California Energy Commission

CALIFORNIA'S STATE ENERGY EFFICIENT APPLIANCE REBATE PROGRAM GUIDELINES

TO BE ADOPTED BY THE
CALIFORNIA ENERGY COMMISSION
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State Energy Efficient Appliance Rebate Program Guidelines

1. Introduction

The California Energy Commission (Energy Commission) has developed these *Guidelines* to implement and administer California's State Energy Efficient Appliance Rebate Program (SEEARP). The objectives of the SEEARP are:

- Save energy by encouraging appliance replacement through consumer rebates.
- Make rebates available to consumers for efficient appliances.
- Leverage SEEARP funds with existing rebate programs and partnerships.
- Keep administrative costs low while adhering to federal monitoring and evaluation requirements.
- Promote state and national rebate tracking and accountability.
- Use existing ENERGY STAR® consumer education and outreach materials.

The SEEARP was created by the Energy Policy Act of 2005 and is funded by the American Recovery and Reinvestment Act of 2009 (ARRA), which provides $787 billion in economic investment nationally to stimulate the economy. The SEEARP is administered federally by the U.S. Department of Energy (DOE). As specified in DOE's SEEARP Funding Opportunity Announcement (DE-FOA-0000119), U.S. States, territories and the District of Columbia ("states") are eligible to receive formula-based grants to support state-specific residential appliance rebate programs. Each state may determine the scope of its program, including which appliance categories to include and the rebate amounts that will be provided for each project type. States may use SEEARP funds to pay for the rebates and up to 50 percent of program administrative costs.

These *Guidelines* describe how the Energy Commission plans to implement and administer the California SEEARP. Specifically, the *Guidelines*:

- Explain the SEEARP structure and processes.
- Specify SEEARP eligibility rules.
- Outline the rebate claim process.

2. Funding

DOE has allocated the Energy Commission $35.2 million for the California SEEARP. Funding will be awarded on a **first-come, first-served basis** to eligible residential consumers who purchase California-qualified residential ENERGY STAR® products during the rebate offer period. The purchased appliances must replace appliances of the same type that are properly recycled. In accordance with DE-FOA-0000119, the SEEARP will supplement and not supplant current rebate offerings available through utility, manufacturer and retailer programs.

3. Period of Performance and Rebate Offer Period

Pursuant to DE-FOA-0000119, states must exhaust all award funds for rebates and rebate program activities by February 17, 2012. The Energy Commission expects to issue awards in spring 2010.

The Energy Commission proposes a specific period in which to offer rebates to control over-subscription and assess program effectiveness. Rebates will be offered during one or more periods, or a single period can be extended. If the program is phased, rebate periods will be coordinated with peak purchase periods for specified appliances based on sales information received prior to the original rebate period launch. An example of a rebate offer period is:

- Purchase Period: March 17, 2010 to April 22, 2010 (Earth day)
- Rebate Claim Period: March 17, 2010 to May 22, 2010 (period ends 30 calendar days after the close of the chosen purchase period)

4. Program Structure

a. Rebate Processing:

The Energy Commission will conduct a competitive solicitation to secure the services of a rebate processing firm that will perform services that may include but not be limited to: receiving rebate claims via mail-in forms with specified supporting documents (e.g., proof of purchase), validating claims to ensure compliance with program requirements, issuing rebates for valid claims, and engaging in fraud prevention activities. Bidders must specify how they will perform these services. They must also demonstrate the ability to process rebates in high-volume circumstances in a timely manner, and must recommend specific methods to control over-subscription, maximize use of rebate funds by consumers, and prevent fraud, waste and abuse. The Energy Commission may evaluate the Bidder's ability to provide leverage or matching funds. The successful Bidder must comply with federal and state requirements, including federal reporting requirements.

In order to minimize administrative costs and ensure the state can meet its cost share requirements, total contract administrative costs for rebate processing services are targeted below $1 million, and cannot exceed $1.5 million.

b. Program Administration:

As required by DE-FOA-0000119, the Energy Commission must use its SEEARP allocation to pay for the full cost of all product rebates and a maximum of 50 percent of the administrative costs to implement the rebate program. Under the provisions of this program and federal law, third parties may provide services to states to meet the federal cost sharing requirements. Because of California's current economic and budgetary constraints, the Energy Commission will rely upon in-kind services from "Official Partners" to reach the 50 percent match and allow ARRA funds to be used for the contract costs of rebate processing. Official Partners may include: utilities, appliance retailers, appliance manufacturers, recyclers, and marketers and buyers.

California will accept administrative support that includes but is not limited to: website support, marketing, form and promotional design assistance, document reproduction, public service announcements, training, sales support, reporting, and other administrative services suggested by partners. Costs associated with this work may be based on historic or internal cost information, or may represent the market rate.

5. Eligible Appliances

a. Appliance Categories

Pursuant to DE-FOA-0000119, states may determine which appliance categories will be included in the SEEARP and the rebate amounts for selected appliances. The Energy Commission has selected the following three appliance categories, which it believes provide the greatest water, energy and greenhouse gas benefits to California consumers:

- Clothes washers,
- Refrigerators, and
- Room air conditioners.

The Energy Commission selected these categories from a list of DOE-recommended ENERGY STAR® qualified appliance categories,[1] based on the following selection factors:

- Listing of appliance in DOE's ENERGY STAR® Appliance Program.
- Certification of appliance to the California Energy Commission.
- Availability of appliances that meet the Consortium of Energy Efficiency's (CEE) "super efficient" performance criteria.
- Ability to supplement current utility offerings.
- Cost of product, including price differentials/premiums for higher efficiency equipment.
- Minimum conflict or duplication with other ARRA energy-related efforts (i.e., water heaters and heating, ventilation, and air conditioning units can be covered under the State Energy Program's building energy efficiency retrofit efforts focused on building envelope improvements).
- Market share and distribution of appliance types.
- Availability within more than one region or market.
- Availability of brands and models that meet appliance eligibility criteria (specified below).
- Availability of recycling facilities and ease of tracking/reporting of appliance.
- Benefits of recycling and availability of retailer exchanges/pick-up.
- Ability for replacement/early retirement of appliance to result in multiple and indirect benefits, including environmental benefits and energy savings.

[1] DOE's appliance categories include: boilers, central air conditioners, clothes washers, dishwashers, freezers, furnaces (oil and gas), heat pumps (air source and geothermal), refrigerators, room air conditioners, and water heaters. DOE recommended appliances that are commonly rebated by utilities and other energy-efficiency program sponsors. See DE-FOA-0000119, p.6.

b. Appliance Eligibility Criteria

Appliance models that fall within the eligible appliance categories listed above (clothes washers, refrigerators, and room air conditions) must also meet the following criteria in order to be included in California's SEEARP:

- Must be listed on the ENERGY STAR® website[2].
- Must be certified to the Energy Commission.
- Must comply with the efficiency criteria listed in Table 1, below.

Only those appliance models that meet the specified program criteria by December 15, 2009 will be qualified for a California SEEARP rebate within the rebate offer period. The official list of qualifying models for California's SEEARP will be published by January 1, 2010 on the Energy Commission's website at: http://www.energy.ca.gov/recovery/energystar.html.

Table 1

Appliance	Rebate	Energy Efficiency Criteria
Clothes Washers	$100	CEE Tier 2 or greater[3] - modified energy factor >= 2.0, water factor <= 6.0
Refrigerators	$75	CEE Tier 2 or greater[4] - efficiency levels 25 percent or more above the federal standard
Room Air Conditioners	$50	No additional CEE criteria.

6. Program Eligibility Rules

a. Qualifying Purchaser:

To qualify for a rebate, a purchaser must meet the following criteria:

- Must be a California residential consumer with a valid California residential address.
- Must purchase a new qualifying appliance model to replace an existing appliance of the same type and in working condition.
- Must make the purchase within a specified rebate period from a California retailer.

[2] http://www.energystar.gov/index.cfm?c=appliances.pr_appliances
[3] http://www.cee1.org/resid/seha/rwsh/reswash_specs.pdf
[4] http://www.cee1.org/resid/seha/refrig/refrig-spec.pdf

- Must recycle the replaced appliance with an eligible recycler, consistent with California law. The Energy Commission will publish a list of eligible recyclers on its website at: http://www.energy.ca.gov/recovery/energystar.html.
- Must submit a completed rebate application form to the Energy Commission's rebate services provider within 30 days of the date of the appliance purchase that includes proof of purchase and recycling.

b. Purchase Restrictions:

- Rebates are limited to one appliance of each category per California residential address. A "residential address" may include a detached single family home, a condominium unit, an apartment unit, or a mobile home. Tenants may be required to obtain the property owner's permission to install the appliance.
- The appliance must be installed in the residence prior to submittal of the rebate claim.
- Rebates will be awarded on a first-come, first-served basis. Rebate applications submitted outside the specified timeframes will be disqualified.
- Rebates will not be issued for appliances purchased before or after the rebate offer period.
- The purchaser must allow access to an inspector to verify installation, as required.

c. Proof of Purchase and Recycling:

Proof of purchase and recycling may consist of the following elements:

- A completed "Rebate Application" form that may contain sections for the following:
    - Purchaser information (e.g., name, mailing address, phone number, and email address).
    - Check recipient information, if the check will not be made payable to the purchaser (e.g., name, address, phone number, and email address).
    - Appliance information (e.g., type, brand and model number).
    - Purchaser type (e.g., resident, income property owner).
    - Property type (e.g., single family home, condominium unit, apartment unit, mobile home).
    - Inspection contact information, in the event of an inspection (e.g., name, address, phone number, and email address).
    - The dated signature of the purchaser stating that the purchase meets the conditions of the rebate program and that all required proof is included with their application.
    - Terms and conditions (e.g., program eligibility rules, release of liability , statement that purchase meets program eligibility rules, statement that rebate claim contains all

required information, statement that purchaser must comply with applicable rules and regulations, statement that information provided is true and correct).

- A completed "Proof of Recycling" form that may contain sections for the following:
    - The mailing address of the certified recycler.
    - The certification number of the recycler to which the old appliance is delivered.
    - The type, brand and model number of the old (previously owned) appliance.
    - The dated signature of an authorized representative of the certified recycler or qualified appliance hauler stating that the old appliance was delivered for recycling and will be recycled.
- A copy of the original purchase receipt or an original rebate receipt showing the date and location (full mailing address) of the purchase.
- A copy of the purchaser's utility bill, for address verification.
- The original Universal Product Code (UPC) label from the appliance's box or packaging or its equivalent.

A utility company's recycling program or a retailer's haul-away program or company may be listed as the recycler, provided that the program complies with local, California and federal law regarding appliance disposal and recycling and that the collected units are recycled and not refurbished or otherwise resold or used. These requirements include the U.S. EPA's Responsible Appliance Disposal (RAD) (http://www.epa.gov/ozone/partnerships/rad/) criteria and the California Integrated Waste Management Board's Appliance Recycling Guide (Publication Number: 500-94-022) and Department of Toxic Substances Certified Appliance Recycling Program (http://www.dtsc.ca.gov/HazardousWaste/Mercury/Certified_Appliance_Recycler.cfm). Rebate applications will be evaluated based on the completeness and accuracy of their submitted materials.

d. Rebate Processing

The Energy Commission will implement a mail-in rebate system using the selected rebate processing firm. The rebate process is expected to occur as follows:

- Eligible residential consumers will submit a rebate claim to the rebate processing firm consisting of the materials specified in the Program Eligibility Rules.
- The rebate processing firm will receive and process rebate claims, including verification that the claim satisfies program rules.
- The rebate processing firm will either issue payments and obtain reimbursement from the Energy Commission, or prepare schedules for payments by the State Controller's Office.
- The Energy Commission will work in conjunction with the rebate processing firm and partners to address consumer questions and concerns, and to track the progress of the program, rebate expenditures, and remaining funds.

- Once funds are exhausted, any remaining claims will be rejected, claimants notified, and a broad announcement made that rebates are no longer available.
- In the event that funds remain after the initial rebate period, the Energy Commission will specify a subsequent rebate period based upon the known rate of redemption from the initial rebate period.

7. Approval of Awards

The Energy Commission's funding award to the rebate processing firm will be approved by the Energy Commission in accordance with state contracting requirements and based upon the recommendations of the Energy Commission's ARRA Committee. The funding award agreement will include the project description, work statement tasks, milestones and corresponding due dates, budget, and schedule. Funding award agreements must be approved at an Energy Commission business meeting. Failure to meet any work statement tasks and milestones within the schedule or budget specified in the agreement may result in cancellation of the agreement by the Energy Commission.

Formal Energy Commission approval of each consumer rebate is not required. These rebates will be awarded as specified in these Guidelines.

8. Reports and Documentation

The rebate processing contractor will be required to submit regular progress reports and a final report to Energy Commission staff as specified in the applicable solicitation document and/or funding award agreement.

9. Program Extensions

Program extensions are not permitted. All rebate and rebate process activities funded pursuant to these *Guidelines* must be completed and funds must be expended by February 17, 2012.

10. Program Evaluation, Project Monitoring, and Verification

Proper stewardship surrounding the administration, reporting, accounting and transparency of ARRA funds is essential in the Energy Commission's administration of California's SEEARP. Federal and state agencies, the Energy Commission, or their respective agents may audit funding recipients to verify compliance with the ARRA reporting requirements, these *Guidelines* and the solicitation document, and to measure and verify appropriate use and expenditure of ARRA funds. In addition, the Energy Commission will monitor the progress of rebate awards and evaluate the effectiveness of program requirements.

11. Random Audits, Record Retention and Access to Facilities

Upon written request from the Energy Commission, funding recipients shall provide detailed documentation of all expenses, allow the Energy Commission or its agent access to facilities and records, and allow the Energy Commission or its agent to collect data needed to measure and verify expenditures

and proper rebate allocation. Funding recipients must allow any representative of the Energy Commission, any other agency of the state, or the federal government, to have reasonable access to and the right of inspection of all records and transactions that pertain to the rebate services and issuance and to interview any officer or employee regarding transactions during the term of the agreement and for a period of three years after the ending term of the of the Energy Commission's federal grant agreement, which funds the project, or the end of the funding award agreement, whichever is longer. Further, funding recipients must agree to incorporate an audit of this project within any scheduled audits, when specifically requested by the Energy Commission or the State of California.

Funding recipients shall retain all project records (including financial records, progress reports, payment requests documentation) for a minimum of three years after 1) the end term of the Energy Commission's federal grant agreement that funds the program, 2) the program has been formally concluded, or 3) the final payment is received, whichever is later, unless otherwise specified in a funding award agreement.

12. <u>Use and Disclosure of Information and Reports</u>

The Energy Commission, other state agencies, the federal government, or their respective authorized agents may use any information or records submitted to the Energy Commission or obtained as part of any audit pursuant to these *Guidelines* to determine eligibility and compliance with these *Guidelines*, applicable law, or a particular funding award agreement, to evaluate the pertinent program or program elements, and to prepare necessary reports as required by law. The information and records include, but are not limited to, bids for funding, invoices for award payments, and any documentation submitted in support of said bids or invoices.

Information and records submitted pursuant to these *Guidelines* will be disclosed to other governmental entities and policing authorities for civil and criminal investigation and enforcement purposes. This information and records may also be disclosed to the public pursuant to the California Public Records Act (Government Code Section 6250, et seq.). Personal information, such as taxpayer identification or social security numbers, will not be disclosed to the public.

Bidders should note that ARRA funds are subject to information disclosure requirements through the federal Office of Management and Budget as well as other federal agencies to ensure transparency. Information concerning the identity of recipients and the amount of payment of awards is public information, and will be disclosed as part of the ARRA transparency requirements and in accordance with the California Public Records Act. This information, along with other public information describing the funding recipients, may be disclosed to members of the public to educate them and encourage further program participation. The information may be disclosed through the Energy Commissions website, another state agency's website, a federal government website, or through other means.

If, as part of any audit, the Energy Commission requires a funding recipient to provide copies of records that the recipient believes contain proprietary information entitled to protection under the California Public Records Act or other law, the recipient may request that such records be designated confidential

pursuant to the Energy Commission's regulations for confidential designation, Title 20, California Code of Regulations, Section 2505.

13. Enforcement Action

a. Recovery of Overpayment

The ARRA Committee, with the concurrence of the Energy Commission, may direct the Energy Commission's Office of Chief Counsel to commence formal legal action against any funding recipient or former recipient to recover any portion of payment the Committee determines the recipient or former recipient was not otherwise entitled to receive.

b. Fraud and Misrepresentation

The Energy Commission or the ARRA Committee may initiate an investigation of any recipient which it has reason to believe may have misstated, falsified, or misrepresented information in applying for a rebate award, invoicing for a funding award payment, or in reporting any information as required by these *Guidelines*. Based on the results of the investigation, the Energy Commission or ARRA Committee may take any action it deems appropriate, including, but not limited to, cancellation of the funding award, recovery of any overpayment, and recommending the initiation of an Attorney General investigation and prosecution pursuant to Government Code sections 12650, et seq., or other provisions of law.

The State of California, through the Attorney General's Office or other state agency, may independently investigate any recipient and bring actions for fraud, misrepresentation, or misuse of ARRA funds as appropriate.

c. Federal Action

The Federal government, through various departments, including, but not limited to, DOE and the U.S. Department of Justice, may independently investigate any recipient and bring actions for fraud, misrepresentation, or misuse of ARRA funds as appropriate.

14. Guideline Authority

These *Guidelines* are adopted pursuant to Public Resources Code Section 25462, subdivision (a), which authorizes the Energy Commission to adopt guidelines governing the award, eligibility, and administration of funding for the SEEARP pursuant to ARRA. The guidelines adopted pursuant to this authority are exempt from the rulemaking requirements of the Administrative Procedures Act, as specified in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. These Guidelines may be revised pursuant to Public Resources Code Section 25462, subdivision (a).

15. Interpretation

Nothing in these *Guidelines* shall be construed to abridge the powers or authority of the Energy Commission or any Energy Commission-designated Committee as specified in Division 15 of the Public

Resources Code, commencing with Section 25000, or Division 2 of Title 20 of the California Code of Regulations, commencing with Section 1001.

16. Effective Date of Guidelines

The *Guidelines* shall not be effective until adopted by the Energy Commission at a publicly-noticed meeting and will be in effect until the close of the program period, February 17, 2012. The Energy Commission will post the adopted final *Guidelines* on its web site at: http://www.energy.ca.gov/recovery/energystar.html.

Applicants may also obtain paper copies the *Guidelines* by contacting: appliance@energy.state.ca.us.

17. Substantive Changes in Guidelines

Substantive changes to these *Guidelines* may be made by approval of the Energy Commission upon the recommendation of the ARRA Committee, in consultation with the DOE. Substantive changes shall take effect once adopted by the Energy Commission at a publicly noticed meeting with no less than 15-dayavailability of the text of the proposed changes.

18. Non-Substantive Changes in Guidelines

Non-substantive changes to these *Guidelines* may be made upon the recommendation and approval of the ARRA Committee. Non-substantive changes shall take effect 15 days after the ARRA Committee has approved and publicly noticed the non-substantive changes.

19. Confidentiality

A need for confidential information from program participants is not anticipated. Unless an element of the program requires or specifically permits submission of confidential information, any records containing confidential material will be disregarded and returned to the submitter. All materials submitted to the Energy Commission will be treated as public documents and be available for public inspection, with the exception of confidential materials that are required or specifically permitted by an element of the program, if any (see section below regarding audits and proprietary information).

20. Tracking and Reporting

State reporting requirements are specified in the Federal Assistance Reporting Checklist, DOE F 4600.2 (Attachment 2 of the DE-FOA-0000119). The terms and conditions of the DOE award will specify any additional format, tools and information required for reporting programmatic and energy metrics.

State recipients will be expected to meet the federal reporting requirements for participation in an ARRA program, as administered by the Office of Management and Budget and DOE. In order for the Energy Commission to comply with these requirements, periodic information may be requested of

utilities and partners. Regular reporting as specified in the contract will be required of the rebate processing company.

As specified in the DE-FOA-0000119, reports submitted to DOE must not contain any proprietary or classified information or controlled information not subject to public release.