



Department of Energy

Washington, DC 20585

STATE ENERGY PROGRAM NOTICE 10-02

EFFECTIVE DATE: 12/22/09

SUBJECT: RETOOLING AND MANUFACTURING PROGRAM GUIDANCE USING STATE ENERGY PROGRAM (SEP) FUNDS

PURPOSE: Provides guidance to recipients on minimum requirements for retooling or manufacturing programs and/or projects under the State Energy Program (SEP).

SCOPE: The provisions of this guidance apply to States, Territories and the District of Columbia (hereinafter "States") receiving formula grant financial assistance under the Department of Energy's (DOE's) State Energy Program.

LEGAL AUTHORITY: SEP is authorized under the Energy Policy and Conservation Act, as amended (42 U.S.C. 6321 et seq.). All grant awards made under this program must comply with all applicable authorities.

BACKGROUND: To support the primary goals of the American Recovery and Reinvestment Act to create jobs, help our economy recover and create demand for a clean energy workforce states have identified opportunities to support manufacturing activities to produce energy efficiency and renewable energy products. This guidance is provided to help states comply with SEP statutes and regulations while allowing for the funding support to increase manufacturing of energy efficiency and renewable energy products as long as they impact energy use in the state as discussed below. Under appropriate circumstances, SEP funds could be used to support manufacturing activities for energy efficiency and/or renewable energy products.

GUIDANCE: The following guidance applies to all recipients of SEP funds.

The contents of this guidance are:

- Description of Eligible Retooling/Manufacturing Programs and/or Projects
- Description of Eligible Technology Commercialization Services Programs
- Application of guidance to state requests for proposals (RFP's) and individual projects

Description of Eligible Retooling/Manufacturing Programs and/or Projects

Under appropriate circumstances, SEP funds could be used to support manufacturing of energy efficiency and/or renewable energy products.

Provisions of an eligible project or State plan could address:

- energy efficiency retrofits, use of distributed renewable energy technologies by industries,
- energy audits at commercial sites,
- financial incentive programs for energy efficiency, or
- improvements in process efficiency.

Please note that this list is not inclusive and that other provisions may be appropriate if the provisions are for the conservation of energy and reduction in the rate of growth of energy demand within a State.

SEP funds may be used to support energy efficiency measures and renewable energy measures at manufacturing facilities, at both an individual project level and at a broader State plan level. Optional element (9) under the SEP regulations provides as an appropriate activity - "Program activities to promote energy efficiency as an integral component of economic development planning conducted by State, local, or other governmental entities or by energy utilities." 10 CFR 420.17(a)(9). (See, also 42 USC 6322(d)(11)) The activities contemplated under (9) are those that result in a reduction in the rate of growth of energy demand in the State. A State plan that focuses on efforts to develop industry in a State in an energy efficient manner (as opposed to a plan primarily for the development of industry that manufactures energy efficient products) could be eligible under optional element (9).

In instances in which a project:

- does not include efficiency or renewable measures at the site of the manufacturing/production plant;
- does not increase the efficiency of the manufacturing process; and,
- is not a demonstration of a commercially available technology or technique,

a project may still be eligible under a State plan if the state can demonstrate that the proposed activities will support the purposes of the SEP program. Specifically, the state would need to demonstrate that a project would:

- contribute to the energy efficiency and renewable energy portfolio of the State (such as accelerating the deployment of energy efficient or renewable energy products or technology in the State);
- promote the conservation of energy in the State;
- reduce the rate of growth of energy demand in the State; and/or
- reduce dependence on imported oil in the State.

(See, 10 CFR 440.1, and 42 U.S.C. 6321(b))

Please note, the SEP regulations generally prohibit the use of SEP funds for construction, including the construction or repair of buildings or structures; and the purchase of land, buildings, structures, or any interest therein. 10 CFR 420.18(a)(1) and (2). However, demonstrations of commercially available energy efficiency or renewable energy

techniques and technologies are not subject to the prohibition on the use of funds to construct or repair a building or structure. 10 CFR 420.18(c).

Except as noted above where a state can demonstrate that the proposed activities will support the purposes of the SEP program, the use of SEP funds for the purchase and installation of manufacturing equipment is also prohibited unless the equipment is part of an energy efficiency measure or renewable energy measure, as those terms are defined in 10 CFR 420.2. 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 conditions identified in 10 CFR 420.18(e).

Description of Eligible Technology Commercialization Services Programs

SEP funds can be used to support program activities to implement the Technology Commercialization Services Program. Generally, the purpose of the Technology and Commercialization Services Program is to provide data, information, and technical support to businesses, as opposed to providing funding to businesses. The specific language is provided below:

Technology Commercialization Services Program

This section prescribes requirements for establishing State-level Energy Technology Commercialization Services Program as an optional element of State plans.

- (1) The program activities to implement the functions of the Energy Technology Commercialization Services Program shall:
- (i) Aid small and start-up businesses in discovering useful and practical information relating to manufacturing and commercial production techniques and costs associated with new energy technologies;
 - (ii) Encourage the application of such information in order to solve energy technology product development and manufacturing problems;
 - (iii) Establish an Energy Technology Commercialization Services Program affiliated with an existing entity in each State;
 - (iv) Coordinate engineers and manufacturers to aid small and start-up businesses in solving specific technical problems and improving the cost effectiveness of methods for manufacturing new energy technologies;
 - (v) Assist small and start-up businesses in preparing the technical portions of proposals seeking financial assistance for new energy technology commercialization; and
 - (vi) Facilitate contract research between university faculty and students and small start-up businesses, in order to improve energy technology product development and independent quality control testing.

(2) Each State Energy Technology Commercialization Services Program shall develop and maintain a data base of engineering and scientific experts in energy technologies and product commercialization interested in participating in the service. Such data base shall, at a minimum, include faculty of institutions of higher education, retired manufacturing experts, and National Laboratory personnel.

(3) The services provided by the Energy Technology Commercialization Services Program established under this part shall be available to any small or start-up business. Such service programs shall charge fees which are affordable to a party eligible for assistance, which shall be determined by examining factors, including the following: the costs of the services received; the need of the recipient for the services; and the ability of the recipient to pay for the services.

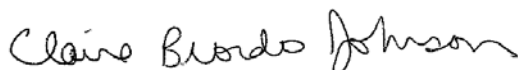
10 CFR 440.17(b).

Application of guidance to state requests for proposals (RFP's) and individual projects

Determinations for eligibility of programs and/or projects can be made either 1) through requirements in the application process for a state RFP or; 2) after individual projects are selected. The Department recommends that the state consider including language in program documents consistent with this guidance prior to requesting proposals or applications. The Department can then make a determination for the program with the state assuming responsibility for funding only projects which meet this retooling guidance. If proposals have already been received or selected, the state should provide a short project description and justification of how the project meets the requirements included in this guidance.

CONCLUSION:

This guidance provides states with minimum requirements for retooling or manufacturing programs under the State Energy Program to support manufacturing capacity in the state for energy efficiency and renewable products. Under appropriate circumstances, State Energy Program (SEP) funds can be used to support manufacturing of energy efficiency and/or renewable energy products. It is a pleasure to work with you on this important challenge. I look forward to the growth of this Program and our continued partnership to ensure we work to remove the barriers that impede your ability to help achieve our overall goals.



Claire Broido Johnson
Acting Program Manager
Office of Weatherization and Intergovernmental Program
Energy Efficiency and Renewable Energy