DavisBacon," and click on "Add Mandatory Other Attachment" to attach.

- **Subaward Budget File(s)**

You must provide a separate budget (i.e., budget for each budget year and a cumulative budget) for each subawardee that is expected to perform work estimated to be more than 25 percent of the total work effort. Use the SF 424 A Excel for Non Construction Programs or the SF 424 C Excel for Construction Programs. These forms are found on the DOE Financial Assistance Forms Page at http://management.energy.gov/business_doe/business_forms.htm. Save each Subaward budget in a separate file. Use up to 10 letters of the subawardee's name (plus .xls) as the file name (e.g., ucla.xls or energyres.xls), and click on "Add Optional Other Attachment" to attach.

- **NEPA**

All Projects receiving financial assistance from DOE must be reviewed under the National Environmental Policy Act (NEPA) of 1969 – 42 U.S.C. Section 4321 et seq. The first step in DOE's NEPA review process requires financial assistance recipients to submit information to DOE regarding the potential environmental impacts of the project receiving DOE funds. Applicants must complete the Environmental Checklist (DOE PMC EF-1) on-line at the following site: <https://www.eere-pmc.energy.gov/NEPA.asp>

3. SF-LLL Disclosure of Lobbying Activities

If applicable, complete SF- LLL. Applicability: If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the grant/cooperative agreement, you must complete and submit Standard Form – LLL, "Disclosure Form to Report Lobbying."

Summary of Required Forms/Files

Your application must include the following documents:

Name of Document	Format	File Name
Application for Federal Assistance – SF424	Form	N/A
Project Performance Site Locations	Form	N/A
Other Attachments Form: Attach the following files to this form:	Form	N/A
State Plan	PDF	StatePlan.pdf
Recovery Ramp Up file	PDF	RecoveryRampUp.pdf
Governor's Assurance File	PDF	Assurance.pdf
SF 424A File – Budget Information for Non-Construction Programs	Excel	SF424A.xls
Budget Justification File	PDF	Budget.pdf
Davis Bacon file	PDF	DavisBacon.pdf
Subaward Budget File(s) <i>Optional</i>	Excel	See Instructions

NEPA Information (EF-1) – You must complete and submit this information on-line		This information is available at: https://www.eere-pmc.energy.gov/NEPA.asp
SF-LLL Disclosure of Lobbying Activities, if applicable.	Form	N/A

D. SUBMISSIONS FROM SUCCESSFUL APPLICANTS

If selected for award, DOE reserves the right to request additional or clarifying information for any reason deemed necessary, including, but not limited to:

- Indirect cost information
- Other budget information
- Name and phone number of the Designated Responsible Employee for complying with national policies prohibiting discrimination (See 10 CFR 1040.5)
- Commitment Letter from Third Parties Contributing to Cost Sharing, if applicable

E. SUBMISSION DATES AND TIMES

1. Initial-application Due Date

Initial-applications must be received by 03/23/2009, not later than 8:00 PM Eastern Time.

2. Comprehensive Application Due Date

Comprehensive applications should be received by 05/12/2009, not later than 8:00 PM Eastern Time. You are encouraged to transmit your application well before the deadline.

F. INTERGOVERNMENTAL REVIEW

This program is subject to Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations at 10 CFR Part 1005.

One of the objectives of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism. The Executive Order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

Applicants should contact the appropriate State Single Point of Contact (SPOC) to find out about, and to comply with, the State’s process under Executive Order 12372. The names and addresses of the SPOCs are listed on the Web site of the Office of Management and Budget at <http://www.whitehouse.gov/omb/grants/spoc.html>.

G. FUNDING RESTRICTIONS

Cost Principles: Costs must be allowable in accordance with the applicable Federal cost principles referenced in 10 CFR part 600. The cost principles for commercial organization are in FAR Part 31.

H. OTHER SUBMISSION AND REGISTRATION REQUIREMENTS

1. Where to Submit

Initial Application: The Initial Application is to be submitted to the following email address: sep-recovery@netl.doe.gov no later than March 23, 2009.

Comprehensive Application: MUST BE SUBMITTED THROUGH FEDCONNECT TO BE CONSIDERED FOR AWARD. Submit electronic applications through the FedConnect portal at: www.fedconnect.net. Information regarding how to submit applications via Fed Connect can be found at: https://www.fedconnect.net/FedConnect/PublicPages/FedConnect_Ready_Set_Go.pdf Further, it is the responsibility of the applicant, prior to the offer due date and time, to verify successful transmission.

NOTE: In addition to FedConnect, applications must also be loaded into WinSAGA.

2. Registration Process

There are several one-time actions you must complete in order to submit an application in response to this Announcement (e.g., obtain a Dun and Bradstreet Data Universal Numbering System (DUNS) number, register with the Central Contract Registry (CCR), and register with FedConnect). Applicants, who are not registered with CCR and FedConnect, should allow at least 10 days to complete these requirements. It is suggested that the process be started as soon as possible.

Part V - APPLICATION REVIEW INFORMATION

A. REVIEW AND AWARD PROCESS

Applications under this funding opportunity will be reviewed and awarded in accordance with the final 2009 American Recovery and Reinvestment Act (ARRA) allocations as set forth in the State Energy Program Notice 09-01, included as Attachment 1 to this announcement.

Part VI - AWARD ADMINISTRATION INFORMATION

A. AWARD NOTICES

1. Notice of Award

A Notice of Financial Assistance Award or Assistance Agreement issued by the contracting officer is the authorizing award document. It normally includes either as an attachment or by reference: (1). Special Terms and Conditions; (2). Applicable program regulations, if any; (3). Application as approved by DOE; (4). DOE assistance regulations at 10 CFR part 600; (5). National Policy Assurances to Be Incorporated As Award Terms; (6). Budget Summary; and (7). Federal Assistance Reporting Checklist, which identifies the reporting requirements.

B. ADMINISTRATIVE AND NATIONAL POLICY REQUIREMENTS

1. Administrative Requirements

The administrative requirements for DOE grants and cooperative agreements are contained in 10 CFR part 600 and 10 CFR part 420 (See: <http://ecfr.gpoaccess.gov>).

ARRA 2009 Award Administration Information

Special Provisions relating to work funded under American Recovery and Reinvestment Act of 2009, Pub. L. 111-5 shall apply. Also, the Office of Management and Budget may be promulgating additional provisions or modifying existing provisions. Those additions and modifications will be incorporated into the Special Provisions as they become available. A draft of these Special Provisions are located at http://management.energy.gov/business_doe/business_forms.htm

2. Special Terms and Conditions and National Policy Requirements

The DOE Special Terms and Conditions for Use in Most Grants and Cooperative Agreements are located at http://management.energy.gov/business_doe/business_forms.htm.

The National Policy Assurances to Be Incorporated as Award Terms are located at DOE http://management.energy.gov/business_doe/business_forms.htm.

Intellectual Property Provisions

The standard DOE financial assistance intellectual property provisions applicable to the various types of recipients are located at http://www.gc.doe.gov/techtrans/sipp_matrix.html.

C. REPORTING

Reporting requirements are identified on the Federal Assistance Reporting Checklist, DOE F 4600.2. A sample checklist is included as Attachment 2 to this announcement. Financial and progress reports will be used to adhere to the transparency and oversight requirements detailed in the Recovery Act and posted on <http://www.recovery.gov>. Please note that the due date of certain reports may change.

PART VII - QUESTIONS/AGENCY CONTACTS

A. QUESTIONS

Questions regarding the content of the announcement must be submitted through the FedConnect portal. You must register with FedConnect to respond as an interested party to submit questions, and to view responses to questions. It is recommended that you register as soon after release of the FOA as possible to have the benefit of all responses. More information is available at <http://www.compusearch.com/products/fedconnect/fedconnect.asp>. DOE will try to respond to a question within three (3) business days, unless a similar question and answer have already been posted on the website.

Questions regarding program requirements must be directed to:

States	Project Officer	E-Mail	Phone Number
Colorado, Kansas, Louisiana, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Utah, Wyoming	Barbara Alderson	Barbara.Alderson@go.doe.gov	303-275-4816
Alabama, Arkansas, Georgia, Kentucky, Mississippi, Virgin Islands	Vicki Duvall	Vicki.Duvall@netl.doe.gov	304-285-4512
Alaska, American Samoa, Arizona, California, Guam, Hawaii, Idaho, Nevada, Northern Marianas, Oregon, Washington	Molly Dwyer	Molly.Dwyer@go.doe.gov	303-275-4828
Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, Vermont	Teresa Jones	Teresa.Jones@netl.doe.gov	304-285-4057
Florida, North Carolina, South Carolina, Tennessee, Puerto Rico	Otis Mills	Otis.Mills@netl.doe.gov	412-386-5890
Delaware, District of Columbia, Maryland, New Jersey, Pennsylvania, Virginia, West Virginia	Darren Stevenson	Darren.Stevenson@netl.doe.gov	412-386-4746
Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, Wisconsin	Stephanie Sung	Stephanie.Sung@go.doe.gov	303-275-4889

B. AGENCY CONTACT

Name: Sheldon E. Funk
 E-mail: Sheldon.funk@netl.doe.gov
 FAX: (304) 285-4683
 Telephone: (304) 285-0204

PART VIII - OTHER INFORMATION

A. MODIFICATIONS

Notices of any modifications to this announcement will be posted on Grants.gov and the FedConnect portal. You can receive an email when a modification or an announcement message is posted by registering with FedConnect as an interested party for this FOA. It is recommended that you register as soon after release of the FOA as possible to ensure you receive timely notice of any modifications or other announcements. More information is available at <http://www.fedconnect.net> and <http://www.compusearch.com/products/fedconnect.asp>.

B. GOVERNMENT RIGHT TO REJECT OR NEGOTIATE

DOE reserves the right, without qualification, to reject any or all applications received in response to this announcement and to select any application, in whole or in part, as a basis for negotiation and/or award.

C. COMMITMENT OF PUBLIC FUNDS

The Contracting Officer is the only individual who can make awards or commit the Government to the expenditure of public funds. A commitment by other than the Contracting Officer, either explicit or implied, is invalid.

APPENDICES/REFERENCE MATERIAL

- Attachment 1, State Energy Program Notice 09-01, 2009 State Energy Program Formula Grant Guidance for American Recovery and Reinvestment Act (ARRA) Funding and Regular Program Appropriations.
- Attachment 2, Reporting Requirements Checklist.
- Attachment 3, Governor's Assurance Certification

Attachment 1 – SEP Recovery Act Program Guidance

Energy Program Notice 09-01, 2009 State Energy Program Formula Grant Guidance for American Recovery and Reinvestment Act (ARRA) Funding and Regular Program Appropriations



Department of Energy

Washington, DC 20585

STATE ENERGY PROGRAM NOTICE 09-01

EFFECTIVE DATE: _____

SUBJECT: 2009 STATE ENERGY PROGRAM FORMULA GRANT GUIDANCE FOR AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA) FUNDING AND REGULAR PROGRAM APPROPRIATION

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CONCLUSION

1.0 PURPOSE

To establish grant guidance and management information for the State Energy Program (SEP) formula grants for Program Year (PY) 2009 for funds provided under the American Recovery and Reinvestment Act, Pub. L. 111-5, (ARRA) and through the regular appropriations process. At this time, this guidance provides as Attachment A the State formula allocations for the SEP ARRA funds. Formula allocations for the FY 2009 regular appropriation will be provided when available at a later date.

2.0 SCOPE

The provisions of this guidance apply to States, Territories and the District of Columbia (hereinafter “States”) applying for formula grant financial assistance under the Department of Energy’s (DOE’s) State Energy Program. Much of the information in this guidance is summarized from the volumes of the Code of Federal Regulations (CFR) applicable to SEP, namely 10 CFR part 420 and 10 CFR part 600 (the DOE Financial Assistance Rules). These regulations are the official sources for program requirements. The CFR can be accessed at: <http://www.gpoaccess.gov/cfr/index.html>. Impacts of ARRA on SEP regulations are noted throughout this Guidance.

3.0 FUNDING OPPORTUNITY ANNOUNCEMENT (FOA) COVERAGE

Application information for the SEP Recovery Act funds will be included in FOA No. DE-FOA-0000052.

Application Information for the SEP funds provided under the regular program appropriation will be included in FOA No. DE-FOA-0000039.

4.0 PROGRAM PRIORITIES

4.1. AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA) OVERVIEW

The purposes of the American Recovery and Reinvestment Act of 2009 are: “To preserve and create jobs and promote economic recovery; to assist those most impacted by the recession; to provide investments needed to increase economic efficiency by spurring technological advances in science and health; to invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits; and, to stabilize State and local government budgets, in order to minimize and avoid reductions in essential services and counterproductive state and local tax increases.” Title III, Energy Policy and Conservation Act, as amended, authorizes the DOE to administer the SEP. DOE is responsible for overseeing and managing the allocation and use

of \$3.1 billion in ARRA funds distributed to the states, territories and the District of Columbia (hereinafter “states”) through the SEP for the purpose of:

- Stimulating the creation or increased retention of jobs;
 - Saving energy (kwh/therms/gallons/BTUs/etc.);
 - Increasing energy generation from renewable sources; and
 - Reducing greenhouse gas (GHG) emission
- Under these primary objectives, states should plan for and maximize efforts toward achieving the specific goal of reducing per capita energy consumption by at least 25 percent of the State’s 1990 per capita energy use by 2012. This corresponds closely to the EPACT 2005 requirement described in Section 9.1B below. This is a minimum goal; higher or more stringent goals are encouraged.
- States will submit a SEP plan for the expenditures of the ARRA funds within 60 days of the release of the FOA. In choosing the specific programs or projects that make up this plan, states should choose those which will make the maximum contribution to achieving this overall goal. (A separate SEP plan for the PY 09 SEP appropriation will be required according to the regular application schedule.)
- States are encouraged to use their ARRA funding not only to support current energy efficiency and renewable energy projects but also to seed sustainable programs and put in place long-term funding mechanisms such as revolving loans and energy savings performance contracting that will provide lasting benefits and lead to long-term market transformation.
- States are required to commit to using SEP ARRA funding to expand existing programs, including ratepayer-funded programs, or to create new programs consistent with SEP regulations (10 CFR 420), and not to supplant or replace existing state, ratepayer or other funding. See section 9.2B for compliance requirements
- States will be required to report regularly on the activities carried out with ARRA funding. States will be required to report quarterly on progress, in terms of specific activities and amounts of funding obligated and expended. States should also expect to participate in the evaluation of these programs as part of the overall SEP national evaluation.
- The 50 percent limitation described in Section 9.7 of this guidance on the purchase and installation of equipment and materials for energy efficiency and renewable energy measures does not apply to ARRA SEP funds.
- There is no match requirement for ARRA SEP funds.

Further detail regarding metrics, reporting, timelines and procedures that govern the use of SEP ARRA funds are included below in Section 10.

4.2 SEP GOALS AND OBJECTIVES

- **Alignment with national goals:** DOE continues to encourage states to develop strategies that align their goals and objectives to national goals. By aligning with national goals – increasing jobs, reducing US oil dependency through increases in energy efficiency and deployment of renewable energy technologies, promoting economic vitality through an increase in “green jobs,” and reducing green house gas emissions – States and DOE demonstrate SEP leadership in successfully addressing national needs at the State and local level. These national goals are included in the Energy Policy Act of 2005, the Energy Independence and Security Act and the American Recovery and Reinvestment Act of 2009.
- **Market Transformation:** DOE requests that states continue to focus their program efforts on market transformation initiatives and actions that align with national goals. Market transformation is defined as:

“Strategic interventions that cause lasting changes in the structure or function of a market or the behavior of market participants, resulting in an increase in adoption of energy efficiency and renewable energy products, services, and practices.”

- **SEP Strategic Plan:** The SEP Strategic Plan establishes the following four goals for SEP:
 - Increase energy efficiency to reduce energy costs and consumption for consumers, businesses and government.
 - Reduce reliance on imported energy.
 - Improve the reliability of electricity and fuel supply and the delivery of energy services.
 - Reduce the impacts of energy production and use on the environment.

The SEP Strategic Plan is available at:

http://apps1.eere.energy.gov/state_energy_program/pdfs/strategic_plan_0207.pdf.

- **DOE Objectives:** DOE has established the following objectives that complement program goals articulated in the SEP Strategic Plan:
 - Transform energy markets in partnership with states to accelerate near-term deployment of energy efficiency and renewable technologies.

- Promote an integrated portfolio of energy efficiency and renewable energy solutions to meet U.S. energy security, economic vitality, and environmental quality objectives.
- Strengthen core state energy programs to develop and adopt leading market transformation initiatives.

This strategic direction builds on SEP successes and promotes a stronger SEP national effort. DOE will continue to enhance the effectiveness of state programs to promote and support market transformation, while maintaining support for formula grants. DOE's plans are guided by the following principles:

- Target strategic market intervention that can cause permanent structural change.
- Identify opportunities for better integration of SEP and state energy initiatives to other EERE technology deployment and market transformation activities.
- Replicate state innovation and best practices.
- Promote collaboration across public and private agencies.
- Foster regional cooperation among state and Federal agencies.
- Improve the way we measure program performance and communicate success.

4.3 SEP NATIONAL EVALUATION

The ARRA sets strict accountability and transparency requirements for DOE and the states. Evaluation is a strong component of these requirements and will assist in determining the role of SEP in future energy focused initiatives. States should expect to participate in the national SEP evaluation to be implemented in FY 2009-2010. Detailed information will be provided in separate guidance.

5.0 AMERICAN RECOVERY ACT AND REINVESTMENT ACT

5.1 Conditions to be Met to Receive ARRA Funding

Section 410 of the Conference Report accompanying ARRA provides that a State will receive SEP funding under ARRA only if the governor notifies the Department in writing that the Governor has obtained necessary assurances as outlined in sections 1-3 below. SEP ARRA funds cannot be provided to a state until such notification in writing has been received.

(1) The applicable State regulatory authority will seek to implement, in appropriate proceedings for each electric and gas utility, under its rate-making authority a general policy that ensures that utility financial incentives are aligned with helping their customers use energy more efficiently and that provide timely cost recovery and a timely earnings opportunity for utilities associated with cost-effective measurable and verifiable efficiency savings, in a way that sustains or enhances utility customers' incentives to use energy

more efficiently.

(2) The State, or the applicable units of local government that have authority to adopt building codes, will implement the following:

(A) A residential building energy code (or codes) that meets or exceeds the most recent International Energy Conservation Code, or achieves equivalent or greater energy savings.

(B) A commercial building energy code (or codes) throughout the State that meets or exceeds the ANSI/ASHRAE/IESNA Standard 90.1–2007, or achieves equivalent or greater energy savings.

(C) A plan to achieve 90 percent compliance with the above energy codes within eight years. This plan will include active training and enforcement programs and annual measurement of the rate of compliance.

(3) The State will to the extent practicable prioritize the grants toward funding energy efficiency and renewable energy programs, including—

(A) the expansion of existing energy efficiency programs approved by the State or the appropriate regulatory authority, including energy efficiency retrofits of buildings and industrial facilities, that are funded by the State or through rates under the oversight of the applicable regulatory authority, to the extent applicable;

(B) the expansion of existing programs, approved by the State or the appropriate regulatory authority, to support renewable energy projects and deployment activities, including programs operated by entities which have the authority and capability to manage and distribute grants, loans, performance incentives, and other forms of financial assistance; and

(C) cooperation and joint activities between States to advance more efficient and effective use of this funding to support the priorities described in this section.

5.2 Obligation and Expenditure Timeline for ARRA Grants

To expedite availability of ARRA funds States must submit an initial application package prior to the comprehensive application package which must be submitted within 60 days after the FOA is issued.

The ARRA gives preference to activities that can be started and completed expeditiously.

DOE will monitor closely the expenditure rate of Recovery Act funding by the states to ensure the targets and purposes set by the Administration and outlined by OMB are met. Funds will be provided to States according to the following schedule:

- 10% of total allocation at time of initial award of Recovery Act Funds
- 40% of total allocation upon DOE approval of the State Plan
- 20% of total allocation upon demonstration by Grantee that it has obligated under its procurement system at least 50% of the Recovery Act Funds awarded previously, is complying with all reporting requirements, and that jobs are being created.
- Remainder of total allocation upon demonstration by the Grantee that Grantee is making continued progress in obligating the funds previously provided, complying with all reporting requirements and creating jobs. If progress reviews reveal deficiencies, such as funds not obligated, jobs not created, insufficient project progress, or failure to meet reporting requirements, no further funds will be provided until deficiencies are corrected.

5.3 Priority Uses of Funds

SEP ARRA funds may be obligated and expended on programs, projects or initiatives as provided in the authorizing legislation. Historical evaluations, however, have demonstrated that the following programs and projects have the greatest potential to readily achieve the overall goals specified above, and we encourage States to consider them when developing their plan for SEP ARRA funds:

- Establishment and enforcement of energy efficient building codes and standards, and implementation of voluntary programs that impact new design.
- Loans, grants and incentives for energy efficiency and renewable energy measures.
- Building retrofits.
- Traffic signal synchronization and replacement with LEDs.
- Industrial retrofits.

No limits are placed on capital expenditures associated with these projects

5.4 Cost of Energy Saved or Generated

For purposes of selecting projects and programs to be implemented with these funds, DOE encourages States, in calculating cost effectiveness, to go beyond traditional utility metrics and cost tests which could constrain the amount of energy efficiency or renewable energy generation that could otherwise be achieved. The cost effectiveness of measures, projects and programs included in State Plans will be evaluated by DOE when approving State Plans. DOE will provide additional information regarding calculations of cost effectiveness.

5.5 Cost Sharing and Resource Leveraging

SEP's 20 percent cost sharing requirement is waived for ARRA funds. To increase the impact of these stimulus funds, DOE encourages plans which achieve a high degree of leveraging, and/or projects that extend the impact of the funds. Examples of programs which provide high leverage are revolving loan programs and performance contracting.

5.6 SEP Performance Metrics

President Obama has committed to transparency and accountability in the use of the funds provided through ARRA. It is important therefore that the activities carried out and the results achieved with those funds are tracked carefully and reported clearly and quantifiably. The results achieved with SEP ARRA funding will be assessed according to the following performance metrics:

1. Jobs created
2. Energy (kwh/therms/gallons/BTUs/etc.) saved
3. Renewable energy installed capacity and generated
4. GHG emissions reduced (CO2 equivalents)
5. Energy cost savings
6. Funds leveraged (refer to Section 5.9)

5.7 Energy Savings

To ensure the effective use of funds, DOE will evaluate State Plans based on the energy savings per dollar invested that are projected to result from the programs and measures proposed by the State in its Plan. DOE strongly encourages States to propose measures that will achieve no less than 10 million source BTUs saved per \$1,000 spent. DOE may provide additional guidance to states regarding the measurement and calculation of energy savings.

5.7A Further Description of Energy Savings Goal:

Each state portfolio of projects funded by SEP ARRA grants should seek to achieve annual energy savings of at least 10 million source BTUs for each \$1,000 of total investment. This number is based on savings estimates documented in the 2005 evaluation of SEP's program year 2002 activities¹. This goal applies to the entire portfolio of projects being funded. As such, there may be individual projects that do not meet this standard and others that exceed it.

Moreover, DOE expects that there will be approaches that were not evaluated in the SEP evaluation (or which have been substantially improved since the evaluation) that are designed to create in permanent, transformational changes in the way energy decisions and energy financing are made, that require a different time frame for

¹ Schweitzer, M. and B.E. Tonn, 2005. *An Evaluation of State Energy Program Accomplishments: 2002 Program Year*, ORNL/CON-492. Oak Ridge National Laboratory, Oak Ridge, TN, June.

analysis. For example, strategies such as revolving funds and on-bill financing may achieve more net energy reductions or renewable capacity than other strategies, but fail to meet the standard of 10 MBTUs (source) in any single year. For these kinds of strategies, DOE would accept a demonstration extending projected savings over a longer time frame.

DOE recognizes that it may be more difficult for States with a mature and effective energy efficiency and renewable energy program to meet this standard than it would be for a State that has not implemented aggressive energy efficiency measures over time. DOE believes that these States have an effective and experienced staff, a well developed administrative and regulatory infrastructure, and an effective field presence, that should allow the State to achieve the minimum levels of energy savings.

5.8 ARRA Progress and Reporting Metrics

As in the past, States will be required to report quarterly on project expenditures, and also on specific activities and achievements, such as square feet of buildings retrofitted. These items tend to be outputs (actions taken by grant recipients) but also include some short-term outcomes (results achieved relatively soon after project outputs occur that lead toward attainment of ultimate project objectives). A list of metrics required for reporting is included in Section 10.

5.9 Expenditures

Accurate records should be kept on project expenditures for all SEP ARRA funded efforts. The specific expenditure information to be gathered and tracked is listed below. It will be the same for all project types:

- Expenditures for project activities.
- Expenditures for administration.
- Amount of funding spent on project activities that was leveraged from other sources. Leveraged funds are defined as non-federal funds added to an SEP activity that would not otherwise have been spent for energy efficiency and/or renewable energy programs, and are not included in the grant budget.

6.0 LEGAL AUTHORITY:

SEP is authorized under PL 94-385, PL 94-163, PL 95-619, PL 94-580, PL 101-440, PL 102-486, PL 109-58 , and PL-111-5. All grant awards made under this program must comply with applicable legislation.

SEP is governed by program regulations (10 CFR part 420) published in the Federal Register on July 8, 1996, and amended in the Federal Registers dated May 14, 1997, August 24, 1999, and May 1, 2000, and the DOE Financial Assistance Rules (10 CFR part 600). DOE published a Final Rule on October 2, 2006, which amends 10 CFR 420 to incorporate the provisions of the Energy Policy Act of 2005, as described above.

7.0 FUNDING

7.1 General Funding

PY 2009 funding for SEP, requiring DOE approval for expenditure, can come from three sources: (1) Federally appropriated funds; (2) Warner, EXXON, and similar petroleum violation escrow funds; and (3) Stripper Well and other oil overcharge funds (including Texaco) which are subject to Stripper settlement rules.

7.2 Formula Allocations

Formula allocations for SEP ARRA consist of \$3,069,000,000 in Federal funds appropriated in PY 2009. State formula allocations are provided in the table attached to this guidance. Formula allocations for SEP funds provided through the regular federal appropriation process will be provided in FOA No. DE-FOA-0000039.

In keeping with the intent of this funding, Congressional and Department goals are for all Recovery funds to be obligated by September 30, 2010.

(See 10 CFR Part 420.11 for the allocation process.)

7.3 Match

States must contribute (in cash, in kind, or both) an amount no less than 20 percent of their total Federal formula award. **This requirement does not apply to SEP ARRA funds.**

(See 10 CFR Part 420.12 regarding match.)

7.4 New and Modified Activities Funded Under SEP

Any new and modified SEP initiatives, including those funded through the use of Petroleum Violation Escrow (PVE) funds, must be approved in writing prior to implementation by the appropriate Contracting Officer via amendment to the current State Plan. Recipients must ensure that all proposed use of Stripper Well funds have prior review and approval by DOE Headquarters.

8.0 APPLICATIONS FOR SEP GRANTS

The application package for SEP grants consists of the State Plan and all required forms. The State Plan is the critical element of the application package. It is divided into two sections - the Master File and the Annual File (see section 9.0 below).

Applications must be submitted in accordance with the 2009 SEP Funding Opportunity Announcement. Detailed information on the application package and application due dates can be found in Part IV of the Funding Opportunity Announcement, Application and Submission Information.

9.0 STATE PLAN

The State Plan consists of a Master File, covering items that generally do not change from year to year, which would need to be updated only when a change occurs, and an Annual File, covering the activities the State intends to undertake during the year of the grant, which must be updated each year to reflect the current year's activities. *For the sake of simplicity and the expeditious award of SEP ARRA grants, the Master File portion of the State Plan need not include SEP ARRA funds.*

9.1 Master File (This portion of the State Plan is not required for SEP ARRA funds)

9.1A Overview: The Master File should include, wherever practicable, information on the State's overall strategic energy plan and its key elements, its strategic goals and objectives, and how its SEP activities fit into that overall plan. It should explain how implementing the plan will conserve energy; how the State will measure progress toward attaining its goals; an explanation of how the plan satisfies the minimum criteria for the required (mandatory) activities; and a plan for State monitoring that describes how the State conducts the administrative and programmatic oversight for programs implemented by other agencies within the State, contractors employed by the State, or subrecipients of financial assistance from the State. If a State has completed certain mandatory activities, this may also be indicated in the Master File.

9.1B EPACT

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

- The first amends the provisions regarding State Plans by adding a subsection, as follows:

“(g) The Secretary shall, at least once every 3 years, invite the Governor of each State to review and, if necessary, revise the energy conservation plan of such State submitted under subsection (b) or (e) [*the annual State Plan*]. Such reviews should consider the energy conservation plans of other States within the region, and identify opportunities and actions carried out in pursuit of common energy conservation goals.”

With the issuance of this program guidance, States are invited to review their SEP State Plans with a view toward regional/multi-state collaboration. DOE will continue to work with the National Association of State Energy Officials (NASEO), the National Governors Association, regional governors associations and regional initiatives designed to foster and support regional/multi-State cooperation and collaboration.

- The second EPACT revision amended the provisions regarding the energy efficiency goals established by the States, as follows:

“Each State energy conservation plan with respect to which assistance is made available under this part on or after the date of enactment of the Energy Policy Act of 2005 shall contain a goal, consisting of an improvement of 25 percent or more in the efficiency of use of energy in the State concerned in calendar year 2012 as compared to calendar year 1990, and may contain interim goals.”

Each state must describe within the Master File in their 2009 State Plan how it intends to achieve 25 percent (or more) along with any initial/preliminary progress toward achieving the improvement goal cited above.

DOE realizes that many States have developed State Energy Strategic Plans that include energy efficiency and renewable energy goals. Goals that are less than EPACT’s 25 percent requirement may be considered interim goals for meeting that requirement. States that are in the process of developing such plans may submit information addressing when the plans will be completed. States that have not received state government or legislative direction to develop such plans should provide information in the WinSAGA Master File on their strategies to involve state leadership in developing such plans to address this goal.

9.2 Annual File

9.2A Overview

The Annual File section of the State Plan describes each market area and program activity for which the state requests financial assistance for a given year, including budget information and milestones for each activity, and the intended scope and goals to be attained either qualitatively or quantitatively. The SEP Narrative Information Worksheets capture this information. We encourage states to structure the activities within the market areas broadly and inclusively. This will streamline the reporting and approval process, afford the states additional flexibility and reduce the number of plan amendments required during the year.

9.2B Compliance with Section 410 Requirements

Section 410 of the Conference Report accompanying ARRA requires in section (a)(3) that funds be used for the expansion of existing energy efficiency and renewable energy programs. To ensure that this requirement is met, each state's application should include the following as part of the Annual File, Recovery Ramp Up document (refer to FOA, Part IV, Section C):

- A commitment that SEP funding will be used to create new programs or expand existing programs, including ratepayer-funded programs, and not to supplant or replace existing state, ratepayer or other funding;
- A list of the existing efficiency and renewable energy programs which the State plans to expand, including programs funded by ratepayer-funded programs operated by both investor-owned and consumer-owned utilities;
- The 2008 funding level for each existing program, including ratepayer-funded programs;
- The 2009 and 2010 planned funding level for each existing energy efficiency and renewable energy program, to demonstrate that the State is planning to use additional SEP ARRA funding for the expansion of existing programs.

(See 10 CFR Part 420.13 for more specific requirements on State Plans.)

9.3 State Plan Activity Codes

States should identify program activities under the market areas and topic categories developed in preparation for [Grants.gov](http://www.eere.energy.gov/state_energy_program/topic_definitions.cfm). Use of the markets and topic categories assists DOE in tracking grant-funded activities and gathering information on SEP regionally and nationwide. DOE is often required to provide analyses, justifications and recommendations based on the information provided by the states. The use of these categories, which are included in the Narrative Information Worksheet, also assists in developing performance metrics for each activity.

Definitions of the markets and topic areas can be found on the SEP website at:

http://www.eere.energy.gov/state_energy_program/topic_definitions.cfm

9.4 Mandatory Requirements

The following activities and details on compliance are required in each State Plan:

- establish mandatory lighting efficiency standards for public buildings;
- promote carpools, vanpools, and public transportation;
- incorporate energy efficiency criteria into procurement procedures;
- implement mandatory thermal efficiency standards for new and renovated buildings, or in states that have delegated such matters to political subdivisions, adopt model codes for local governments to mandate such measures;
- permit right turns at red traffic lights and left turns from a one-way street onto a one-way street at a red light after stopping; and
- ensure effective coordination among various local, state, and Federal energy efficiency, renewable energy and alternative transportation fuel programs within the state. This requirement is especially important in light of the substantial ARRA funding that will be provided to local governments under the EECBG. State Plans should detail how SEP and EECBG funding will be coordinated.

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

9.5 Optional Program Activities

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

- Programs of public education to promote energy conservation.
- Programs to increase transportation energy efficiency, including programs to accelerate the use of alternative transportation fuels and hybrid vehicles for state government fleets, taxis, mass transit, and privately owned vehicles.
- Programs that encourage the introduction of energy saving technologies in the industry, buildings, transportation and utility sectors and encourage state and industry partnerships that develop and demonstrate advances in energy efficiency and clean technologies.
- Programs for financing energy efficiency and renewable energy capital investments, and programs, which may include loan programs and performance contracting programs for leveraging additional public and private sector funds, and programs that allow rebates, grants, or other incentives for the purchase and installation of eligible energy efficiency and renewable energy measures in public or nonprofit buildings owned and operated by a state, a political subdivision of a state or an agency or instrumentality of a state, or an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, including public and private non-profit schools and hospitals, and local government buildings.
- Programs for encouraging and for carrying out energy audits with respect to buildings and industrial facilities (including industrial processes) within the state.
- Programs to promote the adoption of integrated energy plans which provide for periodic evaluation of a state's energy needs, available energy resources (including greater energy efficiency) and energy costs; and utilization of adequate and reliable energy supplies, including greater energy efficiency, that meet applicable safety, environmental, and policy requirements at the lowest cost.
- Programs to promote energy efficiency in residential housing, such as programs for development and promotion of energy efficiency rating systems for newly constructed housing and existing housing so that consumers can compare the energy efficiency of different housing; and programs for the adoption of incentives for builders, utilities, and mortgage lenders to build, service, or finance energy efficient housing.
- Programs to identify unfair or deceptive acts or practices which relate to the implementation of energy efficient and renewable resource energy measures and to educate consumers concerning such acts or practices.
- Programs to modify patterns of energy consumption so as to reduce peak demands for energy and improve

the efficiency of energy supply systems, including electricity supply systems.

- Programs to promote energy efficiency as an integral part of economic development and environmental planning conducted by state, local, or other governmental entities or by energy utilities.
- Programs to provide training and education to building designers and contractors to promote building energy efficiency.
- Programs for the development of building retrofit standards and regulations.
- Programs to provide support for feasibility studies for the utilization of renewable energy and energy efficiency resource technologies.
- Programs to encourage the use of renewable energy technologies.
- Programs that partner with other state agencies to leverage additional funds, such as public benefits funds and state and local investments in Clear Air Act compliance.
- Collaborative programs for energy efficiency and renewable energy technologies that link a state's energy and environmental objectives. In order to meet the state air quality priorities, these programs could leverage air quality funding to invest in air quality measures such as energy efficiency and renewable energy technologies.

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

9.6 State Energy Emergency Plans

In conjunction with the SEP State Plan, States are required to file, for information only, an energy emergency plan detailing implementation strategies for dealing with energy emergencies. DOE encourages states to make sure their plans are up to date, given today's environment, and especially in view of recent natural disasters. For states that desire to update their plan, model guidelines have been developed for incorporating energy efficiency and renewable energy technologies into a state's energy emergency plan. These guidelines can be viewed at:

<http://www.oe.netl.doe.gov/docs/prepare/EAGuidelines.pdf>

9.7 Expenditure Prohibitions and Limitations

NOTE: The 50% limitation on use of funds for purchase and installation of equipment and materials for energy efficiency and renewable energy measures does not apply to ARRA funds.

9.7A Prohibitions: States are prohibited from using SEP financial assistance:

- for construction, such as construction of mass transit systems and exclusive bus lanes, or for the construction or repair of buildings or structures;
- to purchase land, a building or structure or any interest therein;
- to subsidize fares for public transportation;
- to subsidize utility rate demonstrations or State tax credits for energy conservation or renewable energy measures; or
- to conduct or purchase equipment to conduct research, development or demonstration of energy efficiency or renewable energy techniques and technologies not commercially available.

9.7B Limitations:

- No more than 20 percent of the financial assistance awarded to the State for this program shall be used to purchase office supplies, library materials, or other equipment whose purchase is not otherwise prohibited.
- Demonstrations of commercially-available energy efficiency or renewable energy techniques and technologies are permitted and are not subject to the construction prohibition or the 20 percent on equipment and direct purchase limitations.
- A State may use regular or revolving loan mechanisms to fund SEP services that are consistent with the SEP rule and that are included in the approved State Plan. Loan repayments and interest on loan funds may be used only for activities which are consistent with the rule and are included in the State's approved plan.
- A State may use funds for the purchase and installation of equipment and materials for energy efficiency measures and renewable energy measures, subject to the following:
 - such use must be included in the State's approved plan (and if PVE funds are used, the use must be consistent with any judicial or administrative terms and conditions imposed upon State use of such funds).
 - such use is limited to no more than 50 percent of all funds allocated by the state to SEP in any given year, regardless of source, except that this limitation shall not include regular and revolving loan programs funded with PVE funds. States may request a waiver of the 50 percent limit from DOE for good cause. For regular and

- revolving loan funds, loan documents shall ensure repayment of principal and interest within a reasonable period of time, and shall not include provisions for loan forgiveness. **The 50% limitation does not apply to SEP ARRA funds.**
- Funds may be used to supplement and no funds may be used to supplant weatherization activities under the Weatherization Assistance Program for Low-Income Persons.

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

9.8 Expenditures Within a Grant Period. (This section does not apply to SEP ARRA funds.)

States are encouraged to expend all obligated funds within the annual grant cycle. If a state has estimated unobligated funds to be carried forward from one year to the next within the grant period, they must amend the subsequent program year State Plan and budget to include activities associated with those unobligated funds. When a State's grant is closed out, any remaining unobligated funds are subject to reauthorization approval by the Office of Management and Budget.

9.9 Program Income

DOE encourages states to earn income in connection with SEP activities to defray

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

- Income from fees for services performed.
- The use or rental of real or personal property acquired under Federally-funded projects.
- The sale of commodities or items fabricated under an award.
- License fees and royalties on patents and copyrights.
- Interest on loans made with award funds.

Except as otherwise provided in this subpart, program regulations, or the terms and conditions of the award, program income does not include the receipt of principal on loans, rebates, credits, discounts, etc., or interest earned on any of them. Interest earned through loan fund programs generated by grant-supported activities is treated as program income.

9.10 Revolving Loan

When a state proposes to use funds for an established revolving loan fund, they are treated as obligated or

encumbered. Once such a program is in place, returned principal and interest collected may be used to make additional loans or to fund the operations of the revolving loan program. During this time, returned principal is not accounted for as program income.

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

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

(See 10 CFR Part 600.225[b] and 10 CFR Part 600.101 for further information.)

9.11 State Match Timeframe **(This section does not apply to SEP ARRA funds)**

The 20 percent State match requirement must be met each year, not over the 5-year grant period.

10. METRICS AND REPORTING

10.1 Background

DOE, NASEO and the states, supported by the National Renewable Energy Laboratory, have worked together during the past 18 months to develop a new system for reporting outcomes of various SEP activities. DOE and NASEO surveyed the states regarding the feasibility of reporting various energy use and cost data, and formulated a list of metrics that should be used in reporting the results and/or outcomes of SEP activities. Use of these metrics will provide standard, clear, quantifiable information on the results of all SEP program activities, whether funded through ARRA or regular appropriations.

Some activities funded by SEP formula grants cannot be measured meaningfully by the metrics outlined here (e.g. emergency preparedness or quick-response analysis for legislators, state executives, stakeholders, etc.). These activities are an important part of SEP and should definitely continue to be funded. To be clear, *the new metrics discussed in this Guidance are not intended to restrict or change state activities funded by SEP*. Rather, they are intended to aid states so that, where possible, activity outcomes may be standardized so that they are more readily understood by Congress, by state executives and legislators, and by the public.

10.2 Information to be Reported Quarterly

The key activities and achievements to be reported by states will vary by program type. DOE will provide additional guidance on reporting requirements. Following is the information, by program type, that should be included in quarterly Program Status reports:

10.2A Activities

Building Codes and Standards

- Name of new code adopted
- Name of old code replaced
- Percentage of new construction in state covered by new code

Building Retrofits

- Number of buildings retrofitted, by sector
- Square footage of buildings retrofitted, by sector

Clean Energy Policy

- Number of state alternative energy plans developed
- Number of state renewable portfolio standards established
- Number of state interconnection standards established

Building Energy Audits

- Number of audits performed, by sector
- Floor space audited, by sector
- Auditor's projection of energy savings, by sector

Energy Efficiency Rating and Labeling

- Types of energy consuming devices for which energy-efficiency rating and labeling systems were endorsed by the State government, schools, or institutional procurement
- Number of units purchased, by type (e.g., vehicles, office equipment, HVAC equipment, streetlights, exit signs)

Industrial Retrofit Support

- Number of buildings retrofitted, by industry type
- Square footage of buildings retrofitted, by industry sector

Loans, Grants, and Incentives

- Number and monetary value of loans given
- Number and monetary value of grants given
- Number and monetary value of incentives provided

Renewable Energy Market Development

- Number and size of solar energy systems installed
- Number and size of wind energy systems installed
- Number and size of other renewable energy systems installed

Tax Credits

- Monetary value of tax credits given, by sector

Technical Assistance

- Number of contacts in which energy efficiency or renewable energy measures were recommended, by sector

Transportation

- Number of alternative fuel vehicles purchased
- Number of conventional vehicles converted to alternative fuel use
- Number of new alternative refueling stations emplaced
- Number of new carpools and vanpools formed
- Number of energy-efficient traffic signals installed
- Number of street lane-miles for which synchronized traffic signals were installed

Workshops, Training, and Education

- Number and type of workshops, training, and education sessions held
- Number of people attending workshops, training, and education sessions

10.2B Outcomes:

Job Creation

- Number
- Type
- Duration

10.3 Information to be Reported Annually (DOE will provide standard calculation methodology in future guidance)

10.3A Critical Annual Reporting Metrics

Energy Savings (kwh equivalents)

- Annual reduction in natural gas consumption (mmcf)
- Annual reduction in electricity consumption (MWh)
- Annual reduction in electricity demand (MW)
- Annual reduction in fuel oil consumption (gallons)
- Annual reduction in propane consumption (gallons)
- Annual reduction in gasoline and diesel fuel consumption (gallons)

Renewable Energy Capacity and Generation

- Amount of wind-powered electric generating capacity installed (MW)
- Amount of electricity generated from wind systems (MWh)
- Amount of photovoltaic generating capacity installed (MW)
- Amount of electricity generated from photovoltaic systems (MWh)
- Amount of electric generating capacity from other renewable sources installed (MW)
- Amount of electricity generated from other renewable sources (MWh)

Emissions Reductions (tons) (CO2 equivalents)

- Carbon
- Sulfur dioxide
- Nitrogen oxide
- Carbon monoxide

SEP activities that do not fit well into these metrics should be reported as they have in the past.

10.3B Measuring Progress Toward the EPACT 2005 Goal

The metrics listed above should be adapted to measure progress toward the energy efficiency goal set forth in Section 123 of EPACT 2005 of “an improvement of 25 percent or more in the efficiency of use of energy in the State concerned in calendar year 2012 as compared to calendar year 1990.”

10.3B1 Data to be Reported Annually Related to EPACT Goal: States should measure and report annually the change since 1990 in:

- Total energy use per capita;
- Residential energy use per capita;
- Commercial energy use per capita;
- Transportation energy use per capita;
- Total energy intensity of production (Btu per dollar of state real GDP);
- Industrial energy intensity of production.

In addition, where feasible states should include the following measures with their EPACT reporting:

- the change in the sectoral distribution of energy use since 1990 (percentage of total energy use by residential, industrial, commercial and transportation sectors), and
- the change in real GDP per capita.

The recommendations in this section are based on the EPACT requirement that activities contained in each state's energy conservation plan must be linked to a state energy efficiency goal. By providing an assortment of goals rather than one single metric, it will be easier for states to link activities with appropriate interim goals as well as ultimate goals for 2012. For example, a state that has already significantly reduced its energy intensity of production may decide to focus its energy conservation plan on residential energy use, therefore its EPACT activities would be better measured by residential energy use per capita.

While the last two metrics do not measure the reduction in energy use, they may indicate whether changes in energy use may be related to broader economic transformations rather than energy efficiency measures. For example, an apparent improvement in industrial energy intensity may result less from successful conservation efforts and more from recession, if the economic downturn has resulted in the loss of heavy manufacturing. States should report changes in all of the recommended indices, and should indicate to DOE which are most pertinent to its state energy conservation plan.

10.3B2 Information Sources:

- The Energy Information Administration (EIA) State Energy Data System (SEDS) database provides a common data source for all States working toward the EPACT goal. A state should use the relevant SEDS data for 1990 as a baseline to calculate its goals, and then link each element of its State Plan to the appropriate goal.

There is currently a three-year lag in the SEDS data, which make current "snapshots" problematic but would not affect calculation of a state target nor affect planning toward the target. A state should develop its own "snapshot" methodology based on its best available information, but should update the SEDS time series as additional years become available in SEDS.

- A series of reference tables will be posted on the SEP website within 30 days of the issuance of this guidance, forecasting current energy trends to 2012 for each state, showing total and by sector energy use.

One set will show trends in energy use per capita and the other, energy use per unit of GDP. Each set will provide energy use for the 1990 baseline year, current energy use as of the most recent year available and a multi-year trend. The tables will reflect the most current information from EIA.

CONCLUSION

The ARRA provides States an unprecedented opportunity to continue to demonstrate why they are considered the “laboratories of change” when it comes to energy policy and programs. The funding also represents the most significant opportunity States have had to collaborate regionally with neighboring States and locally with city and county governments that receive

Energy Efficiency and Conservation Block Grant funding. The SEP grant funds that will be provided through the regular FY 2009 Federal appropriation will further this opportunity.

DOE looks forward to a tremendous record of accomplishment by the States and an equally outstanding performance with respect to the transparency and accountability provisions of the ARRA.

Gilbert P. Sperling

Program Manager

Office of Weatherization and Intergovernmental Program

Energy Efficiency and Renewable Energy

Attachment

State/Territory	State Formula Allocations FY 2009 Recovery Act Funds
Alabama	\$55,570,000
Alaska	\$28,232,000
Arizona	\$55,447,000
Arkansas	\$39,416,000
California	\$226,093,000
Colorado	\$49,222,000
Connecticut	\$38,542,000
Delaware	\$24,231,000
District of Columbia	\$22,022,000
Florida	\$126,089,000
Georgia	\$82,495,000
Hawaii	\$25,930,000
Idaho	\$28,572,000
Illinois	\$101,321,000
Indiana	\$68,621,000
Iowa	\$40,546,000
Kansas	\$38,284,000
Kentucky	\$52,533,000
Louisiana	\$71,694,000
Maine	\$27,305,000
Maryland	\$51,772,000
Massachusetts	\$54,911,000
Michigan	\$82,035,000
Minnesota	\$54,172,000
Mississippi	\$40,418,000
Missouri	\$57,393,000
Montana	\$25,855,000
Nebraska	\$30,910,000

Nevada	\$34,714,000
New Hampshire	\$25,827,000
New Jersey	\$73,643,000
New Mexico	\$31,821,000
New York	\$123,110,000
North Carolina	\$75,989,000
North Dakota	\$24,585,000
Ohio	\$96,083,000
Oklahoma	\$46,704,000
Oregon	\$42,182,000
Pennsylvania	\$99,684,000
Rhode Island	\$23,960,000
South Carolina	\$50,550,000
South Dakota	23,709,000
Tennessee	\$62,482,000
Texas	\$218,782,000
Utah	\$35,362,000
Vermont	\$21,999,000
Virginia	\$70,001,000
Washington	\$60,944,000
West Virginia	\$32,746,000
Wisconsin	\$55,488,000
Wyoming	\$24,941,000
American Samoa	\$18,550,000
Guam	\$19,098,000
Northern Marianas	\$18,651,000
Puerto Rico	\$37,086,000
Virgin Islands	\$20,678,000
Total	\$3,069,000,000

ATTACHMENT 2 -- Reporting Requirements Checklist**U.S. Department of Energy
FEDERAL ASSISTANCE REPORTING
CHECKLIST AND INSTRUCTIONS**

1. Identification Number: FOA DE-FOA-0000052		2. Program/Project Title: State Energy Program Formula, Grant, American Recovery and Reinvestment Act (ARRA)	
3. Recipient:			
4. Reporting Requirements: A. MANAGEMENT REPORTING <input checked="" type="checkbox"/> Progress Report <input type="checkbox"/> Special Status Report	Frequency	No. of Copies	Addressees
	Q, F	Electronic Version	See Note 1
B. SCIENTIFIC/TECHNICAL REPORTING (Reports/Products must be submitted with appropriate DOE F 241. The 241 forms are available at www.osti.gov/mlink) Report/Product Form <input type="checkbox"/> Final Scientific/Technical Report DOE F 241.3 <input type="checkbox"/> Conference papers/proceedings* DOE F 241.3 <input type="checkbox"/> Software/Manual DOE F 241.4 <input type="checkbox"/> Other (see Special Instructions) DOE F 241.3 * <i>Scientific and technical conferences only</i>			
C. FINANCIAL REPORTING <input checked="" type="checkbox"/> SF-425, Federal Financial Report			
D. CLOSEOUT REPORTING <input type="checkbox"/> Patent Certification <input checked="" type="checkbox"/> Property Certification <input type="checkbox"/> Other (see Special Instructions)			
E. OTHER REPORTING <input checked="" type="checkbox"/> Annual Indirect Cost Proposal <input type="checkbox"/> Annual Inventory Report of Federally Owned Property, if any <input checked="" type="checkbox"/> Other			
FREQUENCY CODES AND DUE DATES: A - Within 5 calendar days after events or as specified. F - Final; 90 calendar days after expiration or termination of the award. Y - Yearly; 90 days after the end of the reporting period. S - Semiannually; within 30 days after end of reporting period. Q - Quarterly Progress Reports; due within 30 days after end of the reporting period.			
5. Special Instructions: Forms are available at https://www.eere-pmc.energy.gov/forms.asp . 1. Submit Reports (or provide email notification of WinSAGA entry) to the DOE Project Officer. 2. The Recipient must provide the Property Certification, including the required inventories of non-exempt property, located at: https://grants.pr.doe.gov . A signed copy of the Property Certification shall be submitted in PDF format to the NETL Property Administrator at the following address: Property.Administrator@netl.doe.gov . <u>OTHER REPORTING</u> 3. ARRA – Performance Progress Report. This report shall be submitted quarterly; 10 days after the end of the reporting period.			

Federal Assistance Reporting Instructions (2/09)

A. MANAGEMENT REPORTING

Progress Report

The Progress Report must provide a concise narrative assessment of the status of work and include the following information and any other information identified under Special Instructions on the Federal Assistance Reporting Checklist:

1. The DOE award number and name of the recipient
2. The project title and name of the project director/principal investigator.
3. Date of report and period covered by the report.
4. A comparison of the actual accomplishments with the goals and objectives established for the period and reasons why the established goals were not met.
5. A discussion of what was accomplished under these goals during this reporting period, including major activities, significant results, major findings or conclusions, key outcomes or other achievements. This section should not contain any proprietary data or other information not subject to public release. If such information is important to reporting progress, do not include the information, but include a note in the report advising the reader to contact the Principal Investigator or the Project Director for further information
6. Cost Status. Show approved budget by budget period and actual costs incurred. If cost sharing is required break out by DOE share, recipient share, and total costs.
7. Schedule Status. List milestones, anticipated completion dates and actual completion dates. If you submitted a project management plan with your application, you must use this plan to report schedule and budget variance. You may use your own project management system to provide this information.
8. Any changes in approach or aims and reasons for change. Remember significant changes to the objectives and scope require prior approval by the contracting officer.
9. Actual or anticipated problems or delays and actions taken or planned to resolve them.
10. Any absence or changes of key personnel or changes in consortium/teaming arrangement.
11. A description of any product produced or technology transfer activities accomplished during this reporting period, such as:
 - a. Publications (list journal name, volume, issue); conference papers; or other public releases of results. Attach or send copies of public releases to the DOE Project Officer identified in Block 11 of the Notice of Financial Assistance Award.
 - b. Web site or other Internet sites that reflect the results of this project.
 - c. Networks or collaborations fostered.
 - d. Technologies/Techniques.
 - e. Inventions/Patent Applications.

- f. Other products, such as data or databases, physical collections, audio or video, software or netware, models, educational aid or curricula, instruments or equipment.

C. FINANCIAL REPORTING

Recipients must complete the SF-425 as identified on the Reporting Checklist in accordance with the report instructions. A fillable version of the form is available at http://www.whitehouse.gov/omb/grants/grants_forms.aspx.

D. CLOSEOUT REPORTS

Property Certification

The recipient must provide the Property Certification, including the required inventories of non-exempt property, located at <http://grants.pr.doe.gov>.

E. OTHER REPORTING

Annual Indirect Cost Proposal and Reconciliation

Requirement. In accordance with the applicable cost principles, the recipient must submit an annual indirect cost proposal, reconciled to its financial statements, within six months after the close of the fiscal year, unless the award is based on a predetermined or fixed indirect rate(s), or a fixed amount for indirect or facilities and administration (F&A) costs.

Cognizant Agency. The recipient must submit its annual indirect cost proposal directly to the cognizant agency for negotiating and approving indirect costs. If the DOE awarding office is the cognizant agency, submit the annual indirect cost proposal to the address on the Reporting Requirements Checklist.

ARRA Performance Progress Report

Progress Report

The Progress Report must be submitted not later than 10 days after the end of each calendar quarter, each recipient shall submit a report to the grantor agency that contains:

- The total amount of American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, covered funds received from that agency;
- The amount of American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, covered funds received that were expended or obligated to project or activities;
- A detailed list of all projects or activities for which American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, covered funds were expended or obligated including:
 - Name of project or activity
 - Description of project or activity
 - Evaluation of the completion status of project or activity
 - Estimate of number of jobs created and retained by project or activity *in the manner and*

form prescribed by DOE

- Infrastructure investments made by State and local governments, purpose, total cost, rationale or agency for funding infrastructure investment, name of agency contact.
 - Information on subcontracts or subgrants awarded by recipient to include data elements required to comply with the Federal Accountability and Transparency Act of 2006 (Pub. L. 109-282).
- Compliance: As a condition of receipt of funds under this Act, no later than 180 days of enactment, all recipients shall provide the information described above.

Failure to comply with this reporting requirement may result in termination of that part of the award funding by Recovery Act.

ATTACHMENT 3 -- GOVERNOR'S ASSURANCE CERTIFICATION

By signing below, the State Governor is providing their written certification that they will comply with and obtain the following assurances in accordance with Section 410 of the Recovery Act.

(1) The applicable State regulatory authority will seek to implement, in appropriate proceedings for each electric and gas utility, under its rate-making authority a general policy that ensures that utility financial incentives are aligned with helping their customers use energy more efficiently and that provide timely cost recovery and a timely earnings opportunity for utilities associated with cost-effective measurable and verifiable efficiency savings, in a way that sustains or enhances utility customers' incentives to use energy more efficiently.

(2) The State, or the applicable units of local government that have authority to adopt building codes, will implement the following:

(A) A residential building energy code (or codes) that meets or exceeds the most recent International Energy Conservation Code, or achieves equivalent or greater energy savings.

(B) A commercial building energy code (or codes) throughout the State that meets or exceeds the ANSI/ASHRAE/IESNA Standard 90.1–2007, or achieves equivalent or greater energy savings.

(C) A plan to achieve 90 percent compliance with the above energy codes within eight years. This plan will include active training and enforcement programs and annual measurement of the rate of compliance.

(3) The State will to the extent practicable prioritize the grants toward funding energy efficiency and renewable energy programs, including—

(A) the expansion of existing energy efficiency programs approved by the State or the appropriate regulatory authority, including energy efficiency retrofits of buildings and industrial facilities, that are funded by the State or through rates under the oversight of the applicable regulatory authority, to the extent applicable;

(B) the expansion of existing programs, approved by the State or the appropriate regulatory authority, to support renewable energy projects and deployment activities, including programs operated by entities which have the authority and capability to manage and distribute grants, loans, performance incentives, and other forms of financial assistance; and

(C) cooperation and joint activities between States to advance more efficient and effective use of this funding to support the priorities described in this section.

State Governor Signature

Date