



Department of Energy
Washington, DC 20585

EECBG PROGRAM NOTICE 10-021
EFFECTIVE DATE: January 4, 2011

**SUBJECT: GUIDANCE FOR ELIGIBILITY OF ACTIVITIES UNDER THE ENERGY EFFICIENCY
AND CONSERVATION BLOCK GRANT PROGRAM**

PURPOSE

To provide guidance on the eligibility of activities under Department of Energy's (DOE's) Energy Efficiency and Conservation Block Grant (EECBG) Program.

SCOPE

The provisions of this guidance apply to recipients of EECBG funds.

LEGAL AUTHORITY AND BACKGROUND

Title V, Subtitle E of the Energy Independence and Security Act (EISA), as amended, authorizes the Department of Energy (DOE) to administer the EECBG Program. All grant awards made under this program shall comply with applicable law including the American Recovery and Reinvestment Act of 2009 (ARRA) and other procedures applicable to this program.

GUIDANCE

The general purpose of the EECBG Program is to assist eligible States, units of local government, and Indian tribes (collectively referred to as "eligible entities") in implementing strategies to reduce fossil fuel emissions created as a result of activities within the jurisdiction of the eligible entities, reduce the total energy use of the eligible entities, and improve energy efficiency.

The EISA statute specifies 14 categories of eligible uses of EECBG funds. As a result of the reviews DOE has made of activities outlined in energy efficiency and conservation strategies submitted by eligible entities, the Office of Weatherization and Intergovernmental Program is providing guidance regarding the types of eligible activities that are covered by the 14 categories. This guidance is not intended to be exhaustive and if an eligible entity has a question regarding the eligibility of a specific activity the eligible entity should contact its Project Officer.

In general, the overall objective of each activity should be the attainment of or the plan to attain increased energy efficiency and conservation. Projects related to regular maintenance or repairs are not eligible.

Measures undertaken to be in compliance with federal, state, and local laws and regulations such as asbestos removal, lead paint removal, ADA compliance and similar activities that are incidental to carrying out the eligible EECBG activity may be allowable in some cases. The compliance measure must be required in order to implement the EECBG activity and the EECBG activity must be the primary use of the EECBG funding. In such cases, the threshold is that all compliance measures, including health and safety measures that are incidental to carrying out the EECBG activity, cannot total more than 25 percent of the costs for the underlying EECBG activity. Therefore, 25 percent of the cost of an underlying eligible activity can be used for compliance measures. Any additional costs must be borne by the recipient.

Frequently Asked Question: Health and Safety Costs

Does the EECBG Grant provision prohibiting use of government funds to pay for decontamination and decommissioning (D&D) costs extend to asbestos and/or lead paint removal and similar items if such activities are necessary for an energy efficiency or renewable energy project?

The decontamination and decommissioning (D&D) provision does not prohibit using EECBG funds for asbestos removal, lead paint removal and similar activities that are incidental to carrying out the EECBG activity. If the recipient determines that an EECBG activity requires additional measures for compliance with asbestos and lead paint removal requirements, DOE funds could be applied towards the cost of the energy efficiency improvement and up to 25% towards compliance efforts. Any additional costs must be borne by the recipient.

ELIGIBILITY CATEGORIES

Category (1) Local Government and Indian Tribe Strategy Development

- This category is only available to eligible entities that are units of local government or Indian tribes (i.e., units of local government or Indian tribes that received funds under the EECBG formula); and
- The activity must be for the development, in support of the development, or in support of the implementation of either a strategy submitted pursuant to the EECBG Program or a general strategy that outlines goals for energy efficiency or conservation.

Category (2) Retaining Technical Consulting Services

- This category is only available to eligible entities that are units of local government or Indian tribes (i.e., units of local government or Indian tribes that received funds under the EECBG formula); and
- The activity for which the eligible entity is seeking to retain technical consulting services must qualify as an eligible activity under Category 1.

Frequently Asked Question: Technical and Feasibility Studies

Can funds be used for assessments or feasibility studies?

Enabling activities (e.g., assessments, feasibility studies) that support eligible activities are an eligible use of funds under the activity category that they are supporting. For example, a feasibility study for a renewable energy projects on or in a government building would be an eligible use of funds under Category 13.

Category (3) Residential and Commercial Building Audits

- The activity must be for conducting energy audits¹ of residential and commercial buildings²; and
- The activity must occur within the jurisdiction of the eligible entity.

Upgrades or improvements to buildings associated with the audits are an eligible use of funds.

Category (4) Financial Incentives for Energy Efficiency

- The activity must be for a financial incentive program, such as a rebate, loan or grant program including sub-grants from States;
- The financial incentive program must be for the purpose of improving energy efficiency; and

¹ For the purpose of eligibility under the EECBG Program, “energy audit” generally means an inspection or examination of a building to evaluate potential improvements in energy efficiency. This can include benchmarking building energy performance in ENERGY STAR’s Portfolio Manager tool.

² For the purpose of eligibility under the EECBG Program, “building” generally means a usually roofed and walled structure built for permanent use. Commercial buildings include all buildings in which at least half of the floor space is used for a purpose that is not residential (used as a dwelling for one or more households), manufacturing/industrial (used for processing or procurement of goods, merchandise, raw materials or food) or agricultural (used for the production, processing, sale, storage, or housing of agricultural products, including livestock), so they include building types that might not traditionally be considered “commercial,” such as schools, correctional institutions, and buildings used for religious worship.

- The financial incentives must be limited to resident, non-profits, government entities, or businesses within the jurisdiction of the eligible entity.

Frequently Asked Question: Financial Incentives

What is eligible as a financial incentive and can financial incentives be used to fund projects outside of a grantee's jurisdiction?

There are 4 criteria related to financial incentives:

- (1) funds are being requested for a financial incentive program, such as a rebate;
- (2) the financial incentives under the program are for energy efficiency improvements;
- (3) the financial incentive must be limited to residents within the jurisdiction of the eligible entity; and
- (4) the underlying activity funded by the financial incentive must be an eligible activity.

EECBG funds may only be used in the jurisdiction of the eligible entity. For example, if a City sets up a financing program with a loan loss reserve (or revolving loan fund) with EECBG funds then the City can only allow residents within the jurisdiction of the City to participate in the loan program. Suburbs of the city may not be eligible for EECBG funds if they are not within the jurisdiction of the eligible entity. Once the initial EECBG funding has been loaned out to City residents, the funds that are recycled back into the revolving loan fund are considered federal funds and must continue to go towards approved, eligible activities within the City's jurisdiction.

EECBG funds for financial incentive programs under Category 4 may be used for installation of renewable energy technologies, so long as the primary purpose of the activity is the improvement of the energy efficiency of the building to which the renewable energy technology is applied (See FAQ related to PV on non-governmental buildings in the Category 6 section).

Category (5) Energy Efficiency Retrofit Grants for Government Agencies and Nonprofit Organizations

- The activity must be for energy efficiency retrofits performed by government agencies or nonprofit organizations (these retrofits may be in residential buildings as long as the government or non-profit is performing the retrofit)—The retrofit may be of equipment (e.g., a pump, generator) or a building;
- The retrofit must result in energy savings or improved energy efficiency;

- The activity must **not** be for new construction or non-replacement equipment; and³
- The activity must occur within the jurisdiction of the eligible entity.

Frequently Asked Question: Water Fixtures

Would replacing high flow water fixtures with low flow that will result in energy savings be an eligible activity?

This activity is eligible under Category 5 (Energy Retrofit Grants for Nonprofits and Government Agencies) provided that –

- (1) there is accompanying energy savings;
- (2) the energy efficiency retrofits are performed by government agencies or nonprofit organizations within the jurisdiction of the eligible entity; and
- (3) the activity is not for new construction or non-replacement equipment.

The project is eligible under Category 6 (Energy Efficiency & Conservation Programs for Buildings & Facilities) provided that there is accompanying energy savings, and the funding will be used in a building within the jurisdiction of the eligible entity.

For the purpose of EECBG eligibility, a solar water heater is considered an energy efficiency measure given that a solar hot water heater reduces the amount of electricity or natural gas required to heat water.

Category (6) Energy Efficiency and Conservation Programs for Buildings and Facilities

- The activity must be for the development and/or implementation of an energy efficiency or energy conservation program. An eligible use of funds may include the design and operation of the program. Eligible activities may include:
 - o programs for public education including training or workshops;
 - o development and implementation of measurement and verification protocols;
 - o identification of energy efficient technologies; and
 - o installation of energy efficient equipment including energy management systems.
- The activity must be related to buildings or facilities; and⁴

³ Retrofits that install new equipment/fixture/systems to replace energy consuming systems are eligible if they meet the other requirements of this section. For example, skylights to replace lights or new lighting controls to make more efficient use of lighting systems are eligible if they meet the other requirements of this section.

⁴ For the purpose of eligibility under the EECBG Program, “facility” generally means an installation, building, group of buildings, or group of structures designed to support a related purpose.

- The activity must impact buildings or facilities within the jurisdiction of the eligible entity.

For the purpose of EECBG eligibility, a solar water heater is considered an energy efficiency measure given that a solar hot water heater reduces the amount of electricity or natural gas required to heat water.

Frequently Asked Question: Solar PV projects on non-governmental buildings

What type of solar projects are eligible if the project is not on a government building?

- Solar hot water systems designed to conserve fuel use on site (as opposed to PV/electricity generation systems), can in some cases be considered energy conservation/efficiency measures. Therefore, solar hot water technology is not limited to use on or in government buildings. The technology is subject to the same eligibility requirements as other energy efficiency technologies.

- The rule with respect to renewable energy is as follows:

Under the EECBG program, a renewable energy project for a residential or commercial building may be eligible if it is part of a broader energy efficiency effort. (42 USC 17154(5) or (6)) The energy efficiency must be the primary component of the effort, allowing the project to be eligible under either category 5 or 6.

Here is an example:

An eligible entity may use EECBG funds for the installation of solar PV as part of an energy efficiency program, if as a requirement for receiving funding, a building must meet an energy efficiency level specified under the energy efficiency program. The energy efficiency levels may be achieved either prior to an audit under the program, or as a result of retrofit measure taken following the audit. In both instances the availability of PV would promote energy efficiency.

Frequently Asked Question: Cool Roofs and Storm Windows

Is the installation of a cool roof eligible?

To the extent that installation of a "cool roof" is to improve the energy efficiency of a building, or improve the energy conservation of a building, the activity would be eligible in of itself under Category 6. Resources regarding cool roofs can be found at:

<http://www1.eere.energy.gov/femp/pdfs/coolroofguide.pdf>

In the EECBG Program, are storm windows considered an eligible expenditure in lieu of replacement windows when historical compliance issues prohibit certain window replacements?

Storm window installation in which the installation results in an improvement in energy efficiency and/or energy conservation may be eligible under Category 6. In the instance of historic buildings, it may be that single pane windows cannot be replaced and storm windows provide an alternative.

EECBG funds for energy efficiency and conservation programs under Category 6 may be used for installation of renewable energy technologies, so long as the primary purpose of the activity is the improvement of the energy efficiency of buildings and facilities to which the renewable energy technology is applied (See FAQ related to PV on non-governmental buildings).

Category (7) Conservation of Transportation Energy

- The activity must result in or support the conservation of transportation fuel within the jurisdiction of the eligible entity.
- Eligible activities include:
 - Implementation of use of flex time by employers in order to reduce commuting;
 - Development of satellite work centers in order to reduce commuting;
 - Development and promotion of zoning guidelines or requirements that promote energy efficient development;
 - Development of infrastructure such as bike lanes and pathways and pedestrian walkways;
 - Synchronization of traffic signals;
 - Implementation of technology to reduce vehicle miles traveled (e.g., use of solar trash compactors to reduce frequency of trips made by trash collection vehicles);
 - Development of carpools or vanpools;
 - Bike share programs;
 - Increase the use of alternative fuel vehicles in Government fleets; and
 - Enhancing commuter lots to encourage increased use of public transportation.

Generally, “transportation fuel” should be read to mean fossil-fuel based transportation fuel. A reduction in green house gas emissions that result from transportation fuel may also be considered a “conservation of transportation fuel.” Note, however, that the focus of a project under Category 7 must be for the conservation of transportation fuel within the jurisdiction of the eligible entity.

Frequently Asked Question: Alternative Fuel Vehicles

Is the full cost of the alternative fuel vehicle eligible for funding under EECBG?

If the activity is eligible under Category 7 due to a reduction in petroleum based transportation fuel as a result of the vehicle, then the full cost of alternative fuel or hybrid vehicles is not eligible; only the cost difference between a conventional vehicle and an alternative fuel or hybrid vehicle is eligible. However, if the vehicle is integral to and part of an eligible activity other than the conservation of transportation fuel, then the full cost may be eligible. For example, the full cost of trucks used as part of a materials conservation (recycling) program is eligible.

Regarding how to calculate the difference between a hybrid and non-hybrid if there is no non-hybrid equivalent, first look at the cost of a similar non-hybrid, even if there is no non-hybrid equivalent with the same make and model then look at the market for a similar model (e.g., a compact 4-door sedan). If there is a non-hybrid alternative on the market, use the difference between the two models. In cases where there are no comparable traditional fuel vehicles EECBG funds may be used to cover 35% of the cost of the vehicle.

Category (8) Building Codes and Inspection Services

- The activity must be for the development and/or implementation of building codes, inspection services or trainings/workshops to promote building energy efficiency;
- The development of energy efficiency rating and/or labeling systems for the purpose of promoting energy efficient devices or equipment; and
- The activity must occur within the jurisdiction of the eligible entity.

Category (9) Energy Distribution Technologies

- The activity must be for the application or implementation of:
 - A distributed energy technology (e.g., a technology that generates energy that is primarily used off-grid, a ground source heat pump, district heating and cooling systems, combined heat and power systems,

- cogeneration systems, energy storage systems, absorption chillers, desiccant humidifiers, or microturbines); **or**
- o An activity related to the distribution of energy (e.g., the upgrade of transformers) and;
- The activity must result in a significant increase in energy efficiency **within the jurisdiction of the eligible entity.**

For example, an activity that upgraded transformers in the jurisdiction of the eligible entity that resulted in improved efficiencies realized by a power plant would not be an eligible activity if the power plant is located outside the jurisdiction of the eligible entity.

Frequently Asked Question: Distributed Resources

What is the definition of "distributed resources"?

Category 9 of eligible activities for EECBG funds allows for the use of funds for "application and implementation of energy distribution technologies that significantly increase energy efficiency including - (A) distributed resources; and (B) district heating and cooling systems. . ."

Distributed resources include resources located behind a customer's meter. Energy distribution technologies include upgrades in transformers or power lines. The distribution technologies and distributed resources must significantly increase energy efficiency.

Category (10) Material Conservation Programs

- The activity must be for the purpose of increasing the participation in and/or the efficiency rates of a material conservation program (e.g., source reduction, recycling, and recycled content procurement programs); and
- The activity must occur within the jurisdiction of the eligible entity.

If the activity is a recycled content procurement program within the jurisdiction of the eligible entity there must be an associated increase in energy efficiency and/or conservation of fuel.

Category (11) Reduction, Capture, and Use of Landfill Gases

- The activity must be for the purchase and implementation of technology, for the purpose of reducing, capturing, or using methane and other greenhouse gases generated by landfills or similar sources; and
- The activity must occur within the jurisdiction of the eligible entity.

Category (12) Replacement of Traffic Signals and Street Lighting

- The activity must be for the replacement of traffic signals, street lights⁵ or street signs;
- The replacement of traffic signals or street lights must be LEDs or other technology of equal or greater energy efficiency; and
- The activity must occur within the jurisdiction of the eligible entity.

Traffic signals and street light replacements may include solar panels that power the street lights so long as the panels are part of a replacement effort that installs light emitting diodes (LEDs) or other technology of equal or greater efficiency for lamps;

Generally, only the cost of the replacement lamp is eligible unless replacement/upgrade of supporting structure (e.g., posts) is necessary to support the replacement of the lamps.

Frequently Asked Question: Lamp Posts

Is the replacement of lamp posts in an LED retrofit process and eligible expense under EECBG?

The replacement of a lighting fixture, an arm, a pole or any part of a light is an eligible use of funds if the more efficient lighting technology eligible under Category 12 necessitates such replacement. However, regular maintenance is an ineligible cost. For example, EECBG funds cannot be used to replace a rotten pole due to insufficient maintenance.

Category (13) On-site Renewable Energy On or In a Government Building

- The activity must be the development, implementation, and installation of onsite renewable energy technology (i.e., solar energy, wind energy, fuel cells, or biomass);
- The installation of the renewable energy technology must be on or in a government building⁶ of the eligible entity (the renewable technology is

⁵ A “street light” is an outdoor source of light that is raised and that is intended to provide functional illumination to the area below the light.

⁶ For the purpose of eligibility under the EECBG Program, “government building of the eligible entity” generally means a building built by or for the use of the government that is the grantee/recipient of award funds. This includes buildings owned or leased by the eligible entity. This does NOT include state, Federal, or other government buildings that are not government buildings of the eligible entity.

In the case of Tribal governments, exclusions from the definition of Tribal government buildings are privately owned tribal housing and commercial buildings; facilities owned by 501(c)(3) entities (unless the organization was chartered and delegated by the Tribe to act on its behalf); and those owned by a Federal agency (e.g., U.S. Department of Housing and Urban Development, U.S. Department of the Interior, Bureau of Indian Affairs, etc.)

- considered installed on a government building if it is installed on a government site and connected to the government building behind the meter); and
- The renewable energy technology must be for the generation of electricity. The renewable energy source need not provide a building's entire electricity demand and not all of the electricity needs to go to the government building.

As stated above, installation of a renewable technology is generally eligible only if it is on or in a government building. Use of EECBG funds for the installation of renewable energy technology other than on a government building may be eligible if the installation is in support of another eligible use of funds, and the installation of the renewable energy technology is not the primary purpose of the activity. For example an energy efficiency retrofit activity that is eligible under Category 5 may include the installation of solar PV panels so long as the primary purpose of the activity is the energy efficiency retrofit (See FAQ related to PV on non-governmental buildings in the Category 6 section). As another example, the installation solar PV panels on a street light may be eligible if PV installation is part of a lamp replacement as long as the panels are part of a replacement effort that installs more efficient lamps and is otherwise eligible under Category 12.

However, the installation of solar PV on a commercial building that is not in support of an eligible activity is not an eligible use of funds.

Frequently Asked Question: Solar Power on Roofs

In connection with the installation of solar energy systems, can some amount of funds be used to strengthen the roof to ensure proper installation of the system or must all funds be directly related to the system itself?

Generally, under the EECBG Program, modifications to a building to support an eligible installation of solar panels would be permissible. However, the modifications should be limited to only those necessary to support the solar project.

Category (14) Other Activities as Determined by the Secretary of Energy

The Secretary has determined that the use of EECBG grant funds to leverage public and private sector funds in support of activities identified as eligible uses under the EECBG authority is an appropriate activity under the statute for the use of EECBG funds.

- The eligible leveraging of funds includes partnerships with third party lenders, co-lending, third-party administration of loans, and loan loss reserves; and
- The activities supported by the leveraged funds must be activities specifically listed as eligible activities under Categories 1-13.

- For additional guidance on the use of EECBG funds to leverage public and private sector funds see EECBG Program Guidance 09-002B issued August 10, 2010.

LIMITATIONS ON THE USE OF EECBG FUNDS

There are a number of limitations on the use of EECBG funds. Eligible entities must consult their award agreements for those limitations.

For example, Section 1604 of the American Recovery and Reinvestment Act of 2009 (ARRA or Act) prohibits funds appropriated or made available through the Act not be used by any State or local government, or any private entity, for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

Frequently Asked Question: Projects at facilities with swimming pools

Would lighting retrofit, as part of overall facility retrofit, in swimming pool area of a multi-function recreation center be eligible?

Under the American Recovery and Reinvestment Act of 2009 (ARRA), there is a general prohibition against using ARRA funds for swimming pools. A project could be eligible for EECBG funds if the project's impact on the pool is incidental to the overall project. In other words, if the project would not be considered "for" the swimming pool but is an incidental part of the numerous other EECBG-ARRA eligible purposes then the project is eligible. The project would be ineligible if the principal purpose of the project was the swimming pool. For example, a project to install more energy efficient lighting in an entire school, including the lighting in a pool area may be eligible. However, a project to upgrade lights in the pool area only would be ineligible.

Questions regarding the eligibility of an activity under the EECBG program should be directed to Project Officers.



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