

Title 14
INDEPENDENT AGENCIES
Subtitle 26 MARYLAND ENERGY ADMINISTRATION

Notice of Proposed Action

The Maryland Energy Administration proposes to:

- (1) Repeal existing Regulations ~~.00—.13~~ under **COMAR 14.26.02 Green Building Tax Credit Program**; and
- (2) Adopt new Regulations ~~.00—.12~~ under **COMAR 14.26.02 Maryland Strategic Energy Investment Fund Programs**.

Statement of Purpose

The purpose of this action is to establish the rules and processes used to implement the Administration's Strategic Energy Investment Fund (SEIF) grant programs authorized under State Government Article, §9-20B-01 et seq., Annotated Code of Maryland. The SEIF Programs regulation replaces the more narrow Clean Energy Grant Program regulation, which was a SEIF grant program.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to ATTN: SEIF Comments, Maryland Energy Administration, 1800 Washington Blvd, Suite 755, Baltimore, MD 21230, or email to SEIFComments.MEA@maryland.gov. Comments will be accepted through **MONTH ##, 2023**. A public hearing has not been scheduled.

14.26.02 Maryland Strategic Energy Investment Fund Programs

Authority: State Government Article, §9-20B-01 et seq., Annotated Code of Maryland

.01 Scope.

These regulations establish procedures for the administration of an award or grant using funds originating from the Strategic Energy Investment Fund under the Strategic Energy Investment Program, where no other law or regulation controls.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

- (1) "Administration" means the Maryland Energy Administration.
- (2) "Applicant" means a person or entity that applies for a grant from the Administration.
- (3) "Award" means the transmission by the Administration, after all required approvals have been obtained, of:
 - (a) The executed grant agreement; or
 - (b) Written notice of grant award to the selected applicant.
- (4) "Competitive funding opportunity" means a funding opportunity for which the Administration considers all complete applications submitted and selects those that best meet the criteria in the relevant FOA as determined by the Administration.
- (5) "Complete application" means a timely application that includes all the information required by the FOA.
- (6) "Evaluation Criteria" means factors identified in the FOA that the Administration uses to determine which applications submitted in response to a FOA best meet the Administration's specified purpose.
- (7) "Fund availability" means the presence of monies that the Administration is authorized to expend for a particular purpose, such as the discretionary awarding of grants.
- (8) "Funding opportunity announcement" or "FOA" means a notice to the public of a grant funding opportunity available for a specific period of time, which includes the conditions, criteria, and guidelines developed by the Administration to award grants to achieve a specified purpose.
- (9) Grant.
 - (a) "Grant" means the bestowing of a power, money, privilege, property, or other item of value that may be conditional,

although without other consideration, by the Administration upon another party.

(b) A grant includes a rebate, technical assistance, and to provide a portion or all of a grantee's matching or cost sharing for a federal grant.

(10) "Grant Agreement" means a written agreement between the Administration and a grantee with respect to a grant.

(11) "Noncompetitive funding opportunity" means a funding opportunity for which the Administration considers complete applications on a first-come, first-served basis.

(12) Person.

(a) "Person" means an individual, receiver, trustee, guardian, personal representative, fiduciary, representative of any kind, corporation, partnership, business trust, statutory trust, limited liability company, firm, association, or other nongovernmental entity.

(b) "Person" includes a not-for-profit corporation, partnership, business trust, statutory trust, limited liability company, firm, or association that is in good standing with the State.

(13) Project.

(a) "Project" means an activity or undertaking that is consistent with the requirements of a FOA and for which a grant has been awarded.

(b) A project includes all activities and requirements specified in the FOA or Grant Agreement.

(14) "Rebate" is a noncompetitive grant for a project that must be complete at the time the application is submitted to the Administration.

(15) "State" means the State of Maryland.

(16) State agency.

(a) "State agency" means any administration, agency, association, authority, board, bureau, college, commission, committee, council, foundation, fund, department, institute, institution, public corporation, service, trust, university, or other unit of the Executive Branch of the State government and includes any subunit within any of these units.

(b) "State agency" does not mean or include bicounty, or multicounty, government agencies or political subdivisions of the State, including counties, municipalities, special tax districts, sanitary districts, drainage districts, soil conservation districts, water supply districts, and any entity organized under the general corporation laws of the State.

(17) "Strategic Energy Investment Fund" or "SEIF" has the meaning stated in State Government Article § 9-20B-05, Annotated Code of Maryland.

(18) "Strategic Energy Investment Program" means the program established and described in State Government Article § 9-20B-01 et seq., Annotated Code of Maryland.

.03 Authority of Administration.

A. The Administration may:

- (1) Develop a grant program;
- (2) Develop a FOA;
- (3) Establish an application process, requirements, and criteria for each FOA;
- (4) Receive and evaluate a grant application;
- (5) Award a grant;
- (6) Develop a process for a State agency to apply for a grant;
- (7) Receive and evaluate requests for cost sharing or matching to be used in a proposal for a federal grant;
- (8) Award a grant for all or a portion of a grantee's cost sharing or matching for a federal grant;
- (9) Terminate a grant; or
- (10) Require repayment of a grant for noncompliance.

.04 Funding Opportunity Announcement.

A. The Administration shall publish on its website a FOA for each grant offered by the Administration.

B. Each initial FOA shall include an application period not less than 30 calendar days.

C. Each FOA shall explain each of the following when applicable:

- (1) Name and purpose;
- (2) Duration and schedule;
- (3) Requirements, including program or eligibility requirements;
- (4) Applicable deadlines;
- (5) Anticipated funding amount;
- (6) Designation as a competitive or a noncompetitive grant;
- (7) Evaluation criteria for use in awarding a grant under the FOA;
- (8) Method for determining a grant amount under the FOA and if an amount other than the requested amount may be awarded;
- (9) The required form and manner to submit a complete application;
- (10) Any limitation on the award of a grant, including the amount for an individual grant or the number of grants an applicant may receive; and
- (11) A description of the evaluation process, including steps involved in evaluating an application and the evaluator(s) that will constitute any evaluation team, as applicable; and

(12) Any other information the Administration determines is appropriate.

D. The Administration may modify a provision of a FOA by publishing a notice of the modified provision on its website no less than 10 business days prior to the application deadline and effective date of the modified provision.

.05 Funding Opportunity Application and Review.

A. The Administration shall review each application received using the process described in the FOA.

B. The Administration shall consider an application to be a complete application only after it meets all of the requirements identified in the FOA.

C. After considering a complete application, the Administration may take any of the following actions:

- (1) Award a grant;
- (2) Award a partial grant;
- (3) Hold the application for further consideration during the same fiscal year;
- (4) Hold the application for further consideration in a succeeding fiscal year; or
- (5) Reject the application.

D. The Administration may reject an application if:

- (1) The application is not a complete application;
- (2) The application is inconsistent with law;
- (3) For a competitive funding opportunity, the Administration determines that another application is more qualified to meet the evaluation criteria in the FOA and the Administration does not hold the application for further consideration either during the same fiscal year or a subsequent fiscal year.

(4) The Administration determines that sufficient funding is not available; or,

(5) The Director of the Administration determines that awarding a grant is not in the best interest of the State.

E. The Administration shall provide written notice within 30 business days to the applicant of the action it is taking under §C and §D of this regulation and the basis for the action.

F. For reconsideration of an action by the Administration under §C or §D of this regulation, the applicant shall submit a written request to the Administration within 14 business days of receiving the written notice under §E of this regulation.

G. The written decision by the Director, or the Director's designee, on the request for reconsideration shall be the final decision of the Administration.

.06 Grant Value and Evaluation Criteria.

The Administration may award a grant for the value it determines is appropriate after considering the requirements and evaluation criteria specified in the FOA, fund availability and any other factor the Administration considers appropriate.

.07 Grant Award to Provide a Cost Sharing or Matching for a Federal Grant

A. The Administration may award an applicant all or part of the applicant's cost-sharing or matching for a federal grant if:

- (1) The underlying project is consistent with Regulation .01 of this Chapter;
- (2) The underlying project directly benefits the State; and
- (3) The applicant - who must be in good standing - complies with all the requirements for the federal grant.

B. The Administration shall cancel the grant award made pursuant to Section A of this regulation if the applicant does not receive the federal grant.

C. The Administration may award a grant to an applicant that submits an unsolicited request for a portion or all of a cost-sharing or matching for a federal grant consistent with this Regulation.

.08 Grant Agreements.

A. To be eligible to receive a grant from the Administration, an applicant shall execute a grant agreement with the Administration prior to any distribution of funds.

B. A grant agreement shall:

- (1) Identify each party and each authorized representative.
- (2) Describe the project;
- (3) Specify the value of the grant;
- (4) Term(s) of the grant agreement.
- (5) Set forth each requirement for receiving a grant, including any reporting, invoicing, project compliance verification requirements;

(6) Specify each condition under which noncompliance may require repayment of a grant, if applicable;

(7) Require certification of the applicant's good standing with the State, if applicable;

(8) Note the Administration's right to access the project site for verification or any other relevant purpose;

(9) Specify the Administration's right to utilize project information for any relevant purpose; and

(10) Include any other applicable provision required in a State financial agreement.

C. A grant agreement may contain any additional provision deemed appropriate by the Administration

D. For a rebate, a program application that meets the requirements set forth in §A of this regulation may serve as the grant agreement.

.9 Applicant Responsibilities.

A. An applicant shall timely provide any information concerning an application, request or proposal as requested by the Administration.

B. No person shall knowingly make, or cause to be made, any false statement or report to the Administration for the purpose of influencing an action by the Administration affecting an application or grant award.

C. Failure to comply with §B of this regulation is subject to penalties and fines set forth in State Government Article §9-20B-11, Annotated Code of Maryland.

.10 Intra-Agency Partnerships.

A. A State agency may submit a request to the Administration for a project, initiative, or program designed to advance a purpose of the Strategic Energy Investment Program and intended for implementation in a subsequent fiscal year.

B. To request funding from the SEIF, a State agency shall submit a written proposal to the Administration, which includes all of the following:

(1) A description of the project, initiative or program ;

(2) The requested amount of funding in the relevant fiscal year to implement the project, initiative or program;

(3) A description of how the proposed project, initiative or program is consistent with the Strategic Energy Investment Program and will further State policy goals;

(4) A description of anticipated impacts, how they specifically advance the State's policy goals, and how the impacts are measured and verified.

(5) An implementation timeline for the project, initiative or program.

(6) Any other information required by the Administration for the purpose of evaluating the proposal.

D. Each State agency that receives funding from the SEIF under this regulation shall:

(1) Utilize funding from SEIF in a manner consistent with a memorandum of understanding executed between the State agency and the Administration; and

(2) Comply with all reporting requirements as determined by the Administration.

C. In response to such a request from a State agency, the Administration may:

(1) Review the funding request to determine its consistency with the Strategic Energy Investment Program, the requirements of any existing grant program, and State policy;

(2) Consider the funding request in the context of the Administration's existing and anticipated programs, fund availability, forecasted revenue, and fund balances; and

(3) Make recommendations for inclusion of the funding request in the State's operating budget for new energy-related projects, initiatives, or programs found to be consistent with the requirements for using the SEIF as well as broader State policy goals.

.11 Unavailability of Funds.

Notwithstanding any other law or this chapter, the Administration may suspend or cancel an FOA or grant award due to unavailability of funds.

.12 Waiver.

The Director may waive or modify a provision of this chapter that is inconsistent with the Strategic Energy Investment Program or other law or regulation.