

Questions and Answers from EECBG Federal/California Requirements Workshop

General – Energy Commission Answers

1) Will presentations used during the workshop be available?

A: Yes, they are posted online at <http://www.energy.ca.gov/stimulus/documents/index.html>.

2) I am an EECBG Block Grant recipient, receiving the grant funds directly from the DOE, not through the State -- so is all of this information applicable to us also?

The speaker just mentioned a distinction between "large cities" and SEP funding. Our City received an allocation under EECBG, technically for the larger cities. Is this workshop still applicable?

A: Some of the information may be useful for large jurisdictions, receiving funds directly from the Federal Government. Check with your federal contract officer to determine what information is appropriate.

3) Are grants or low interest loans available to us contractors for renewable energy businesses?

Then, we have a w2e project that we're developing for a PPA for a RPS. Are there funds available for this?

A: The Small Jurisdiction EECBG Program provides funds to small jurisdictions to undertake various types of energy efficiency projects. The small jurisdictions are then responsible for purchases to support the work that the Energy Commission has agreed to fund, using federal stimulus monies.

4) When is the kick-off meeting?

A: The EECBG Project manager will meet with a jurisdiction's staff, regarding the contract, after the small jurisdiction and Energy Commission have signed the grant agreement.

5) *Will there be an established process for implementation or does each jurisdiction establish its own process from the application?*

A: The Terms and Conditions of the Contract that each jurisdiction has with the Energy Commission to receive the grant funds outline the state and federal requirements for program implementation, including reporting, Davis-Bacon and other requirements of recipients. Within that framework, each jurisdiction may decide how to undertake its approved projects.

Procurement Questions

1) *Does 10 C.F.R. Section 600 apply to loans?*

A: 10 CFR 600 applies to the use of funds and the process for States and subgrants for procurement, not to specific project activities such as loans.

2) *If 10 C.F.R. Section 600.236 does not apply to loans, are there any rules regarding competitive bidding that apply to ARRA-funded loans?*

A: The procurement of the entity processing the Loans is covered under 10 CFR 600. Program regulations and award terms will dictate what the grantee is to follow.

3) *Our electric utility has offered a contract for "turnkey" streetlight replacements. They will put the installation work out to bid. Does this take care of the competitive procurement requirements?*

A: The "turnkey" contract should be competed to start with (or else justified per 600.236 for sole source award). Awarding a sole source contract, even if competitive bids are eventually obtained for subcontractors conducting the installation work, does not satisfying competitive procurement requirements.

4) We have a streetlight maintenance contract, including replacements that we put out to competitive bid. We are contractually obligated to use the contractor for replacements. Does this take care of competitive procurement requirements?

A: It appears the work is being sufficiently competed.

Davis-Bacon / Prevailing Wage Requirements

1) According to the presentation on Related Acts of Davis Bacon, it seems that all projects funded in whole or in part by federal government is subject to prevailing wage, not just construction, alteration, and/or repair of public buildings. How does the Davis Bacon Act relate to municipal energy finance programs - is it applicable, specifically if EECEBG funds will be used for program staff administering the program, not the actual financing of the contractual assessments?

A: DBA is applicable only to construction/retrofit activities. If the Recovery Act-funded EECEBG program grant is being used only to pay for administrative expenses and not to finance projects, the DBA does not apply.

2) I have a question about Davis Bacon. What email address should I send the question to? The website for the Prevailing Wage Rates on the Department of Industrial Relations Website that you announced over the WebEx did not.

A: <http://www.dir.ca.gov/DLSR/PWD/>

3) Where can we get the spreadsheet?

A: http://www1.eere.energy.gov/wip/dol_wage_determinations_sep_eecbg.html

4) Regarding Wage Rates, if there is not an applicable DB rate for the required work (e.g. "lighting maintenance tech"), can we use the CA prevailing wage for that work, which does have an applicable classification?

A: In the DOL wage determinations the duties of a "lighting maintenance tech" would appear to fall into the electrician category. If the lighting tech classification under CA prevailing wage is higher than the DOL electrician category, they you could use the CA wage rate. If the electrician wage rate is higher you would need to use the electrician wage rate. For more specific assistance in determining the appropriate wage rate and classification, please contact the local DOL wage and hour division.

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5) How can we find our state's prevailing wage?

A: <http://www.dir.ca.gov/DLSR/PWD/>

6) Our project is installing replacement lights, light bulbs, light switches, etc. We (our staff) will be doing all the installation. We will be contracting for someone to build the retrofit lights in their factory. Does DB Apply to the factory? I know it doesn't apply to our own internal staff members, correct?

A: The DBA does not apply to the factory workers building the lights. If you are a local unit of government – town, city, or county – the DBA is not applicable when you use your own employees to perform the work.

Buy American Requirements

1) Does the Grantee need to put in procurement documents that the contractor "Buy American?" How minutely does the Grantee need to monitor (to what dollar amount) that the contractor has bought American?

A: There is no minimum dollar threshold for complying with the Buy American provisions. All iron, steel, and manufactured goods (as defined at 2 CFR Part 176.140) are subject to the Buy American provisions. However, EERE has issued a waiver that allows grantees to exempt "incidental items that comprise in total a de minimis amount of the total cost of the iron, steel, and manufactured goods used in a project; that is, any such incidental items up to a limit of no more than 5 percent of the total cost of the iron, steel, and manufactured goods used in and incorporated into a project."

As for the procurement issue, Financial Assistance recipients should pass through the Buy American language from their Financial Assistance agreement with EERE.

2) Where can we get a list of what are exempt items?

A: EERE posts all waivers it has issued on the EERE Buy American Webpage: http://www1.eere.energy.gov/recovery/buy_american_provision.html.

Reporting

1) I am aware of the reporting requirements around energy efficiency upgrades and renewable energy systems. From my understanding, only estimates are required for the monthly, quarterly, and yearly reports. Will there be measurement and verification requirements down the road to verify the accuracy of estimates? What form will verification of the energy savings estimates take down the road?

A: The verification of benefits will occur through the Energy Commission's monitoring, verification and evaluation contractor. The Energy Commission is contracting with KEMA, Inc. to provide monitoring, verification and evaluation (MV&E) of its stimulus efforts, including the small jurisdiction small grant program. KEMA is developing the MV&E Plan, and will begin fieldwork soon. The Energy Commission and KEMA will determine the appropriate sampling method and sample sizes for this effort.

The Energy Commission is also contracting with Perry-Smith, Inc. to provide assistance in program oversight. Perry-Smith is working with Commission staff to determine what sample sizes and selection methods will be most effective to forestall fraud and abuse in use of ARRA funding.

DOE will be conducting a nationwide EECBG Recovery Act evaluation. While still in the planning stages, this evaluation will likely be of a quasi-experimental design and will sample a fraction of the EECBG recipients. The timeline is to be determined. That evaluation may include a sample of California's EECBG recipients.