



Department of Energy
Washington, DC 20585

EECBG PROGRAM NOTICE 09-002
EFFECTIVE DATE (Revised): April 20, 2010
ORIGINALLY ISSUED: December 7, 2009

SUBJECT: GUIDANCE FOR ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT RECIPIENTS ON FINANCING PROGRAMS.

PURPOSE

To provide guidance to Department of Energy's (DOE's) Energy Efficiency and Block Grant (EEBCG) Grantees on financing programs.

SCOPE

The provisions of this guidance apply to recipients of EECBG funds, pursuant to Formula Grant or American Recovery and Reinvestment Act of 2009 (Recovery Act).

LEGAL AUTHORITY

Title V, Subtitle E of the Energy Independence and Security Act, 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 and other procedures applicable to this program.

GUIDANCE

Eligibility of revolving loan funds

A revolving loan fund is an eligible use of funds under the EECBG Program to the extent that the activities supported by the loans are eligible activities under the program. EECBG funds recipients must comply with statutory law regarding revolving loan funds. 42 U.S.C. 17155 (b)(3)(B) mandates a limitation on the use of funds for the establishment (i.e., the capitalization) of revolving loan funds by formula-eligible units of local governments and formula-eligible tribes equal to the greater of 20 percent of the recipient's allocation or \$250,000. Funds used for administrative costs to set up a RLF are not subject to this restriction, but are subject to the general limitations established by statute on administrative costs.

Leveraging Funds under the EECBG: Purpose and Type of Leveraging under EECBG

State arrangements for leveraging additional public and private sector funds, including rebates, grants, and other incentives, must be arranged to ensure that federal funds go to support eligible activities listed in 42 USC 17154(3)-(13). The leveraging of funds may

be accomplished through mechanisms such as partnerships with third party lenders, co-lending, third-party administration of loans, and loan loss reserves.

Loan Loss Reserves under the EECBG

Energy Efficiency and Conservation Block Grant Program funds can be used for a loan loss reserve to support loans made with private and public funds and to support a sale of loans made by a grantee or third-party lenders into a secondary market, subject to the following conditions. In order to ensure that a use of EECBG funds to leverage additional public and private sector funds furthers the stated purposes of the EECBG Program, the activities supported by the leveraged funds are limited to those activities specifically listed as eligible activities in the EECBG statute. Additionally, a grantee must ensure that the following conditions are met:

- a) a grantee shall have the right to review and monitor loans provided by third party lenders to ensure that loans are being made to support eligible activities listed in 42 USC 17154(3)-(13);
- b) a grantee establishing a loan loss reserve has no legal or financial obligation beyond the funds committed to the reserve and is not subject to further recourse in the event losses exceed the amount of the reserve;
- c) any EECBG funds used to establish a loan loss reserve not used in connection with loan losses paid to third party lenders or secondary market investors must be used by or at the direction of the grantee and for an eligible use under the EECBG Program, including capitalization of a revolving loan fund; and
- d) under no circumstances shall EECBG funds be released to a third party lender or secondary market investor for any purpose not pertaining to loan losses.

Finally, a grantee cannot use more than 50% of their EECBG funds for a loan loss reserve.

Interest Rate Buy-Downs

EECBG funds can be used for interest rate buy-downs subject to the conditions identified in this section. An interest rate buy-down is when one party (e.g., grantee) provides a lump-sum payment based on the net present value of the difference between a target return to the lender or loan investor and the borrower's interest rate. This has two primary purposes: (1) increase project affordability and demand by reducing monthly payments and (2) maintaining or increasing lender / investor interest in making loans by yielding higher returns.

In order to ensure that a use of EECBG funds for interest rate buy-downs furthers the stated purposes of EECBG, the loans supported by the interest rate buy-downs must be for the purchase and installation of energy efficiency and renewable energy measures consistent with the EECBG regulations.

Third Party Loan Insurance

EECBG funds can be used for the purchase of third party loan insurance subject to the conditions identified in this section. Third party loan Insurance is a financial arrangement whereby a third party bears some portion (or all) of a loss on a specific portfolio. This typically takes the form of a lender or investor purchasing an insurance policy from a third party against losses on a portfolio of loans up to a fixed percentage (the stop loss) of the sum of all the original loan amounts. The maximum insurance payout is determined by the value of the portfolio and not the value of individual loans.

In order to ensure that a use of EECBG funds for third party loan insurance furthers the stated purposes of EECBG, the loans supported by the third party loan insurance must be for the purchase and installation of energy efficiency and renewable energy measures consistent with the EECBG regulations.

Obligation & Drawing Down of Funds

Loan Capital: Program monies being used for a loan fund are considered obligated by the recipient once they have been used to capitalize a loan fund. A loan fund may be capitalized in any of the following circumstances:

- a) Receipt of a loan application from potential borrowers
- b) State or local requirements (regulatory, statutory, or constitutional) dictate
- c) The distribution account is operated by a third party

Funds may be drawn down at the time the fund is capitalized. If a recipient requires an earlier draw down under requirements "b" and "c" listed above, they should document the relevant requirement and provide that documentation to their Project Officer.

Funds are considered expended when the revolving loan fund has loaned to specific borrowers for an amount equal to or greater than the program monies that initially capitalized the fund.

Loan loss reserve funds are considered expended when they are committed as a credit enhancement to support a loan or portfolio of qualifying loans under the EECBG guidelines. For loan loss reserves supporting a revolving loan fund operated under the grantee, loan loss reserve funds are considered committed by sending a letter to the project officer indicating the establishment of the loan loss reserve. For loan loss reserves supporting third party loans, loan loss reserve funds are considered committed when the grantee enters into a signed agreement with the third party.

Loan Defaults

Grantees are not required by DOE to replenish or replace any amounts which were lost to loan default. Loans involve risk by their very nature, so loss due to default of a borrower is an anticipated and allowable cost under an EECBG grant.

Federal Character of Revolving Loan Funds

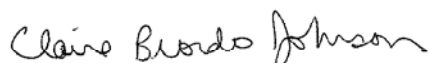
Generally, federal funds used to capitalize a revolving loan fund maintain their federal character in perpetuity. As a result, federal requirements that apply to the funds such as NEPA and the National Historic Preservation Act would be applicable at each revolution of the loan fund. Federal requirements that apply to Recovery Act funds, such as the Davis-Bacon Act requirements, Buy-American requirements, and Recovery Act reporting requirements would be applicable at each revolution of a loan fund that was funded through the Recovery Act.

The applicability of these federal requirements need not cause difficulty in administering a revolving loan fund program. DOE has previously provided guidance on streamlining compliance with NEPA and the National Historic Preservation Act. The templates that DOE has provided to States to obtain categorical exclusions under NEPA for sub-grant programs could also be applied to revolving loan funds program. DOE has worked with the Advisory Council on Historic Preservation to provide States with programmatic agreements in order to streamline compliance with the National Historic Preservation Act requirements. Individual homeowners receiving loans under a revolving loan fund program would not be required to comply with the Davis-Bacon Act. Similarly, the Buy American requirements apply to “public buildings” and “public works” and thus would not be applicable to projects performed on individual homes.

The continuing federal character of the funds means that if the grantee decides to end a revolving loan fund program or loan loss reserve program, any remaining funds would need to be used by the grantee for an eligible purpose or otherwise returned to DOE.

Program Income

All program income (including interest earned) paid to grantees is subject to the terms and conditions of the original grant.



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