

225 CMR: DIVISION OF ENERGY RESOURCES

225 CMR 3.00: ALTERNATIVE ENERGY PROPERTY PROGRAM (AEPP)

Section

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3.01: Statutory Authorization

(1) M.G.L. c. 25A, § 11 authorizes the Commissioner of the Division of Energy Resources to establish an Alternative Energy Property Program (AEPP) to provide alternative energy sources for buildings and facilities:

(a) owned by:

1. the Commonwealth;
2. its political subdivisions; and
3. public authorities and other public instrumentalities of the Commonwealth and of its political subdivisions including, but not limited to, housing authorities; or

(b) leased by the political subdivisions of the Commonwealth for at least 30 years and which are used for the provision of local government services. In the case of such leased buildings and facilities, no AEPP project shall be approved

1. if the period of time remaining prior to the expiration of the lease is not at least twice the payback period for the proposed project, and
2. unless, prior to approving any payment for the project, the Commissioner has certified that the terms of the lease are such that any benefit accruing to a private party from such financing is incidental to the public purpose served by such financing.

(2) M.G.L. c. 25A, § 11 as amended by St. 1983 c. 700, § 2 and St. 1987, c. 670, §§ 5 and 6, regarding the allocation of state bond funds for grant-funded energy conservation programs, requires the repayment to the General Fund of the Commonwealth of an amount not less than 30% (50% if the Commissioner has not been provided with information relating to energy expenses incurred prior to the implementation of energy conservation projects or measures) of any funds awarded by DOER after January 1, 1984 to cities, towns, sewer districts or regional school districts. The time period for such repayment shall not exceed ten years from the date(s) of the Grant Agreement(s). When state bond funds are used for an AEPP grant, DOER shall indicate said repayment requirement in the applicable PON.

3.02: Definitions

Terms defined in M.G.L. c. 25A, § 3, which are also used in 225 CMR 3.00, shall have the same meaning as set forth in M.G.L. c. 25A, § 3, unless any such term is otherwise defined in 225 CMR 3.02.

Commissioner, the Commissioner of the Division of Energy Resources.

DCPO, the Division of Capital Planning and Operations.

DOER, the Division of Energy Resources.

DSB, the Designer Selection Board.

Energy Conservation Measures, measures involving modifications of maintenance and operating procedures in a building or facility and installations therein, which are designed to reduce energy consumption in such building or facility, or the installation or modification of an installation in a building or facility which is primarily intended to reduce energy consumption.

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Energy Conservation Projects, projects to promote energy conservation including but not limited to, energy conservation modifications to windows and doors; caulking and weatherstripping; insulation; automatic energy control systems; hot water systems; equipment required to operate variable steam, hydraulic, and ventilating systems; plant and distribution system modifications including replacement of burners, furnaces, or boilers, devices for modifying fuel openings; electrical or mechanical furnace ignition systems; utility plant system conversions, replacement or modification of lighting fixtures; energy recovery systems; and cogeneration systems.

Facility, any non-building structure, site or real property owned or leased for a period of at least 30 years (in compliance with the requirements of 225 CMR 3.01(1)(b)) by the Commonwealth, its political subdivisions, public authorities and other public instrumentalities of the Commonwealth and of its political subdivisions including, but not limited to, housing authorities and sewer districts.

Feasibility Study, a study which examines the technical, institutional, regulatory and economic feasibility of a proposed energy conservation project at a building or facility.

Payback Period, the time period in which energy savings accrued by the grantee resulting from an energy conservation measure, pay for the project, as calculated in accordance with AEPP guidelines issued from time to time by DOER.

PON, Program Opportunity Notice announcing the availability of grant funds and other services offered under a particular program.

3.03: Application Requirements and Procedures

(1) Qualifying Projects. The AEPP shall support projects in the following areas: solar thermal, hydropower, wood/alcohol/biomass, passive solar design and construction, wind, photovoltaics and cogeneration projects which are based upon renewable fuels. Such projects may consist of feasibility studies, design, construction, or any combination thereof, as specified in the PON.

(2) Eligibility.

(a) To be eligible to receive financial assistance, the building or facility for which the application is made must:

1. be owned by the Commonwealth or its political subdivisions including, but not limited to: cities, counties, towns, public instrumentalities, public regional school districts, sewer districts and housing authorities (except as participation is otherwise limited by Massachusetts laws governing the use of general obligation bonds) and whose projected future functional life can be shown to be not less than the longest payback period for the proposed Alternative Energy Property Program project and technology; or
2. be leased by a political subdivision of the Commonwealth for at least 30 years and which is used for the provision of local government services and whose remaining period of time prior to the expiration of the lease shall not be less than twice the payback period for then proposed AEPP project and technology. In addition, all other application requirements which may be established from time to time by the Commissioner must be met, including a written statement of compliance with the payback period requirements of 225 CMR 3.03(2)(a)1. or 2., as applicable, and in the case of eligible leased buildings or facilities, compliance with the certification requirement of 225 CMR 3.01(1)(b)2.

(b) For the purposes of this program, such buildings and facilities shall be eligible to receive funds for feasibility studies, design and construction of energy conservation projects as outlined under the guidelines and applicable PONs issued from time to time by DOER, and 225 CMR 3.00.

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(3) Repayment Amounts/Matching Funds. All eligible proposing entities, if awarded a grant by DOER pursuant to state bond funding described in 225 CMR 3.01(2), shall be required to make a 30% repayment, in accordance with applicable statutory requirements as set forth in a grant agreement. Any entity receiving an AEPP grant may be further required to provide matching funds for the project. The amount and kind of such matching funds shall be set at the sole discretion of DOER, as specified in the applicable PON and further defined in the grant agreement, and shall be in addition to any required repayment amount.

(4) Application Procedure. From time to time, at his or her discretion, the Commissioner shall issue PONs in all or individual technology areas for the AEPP. Program announcement procedures and corresponding application requirements shall be set forth in the guidelines. Eligible participants shall submit applications for funding, in accordance with all relevant instructions and requirements, within the time period specified in the PON.

3.04: Application Review and Selection Procedures

(1) All proposals submitted to DOER for funding under the AEPP shall be evaluated for completeness and compliance with applicable requirements set forth in the guidelines. The Commissioner may disapprove all or any portion of an application to the extent that funds are not available to carry out the proposed measure, the measure is deemed inappropriate, or for such other reason as the Commissioner may deem appropriate.

(2) DOER shall notify the applicant of the final approval or disapproval of an application within the time specified in the applicable PON.

3.05: Award Requirements and Allocation of Funds

(1) Awards.

(a) Upon approval of an application, the applicant shall be awarded a specified amount of funds for an AEPP project. Awards shall be finalized only in the form of a grant agreement or interdepartmental service agreement according to the process outlined in the guidelines issued from time to time by DOER. Under no conditions shall an award recipient sign contracts or spend funds in anticipation of receiving an AEPP award until a grant agreement or interdepartmental service agreement has been legally executed.

(b) Grant Agreements may fund all or part of a project in the amount deemed by the Commissioner to be in the best interests of the program.

(c) DOER may require from award recipients financial, technical and other information deemed appropriate by the Commissioner to monitor and evaluate all activities funded, and to evaluate resulting savings. The specific content, format and timing of this information shall be determined by the Commissioner.

(2) Allocation of Funds.

(a) The schedule for disbursement of grant funds and for the filing of required reports under the AEPP shall be determined by DOER and set forth in the grant agreement.

(b) The Commissioner shall comply with the applicable provisions of M.G.L. c. 30, §§ 61 and 62A through 62H in allocating funds to projects where an environmental notification form is required by the regulations of the Executive Office of Environmental Affairs.

(3) Designers and Construction Contractors. State statutes regarding competitive bidding in the award of contracts using DOER funds including, but not limited to, those for planning, feasibility, design and construction projects governed by M.G.L. chs. 7, 30 and 149 shall be adhered to by all grant recipients.

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(4) Accounting Requirements. Accounting requirements applicable to grantees' management and use of DOER grant funds shall be set forth in the guidelines.

REGULATORY AUTHORITY

225 CMR 3.00: M.G.L. c. 25A, §§ 6, 11 and 12; St. 1979, c. 796, §§ 4, 28, 31 and 32;
St. 1983 c. 700, §§ 1 through 5; St. 1987 c. 670, §§ 1 through 6.

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