



City of Milwaukee

City Hall
200 East Wells Street
Milwaukee, WI 53202

Meeting Agenda STEERING & RULES COMMITTEE

ALD. WILLIE L. HINES, Jr., CHAIR

Ald. Michael J. Murphy, Vice-Chair

Ald. Joe Davis, Sr., Ald. Ashanti Hamilton, Ald. James Witkowiak, Ald. Robert Bauman, Ald. Robert Donovan, and Ald. James Bohl, Jr.

Staff Assistant, Terry MacDonald, (414)-286-2233

Fax: (414) 286-3456, E-mail: tmacdo@milwaukee.gov

Monday, November 30, 2009

1:30 PM

Room 301-B, City Hall

SPECIAL Amended 11/25/09

---PLEASE NOTE: If action is taken on items 1-3, they may be referred to the Common Council for action at its regular meeting to be held at 9:00 A.M. on Tuesday, December 1, 2009.

1. [090978](#) Substitute motion amending the schedule of regular meetings of the Common Council and its standing committees for the year 2010.

 Sponsors: THE CHAIR

 Attachments: [Hearing Notice List](#)

2. [091061](#) Resolution relating to application for a grant from the United States Department of Energy for the Energy Efficiency and Conservation Block Grant Retrofit Ramp-up Program.

 Sponsors: Ald. Hines Jr.

 Attachments: [EECBG Competitive Grants Summary 10-19-09.doc](#)
 [EECBG Competitive FOA 10-19-09.pdf](#)
 [Recovery Through Retrofit Final Report 10-19-09.pdf](#)
 [EECBG Innovative EE Financing Approaches 061509.pdf](#)
 [MKE Pilot Program Summary.doc](#)
 [Energy Efficiency Community Block Grant- Competitive.ppt](#)
 [Fiscal note](#)
 [Letter from Dept of Public Works](#)
 [Hearing Notice List](#)

3. [091051](#) Communication relating to proposed changes in state law concerning the governance of the Milwaukee Public School system.

 Sponsors: THE CHAIR

 Attachments: [2009 Senate Bill 405](#)
 [Hearing Notice List](#)

4. [090078](#) Resolution approving the execution of a second amendment to a lease agreement with Milwaukee World Festival, Inc.

Sponsors: Ald. Murphy

Attachments: [Cover Letter](#)
 [Hearing Notice List](#)

The STEERING AND RULES COMMITTEE may convene into closed session, pursuant to s. 19.85(1)(e), Wis. Stats., for the purpose of formulating negotiation strategies relating to Item #4: Resolution approving the execution of a second amendment to a lease agreement with Milwaukee World Festival, Inc.

The committee may thereafter reconvene in open session.

This meeting will be webcast live at www.milwaukee.gov/channel25.

Members of the Common Council and its standing committees who are not members of this committee may attend this meeting to participate or to gather information. Notice is given that this meeting may constitute a meeting of the Common Council or any of its standing committees, although they will not take any formal action at this meeting.

Upon reasonable notice, efforts will be made to accommodate the needs of persons with disabilities through sign language interpreters or auxiliary aids. For additional information or to request this service, contact the Council Services Division ADA Coordinator at 286-2998, (FAX)286-3456, (TDD)286-2025 or by writing to the Coordinator at Room 205, City Hall, 200 E. Wells Street, Milwaukee, WI 53202.

Limited parking for persons attending meetings in City Hall is available at reduced rates (5 hour limit) at the Milwaukee Center on the southwest corner of East Kilbourn and North Water Street. Parking tickets must be validated in Room 205, (City Clerk's Office) or the first floor Information Booth in City Hall.

Persons engaged in lobbying as defined in s. 305-43-4 of the Milwaukee Code of Ordinances are required to register with the City Clerk's Office License Division. Registered lobbyists appearing before a Common Council committee are required to identify themselves as such. More information is available at www.milwaukee.gov/lobby.



Legislation Details (With Text)

File #: 090978 **Version:** 1

Type: Motion **Status:** In Committee

File created: 11/20/2009 **In control:** STEERING & RULES COMMITTEE

On agenda: **Final action:**

Effective date:

Title: Substitute motion amending the schedule of regular meetings of the Common Council and its standing committees for the year 2010.

Sponsors: THE CHAIR

Indexes: COMMON COUNCIL

Attachments:

Date	Ver.	Action By	Action	Result	Tally
11/20/2009	0	COMMON COUNCIL	ASSIGNED TO		
11/25/2009	1	CITY CLERK	DRAFT SUBMITTED		

Number

090978

Version

SUBSTITUTE 1

Reference

090747

Sponsor

THE CHAIR

Title

Substitute motion amending the schedule of regular meetings of the Common Council and its standing committees for the year 2010.

Analysis

This motion amends the schedule of Common Council and standing committee meetings for 2010 as approved by Common Council File Number 090747 by moving the Community and Economic Development Committee meeting previously scheduled for April 5, 2010, to April 6, 2010, beginning at 9 a.m. and by moving the Judiciary and Legislation Committee meeting previously scheduled for April 5, 2010 to April 6, 2010, beginning at 1:30 p.m.

Body

It is moved, By the Common Council of the City of Milwaukee, that the calendar of Common Council and council committee meetings for the year 2010 (January 1 through December 31, 2010) as approved by Common Council File Number 090747 is amended as follows:

The Community and Economic Development Committee meeting previously scheduled for April 5, 2010, is rescheduled to April 6, 2010, beginning at 9 a.m.

The Judiciary and Legislation Committee meeting previously scheduled for April 5, 2010 is rescheduled to April 6, 2010, beginning at 1:30 p.m.

Drafter

jro
11/26/09

FILE NUMBER: 090978
Steering & Rules Committee

[illegible]



City of Milwaukee

200 E. Wells Street
Milwaukee, Wisconsin
53202

Master With Text

File Number: 091061

File ID: 091061

Type: Resolution

Status: In Committee

Version: 0

Reference:

Controlling Body: STEERING &
RULES
COMMITTEE

Requester:

Cost:

File Created: 11/20/2009

File Name:

Final Action:

Title: Resolution relating to application for a grant from the United States Department of Energy for the Energy Efficiency and Conservation Block Grant Retrofit Ramp-up Program.

Notes:

Code Sections:

Agenda Date:

Indexes: AMERICAN RECOVERY AND REINVESTMENT
ACT, ENERGY CONSERVATION, FEDERAL
GRANTS

Agenda Number:

Sponsors: Ald. Hines Jr.

Enactment Date:

Attachments: EECBG Competitive Grants Summary 10-19-09.doc,
EECBG Competitive FOA 10-19-09.pdf, Recovery
Through Retrofit Final Report 10-19-09.pdf, EECBG
Innovative EE Financing Approaches 061509.pdf,
MKE Pilot Program Summary.doc, Energy Efficiency
Community Block Grant- Competitive.ppt, Fiscal
note, Letter from Dept of Public Works

Enactment Number:

Drafter: tjm

Effective Date:

Contact:

Extra Date 2:

History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
0	COMMON COUNCIL	11/20/2009	ASSIGNED TO	STEERING & RULES COMMITTEE			
	Action Text: This Resolution was ASSIGNED TO to the STEERING & RULES COMMITTEE						
0	STEERING & RULES COMMITTEE	11/25/2009	HEARING NOTICES SENT		11/30/2009		
0	STEERING & RULES COMMITTEE	11/30/2009					
0	COMMON COUNCIL	12/01/2009					

Text of Legislative File 091061

..Number

091061

..Version

ORIGINAL

..Reference

071136, 080121, 080398

..Sponsor

ALD. HINES

..Title

Resolution relating to application for a grant from the United States Department of Energy for the Energy Efficiency and Conservation Block Grant Retrofit Ramp-up Program.

..Analysis

This resolution authorizes the Office of Environmental Sustainability to apply for an Energy Efficiency and Conservation Block Grant Retrofit Ramp-up grant in the amount of up to \$75,000,000, of which up to \$45,000,000 could be applied to projects in the City of Milwaukee. The Wisconsin Energy Conservation Corporation (WECC) will most likely administer the program, and the City will be applying in conjunction with the City of Madison and the City of Racine. The grant requires a local leverage ratio of 5:1 through public and private partnerships for any funds spent within the City. Acceptance of the grant will require Common Council action to allow tax-lien financing consistent with s.66.0627, Wis. Stats., allowing special charges to fund energy efficiency improvements. This grant may also require the issuance of a municipal bond that is backed by program revenues and grants to capitalize the revolving loan fund.

The purpose of this grant is to fund whole-neighborhood building energy retrofits. These will be projects that demonstrate sustainable business models for providing cost-effective energy upgrades for a large percentage of the residential, commercial, and public buildings in selected neighborhoods. The program will include partnerships between the public and private sector, utility retrofit and audit programs, alternative financing, and retail partnerships.

..Body

Whereas, The City of Milwaukee is eligible to apply for grant funds from the U.S. Department of Energy to fund whole-neighborhood building energy retrofits, and these will be projects that demonstrate a sustainable business model for providing cost-effective energy upgrades for a large percentage of the residential, commercial, and public buildings in selected neighborhoods; and

Whereas, The Common Council, through adoption of Common Council Files 071136 and 080121, has expressed its commitment to promoting growth of solar technology in the City; and

Whereas, The Energy Efficiency and Conservation Block Grants (EECBG) Program, funded by the Recovery Act, represents a Presidential priority to deploy the least expensive, cleanest, and most reliable energy technologies across the country; and

Whereas, The Vice President's Middle Class Task Force has identified the Recovery through Retrofit program as a key component to expand the home energy efficiency and retrofit market nationwide and to provide workers of all skill levels training and employment in this emerging market; and

Whereas, The Mayor shares the EECBG Program's stated goals of reducing fossil fuel emissions in a manner that is environmentally sustainable and maximizes benefits for local and regional communities, reducing the total energy use of the eligible entities, improving energy efficiency in the building sector, the transportation sector, and other appropriate sectors, and creating and retaining jobs; and

Whereas, This program will serve as an example of comprehensive community-scale energy-efficiency approaches that could be replicated in other communities across the country and will establish the City of Milwaukee as a national leader in these efforts; and

Whereas, Project partners, including Wisconsin Energy Conservation Corporation, Focus on Energy, Johnson Controls, We Energies, the State Office of Energy Independence, City of Milwaukee Department of City Development, University of Milwaukee-Wisconsin, Milwaukee Area Workforce Investment Board and organized labor have pledged to provide incentives and in-kind services greater than 500% of the grant amount to help promote large-scale energy efficiency activities in the City; and

Whereas, The Wisconsin Energy Conservation Corporation (WECC) recently completed a pilot neighborhood efficiency program, Together We Save, that successfully leveraged a home energy retrofit program through a community-based approach for the purpose of increasing energy efficiency investments by homeowners in two neighborhoods in the City of Milwaukee; and

Whereas, Johnson Controls has been selected as a partner due to its place as a world leader in energy savings facility retrofits and due to the large amount of local retrofit financing leverage it is providing to meet the 5:1 local match, and Johnson Control will apply grant funds to its energy saving performance contracts model; and

Whereas, This grant authorizes communities to delegate their application to other public or nonprofit organizations and thus, the cities of Milwaukee, Racine and Madison intend to partner with WECC to apply for and administer the program; and

Whereas, The operation of this grant from 4/1/2010 to 3/31/2013 would apply up to \$45,000,000 to projects within the City of Milwaukee, of which the entire amount would be provided by the grantor; now, therefore, be it

Resolved, By the Common Council of the City of Milwaukee, that application to the U.S. Department of Energy is authorized and the Department of Administration - Office of Environmental Sustainability shall apply for this grant or delegate the right to apply to the Wisconsin Energy Conservation Corporation on the behalf of the City; and, be it

Further Resolved, That the Common Council supports the grant provision to utilize tax-lien financing consistent with s.66.0627, Wis. Stats., allowing special charges to fund energy efficiency improvements; and, be it

Further Resolved, That the Common Council supports the potential issuance of a municipal bond and grants that is backed by program revenues to capitalize the revolving loan fund; and, be it

Further Resolved, That the Common Council supports the potential use of energy saving performance contracts subsidized by this grant to retrofit City facilities.

..Requestor
Department of Administration
..Drafter
LRB09462-1
RTW
11/23/09



Department of Public Works
Operations Division
Buildings and Fleet Services

Jeffrey J. Mantes
Commissioner of Public Works

Preston D. Cole
Director of Operations

Venu J. Gupta
Buildings & Fleet Services Superintendent

November 25, 2009

Mr. Erick Shambarger
Administration, Budget Division
200 East Wells, Room 603
Milwaukee, Wisconsin 53202

Subject: Existing Performance Contracting - Update

Dear Mr. Shambarger:

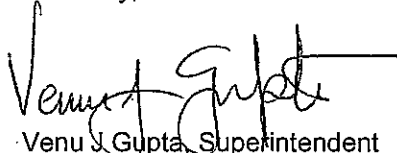
On September 23, 2008 the City of Milwaukee entered into a Performance Contract with Johnson Controls Inc. That contract included energy savings measures at the Safety Academy and retrofitting of traffic signal lighting to LED. The City invested \$724,869 in anticipation of savings of \$1,022,876 for the Safety Academy portion of the contract. The Safety Academy segment of the project consisted of replacement of boilers, unit ventilator assessment, control system upgrade from pneumatic to electronic, upgrading more than 2300 lighting fixtures, and plumbing retrofits to low-flow and low-flush plumbing. These items were each independently and successfully completed between Dec. 31, 2008 and April 30, 2009 and are operating as intended.

The twelve year performance term of the agreement began on May 1, 2009 and will expire on April 30, 2021. Initial savings were measured during the installation period that is prior to May 1, 2009. Even during the installation period when all of the initiatives were not in operation the City was able to realize savings of \$12,333. The project was exceptionally well managed without unnecessary inconvenience to the Safety Academy occupants, completed on time and within budget.

We support the use of performance contracting as a means of funding energy savings projects as a complement to capital funding.

Please contact Tom Tarkowski of my staff at 286-3295 if any additional information is required.

Sincerely,



Venu J. Gupta, Superintendent
Buildings and Fleet Services

Cc: T. Tarkowski
Central File

EECBG Competitive Grants Summary (Retrofit Ramp-Up & General Innovation Fund)

DOE is now accepting applications for up to \$454 million in EECBG competitive grants. The competitive grants [Funding Opportunity Announcement \(PDF 394 KB\)](#) (FOA) was issued on October 19, 2009 and applications will be accepted through [Grants.gov](#) until December 14, 2009. [Download Adobe Reader](#).

DOE is releasing this FOA seeking innovative state, local government and Indian tribe programs funded under the Recovery Act. This FOA will use up to \$454 million in Recovery Act EECBG funds for these competitive grants awarded in two topic areas - (1) the Retrofit Ramp-up Program and (2) the General Innovation Fund.

The goal of this competitive FOA is to stimulate activities that move beyond traditional public awareness campaigns, program maintenance, demonstration projects, and other "one-time" strategies and projects. DOE seeks to stimulate activities and investments which can:

1. Fundamentally and permanently transform energy markets in a way that make energy efficiency and renewable energy the options of first choice; and
2. Sustain themselves beyond the grant monies and the grant period by designing a viable strategy for program sustainability into the overall program plan.

In this FOA, DOE is seeking applications which:

- Leverage the participation and support of multiple local jurisdictions, regional planning agencies, and state energy offices;
- Prioritize energy efficiency and/or energy conservation as first in the loading order before investments are made in new generation; however, DOE is interested in applications that integrate cost-effective renewables with efficiency.
- Move beyond the planning stage and ready for implementation;
- Clearly articulate and demonstrate the ability to achieve measurable stretch goals and that have the potential to make an impact at the regional or national level; and
- Maximize the creation and/or retention of jobs in the United States.

The first topic area, the "Retrofit Ramp-Up" program, will award up to \$390 million for innovative programs that are structured to provide whole-neighborhood building energy retrofits. These will be projects that demonstrate a sustainable business model for providing cost-effective

energy upgrades for a large percentage of the residential, commercial, and public buildings in a specific community. Possible approaches could include innovative partnerships between the public and private sector, utility retrofit and audit programs, alternative financing, retail partnerships, and others. DOE expects to make 8 to 20 awards under this topic area, with award size ranging from \$5-75 million.

The second topic area, the "General Innovation Fund," will award up to \$64 million to cities, counties and State-recognized Indian Tribes that were not eligible to receive population-based formula grant allocations from DOE under the Energy Efficiency and Conservation Block Grant program. These funds are intended to help expand local energy efficiency efforts and reduce energy use in the commercial, residential, transportation, manufacturing, or industrial sectors. DOE expects to make 15 to 60 awards, with award size ranging from \$1-5 million.

For complete details on the availability of funds please see [FOA \(PDF 394 KB\)](#). [Download Adobe Reader](#).

Additional Resources

- Whitehouse Recovery through Retrofit Initiative
- DOE's Building Energy Codes Website
- Program Evaluation Methodology *coming soon*

How to Apply

A summary of the key application steps can be found [here \(PDF 23 KB\)](#). [Download Adobe Reader](#). For complete application details, please see the [FOA \(PDF 394 KB\)](#). [Download Adobe Reader](#).

**FINANCIAL ASSISTANCE
FUNDING OPPORTUNITY ANNOUNCEMENT**



**U.S. Department of Energy
DOE Environmental Management
Consolidated Business Center (EMCBC), Cincinnati, OH
on behalf of
Office of Energy Efficiency and Renewable Energy**

**Recovery Act: Energy Efficiency and Conservation Block Grants:
Competitive Solicitation: Retrofit Ramp-up and General Innovation Fund
Programs**

Funding Opportunity Announcement Number: DE-FOA-0000148

Announcement Type: Initial

**CFDA Number: 81.128 Energy Efficiency and Conservation Block Grant
Program (EECBG)**

Issue Date:	10/19/2009
Voluntary Letter of Intent Due Date:	11/19/2009
Application Due Date:	12/14/2009, 11:59 PM Eastern Time

REGISTRATION AND APPLICATION SUBMISSION REQUIREMENTS

Registration Requirements: Allow at least 21 days to complete registrations.

To submit an application under this announcement, complete the following registrations:

- A. Obtain a Dun and Bradstreet Data Universal Numbering System (DUNS) number, at <http://fedgov.dnb.com/webform>.
- B. Register in the Central Contractor Registration (CCR) system, at <https://www.ccr.gov/>. Designating an E-Business Point of Contact (EBiz POC) and obtaining a special password called an MPIN are important steps in CCR registration. These items are needed to submit applications in Grants.gov. Update your CCR registration annually.
- C. Register in Grants.gov at <http://www.grants.gov/>. See the Organization Registration User Guide at <http://www.grants.gov/assets/OrgRegUserGuide.pdf>. The Applicant User Guide is at <http://www07.grants.gov/assets/ApplicantUserGuide.pdf>.
- D. Register in FedConnect at <https://www.fedconnect.net/>; use “Register as a Vendor” link. To create an organization account, your organization’s CCR MPIN is required.

Where to Download the Application Package:

Download the Application Package for this announcement at <http://www.grants.gov/>. Click on the “Apply for Grants” link; then, click on the “Download a Grant Application Package” link and follow the instructions. Insert the announcement number to download the Application Package.

Where to Submit the Application Package:

APPLICATIONS MUST BE SUBMITTED THROUGH GRANTS.GOV TO BE CONSIDERED FOR AWARD. Follow instructions in the User’s Guide for application submissions. Applicants are responsible for verifying successful transmission, prior to the Application due date and time.

Where to Ask Questions About the Funding Opportunity Announcement Content:

To ask questions about the Funding Opportunity Announcement, use FedConnect at <https://www.fedconnect.net/>. You must be a registered user in the system and submit questions by sending messages in your FedConnect email box. Part VII of this announcement explains how to submit questions to the Department of Energy (DOE).

Where to Submit Questions About the Registrations or Systems:

DUNS & Bradstreet: govt@dnb.com

Central Contractor Registration (CCR) system: <https://www.bpn.gov/ccr/contactccr.aspx>

By phone: 866-606-8220 or 334-206-7828 (8:00 a.m. to 8:00 p.m., Eastern Time)

Grants.gov: support@grants.gov

By phone: 1-800-518-4726 (7:00 a.m. to 9:00 p.m., Eastern)

FedConnect: support@FedConnect.net

By phone: 1-800-899-6665 (8:00 a.m. to 8:00 p.m., Eastern)

Table of Contents

SECTION I – FUNDING OPPORTUNITY DESCRIPTION	5
A. Introduction: American Recovery and Reinvestment Act of 2009	5
B. Energy Efficiency and Conservation Block Grant Program Background.....	6
C. Funding Opportunity Announcement Objectives	7
D. Topic Area 1: The Retrofit Ramp-up Program Description	8
E. Topic Area 2: The General Innovation Fund for Local Governments and State- Recognized Tribes Not Eligible for Direct Formula Grants: Work Description.....	15
SECTION II – AWARD INFORMATION	22
A. Type of Award Instrument.....	22
B. Estimated Funding	22
C. Maximum and Minimum Award Size.....	22
D. Expected Number of Awards	22
E. Period of Performance	22
F. Type of Application	23
SECTION III - ELIGIBILITY INFORMATION	24
A. Eligible Applicants	24
DEFINITIONS	24
B. Cost Sharing.....	25
C. Other Eligibility Requirements.....	25
SECTION IV – APPLICATION AND SUBMISSION INFORMATION.....	26
A. Address to Request Application Forms.....	26
B. Letter of Intent and Pre-Application.....	26
C. Content and Form of Application.....	26
D. Submissions from Successful Applicants	34
E. Submission Dates and Times.....	34
F. Intergovernmental Review.....	34
G. Funding Restrictions.....	34
H. Submission and Registration Requirements	35
SECTION V - APPLICATION REVIEW INFORMATION	37
A. Criteria.....	37
B. Review and Selection Process.....	40
C. Anticipated Notice of Selection and Award Dates.....	41
SECTION VI - AWARD ADMINISTRATION INFORMATION	42
A. Award Notices	42
B. Administrative and National Policy Requirements.....	42
C. Reporting	43
SECTION VII - QUESTIONS/AGENCY CONTACTS	44
A. Questions.....	44
SECTION VIII - OTHER INFORMATION.....	45
A. Modifications	45
B. Government Right to Reject or Negotiate.....	45
C. Commitment of Public Funds	45
D. Proprietary Application Information.....	45
E. Evaluation and Administration by Non-Federal Personnel	46
F. Intellectual Property Developed Under This Program	46
G. Notice Of Right To Request Patent Waiver.....	46
H. Notice of Right to Conduct a Review of Financial Capability	47
I. Notice of Potential Disclosure under Freedom of Information Act	47
Appendix A – Definitions	48
Appendix B – Personally Identifiable Information.....	52

Appendix C – NEPA FORM For Completion.....	54
Appendix D – Budget Justification.....	55
Appendix E	60
OMB Guidance for Implementing the Recovery Act At 2 CFR PART 176	60
Appendix F	65
Adequacy Of Cost Proposal Or Application Budget Submssion For Audit.....	65
Appendix G – Template Project Impact Table For Topic 1 and Topic 2:	69

SECTION I – FUNDING OPPORTUNITY DESCRIPTION

A. Introduction: American Recovery and Reinvestment Act of 2009

Projects under this FOA will be funded, in whole, with funds appropriated by the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, (Recovery Act or Act). The Recovery Act's purposes are to stimulate the economy and to create and retain jobs. The Act gives preference to activities that can be started and completed expeditiously. Accordingly, special consideration will be given to projects that promote and enhance the objectives of the Act, especially job creation, preservation and economic recovery, in an expeditious manner.

Be advised that special terms and conditions may apply to projects funded by the Act relating to:

- Reporting, tracking and segregation of incurred costs;
- Reporting on job creation and preservation;
- Publication of information on the Internet;
- Access to records by Inspectors General and the Government Accountability Office;
- Prohibition on use of funds for gambling establishments, aquariums, zoos, golf courses or swimming pools;
- Ensuring that iron, steel and manufactured goods are produced in the United States;
- Ensuring wage rates are at least equal to those prevailing on projects of a similar character;
- Protecting whistleblowers and requiring prompt referral of evidence of a false claim to an appropriate inspector general; and
- Certification and Registration.

These special terms and conditions will be based on provisions included in Titles XV and XVI of the Act. The exact terms and conditions will be provided as soon as possible. The currently available Special Provisions are located at:

http://management.energy.gov/business_doe/business_forms.htm.

The Office of Management and Budget (OMB) has issued several guidance documents regarding implementation of Recovery Act programs, available on line at

http://www.whitehouse.gov/omb/recovery_default/. Applicants should consult the DOE website, <http://www.energy.gov>, the OMB website <http://www.whitehouse.gov/omb/>, and the Recovery website, <http://www.recovery.gov>, regularly to keep abreast of guidance and information as it evolves.

Recipients of funding appropriated by the Act shall comply with requirements of applicable Federal, State, and local laws, regulations, DOE policy and guidance, and instructions in this FOA, unless relief has been granted by DOE. Recipients shall flow down the requirements of applicable Federal, State and local laws, and regulations, DOE policy and guidance, and

instructions in this FOA to subrecipients at any tier to the extent necessary to ensure the recipient's compliance with the requirements.

Be advised that Recovery Act funds can be used in conjunction with other funding as necessary to complete projects, but tracking and reporting must be separate to meet the reporting requirements of the Recovery Act and related OMB Guidance. Applicants for projects funded by sources other than the Recovery Act should plan to keep separate records for Recovery Act funds and ensure those records comply with the requirements of the Act. Funding provided through the Recovery Act that is supplemental to an existing grant is one-time funding.

Applicants should begin planning activities for their first tier subawardees, including obtaining a DUNS number (or updating the existing DUNS record), and registering with the Central Contractor Registration (CCR). The extent to which subawardees will be required to register in CCR will be determined by OMB at a later date.

B. Energy Efficiency and Conservation Block Grant Program Background

In passing the Recovery Act, the Congress established and expanded new and existing financial assistance programs intended to foster economic prosperity and job creation; reduce emissions from fossil fuels; and to continue on the pathway to a clean, secure and sustainable energy future.

The Energy Efficiency and Conservation Block Grants (EECBG) Program (<http://www.eecbg.energy.gov/>), funded for the first time by the Recovery Act, represents a Presidential priority to deploy the cheapest, cleanest, and most reliable energy technologies we have - energy efficiency and conservation - across the country. The Program, authorized in Title V, Subtitle E of the Energy Independence and Security Act (EISA) and signed into law on December 19, 2007, is modeled after the Community Development Block Grant program administered by the Department of Housing and Urban Development.

Through formula and competitive grants, the Program empowers local communities to make strategic investments to meet the nation's long-term goals for energy independence and leadership on climate change. Funding for the EECBG Program under the Recovery Act totals \$3.2 billion. Of this amount, over \$2.7 billion will be awarded through formula grants. In addition, up to \$453.72 million will be allocated through competitive grants, which will be awarded through this Funding Opportunity Announcement (FOA). The remaining funds will be used to provide a suite of technical assistance tools to state, local, and tribal grantees.

The purposes of the EECBG Program are to serve as a deployment mechanism for energy efficiency, conservation and renewable energy technologies and to assist eligible entities to create and implement strategies to:

- Reduce fossil fuel emissions in a manner that is environmentally sustainable and, to the maximum extent practicable, maximizes benefits for local and regional communities;
- Reduce the total energy use of the eligible entities;
- Improve energy efficiency in the building sector, the transportation sector, and other appropriate sectors.
- Create and retain jobs; and

- Stimulate the economy.

These stated purposes describe the overall intent of the EECBG Program. Each entity is required to use the funds in a cost-effective manner that is of maximum benefit to the population of that entity and in a manner that will yield continuous benefits over time in terms of energy and emission reductions.

C. Funding Opportunity Announcement Objectives

DOE is releasing this funding opportunity announcement (FOA) seeking innovative state, local government and Indian tribe programs funded under the Recovery Act. This FOA will use up to \$453.72 million in Recovery Act EECBG funds for these competitive grants awarded in two (2) topic areas. Topic 1, the Retrofit Ramp-up Program, provides up to \$390.04 million for programs of \$5 to \$75 million for 8 to 20 awards. Topic 2, The General Innovation Fund, is for competitive grants that are reserved for units of local government and state-recognized tribes not eligible for direct formula grants, as per EISA 2007 requirements. Topic 2 provides up to \$63.68 million (approximately 2 percent of \$3.2 billion) for projects of \$1 to \$5 million for 15 to 60 awards.

The goal of this competitive FOA is to stimulate activities that move beyond traditional public awareness campaigns, program maintenance, demonstration projects, and other “one-time” strategies and projects. DOE seeks to stimulate activities and investments which can:

- 1) Fundamentally and permanently transform energy markets in a way that make energy efficiency and renewable energy the options of first choice; and
- 2) Sustain themselves beyond the grant monies and the grant period by designing a viable strategy for program sustainability into the overall program plan.

In this FOA, DOE is seeking applications which:

- Leverage the participation and support of multiple local jurisdictions, regional planning agencies, and state energy offices;
- Prioritize energy efficiency and/or energy conservation as first in the loading order before investments are made in new generation; however, DOE is interested in applications that integrate cost-effective renewables with efficiency.
- Move beyond the planning stage and ready for implementation;
- Clearly articulate and demonstrate the ability to achieve measurable stretch goals and that have the potential to make an impact at the regional or national level; and
- Maximize the creation and/or retention of jobs in the United States.

The following sections describe the two (2) topics identified in this FOA. Applicants may submit multiple applications to a topic area and/or apply to multiple topic areas, however, separate stand-alone applications must be submitted.

D. Topic Area 1: The Retrofit Ramp-up Program Description

The goal of Topic 1: The Retrofit Ramp-up Program aims to stimulate activities and investments which can:

- Deliver verified energy savings from a variety of projects in the local jurisdiction of the applicant, with a particular emphasis on efficiency improvements in residential, commercial, industrial and public buildings;
- Achieve broader market participation and greater efficiency savings from building retrofits;
- Highly leverage grant funding in order to significantly enhance the resources available for supporting the program;
- Sustain themselves beyond the grant monies and the grant period by designing a viable strategy for program sustainability;
- Serve as pilot building retrofit programs that demonstrate the benefits of gaining economy of scale; and
- Serve as examples of comprehensive community-scale energy-efficiency approaches that could be replicated in other communities across the country.

Pursuant to the Energy Efficiency and Conservation Block Grant Program (EECBG), DOE plans to award up to \$390.04 million for innovative programs that accomplish the economic, energy and environmental goals of the Recovery Act and the EECBG Program, and are highly leveraged (i.e. goal of at least 5:1 per dollar awarded from this FOA), are broadly replicable and scalable, achieve economy of scale benefits, and are likely to be self-sustaining beyond the funding period.

DOE is specifically targeting these funds for high-impact awards that will enable large-scale programs of ongoing energy efficiency retrofits on residential, commercial, industrial and public buildings in geographically focused areas. These programs should result in high-quality retrofits resulting in significant efficiency improvements to a large fraction of buildings within targeted neighborhoods, technology corridors or communities (i.e. “whole-neighborhood” retrofits). DOE anticipates making 8 to 20 awards under this topic, with award sizes of \$5 million to \$75 million (DOE contribution). No recipient cost share is required for Topic 1.

Recovery through Retrofit

DOE is issuing this FOA in conjunction with the White House Middle Class Task Force (<http://www.whitehouse.gov/strongmiddleclass/>) and its Recovery through Retrofit strategy. DOE strongly encourages applicants to be aware of guidance and other information about this strategy, which is available at <http://www.whitehouse.gov/administration/eop/ceq/>.

Eligibility under Topic 1

The following entities may apply under Topic 1:

1. States;
2. Formula-eligible units of local government;

3. Formula-eligible Indian tribes;
4. Entities eligible under Topic 2; and
5. Governmental, quasi-governmental, or non-governmental not-for-profit organizations authorized by and on behalf of entities described in 1 through 4.

PLEASE NOTE: Only one application may be submitted by or on behalf of an entity listed in 1 through 4 above. If an entity listed in 1 through 4 intends to use Recovery Act funding to support projects performed by different parts of the entity, the projects must be consolidated into a single application.

DEFINITIONS

“State” means the 50 United States, the District of Columbia and the following Territories of the United States: Puerto Rico, the U.S. Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

“Formula-eligible unit of local government” means a unit of local government that was eligible for direct funding under the EECBG formula. A list of formula eligible local governments can be found on the program website, <http://www.eecbg.energy.gov>.

“Formula-eligible Indian tribe” means an Indian tribe that was eligible for direct funding under the EECBG formula. A list of formula eligible Indian tribes can be found on the program website, <http://www.eecbg.energy.gov>.

“Indian tribe that is not an eligible entity” means a State recognized Indian tribe that was not eligible for direct funding under the EECBG formula.

“Unit of local government that is not an eligible entity” means a city or county that –

- Is listed in the 2007 Governments Integrated Directory (GID) as an incorporated entity;
- Is identified by the 2007 Census of Governments as having a governance structure consisting of an elected official and governing body;
- Has a governing structure,
 - as indicated by the 2007 Census of Governments publication, with the capabilities and jurisdiction necessary to carry out the broad range of EECBG programs, or
 - with the capabilities and jurisdiction necessary to carry out the broad range of EECBG programs, as demonstrated by the applicant; and
- Was not eligible for direct funding under the EECBG formula.

Program Structure

Geographic focus. Under this Topic, DOE is interested in programs that reach a large fraction of buildings within targeted neighborhoods or areas. Note that the geographic area is not necessarily contiguous and may be urban, suburban or rural. The objective is to encourage programs that cover geographic areas that are sufficient to demonstrate economy of scale or critical mass in deployment of energy efficiency and conservation building retrofits. Programs

that achieve these benefits not exclusively relying on geographic focus are acceptable (e.g. by targeting specific delivery channels, market segments, or pockets of geographic focus in a regional area). DOE emphasizes the importance of programs that demonstrate the benefits of economy of scale and critical mass and also provide high visibility to communicate success to potential new adoptees of this approach for energy efficiency and conservation savings.

Program design. Under this Topic, DOE is seeking applications that target innovative, “game-changing” ideas that create a comprehensive framework for building retrofits, including processes for financing, marketing/education, delivery, monitoring and verification measurement that can serve as templates for other communities across the country. DOE has designed merit review criteria that emphasize programs that address key obstacles (e.g., upfront cost, lack of consumer confidence), are long-term, replicable, scalable, and enable continued energy efficiency investment beyond the grant period. **Applicants should clearly address how their application addresses all the merit review criteria.** DOE has intentionally left the structure of financing, marketing, delivery and monitoring of building retrofit programs open in order to encourage innovation in these areas, and intends to use this Topic to allow different models of comprehensive, community-scale retrofit programs to be demonstrated and tested.

Revenue and sustainability models. DOE believes there are multiple viable approaches to developing revenue streams from building efficiency improvements that can be used to ensure program sustainability after federal grant monies are exhausted. These may include revolving loan funds, utility on-bill payment and/or financing, the sale of carbon and other offsets, the sale of white tags to meet efficiency mandates, and the sale of efficiencies into forward capacity markets. Under this Topic, DOE will place significant emphasis on the sustainability of the program after the grant period, but intends to allow maximum flexibility to applicants to innovate program models that will achieve this goal.

Leveraging. DOE intends to achieve high (5 to 1) leveraging of grant funds awarded through this FOA, and will place significant emphasis on total project funds availability. This leveraging ratio goal is not a cost share. Instead, DOE seeks to have recipients secure 5 additional dollars for each dollar awarded by DOE under this FOA to meet the total project expenses. For the purposes of this FOA, DOE considers this leveraging to include building owner contributions, partner contributions, in-kind contributions, project revenues, other federal funds (including other DOE funds), and state funds. For example, programs that leverage DOE Weatherization Assistance Program funds and associated resources could constitute one example of a source of leveraged funds.

Partners. DOE strongly encourages applications that plan innovative and creative teams that leverage the participation and support of multiple partners, including utilities, regional planning agencies, businesses, financial institutions, universities, non-governmental organizations, and State energy offices.

Evaluation. DOE intends to address a number of research questions about building retrofit program structures through this FOA. To that end, applicants must agree that, if awarded funds, they will cooperate with DOE on a federally sponsored research and data-gathering exercise designed to evaluate the effectiveness of different approaches to marketing, delivery, installation, monitoring and financing of retrofits, including the impacts on energy savings and consumer debt. This exercise will employ rigorous statistical methodology based on actual fuel consumption data. Applicants are encouraged to consider this when designing proposed program

structures in order to make them as amenable as possible to evaluation, and highlight such design elements in their application materials. DOE intends to provide further guidance regarding best practices for enabling a rigorous evaluation.

Generic examples. The following examples broadly illustrate how comprehensive building retrofit programs might be structured. They are not intended to be prescriptive or to indicate any preference on the part of DOE for particular approaches, but rather to convey the type of comprehensive program design DOE is seeking.

Example 1: Partnering with a bank and a large construction-related retailer, a community develops a retrofit program based on Property Assessed Clean Energy (PACE) loans for homeowners. These loans are used to pay for energy efficiency retrofits delivered by contractors coordinated by the retailer. Project funds are used to leverage additional 5:1 outside funds, and the program is marketed to homeowners by the community, who agree to add a line item on their property tax bill to repay the loans. In designing the program, the community follows federal best practices as outlined in the “Policy Framework for PACE Financing Programs” documents available at <http://www.whitehouse.gov/administration/eop/ceq/> .

Example 2: Partnering with a local utility and a Home Performance with ENERGY STAR (HPwES) partner, a community develops a retrofit program funded by a revolving loan fund. Project funds are used to leverage additional 5:1 outside funds, with an on-bill repayment mechanism for homeowners receiving retrofit services. Working with the HPwES partner and the utility, the community publicizes the program and begins door-to-door “neighborhood sweeps” to audit homes and arrange scheduling for retrofit work with homeowners. Work is delivered through a variety of contractors coordinated by the HPwES partner, and the energy impact is monitored through utility bills reported by the utility.

Example 3: Partnering with a large appliance retailer, a home service contract provider, and the state energy office, a community develops a program to audit homes during the delivery and servicing of appliances and other home systems, working through the servicer and retailer’s network and capabilities. Project funds are used to leverage additional 5:1 outside funds, with loan repayment through service contracts. In order to expand resources available to the program and ensure sustainability, deemed savings from appliances are captured and sold by the community as carbon offsets.

Example 4: Partnering with the state department of commerce and an energy services company (ESCO), a community develops a program to retrofit retail buildings in its downtown district and industrial buildings in a separate district. Project funds are used to leverage additional 5:1 outside funds, and the program is marketed to local businesses by the state department of commerce, with retrofits delivered through the ESCO. Energy savings from retrofits are displayed on signs placed in store windows, and community leaders initiate a campaign to encourage residents to shop at stores, and buy products from industrial facilities, that achieved the greatest energy reductions.

Example 5: Partnering with several local banks and a large construction firm, a community develops a program to retrofit homes and retail buildings in a mixed-used neighborhood. Project funds are used to leverage additional 5:1 outside funds, and the program is marketed to customers of the banks through the automatic teller machine (ATM) networks and monthly statements, with retrofits delivered by contractors coordinated by the construction firm. Recipients of retrofits are able to check their energy savings online or at local ATMs. To ensure

the program's sustainability and enhance its funds for future retrofit work, efficiency savings from retrofits are aggregated and sold to forward capacity markets.

Example 6: Partnering with a large construction-related retailer and a local cable and internet service provider, a community develops a program to bundle energy audits with cable and internet installation and servicing. Outreach and advertising is also provided by the cable/internet provider. Project funds are used to leverage additional 5:1 outside funds, and the program delivers retrofit services through the retailer, using a repayment mechanism based on cable bills. The program allows owners receiving retrofit services to monitor and track their building's performance with online tools hosted by the cable/internet provider, and participate in community-wide comparisons of savings.

Example 7: Partnering with a local utility, a community develops a program to retrofit private, commercial, industrial and public buildings in several neighborhoods. The utility contracts with for-profit and not-for-profit providers to conduct energy audits and install retrofits. The local unit of government uses its bonding authority to pay up-front costs of the program, and the utility collects on-bill payments from building owners and remits to the local government. Federal funds are used to subsidize retrofits of low-income homes and as credit enhancement to support the financing of the program. The overall program is fully coordinated with all other federal, state, local and private programs that support efficiency retrofits in the community.

NOTE: The above examples are intended only to illustrate the types of comprehensive program design DOE is seeking, and should not be taken to indicate a preference for any particular approach.

What not to propose. DOE is *not* seeking the following for Topic 1:

- Projects that are authorized by 42 U.S.C. 17154(1)-(2),(14): Development and implementation of an energy efficiency and conservation strategy; technical consultant services to assist the eligible entity in the development of the energy efficiency and conservation strategy; and any other appropriate activity, as determined by the Secretary of Energy, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Transportation and the Secretary of Housing and Urban Development.
- Programs for the design and construction of new energy-efficient buildings;
- Technology demonstration programs without market transformation;
- Programs which focus exclusively or largely on renewable energy technologies for buildings (although DOE will consider cost-effective renewable integration with efficiency); and
- Programs which take existing policies and make incremental improvements over business as usual efforts;

Applications that propose projects that are under 42 U.S.C. 17154(1)-(2),(14) above, programs for the design and construction of new energy-efficient buildings, technology demonstration programs without market transformation, and programs which focus exclusively on renewable generation **will be deemed non-responsive during the initial compliance review and eliminated from full Merit Review.**

Applications should include, to the extent practicable, at least the following key elements:

1. A description of **how many and what kinds of buildings** will be targeted by the retrofit program, and their **geographic location**. This may be a map of zones/neighborhoods that will be targeted, or a detailed text description. (Please provide program related information; NEPA related information should be included in form located in Appendix C.)
2. A description of how the program will conduct **outreach, advertising and marketing** to building owners in the targeted zones to inform them of the program and convince them to agree to participate. This should include a discussion of the value proposition being offered to building owners, and why owners are likely to agree to participate.
3. A description of **how the retrofits will be delivered**, including who will do the audits and contract work.
4. A description of how energy and cost savings from retrofits will be **monitored and verified, and how those results will be communicated to the owner/occupant of the building**.
5. A description of **how the program will be financed**, including leveraged funds and alternate revenue streams as discussed above. This section of the application should also include a discussion of the sustainability of the program after the grant monies are exhausted.
6. An **implementation plan** describing the overall execution of the program, including a detailed timeline and milestones at each stage.
7. **Letters of support** from all major partners contributing leveraged funds and significant in-kind contributions, and **project support letters** from an executive officer from all key partners (included as an appendix to the Narrative file and not included in the Narrative file page limit).
8. **Project Impact Table** (see Appendix G) with estimates of project impact including number of buildings retrofitted per project year (and out years), utilities savings and jobs created/retained.

Additionally, applications must contain a clear description of **why federal funds are needed** to implement the retrofit program described in the application (if this is not included in the elements above). Finally, applicants are encouraged to add further discussion as necessary, including an analysis of key market barriers to retrofits in their local jurisdiction, local resources other than funding, a description of the applicant's historical work in energy efficiency programs, and any other relevant information.

Property Assessed Clean Energy (PACE) programs. The innovative Property Assessed Clean Energy (PACE) approach attaches the obligation to repay an energy-upgrade loan to a property, not an individual borrower. This ensures that the loan is paid by the owner of the upgraded property, which has reduced utility bills, even if the property is sold. An applicant could use funding from this FOA to pay for the administrative costs, reserve funds, software development, or reduced interest rates under a PACE program, or in support of federal research about the effects of PACE programs. PACE programs supported by funds awarded under this FOA are required to follow the best practices outlined in the "Policy Framework for PACE Financing Programs" documents created by an interagency team as part of the Vice President's Middle

Class Task Force Recovery through Retrofit strategy, available at <http://www.whitehouse.gov/administration/eop/ceq/>.

Home Performance with ENERGY STAR. DOE and the Environmental Protection Agency (EPA) offer a program strategy for encouraging comprehensive home energy improvements, called Home Performance with ENERGY STAR. Applicants could use this program strategy as a component of a retrofit program that addresses residential retrofits. More information is available at <http://www.energystar.gov/>.

Building Codes. DOE has included as a program policy factor for the adoption of updated building codes. Entities that have adopted these updated building codes as of the close date of this FOA will be given special consideration. This applies only to prime applicants that have the authority to adopt building codes and have adopted the following:

- 1) A building energy code (or codes) for residential buildings that meets or exceeds the most recently published International Energy Conservation Code, or achieves equivalent or greater energy savings; and
- 2) A building energy code (or codes) for commercial buildings that meets or exceeds the most recently published ANSI/ASHRAE/IESNA Standard 90.1, or achieves equivalent or greater energy savings.

Limitations on the use of funds on Topic 1

ALL APPLICANTS

In accordance with EISA Sec. 548(b), EECBG funds shall supplement (and not supplant) other Federal funding provided under the State Energy Program or the Weatherization Assistance Program.

STATES

States must subgrant at least 60 percent of their allocation to units of local government that are not formula eligible entities.

State applicants may expend for payment of reasonable administrative and planning costs not more than 10 percent of amounts provided under the program including the cost of reporting.

FORMULA-ELIGIBLE UNITS OF LOCAL GOVERNMENTS AND FORMULA-ELIGIBLE INDIAN TRIBES

Up to 10 percent or \$75,000, whichever is greater, of grant funds may be used for administrative expenses, excluding the cost of meeting the reporting requirements of the Program. Administrative costs are the allowable, reasonable, and allocable direct and indirect costs related to overall management of the awarded grant.

Up to 20 percent or \$250,000, whichever is greater, of the grant funds may be used to finance a revolving loan fund.

	State	Formula-eligible unit of local government and Formula-eligible Indian tribe	Formula-ineligible unit of local government or Indian tribe
Limit on administrative expenses including the cost of the reporting requirements	Not more than 10% of the amounts provided to the State	Not more than the greater of a. 10% of the amount provided to the eligible unit of local gov't (or eligible Tribe); or b. \$75,000	None
Limit on the amount for establishing a revolving loan fund	None	Not more than the greater of a. 20% of the amount provided to the eligible unit of local gov't (or eligible Tribe); or b. \$250,000	None
Amount required to be provided as subgrants to units of local government that are not eligible units of local government	Not less than 60% of the amount provided to the State (subgrantees must be within the jurisdiction of the State)	None	None

E. Topic Area 2: The General Innovation Fund for Local Governments and State-Recognized Tribes Not Eligible for Direct Formula Grants: Work Description

Pursuant to the EECBG and EISA 2007, Topic 2 eligibility (as a prime applicant) for the up to \$63.68 million is restricted for local governments (e.g. cities, counties) and State-recognized Indian Tribes not eligible to receive direct funding allocations from the Energy Efficiency and Conservation Program formula grants. The entities found at the following link are not eligible for Topic 2, see www.eecbg.energy.gov. To establish State-recognized Indian Tribe eligibility, an applicant must submit verifiable documentation from one or more individual States in which

it resides that it is formally recognized as having self-governance authority. DOE plans to award from 15 to 60 awards that are between \$1 million and \$5 million (DOE contribution) each. No recipient cost share is required for Topic 2. In accordance with EISA 2007, Title V, Subtitle E, Sec. 546, special consideration in the form of a program policy factor will be given to local governments proposing projects in states with populations of less than 2 million people, or that plan to carry out projects that would result in significant energy efficiency improvements or reductions in fossil fuel use.

Eligibility under Topic 2

In accordance with Section 546 of EISA 2007, only the following entities may apply for financial assistance under Topic 2: Unit of local government (or State-recognized Indian tribe) that is not an eligible entity; a governmental, quasi-governmental, or non-governmental, not-for-profit organization authorized by and on behalf of a unit of local government (or State-recognized Indian tribe) that is not an eligible entity; or a consortia of units of local governments (or State-recognized Indian Tribes) that are not eligible entities. States, formula-eligible units of local government, and formula-eligible Indian tribes are **not** eligible to apply for Topic 2.

PLEASE NOTE: Only one application may be submitted by or on behalf of a unit of local government (or State-recognized Indian tribe) that is not an eligible entity. If a unit of local government (or State-recognized Indian tribe) that is not an eligible entity intends to use Recovery Act funding to support projects performed by different parts of the entity, the projects must be consolidated into a single application.

DEFINITIONS

“State” means the 50 United States, the District of Columbia and the following Territories of the United States: Puerto Rico, the U.S. Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

“Formula-eligible unit of local government” means a unit of local government that was eligible for direct funding under the EECBG formula.

“Formula-eligible Indian tribe” means an Indian tribe that was eligible for direct funding under the EECBG formula.

“Indian tribe that is not an eligible entity” means a State-recognized Indian tribe that was not eligible for direct funding under the EECBG formula.

“State-recognized Indian Tribe” means a Native American tribe located within the contiguous 48 States or Alaska that is not Federally recognized pursuant to section 4 of the Indian Self-Determination and Education Assistance Act (42 USC 450b), but is formally recognized as having self-governance authority by one or more individual States in which it resides.

“Unit of local government that is not an eligible entity” means a city or county that –

- Is listed in the 2007 Governments Integrated Directory (GID) as an incorporated entity;
- Is identified by the 2007 Census of Governments as having a governance structure consisting of an elected official and governing body;

- Has a governing structure,
 - as indicated by the 2007 Census of Governments publication, with the capabilities and jurisdiction necessary to carry out the broad range of EECBG programs, or
 - with the capabilities and jurisdiction necessary to carry out the broad range of EECBG programs, as demonstrated by the applicant; and
- Was not eligible for direct funding under the EECBG formula.

Program Structure

Topic 2 of this FOA provides financial assistance to units of local governments (and State-recognized Indian tribes) that are not formula-eligible entities to implement programs that:

1. Contribute to meaningful and sustainable market transformation (are broadly replicable and scalable and/or bring a significant benefit to other units of local government and State-recognized Indian tribes through the successful execution of an outcome or deliverable)
2. Highly leverage DOE financial assistance to achieve significant energy and cost savings and create jobs;
3. Result in a new or innovative approaches to the purposes of the EECBG program which are to reduce fossil fuel emissions, reduce total energy use, and increase energy efficiency; and
4. Are capable of being financially self-sustaining beyond the funding period.

Leveraging. The leveraging that DOE is seeking is not a cost share requirement. For the purposes of this FOA, DOE considers leveraging to include partner contributions, in-kind contributions, project revenues, other federal funds (including other DOE funds), and state funds. For example, programs that leverage DOE Weatherization Assistance Program funds and associated resources could constitute one example of a source of leveraged funds.

The following activities under 42 U.S.C. 17154 are allowed under Topic 2 consideration:

- (3) Building Energy Audits
- (4) Financial Incentive Programs for Energy Efficiency Improvements
- (5) Energy Efficiency Retrofits
- (6) Energy Efficiency and Conservation Programs for Buildings and Facilities
- (7) Development and Implementation of Transportation Programs to Conserve Energy
- (8) Building Codes and Enforcement
- (9) Energy Distribution Technologies for Energy Efficiency
- (10) Material Conservation Programs including source reduction, recycling, and recycled content procurement programs
- (11) Reduction and Capture of Methane and Greenhouse Gases
- (12) Replacement of Traffic Signals and Street Lighting with Energy Efficient

Lighting Technologies

○ (13) Renewable Energy Technologies on Government Buildings

DOE has intentionally left Topic Area 2 broad to allow for innovation in program design and delivery across a wide variety of market sectors. Successful applications will propose ideas that have the potential to demonstrate significant long-term benefits beyond those directly received by the recipient entity. Specifically, DOE wishes to support program approaches that prove the value of investment in energy efficiency and renewable energy so that future funding to support similar efforts by other local governments can be confidently provided by those governments or private sources as good investments. Simple equipment replacement efforts (e.g. CFL replacement or give-away programs, boiler replacements, LED traffic light replacements) that do not provide a roadmap for replication by other entities will not likely be considered for award. Programs that include a broad and cohesive partnership structure that effectively leverages DOE financial assistance will be considered more favorably by DOE. DOE seeks to fund programs that have moved well beyond the planning stage and are ready for implementation.

The following examples are provided to illustrate potential areas of activity and are not intended to be comprehensive:

Example 1: Innovative fiscal and financial strategies to promote energy efficiency:

There are numerous examples of strategies using financial and fiscal policy to foster the use of energy efficiency, including revolving loans, Energy Saving Performance Contracts (ESPCs), guaranteed loans and other strategies. DOE seeks to replicate these and other innovative financing models for energy efficiency, and also to fund improvements that amplify their reach or effectiveness. For example, strategies that require point-of-sale energy audits could allow new owners to fold the cost of retrofits into mortgages or home equity loans, lowering monthly energy bills to a greater extent than the monthly amortized cost of such retrofits. These approaches do two important things: they tie energy investments to the home or building, not the owner, and thus extend the window of acceptable investment beyond a single owner's payback expectations. They also amortize the loan over a longer time period. Combining point-of-sale energy audits with on-bill financing, developed in partnership with electric and natural gas utilities, could increase the efficacy of both.

Example 2: Whole neighborhood building energy efficiency retrofits:

A consortia of small towns, villages and/or tribes, and rural area governments commits to implementing whole neighborhood building efficiency retrofits, through a joint partnership. A consortia of local governments would then prepare and submit a joint application to provide comprehensive energy efficiency services to multiple communities within a region. Applications could be coordinated through an existing regional planning process, such as a regional council, council of governments, or regional planning district. Partners could include rural electric cooperatives, municipal utilities, and businesses within the region that could provide energy efficiency services. Programs would be designed to leverage and coordinate with existing programs and resources offered by federal, state and local agencies (e.g., Qualified Energy Conservation Bonds, utility energy efficiency programs, weatherization and low-income housing assistance). The program could include 'Quick Start Programs' that are straightforward to implement; easily integrated into initiatives already underway; result in significant energy and

cost savings; have a strong business case; and are highly educational for elected officials, staff and/or the community. These programs may include distributed renewables as part of a larger conservation/energy efficiency program.

Example 3: Reduction in fossil fuel emissions through innovative transportation programs:

Many innovative strategies exist for reducing fossil fuel consumption and emissions in the transportation sector including planning, zoning, and policies to encourage walking, biking, and the use of public transportation systems; evaluating and performing energy audits on transportation systems; and incentives for reductions in vehicle miles traveled or high-occupancy vehicles. There are numerous benefits to transportation planning at the regional level, with adjacent units of government collaborating to address issues affecting the participating governments. A consortia of local governments can work together through a regional transportation planning organization, and can integrate plans and programs into those of other neighboring regional transportation organizations.

Partners

Proposed programs that involve creative and innovative teams that leverage the participation and support of multiple partners are strongly encouraged, including other eligible local jurisdictions, regional planning agencies, businesses, utilities, non-governmental organizations, and state energy offices.

What not to propose. DOE is *not* seeking the following for Topic 2:

- Programs that fall under uses of funds as described in 42 U.S.C. 17154(1)-(2),(14): Development and implementation of an energy efficiency and conservation strategy; Technical consultant services to assist the eligible entity in the development of the energy efficiency and conservation strategy; and any other appropriate activity, as determined by the Secretary of Energy, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Transportation and the Secretary of Housing and Urban Development.
- Programs for the design and construction of new energy-efficient buildings;
- Technology demonstration programs without market transformation;
- Programs which focus exclusively or largely on renewable energy technologies for buildings (without integrating comprehensive energy efficiency and conservation activities)
- Programs which take existing policies and make incremental improvements over business as usual efforts;
- Programs that are in planning stages and are not ready for implementation.

The following proposed activities will be deemed non-responsive during the initial compliance review and eliminated from full Merit Review:

- Programs that fall under uses of funds as described in 42 U.S.C. 17154(1)-(2),(14): Development and implementation of an energy efficiency and conservation strategy; Technical consultant services to assist the eligible entity in the development of the energy

efficiency and conservation strategy; and any other appropriate activity, as determined by the Secretary of Energy, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Transportation and the Secretary of Housing and Urban Development.

- Programs for the design and construction of new energy-efficient buildings.
- Technology demonstration programs without market transformation.
- Programs which focus exclusively on renewable generation.

Applications should include, to the extent practiceable, at least the following key elements:

1. Narrative description of project concept – including a description of the issue/problem/opportunity you are seeking to address and the expected qualitative and quantitative impact. Applicants are also requested to identify how the proposed program affects economically hard hit communities and to describe expected outcomes.
2. Project implementation plan describing the overall execution of the program, including a detailed project schedule, major tasks, milestones at each stage, and deliverables.
3. Description of anticipated barriers and approach to overcome them.
4. A description of how energy and cost savings (and other Recovery Act metrics) from the project will be monitored and verified, and how those results will be communicated to relevant stakeholders and the strategy for feedback and continuous improvement of the program during its operation.
5. A description of how the program will be financed, including leveraged funds and alternate revenue streams. This should also include a discussion of the sustainability of the program after the grant monies are exhausted.
6. Description of the innovative and creative partnership structure, roles & responsibilities, and capabilities of individuals/organizations.
7. Letters of support from all key project partners as an attachment to Narrative Section (not included in Narrative page limit)
8. Project Impact Table (see Appendix G) with estimates of project impact including utilities savings and jobs created/retained and other project metrics. (not included in Narrative page limit)

Additionally, applications must contain a clear description of **why federal funds are needed** to implement the program described in the application (if this is not included in the elements above). Finally, applicants are encouraged to add further discussion as necessary, including an analysis of key market barriers to implementation, local resources other than funding, a description of the applicant's historical work in energy efficiency programs, and any other relevant information.

Limitations on the use of funds for Topic 2.

**UNIT OF LOCAL GOVERNMENT (OR STATE-RECOGNIZED INDIAN TRIBE)
THAT IS NOT A FORMULA-ELIGIBLE ENTITY**

In accordance with EISA Sec. 548(b), EECBG funds shall supplement (and not supplant) other Federal funding provided under the State Energy Program or the Weatherization Assistance Program.

SECTION II – AWARD INFORMATION

A. Type of Award Instrument

Grants

- DOE anticipates awarding grants under this funding opportunity announcement.

B. Estimated Funding

Amount New Awards

- Approximately up to \$390.04 million is expected to be available for new awards under Topic 1 and up to \$63.68 million under Topic 2 of this announcement,.

C. Maximum and Minimum Award Size

- Ceiling (i.e., the maximum amount for an individual award made under this announcement):
Topic 1: \$75 million; Topic 2: \$5 million
- Floor (i.e., the minimum amount for an individual award made under this announcement):
Topic 1: \$5 million; Topic 2: \$1 million

D. Expected Number of Awards

Number of Awards per Program/Topic Area

- Under this announcement, DOE expects to make the following number of awards for each Program/Topic Area:

Program/Topic Area	Number of Awards
Topic 1: Retrofit Ramp-up Program	8 to 20
Topic 2: General Innovation Fund for entities ineligible for EECBG formula grants	15 to 60

E. Period of Performance

The period of performance for these grants will be 36 months. In keeping with the agenda of the Recovery Act, and supporting the goal of immediate investment in the economy, entities are required to obligate/commit all funds within eighteen (18) months from the effective date of the award. In the event funds are not obligated/committed within eighteen (18) months, DOE reserves the right to deobligate the funds and cancel the award.

Number of Years

- DOE anticipates making awards that will run for up to three years.

F. Type of Application

New Applications Only

- DOE will accept only new applications under this announcement (i.e., applications for renewals of existing DOE funded projects will not be considered).

G. Authorization

- The activities described in this FOA are authorized authorized in Title V, Subtitle E of the Energy Independence and Security Act (EISA) 2007.

H. General Information

Awards under this FOA will be funded, in whole or in part, with funds appropriated by the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, (Recovery Act or Act). Be advised that special terms and conditions may apply to projects funded by the Act relating to:

- Reporting, tracking and segregation of incurred costs;
- Reporting on job creation and preservation;
- Publication of information on the Internet;
- Access to records by Inspectors General and the Government Accountability Office;
- Prohibition on use of funds for gambling establishments, aquariums, zoos, golf courses or swimming pools;
- Ensuring that iron, steel and manufactured goods are produced in the United States; Ensuring wage rates are comparable to those prevailing on projects of a similar character;
- Protecting whistleblowers and requiring prompt referral of evidence of a false claim to an appropriate inspector general; and
- Certification and Registration.

These special terms and conditions will be based on provisions included in Titles XV and XVI of the Act. These Special Provisions are located at:

http://management.energy.gov/business_doe/business_forms.htm.

SECTION III - ELIGIBILITY INFORMATION

A. Eligible Applicants

Eligibility under Topic 1

The following entities may apply under Topic 1:

1. States;
2. Formula-eligible units of local government;
3. Formula-eligible Indian tribes;
4. Entities eligible under Topic 2; and
5. Governmental, quasi-governmental, or non-governmental not-for-profit organizations authorized by and on behalf of entities described in 1 through 4.

PLEASE NOTE: Only one application may be submitted by or on behalf of entity listed in 1 through 4 above. If an entity listed in 1 through 4 intends to use Recovery Act funding to support projects performed by different parts of the entity, the projects must be consolidated into a single application.

Eligibility under Topic 2

In accordance with Section 546 of EISA 2007, only the following entities may apply for financial assistance under Topic 2: Unit of local government (or Indian tribe) that is not an eligible entity; a governmental, quasi-governmental, or non-governmental, not-for-profit organization authorized by and on behalf of a unit of local government (or Indian tribe) that is not an eligible entity; or a consortia of units of local governments (or Tribes) that are not eligible entities. States, formula-eligible units of local government, and formula-eligible Indian tribes are **not** eligible to apply for Topic 2.

PLEASE NOTE: Only one application may be submitted by or on behalf of a unit of local government (or Indian tribe) that is not an eligible entity. If a unit of local government (or Indian tribe) that is not an eligible entity intends to use Recovery Act funding to support projects performed by different parts of the entity, the projects must be consolidated into a single application.

DEFINITIONS

“State” means the 50 United States, the District of Columbia and the following Territories of the United States: Puerto Rico, the U.S. Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

“Formula-eligible unit of local government” means a unit of local government that was eligible for direct funding under the EECBG formula.

“formula-eligible Indian tribe” means an Indian tribe that was eligible for direct funding under the EECBG formula.

“Indian tribe that is not an eligible entity” means a State recognized Indian tribe that was not eligible for direct funding under the EECBG formula.

“State-recognized Indian Tribe” means a Native American tribe located within the contiguous 48 States or Alaska that is not Federally recognized pursuant to section 4 of the Indian Self-Determination and Education Assistance Act (42 USC 450b), but is formally recognized as having self-governance authority by one or more individual States in which it resides.

“Unit of local government that is not an eligible entity” means a city or county that –

- Is listed in the 2007 Governments Integrated Directory (GID) as an incorporated entity;
- Is identified by the 2007 Census of Governments as having a governance structure consisting of an elected official and governing body;
- Has a governing structure,
 - as indicated by the 2007 Census of Governments publication, with the capabilities and jurisdiction necessary to carry out the broad range of EECBG programs, or
 - with the capabilities and jurisdiction necessary to carry out the broad range of EECBG programs, as demonstrated by the applicant; and
- Was not eligible for direct funding under the EECBG formula.

B. Cost Sharing

Cost Sharing Not Required

- Cost sharing is not required for Topic 1 or Topic 2.

C. Other Eligibility Requirements

None.

SECTION IV – APPLICATION AND SUBMISSION INFORMATION

A. Address to Request Application Forms

Application forms and instructions are available at Grants.gov. To access these materials, go to <http://www.grants.gov>, select “Apply for Grants,” and then select “Download Application Package.” Enter the CFDA and/or the funding opportunity number located on the cover of this announcement and then follow the prompts to download the application package. (Also see Section H of this Part below.)

B. Letter of Intent and Pre-Application

1. Letter of Intent Requested

Applicants are requested to submit a letter of intent by November 19, 2009 for applications submitted to both Topic 1 and Topic 2. This letter should include the name of the applicant, proposal to Topic 1 or 2, the title of the project, the name of the Project Director, an estimate of the amount of funds requested, and a brief one-paragraph abstract. Letters of intent and accompanying abstracts will be used by DOE to organize and expedite the merit review process. They should not contain any proprietary or sensitive business information. Failure to submit such letters will not negatively affect a responsive application submitted in a timely fashion. The letter of intent should be sent by E-mail to FOA148@emcbc.doe.gov. DOE will not respond to the Letters of Intent.

2. Pre-application

Pre-applications Not Required

A pre-application is not required for Topic 1 or for Topic 2.

C. Content and Form of Application

You must complete the mandatory forms and any applicable optional forms, in accordance with the instructions on the forms and the additional instructions below, as required by this FOA. **Files that are attached to the forms must be in Adobe Portable Document Format (PDF) unless otherwise specified in this announcement.**

Once the forms below have been completed, save the Application Package in a single file, using up to 10 letters of the Applicant’s Organization Name as the file name (e.g., Company). If your organization is submitting more than one Application, you must identify an application number at the end of each file name (e.g., City-1). If your organization is submitting more than one Application to different topic areas, you must identify an application number and the Topic Area Number at the end of each file name (e.g., City-1-Topic1).

1. SF 424 - Application for Federal Assistance

Complete this form first to populate data in other forms. Complete all required fields in accordance with the instructions on the form. The list of certifications and assurances referenced in Field 21 can be found at http://management.energy.gov/business_doe/business_forms.htm, under Certifications and Assurances.

2. Project/Performance Site Location(s)

Indicate the primary site where the work will be performed. If a portion of the project will be performed at any other site(s), identify the site location(s) in the blocks provided. **Note that the Project/Performance Site Congressional District is entered in the format of the 2 digit state code followed by a dash and a 3 digit Congressional district code; for example, VA-001.** In the form, hover over this field for additional instructions.

Use the “Next Site” button to expand the form to add additional Project/Performance Site Locations.

3. Other Attachments Form

Submit the following files with your application and attach them to the Other Attachments Form. Click on “Add Mandatory Other Attachment” to attach the Project Narrative. Click on “Add Optional Other Attachment,” to attach the other files.

a. Project Summary/Abstract File

The project summary/abstract must contain a summary of the proposed activity suitable for dissemination to the public. It should be a self-contained document that identifies the name of the applicant, the project director(s), the project title, the objectives of the project, a description of the project, including methods to be employed, the potential impact of the project (i.e., benefits, outcomes), and major participants (for collaborative projects). This document must not include any proprietary or sensitive business information, as the Department may make it available to the public. The project summary must not exceed 1 page when printed using standard 8.5” by 11” paper with 1” margins (top, bottom, left and right), single spaced, with font not smaller than 11 point. Save this information in a file named “Summary.pdf,” and click on “Add Optional Other Attachment” to attach.

b. Project Narrative File - Mandatory Other Attachment

For **Topic 1** applications, the project narrative must not exceed 20 pages, including charts, graphs, maps, photographs, and other pictorial presentations, when printed using standard 8.5” by 11” paper with 1 inch margins (top, bottom, left, and right), single spaced, 11 point font. The appendix of letters of commitment and the Project Impact Table document (see Appendix G) do not count towards the narrative page limit.

For **Topic 2** applications, the project narrative must not exceed 10 pages, including charts, graphs, maps, photographs, and other pictorial presentations, when printed using standard 8.5” by 11” paper with 1 inch margins (top, bottom, left, and right), single spaced, 11 point font. The appendix of letters of commitment and the Project

Impact Table document (see Appendix G) do not count towards the narrative page limit.

EVALUATORS WILL REVIEW ONLY THE NUMBER OF PAGES SPECIFIED IN THE PRECEDING SENTENCES. The font must not be smaller than 11 point. Do not include any Internet addresses (URLs) that provide information necessary to review the application. See Section VIII.D for instructions on how to mark proprietary application information. Save the information in a single file named “Project.pdf,” and click on “Add Mandatory Other Attachment” to attach.

The project narrative must include:

- Project Objectives.
This section should provide a clear, concise statement of the specific objectives/aims of the proposed project.
 - Define the goals and objectives of the project.
 - Describe how the proposed work plan will successfully meet the project goals and objectives.
- Merit Review Criteria Discussion.
The section should be formatted to address each of the merit review criteria and sub-criteria listed in Part V. A. below. Provide sufficient information so that reviewers will be able to evaluate the application in accordance with these merit review criteria. **DOE WILL EVALUATE AND CONSIDER ONLY THOSE APPLICATIONS THAT ADDRESS SEPARATELY EACH OF THE MERIT REVIEW CRITERIA AND SUB-CRITERIA.**
- Project Plan and Timetable:
This section should outline as a function of time, year by year, all the important activities or phases of the project, including any activities planned beyond the project period. Successful applicants must use this project timetable to report progress.
 - Describe the project work breakdown structure including major task descriptions, major milestones, decision points, deliverables and outcomes and a project schedule.
 - Include a high level quarterly spend plan associated with the activities/tasks that distinguishes between EECBG grant funds and leveraged funds.
 - Describe how the the proposed project organization and approach will facilitate success.
- Relevance and Outcomes/Impacts:
This section should explain the relevance of the effort to the objectives in the program announcement and the expected outcomes and/or impacts. The

justification for the proposed project should include a clear statement of the importance of the project in terms of the utility of the outcomes and the target community of beneficiaries.

- Roles of Participants:

For multi-organizational projects, describe the roles and the work to be performed by each participant, business agreements between the applicant and participants, and how the various efforts will be integrated and managed. Describe the relevant experience of each major organization and key project directors/managers' experiences in performing and implementing similar programs.

- American Recovery and Reinvestment Act of 2009, P.L. 111-5 (Recovery Act) Information:

This section should address how the project will promote and enhance the objectives of the Recovery Act, especially job creation and/or preservation, and economic recovery in an expeditious manner. The response must include quantitative data supporting the number of jobs created and/or preserved, as well as data supporting any other direct economic recovery impacts attributable to the performance and conduct of the project.

All the components of your Project Narrative (listed above) must be within the Narrative page limit specified in paragraph b. above. Documents listed below may be included as clearly marked appendices to your Narrative and will not count towards the Project Narrative page limit. Please note that some of the required documents listed below may have their own page limits to which you must adhere.

c. Resume File

Provide a resume for each key person proposed, including subawardees and consultants if they meet the definition of key person. A key person is any individual who contributes in a substantive, measurable way to the execution of the project. Save all resumes in a single file named "resume.pdf" and click on "Add Optional Other Attachment" to attach. The biographical information for each resume must not exceed 2 pages when printed on 8.5" by 11" paper with 1 inch margins (top, bottom, left, and right), single spaced, with font not smaller than 11 point and should include the following information, if applicable:

Education and Training. Undergraduate, graduate and postdoctoral training; provide institution, major/area, degree and year.

Professional Experience: Beginning with the current position list, in chronological order, professional/academic positions with a brief description.

Synergistic Activities. List no more than 5 professional and scholarly activities related to the effort proposed.

- Of the key personnel identified in this file, indicate the Principal

Investigator(s) (PI).

- For Multiple Principal Investigators:

The applicant, whether a single organization or team/partnership/consortium, must indicate if the project will include multiple PIs. The decision to use multiple PIs for a project is the sole responsibility of the applicant. If multiple PIs will be designated, the application must identify the Contact PI/Project Coordinator and provide a “Coordination and Management Plan” that describes the organization structure of the project as it pertains to the designation of multiple PIs. This plan should, at a minimum, include:

- Process for making decisions on scientific/technical direction;
- Publications;
- Intellectual property issues;
- Communication plans;
- Procedures for resolving conflicts; and
- PIs’ roles and administrative, technical and scientific responsibilities for the project.

The resume file does not have a page limitation.

d. Budget File

SF 424 A Excel, Budget Information – Non-Construction Programs File

You must provide a separate budget for each year of support requested and accumulative budget for the total project period. Use the SF 424 A Excel, “Budget Information – Non Construction Programs” form on the DOE Financial Assistance Forms Page at http://management.energy.gov/business_doe/business_forms.htm.

You may request funds under any of the Object Class Categories as long as the item and amount are necessary to perform the proposed work, meet all the criteria for allowability under the applicable Federal cost principles, and are not prohibited by the funding restrictions in this announcement (see Section IV, G). Save the information in a single file named “SF424A.xls,” and click on “Add Optional Other Attachment” to attach.

e. Budget Justification File

You must justify the costs proposed in each Object Class Category/Cost Classification category (e.g., identify key persons and personnel categories and the estimated costs for each person or category; provide a list of equipment and cost of each item; identify proposed subaward/consultant work and cost of each subaward/consultant; describe purpose of proposed travel, number of travelers and number of travel days; list general categories of supplies and amount for each category; and provide any other information you wish to support your budget).

Provide the name of your cognizant/oversight agency, if you have one, and the name and phone number of the individual responsible for negotiating your indirect rates. If cost share is required, you must have a letter from each third party contributing cost share (i.e., a party other than the organization submitting the application) stating that the third party is committed to providing a specific minimum dollar amount of cost share. In the budget justification, identify the following information for each third party contributing cost share: (1) the name of the organization; (2) the proposed dollar amount to be provided; (3) the amount as a percentage of the total project cost; and (4) the proposed type of cost share – cash, services, or property. By submitting your application, you are providing assurance that you have signed letters of commitment. Successful applicants will be required to submit these signed letters of commitment.

Save the budget justification information in a single file named “Budget.pdf,” and click on “Add Optional Other Attachment” to attach.

Adequacy of Cost Proposal or Application Budget Submission for Audit

The work contemplated under an award made pursuant to this Funding Opportunity Announcement is in support of the Department of Energy’s American Recovery and Reinvestment Act programs and represents a Departmental priority. In order to facilitate timely and efficient evaluation of cost proposals or indirect rate proposals, there is a need to ensure that the applicant’s initial cost proposal/budget is adequate and complete for purposes of performing the pre-award audit. Accordingly, the applicant and major proposed subrecipients or subcontractors are strongly encouraged to review their cost proposals/budgets using the Defense Contract Audit Agency “Criteria for Adequate Contract Pricing Proposals” guidance in Appendix F prior to submitting their cost proposals/budgets or indirect rate proposals in order to facilitate the audit of its cost proposal/budget. Appenix F is provided for applicants to perform reviews of their cost proposal/budget, and is not a required document for submission with the application.

**f. American Recovery and Reinvestment Act of 2009, P.L. 111-5 (Recovery Act)
Additional Budget Justification Information for Davis-Bacon Act**

Applications shall provide information which validates that all laborers and mechanics on projects funded directly by or assisted in whole or in part by and through funding appropriated by the Recovery Act are paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by Subchapter IV of Chapter 31 of Title 40, United States Code (Davis-Bacon Act). For guidance on how to comply with this provision, see <http://www.dol.gov/esa/whd/contracts/dbra.htm>.

Save the Davis-Bacon Act Justification in a single file named “Davis_Bacon.pdf,” and click on “Add Optional Other Attachment” to attach.

g. Letters of Commitment for Cost Share

Letters of commitment for Cost Share are not required.

- h. Subaward Budget File(s)** You must provide a separate budget (i.e., budget for each budget year and a cumulative budget) for each subawardee that is expected to perform work estimated to be more than \$100,000 or 50 percent of the total work effort (whichever is less). Use the SF 424 A Excel for Non Construction Programs or the SF 424 C Excel for Construction Programs. These forms are found on the DOE Financial Assistance Forms Page at http://management.energy.gov/business_doe/business_forms.htm. Save each Subaward budget in a separate file. Use up to 10 letters of the subawardee's name (plus 424.xls) as the file name (e.g., company424.xls or energyres424.xls). Click on "Add Optional Other Attachment" to attach each file.

A budget justification for the subaward budget is also required. The budget justification must include the same justification information described in paragraph e. above.

First-Tier Subawardee American Recovery and Reinvestment Act of 2009, P.L. 111-5 (Recovery Act) Additional Budget Justification Information

First-Tier Subawardee Budget Justifications shall provide information which validates that all laborers and mechanics on projects funded directly by or assisted in whole or in part by and through funding appropriated by the Recovery Act are paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by Subchapter IV of Chapter 31 of Title 40, United States Code (Davis-Bacon Act). For guidance on how to comply with this provision, see <http://www.dol.gov/esa/whd/contracts/dbra.htm>.

i National Environmental Policy Act (NEPA)

Applicants must complete the environmental summary for DOE review, providing information addressing environmental issues, concerns, and impacts potentially associated with proposed plans, programs, and projects (See Appendix C). DOE will consider environmental impacts during the Merit Review process. If selected for award, DOE may require the submittal of additional environmental information for its review prior to authorizing the expenditure of funds. Save the completed Appendix C, NEPA Form, in a single file named "NEPA.pdf" and click on "Add Optional Other Attachment" to attach.

j. Project Impact Table

Applicants for both Topic 1 and Topic 2 should provide, to the extent practicable, projections for benefits given in the Project Impact Table in Appendix G. The applicant can also provide additional metrics as indicated. High level assumptions should be included in the relevant section.

Save the completed Appendix G, Project Impact Table, in a single file named “Impact_Table.pdf,” and click on “Add Optional Other Attachment” to attach.

k. Certification of State-Recognized Indian Tribes (TOPIC 2 ONLY)

As applicable, State Recognized Indian Tribes shall submit documentation to certify that they are State-recognized entities and are therefore eligible to apply for funding under Topic 2 of this Announcement. Save the Certification of State-Recognized Indian Tribes in a single file named “State RecognizedTribes.pdf,” and click on “Add Optional Other Attachment” to attach.

Summary of Required Forms/Files

Your application must include the following documents:

Name of Document	Format	File Name
SF 424 - Application for Federal Assistance	Part of Adobe Application Package	
Project/Performance Site Location(s)	Part of Adobe Application Package	
Other Attachments Form: Attach the following files to this form:	Part of Adobe Application Package	See Instructions
Project Summary/Abstract File	PDF	Summary.pdf
Project Narrative File, including required appendices (Letters of Commitment)	PDF	Project.pdf
Resume File	PDF	Resume.pdf
SF 424A Excel – Budget Information for Non-Construction Programs File	Excel	SF424A.xls
Budget Justification File	PDF	See Instructions
Davis-Bacon Justification	PDF	Davis_Bacon.pdf
Subaward Budget File(s), if applicable Budget Justification(s), if applicable	Excel for Budget PDF for Justification	See Instructions
Appendix C. NEPA Summary Table	PDF	Nepa.pdf
Appendix G. Project Impact Table	PDF	Impact_table.pdf
Certification of State-Recognized Indian Tribes (Topic 2 only)	PDF	StateRecognizedTribes.pdf

D. Submissions from Successful Applicants

If selected for award, DOE reserves the right to request additional or clarifying information for any reason deemed necessary, including, but not limited to:

- Indirect cost information
- Other budget information
- Statement of Project Objectives
- Environmental Questionnaire
- Project Management Plan for Topic 1 awardees
- Because Recovery Act funds apply to awards under this announcement, additional certification requirements will be required for state or local governments. See Special Provisions located at:
http://management.energy.gov/business_doe/business_forms.htm.

E. Submission Dates and Times

1. Voluntary Letters of Intent Due Date: November 19, 2009

Applicants are requested to submit a letter of intent by November 19, 2009 for applications submitted to both Topic 1 and Topic 2. Letters of intent should be sent to the following email address: FOA148@emcbc.doe.gov.

2. Application Due Date

Application Due Date, 11:59 PM

- Applications must be received by December 14, 2009 not later than 11:59 PM Eastern Time. You are encouraged to transmit your application well before the deadline.
APPLICATIONS RECEIVED AFTER THE DEADLINE WILL NOT BE REVIEWED OR CONSIDERED FOR AWARD.

F. Intergovernmental Review

Program Not Subject to Executive Order 12372

- This program is not subject to Executive Order 12372 – Intergovernmental Review of Federal Programs.

G. Funding Restrictions

Cost Principles. Costs must be allowable in accordance with the applicable Federal cost principles referenced in 10 CFR Part 600. The cost principles for commercial organization

are in FAR Part 31.

Pre-award Costs. Recipients may charge to an award resulting from this announcement pre-award costs that were incurred within the ninety (90) calendar day period immediately preceding the effective date of the award, if the costs are allowable in accordance with the applicable Federal cost principles referenced in 10 CFR part 600. Recipients must obtain the prior approval of the contracting officer for any pre-award costs that are for periods greater than this 90 day calendar period.

Pre-award costs are incurred at the applicant's risk. DOE is under no obligation to reimburse such costs if for any reason the applicant does not receive an award or if the award is made for a lesser amount than the applicant expected.

If recipients are State or Local Governments, they may not incur pre-award costs prior to award, without prior approval of the DOE contracting officer.

H. Submission and Registration Requirements

1. Where to Submit

APPLICATIONS MUST BE SUBMITTED THROUGH GRANTS.GOV, TO BE CONSIDERED FOR AWARD UNDER THIS ANNOUNCEMENT. You cannot submit an application through Grants.gov unless you are registered. Please read the registration requirements below carefully and start the process immediately. Submit electronic applications through the "Apply for Grants" function at www.Grants.gov.

If you have problems completing the registration process or submitting your application, call Grants.gov at 1-800-518-4726 (7:00 a.m. to 9:00 p.m., Eastern) or send an email to support@grants.gov. It is the responsibility of the applicant to verify successful transmission, prior to the Application due date and time.

2. Registration Process Requirements

To submit an application in response to this FOA, Applicants must be registered with Grants.gov. Register in Grants.gov at <http://www.grants.gov/>. See the Organization Registration User Guide at <http://www.grants.gov/assets/OrgRegUserGuide.pdf>. The Applicant User Guide is at <http://www07.grants.gov/assets/ApplicantUserGuide.pdf>. Allow at least 21 days to complete all registration requirements.

Before you can register with Grants.gov, you will need the following:

- a. Your organization's Dun and Bradstreet Data Universal Numbering System (DUNS) (including plus 4 extension if applicable). To check whether your organization has a DUNS or if your organization requires a DUNS, search for the number or request one at <http://fedgov.dnb.com/webform/displayHomePage.do>.
- b. A federal Central Contractor Registration (CCR) account. If your organization is not currently registered with CCR, please register at www.ccr.gov before continuing with your Grants.gov registration. Designating an Electronic Business Point of Contact

(EBiz POC) and obtaining a special password called an MPIN are important steps in CCR registration. These items are needed to submit applications in Grants.gov. Update your CCR registration annually.

- c. Registration in FedConnect at <https://www.fedconnect.net/>; use “Register as a Vendor” link. To create an organization account, your organization’s CCR MPIN is required; obtain the MPIN from your organization’s Electronic Business Point of Contact. Refer to the FedConnect Quick Start guide at the website

3. Electronic Authorization of Applications and Award Documents

Submission of an application and supplemental information under this announcement through electronic systems used by the Department of Energy, including Grants.gov and FedConnect, constitutes the authorized representative’s approval and electronic signature.

Submission of award documents, including modifications, through electronic systems used by the Department of Energy, including FedConnect, constitutes the authorized representative’s approval and acceptance of the terms and conditions of the award. Award acknowledgement via FedConnect constitutes the authorized representative’s electronic signature.

SECTION V - APPLICATION REVIEW INFORMATION

A. Criteria

1. Initial Review Criteria

Application Award Eligibility for both Topic 1 and 2

- Prior to a comprehensive merit evaluation, DOE will perform an initial review to determine that (1) the applicant is eligible for an award; (2) the information required by the announcement has been submitted; (3) all mandatory requirements are satisfied; and (4) the proposed project is responsive to the objectives of the funding opportunity announcement. If an application fails to meet these requirements, it may be deemed non-responsive and eliminated from full Merit Review.

The following proposed activities will be deemed non-responsive during the initial compliance review and eliminated from full Merit Review:

- Programs that fall under uses of funds as described in 42 U.S.C. 17154(1)-(2),(14): Development and implementation of an energy efficiency and conservation strategy; Technical consultant services to assist the eligible entity in the development of the energy efficiency and conservation strategy; and any other appropriate activity, as determined by the Secretary of Energy, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Transportation and the Secretary of Housing and Urban Development
- Programs for the design and construction of new energy-efficient buildings.
- Technology demonstration programs without market transformation.
- Programs which focus exclusively or largely on renewable energy technologies for buildings (without integrating comprehensive energy efficiency and conservation activities).
- For Topic 1 only, programs that do not specifically target building retrofits.

2. Merit Review Criteria

Applications will be evaluated against the merit review criteria shown below.

Topic 1

Criterion 1: Leveraging and Sustainability

Weight: 25%

- The extent to which the proposed activity leverages EECBG grant dollars, especially through innovative financial and fiscal tools and strategies.
- The extent to which the proposed project will create meaningful and sustainable market transformation, particularly after grant monies are exhausted.

Criterion 2: Project Impact

Weight: 25%

- The extent to which the proposed project achieves the goal of benefiting from economies of scale and critical mass in a focused building retrofit program, while mitigating possible risks of increased mortgage defaults or foreclosures through measures such as those outlined in the “Policy Framework for PACE Loan Programs” documents (see <http://www.whitehouse.gov/administration/eop/ceq/>).
- The expected quantitative impact of the proposed project in terms of energy saved and emissions avoided. The reasonableness of projections of number of buildings retrofitted in the project period and in the outyears (past project completion, plus years 1 to 3) in light of the EECBG budget requested. The reasonableness of projections of average utility savings. (See Impact Table in Appendix G.)
- The extent to which the program or project strategy can be adopted or replicated by other communities.

Criterion 3: Project Approach

Weight: 25%

- The soundness of the project’s management strategy, including specifics of the outreach/marketing strategy, the funding structure, the implementation/delivery plan, the monitoring/verification plan and the strategy for feedback and continuous improvement of the program during its operation.
- The extent to which the proposal contains clear goals, well-defined tasks and methods, objective deliverables, and realistic milestones.
- The extent to which institutional, regulatory, or market barriers have been identified and the project includes reasonable approaches to overcoming those barriers.
- The degree to which the application demonstrates a plan to address all environmental, health and safety, permitting, and compliance issues, sufficient to support DOE's review and analysis in accordance with the National Environmental Policy Act (NEPA).

Criterion 4: Partnership Structure and Capabilities

Weight: 25%

- The extent of involvement from a broad range of entities/organizations representing government agencies, private sector entities, and other organizations.
- The extent to which roles and responsibilities of each partner/team member have been identified and are reasonably matched to their ability to successfully manage and implement the proposed project.
- The ability of the project team to complete the work successfully, including qualifications and relevant experience of key organizations and personnel.

Topic 2

Criterion 1: Project Impact

Weight: 50%

- The expected quantitative impact of the proposed project in terms of energy saved and emissions avoided as reported in the Project Impact Table in the project period and in the outyears (past project completion, plus years 1 to 3) in light of the EECBG budget requested and the reasonableness of assumptions made.
- The extent to which the proposed activity leverages EECBG grant dollars.
- The extent to which the proposed project will create meaningful and sustainable market transformation (e.g. project is scaleable and replicable), particularly after grant monies are exhausted.

- The extent to which the proposed activity is innovative or represents a new approach to the purposes of the EECBG program.

Criterion 2: Project Approach

Weight: 25%

- The soundness of the project's management strategy, including specifics of the outreach/marketing strategy, the funding structure, the implementation/delivery plan, and the monitoring/verification plan and the strategy for feedback and continuous improvement of the program during its operation.
- The degree to which the proposal contains clear goals, well-defined tasks and methods, realistic milestones, schedule and achievable deliverables and outcomes.
- The extent to which institutional, regulatory, or market barriers have been identified and the project includes reasonable approaches to overcoming those barriers.
- The application demonstrates a plan to address all environmental, health and safety, permitting, and compliance issues, sufficient to support DOE's review and analysis in accordance with the National Environmental Policy Act (NEPA).

Criterion 3: Partnership Structure and Capabilities

Weight: 25%

- The extent of involvement from a broad range of entities/organizations representing government agencies, private sector entities, and other organizations.
- The extent to which roles and responsibilities of each partner/team member have been identified and are reasonably matched to their ability to successfully manage and implement the proposed project
- The adequacy of the credentials, capabilities and experience of key personnel/team members.

3. Other Selection Factors

Program Policy Factors

The selection official may consider the following program policy factors in the selection process:

Topic 1

- Diversity of awards, including multiple locations, climates, and program structures.
- Impact on reducing property owners' risk of loan default by reducing energy bills.
- Adoption of updated building codes. This applies only to prime applicants that have the authority to adopt building codes and have adopted the following by the close date of the FOA:
 - A building energy code (or codes) for residential buildings that meets or exceeds the most recently published International Energy Conservation Code, or achieves equivalent or greater energy savings; and
 - A building energy code (or codes) for commercial buildings that meets or exceeds the most recently published ANSI/ASHRAE/IESNA Standard 90.1, or achieves equivalent or greater energy savings.

- Selection of Applications which promote and enhance the objectives of the American Recovery and Reinvestment Act of 2009, P.L. 111-5, especially job creation, and/or preservation and economic recovery in an expeditious manner.
- Consideration of the impact on, and benefits to, a diversity of communities, including low-income and rural communities.

Topic 2

- Diversity of awards, including multiple locations, climates, and program structures.
- Selection of Applications from local governments located in states with populations of less than 2 million people, or that plan to carry out projects that would result in significant energy efficiency improvements or reductions in fossil fuel use.
- Selection of Applications which promote and enhance the objectives of the American Recovery and Reinvestment Act of 2009, P.L. 111-5, especially job creation, and/or preservation and economic recovery in an expeditious manner.
- Consideration of the impact on, and benefits to, a diversity of communities, including low-income and rural communities.

B. Review and Selection Process

1. Merit Review

Applications Subject to Merit Review

Applications that pass the initial review will be subjected to a merit review in accordance with the guidance provided in the "Department of Energy Merit Review Guide for Financial Assistance". This guide is available at:
<http://www.management.energy.gov/documents/meritrev.pdf>.

It is very important the Project Abstract and Project Narrative files not contain any Personally Identifiable Information, as described in Appendix B.

2. Selection

Selection Official Consideration

The Selection Official may consider the merit review recommendation, program policy factors, and the amount of funds available.

3. Discussions and Award

Government Discussions with Applicant

The Government may enter into discussions with a selected applicant for any reason deemed necessary, including, but not limited to: (1) the budget is not appropriate or

reasonable for the requirement; (2) only a portion of the application is selected for award; (3) the Government needs additional information to determine that the recipient is capable of complying with the requirements in 10 CFR part 600; and/or (4) special terms and conditions are required. Failure to resolve satisfactorily the issues identified by the Government will preclude award to the applicant.

C. Anticipated Notice of Selection and Award Dates

Selection and Award Date

DOE anticipates notifying applicants selected for award by **March 15, 2010** and making awards by **May 15, 2010**.

SECTION VI - AWARD ADMINISTRATION INFORMATION

A. Award Notices

1. Notice of Selection

Selected Applicants Notification

DOE will notify applicants selected for award. This notice of selection is not an authorization to begin performance. (See Section IV.G with respect to the allowability of pre-award costs.)

Non-selected Notification

Organizations whose applications have not been selected will be advised as promptly as possible. This notice will explain why the application was not selected.

2. Notice of Award

A Financial Assistance Award or Assistance Agreement issued by the contracting officer is the authorizing award document. It normally includes, either as an attachment or by reference: (1) Special Terms and Conditions; (2) Applicable program regulations, if any; (3) Application as approved by DOE; (4) DOE assistance regulations at 10 CFR part 600; (5) National Policy Assurances To Be Incorporated As Award Terms; (6) Budget Summary; and (7) Federal Assistance Reporting Checklist, which identifies the reporting requirements.

For grants and cooperative agreements made to universities, non-profits and other entities subject to OMB Circular A-110, the Award also includes the Research Terms and Conditions and the DOE Agency Specific Requirements located at:

<http://www.nsf.gov/bfa/dias/policy/rtc/index.jsp>.

B. Administrative and National Policy Requirements

1. Administrative Requirements

The administrative requirements for DOE grants and cooperative agreements are contained in 10 CFR part 600 (See: <http://ecfr.gpoaccess.gov>). Grants and cooperative agreements made to universities, non-profits and other entities subject to OMB Circular A-110 are subject to the Research Terms and Conditions located on the National Science Foundation web site at: <http://www.nsf.gov/bfa/dias/policy/rtc/index.jsp>.

2. Special Terms and Conditions and National Policy Requirements

The DOE Special Terms and Conditions for Use in Most Grants and Cooperative Agreements are located at

http://management.energy.gov/business_doe/business_forms.htm

<http://www.management.energy.gov/documents/specialtermsandcondition308.pdf>.

The National Policy Assurances To Be Incorporated As Award Terms are located at

http://management.energy.gov/business_doe/business_forms.htm
http://management.energy.gov/business_doe/1374.htm.

3. Intellectual Property Provisions

The standard DOE financial assistance intellectual property provisions applicable to the various types of recipients are located at

http://www.gc.doe.gov/financial_assistance_awards.htm.

4. American Recovery and Reinvestment Act 2009 Award Administration Information

- Special Provisions relating to work funded under American Recovery and Reinvestment Act of 2009, Pub. L. 111-5 shall apply. (Special Provisions are located at: http://management.energy.gov/business_doe/business_forms.htm.) Also, the Office of Management and Budget may be promulgating additional provisions or modifying existing provisions. Those additions and modifications will be incorporated into the Special Provisions as they become available.
- The Special Notices and current award provisions from OMB's guidance for implementing the Recovery Act at 2 CFR Part 176 are incorporated in this FOA in Appendix E.

C. Reporting

Reporting requirements are identified on the Federal Assistance Reporting Checklist, DOE F 4600.2, attached to the award agreement. For a sample Checklist, see <http://management.energy.gov/documents/DOEF46002PolicyVersion.pdf>.

Awards under this FOA will be funded, in whole or in part, with funds appropriated by the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, (Recovery Act or Act). Be advised that Recovery Act reporting requirements may apply to projects funded by the Act. The reporting requirements will be specified in the DOE F 4600.2 or other related Recovery Act guidance as they become available.

SECTION VII - QUESTIONS/AGENCY CONTACTS

A. Questions

Questions regarding the content of the announcement must be submitted through the FedConnect system. You must register with FedConnect to respond as an interested party to submit questions, and to review responses to questions. It is recommended that you register as soon after release of the FOA as possible to have the benefit of all responses.

More information is available at:

https://www.fedconnect.net/Fedconnect/PublicPages/FedConnect_Ready_Set_Go.pdf.

DOE will try to respond to a question within 3 business days, unless a similar question and answer have already been posted on the website.

Questions pertaining to the **submission of applications through Grants.gov** should be directed by e-mail to support@grants.gov or by phone to 1-800-518-4726. The Grants.gov Helpdesk is available 7:00 a.m. to 9:00 p.m. Eastern Time.

SECTION VIII - OTHER INFORMATION

A. Modifications

Notices of any modifications to this announcement will be posted on Grants.gov. When you download the application at Grants.gov, you can register to receive notifications of changes through Grants.gov.

Notices of any modifications to this announcement will also be available in the FedConnect system. You can receive an email when a modification or an announcement message is posted by registering with FedConnect as an interested party for this FOA. It is recommended that you register as soon after the release of the FOA as possible to ensure you receive timely notice of any modifications or other announcements. More information is available at <http://www.fedconnect.net> and https://www.fedconnect.net/Fedconnect/PublicPages/FedConnect_Ready_Set_Go.pdf

B. Government Right to Reject or Negotiate

DOE reserves the right, without qualification, to reject any or all applications received in response to this announcement and to select any application, in whole or in part, as a basis for negotiation and/or award.

C. Commitment of Public Funds

The Contracting Officer is the only individual who can make awards or commit the Government to the expenditure of public funds. A commitment by other than the Contracting Officer, either explicit or implied, is invalid.

D. Proprietary Application Information

Patentable ideas, trade secrets, proprietary or confidential commercial or financial information, disclosure of which may harm the applicant, should be included in an application only when such information is necessary to convey an understanding of the proposed project. The use and disclosure of such data may be restricted, provided the applicant includes the following legend on the first page of the project narrative and specifies the pages of the application which are to be restricted:

“The data contained in pages ____ of this application have been submitted in confidence and contain trade secrets or proprietary information, and such data shall be used or disclosed only for evaluation purposes, provided that if this applicant receives an award as a result of or in connection with the submission of this application, DOE shall have the right to use or disclose the data herein to the extent provided in the award. This restriction does not limit the government’s right to use or disclose data obtained without restriction from any source, including the applicant.”

To protect such data, each line or paragraph on the pages containing such data must be specifically identified and marked with a legend similar to the following:

“The following contains proprietary information that (name of applicant) requests not be released to persons outside the Government, except for purposes of review and evaluation.”

E. Evaluation and Administration by Non-Federal Personnel

In conducting the merit review evaluation, the Government may seek the advice of qualified non-Federal personnel as reviewers. The Government may also use non-Federal personnel to conduct routine, nondiscretionary administrative activities. The applicant, by submitting its application, consents to the use of non-Federal reviewers/administrators. Non-Federal reviewers must sign conflict of interest and non-disclosure agreements prior to reviewing an application. Non-Federal personnel conducting administrative activities must sign a non-disclosure agreement.

F. Intellectual Property Developed Under This Program

Patent Rights. The government will have certain statutory rights in an invention that is conceived or first actually reduced to practice under a DOE award. 42 U.S.C. 5908 provides that title to such inventions vests in the United States, except where 35 U.S.C. 202 provides otherwise for nonprofit organizations or small business firms. However, the Secretary of Energy may waive all or any part of the rights of the United States subject to certain conditions. (See “Notice of Right to Request Patent Waiver” in paragraph G below.)

Rights in Technical Data. Normally, the government has unlimited rights in technical data created under a DOE agreement. Delivery or third party licensing of proprietary software or data developed solely at private expense will not normally be required except as specifically negotiated in a particular agreement to satisfy DOE’s own needs or to insure the commercialization of technology developed under a DOE agreement.

G. Notice Of Right To Request Patent Waiver

Patent Rights. The government will have certain statutory rights in an invention that is conceived or first actually reduced to practice under a DOE award. The Bayh-Dole Act (35 U.S.C. 202) ensures that a domestic small business, university or a non-profit awardee will have the option to retain title to their own inventions, subject to the Government retaining a government purpose license, march-in rights and a U.S. preference in licensing. The patent clause that will apply may be found at 10 C.F.R. Part 600 Appendix A to Subpart D, PATENT RIGHTS-SMALL BUSINESS FIRMS AND NONPROFIT ORGANIZATIONS. For awardees that are not subject to the Bayh-Dole Act, 42 U.S.C. 5908 provides that title to such inventions vests in the United States, unless DOE grants a patent waiver pursuant to 10 CFR 784. A patent waiver provides that those awardees that are not subject to the Bayh-Dole Act will also have the option to retain title to their own inventions, subject to the same government retained rights identified above and they agree to substantially manufacture new technology created under an award resulting from this FOA in the U.S. or provide other economic benefits to the U.S. The patent clause that will apply may be found at <http://www.gc.doe.gov/documents/patwaivclau.pdf>. Those entities which are not subject to Bayh-Dole may request a waiver of all or any part of the rights of the United States in inventions conceived or first actually reduced to practice in performance of an agreement as a result of this announcement, in advance of or within 30 days after the effective date of the award. Even if such advance waiver is not requested or the request is denied, the recipient

will have a continuing right under the award to request a waiver of the rights of the United States in the title to identified inventions, i.e., individual inventions conceived or first actually reduced to practice in performance of the award. Any individual patent waiver that may be granted is subject to certain terms and conditions in 10 CFR 784; <http://www.gc.doe.gov/documents/patwaivclau.pdf>.

H. Notice of Right to Conduct a Review of Financial Capability

DOE reserves the right to conduct an independent third party review of financial capability for applicants that are selected for negotiation of award (including personal credit information of principal(s) of a small business if there is insufficient information to determine financial capability of the organization).

I. Notice of Potential Disclosure under Freedom of Information Act

Applicants should be advised that identifying information regarding all applicants, including applicant names and/or points of contact, may be subject to public disclosure under the Freedom of Information Act, whether or not such applicants are selected for negotiation of award.

REFERENCE MATERIAL

Appendix A – Definitions

“Amendment” means a revision to a Funding Opportunity Announcement

"Applicant" means the legal entity or individual signing the Application. This entity or individual may be one organization or a single entity representing a group of organizations (such as a Consortium) that has chosen to submit a single Application in response to a Funding Opportunity Announcement.

"Application" means the documentation submitted in response to a Funding Opportunity Announcement.

“Authorized Organization Representative (AOR)” is the person with assigned privileges who is authorized to submit grant applications through Grants.gov on behalf of an organization. The privileges are assigned by the organization’s E-Business Point of Contact designated in the CCR.

"Award" means the written documentation executed by a DOE Contracting Officer, after an Applicant is selected, which contains the negotiated terms and conditions for providing Financial Assistance to the Applicant. A Financial Assistance Award may be either a Grant or a Cooperative Agreement.

"Budget" means the cost expenditure plan submitted in the Application, including both the DOE contribution and the Applicant Cost Share.

“Central Contractor Registration (CCR)” is the primary database which collects, validates, stores and disseminates data in support of agency missions. Funding Opportunity Announcements which require application submission through FedConnect or Grants.gov require that the organization first be registered in the CCR at <http://www.grants.gov/CCRRegister>.

"Consortium (plural consortia)" means the group of organizations or individuals that have chosen to submit a single Application in response to a Funding Opportunity Announcement.

"Contracting Officer" means the DOE official authorized to execute Awards on behalf of DOE and who is responsible for the business management and non-program aspects of the Financial Assistance process.

"Cooperative Agreement" means a Financial Assistance instrument used by DOE to transfer money or property when the principal purpose of the transaction is to accomplish a public purpose of support or stimulation authorized by Federal statute, and Substantial Involvement (see definition below) is anticipated between DOE and the Applicant during the performance of the contemplated activity.

"Cost Sharing" means the respective share of Total Project Costs to be contributed by the Applicant and by DOE. The percentage of Applicant Cost Share is to be applied to the Total Project Cost (i.e., the sum of Applicant plus DOE Cost Shares) rather than to the DOE contribution alone.

“Credential Provider” is an organization that validates the electronic identity of an individual through electronic credentials, PINS, and passwords for Grants.gov and FedConnect. Funding Opportunity Announcements which require application submission through Grants.gov require that the individual applying on behalf of an organization first be registered with the Credential Provider at <https://apply.grants.gov/OrcRegister>.

“Data Universal Numbering System (DUNS) Number” is a unique nine-character identification number issued by Dun and Bradstreet (D&B). Organizations must have a DUNS number prior to registering in the CCR. Call 1-866-705-5711 to receive one free of charge. http://www.grants.gov/applicants/request_duns_number.jsp

“E-Business Point of Contact (POC)” is the individual who is designated as the Electronic Business Point of Contact in the CCR registration. This person is the sole authority of the organization with the capability of designating or revoking an individual’s ability to conduct CCR transactions.

“E-Find” is a Grants.gov webpage where you can search for Federal Funding Opportunities in FedGrants. <http://www.grants.gov/search/searchHome.do>

"Financial Assistance" means the transfer of money or property to an Applicant or Participant to accomplish a public purpose of support authorized by Federal statute through Grants or Cooperative Agreements and sub-awards. For DOE, it does not include direct loans, loan guarantees, price guarantees, purchase agreements, Cooperative Research and Development Agreements (CRADAs), or any other type of financial incentive instrument.

“FedConnect” is where federal agencies post opportunities and make awards via the web. Any Applicant can view public postings without registering. However, registered users have numerous added benefits including the ability to electronically submit Applications / Responses to the government directly through this site. <https://www.fedconnect.net/FedConnect/>

“Federally Funded Research and Development Center (FFRDC)” means a research laboratory as defined by Federal Acquisition Regulation 35.017.

“Funding Opportunity Announcement (FOA)” is a publicly available document by which a Federal agency makes known its intentions to award discretionary grants or cooperative agreements, usually as a result of competition for funds. Funding opportunity announcements may be known as program announcements, notices of funding availability, solicitations, or other names depending on the agency and type of program.

"Grant" means a Financial Assistance instrument used by DOE to transfer money or property when the principal purpose of the transaction is to accomplish a public purpose of support or stimulation authorized by Federal statute, and no Substantial Involvement is anticipated between DOE and the Applicant during the performance of the contemplated activity.

“Grants.gov” is the “storefront” web portal which allows organizations to electronically find grant opportunities from all Federal grant-making agencies. Grants.gov is THE single access point for over 900 grant programs offered by the 26 Federal grant-making agencies. <http://www.grants.gov>

“Indian Tribe” means any Indian tribe, band, nation, or other organized group or community, including Alaska Native village or regional or village corporation, as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688)[43 U.S.C. § 1601 et seq.], which are recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"Key Personnel" mean the individuals who will have significant roles in planning and implementing the proposed Project on the part of the Applicant and Participants, including FFRDCs.

“Marketing Partner Identification Number (MPIN)” is a very important password designated by your organization when registering in CCR. The E-Business Point of Contact will need the MPIN to assign privileges to the individual(s) authorized to perform CCR transactions on behalf of your organization. The MPIN must have 9 digits containing at least one alpha character (must be in capital letters) and one number (no spaces or special characters permitted).

"Participant" for purposes of this Funding Opportunity Announcement only, means any entity, except the Applicant substantially involved in a Consortium, or other business arrangement (including all parties to the Application at any tier), responding to the Funding Opportunity Announcement.

“Principal Investigator” refers to the technical point of contact/Project Manager for a specific project award.

"Project" means the set of activities described in an Application, State plan, or other document that is approved by DOE for Financial Assistance (whether such Financial Assistance represents all or only a portion of the support necessary to carry out those activities).

“Proposal” is the term used to describe the documentation submitted in response to a Funding Opportunity Announcement. Also see Application.

“Recipient” means the organization, individual, or other entity that receives a Financial Assistance Award from DOE, is financially accountable for the use of any DOE funds or property provided for the performance of the Project, and is legally responsible for carrying out the terms and condition of the award.

"Selection" means the determination by the DOE Selection Official that negotiations take place for certain Projects with the intent of awarding a Financial Assistance instrument.

"Selection Official" means the DOE official designated to select Applications for negotiation toward Award under a subject Funding Opportunity Announcement.

“State-recognized Indian Tribe” means a Native American tribe located within the contiguous 48 States or Alaska that is not Federally recognized pursuant to section 4 of the Indian Self-Determination and Education Assistance Act (42 USC 450b), but is formally recognized as having self-governance authority by one or more individual States in which it resides.

"Substantial Involvement" means involvement on the part of the Government. DOE's involvement may include shared responsibility for the performance of the Project; providing technical assistance or guidance which the Applicant is to follow; and the right to intervene in the conduct or performance of the Project. Such involvement will be negotiated with each Applicant prior to signing any agreement.

"Total Project Cost" means all the funds to complete the effort proposed by the Applicant, including DOE funds (including direct funding of any FFRDC) plus all other funds that will be committed by the Applicant as Cost Sharing.

"Tribal Energy Resource Development Organization or Group" means an "organization" of two or more entities, at least one of which is an Indian Tribe (see "Indian Tribe" above) that has the written consent of the governing bodies of all Indian Tribes participating in the organization to apply for a grant or loan, or other assistance under 25 U.S.C. § 3503.

Appendix B – Personally Identifiable Information

In responding to this Announcement, Applicants must ensure that Protected Personally Identifiable Information (PII) is not included in the following documents: Project Abstract, Project Narrative, Biographical Sketches, Budget or Budget Justification. These documents will be used by the Merit Review Committee in the review process to evaluate each application. PII is defined by the Office of Management and Budget (OMB) and DOE as:

Any information about an individual maintained by an agency, including but not limited to, education, financial transactions, medical history, and criminal or employment history and information that can be used to distinguish or trace an individual's identity, such as their name, social security number, date and place of birth, mother's maiden name, biometric records, etc., including any other personal information that is linked or linkable to an individual.

This definition of PII can be further defined as: (1) Public PII and (2) Protected PII.

- a. **Public PII:** PII found in public sources such as telephone books, public websites, business cards, university listing, etc. Public PII includes first and last name, address, work telephone number, email address, home telephone number, and general education credentials.
- b. **Protected PII:** PII that requires enhanced protection. This information includes data that if compromised could cause harm to an individual such as identity theft.

Listed below are examples of Protected PII that Applicants must not include in the files listed above to be evaluated by the Merit Review Committee.

- Social Security Numbers in any form
- Place of Birth associated with an individual
- Date of Birth associated with an individual
- Mother's maiden name associated with an individual
- Biometric record associated with an individual
- Fingerprint
- Iris scan
- DNA
- Medical history information associated with an individual
- Medical conditions, including history of disease
- Metric information, e.g. weight, height, blood pressure
- Criminal history associated with an individual
- Employment history and other employment information associated with an individual
- Ratings
- Disciplinary actions
- Performance elements and standards (or work expectations) are PII when they are so intertwined with performance appraisals that their disclosure would reveal an individual's performance appraisal
- Financial information associated with an individual

- Credit card numbers
- Bank account numbers
- Security clearance history or related information (not including actual clearances held)

Listed below are examples of Public PII that Applicants may include in the files listed above to be evaluated by the Merit Review Committee:

- Phone numbers (work, home, cell)
- Street addresses (work and personal)
- Email addresses (work and personal)
- Digital pictures
- Medical information included in a health or safety report
- Employment information that is not PII even when associated with a name
- Resumes, unless they include a Social Security Number
- Present and past position titles and occupational series
- Present and past grades
- Present and past annual salary rates (including performance awards or bonuses, incentive awards, merit pay amount, Meritorious or Distinguished Executive Ranks, and allowances and differentials)
- Present and past duty stations and organization of assignment (includes room and phone numbers, organization designations, work email address, or other identifying information regarding buildings, room numbers, or places of employment)
- Position descriptions, identification of job elements, and those performance standards (but not actual performance appraisals) that the release of which would not interfere with law enforcement programs or severely inhibit agency effectiveness
- Security clearances held
- Written biographies (e.g. to be used in a program describing a speaker)
- Academic credentials
- Schools attended
- Major or area of study
- Personal information stored by individuals about themselves on their assigned workstation or laptop unless it contains a Social Security Number

Appendix C – NEPA FORM For Completion
U.S. DEPARTMENT OF ENERGY

ENVIRONMENTAL SUMMARY

(To Be Completed by Potential Recipient)

The Department of Energy (DOE) is required by the National Environmental Policy Act (NEPA) of 1969 as amended (42 U.S.C. 4332(2), 40 CFR parts 1500-1508) and DOE implementing regulations ([10 CFR 1021](#)) to consider the environmental effects resulting from federal actions, including providing financial assistance. Please provide the following information to facilitate DOE's environmental review.

PART I: General Information

Title:

FOA Number:

1. Please describe the intended use of DOE funding in your proposed plan. For example, would the funding be applied to the entire project or only support a phase of the project? Describe the activity as specifically as possible, i.e. planning, feasibility study, design, data analysis, education or outreach activities, construction, capital purchase and/or equipment installation or modification.

2. Does any part of your project require review and/or permitting by any other federal, state, regional, local, environmental, or regulatory agency? ☐ Yes ☐ No

3. Has any review (e.g., NEPA documentation, permits, agency consultations) been completed?
☐ Yes ☐ No
If yes, is a finding or report available and how can a copy be obtained?

4. Provide information about the potential environmental issues, concerns, and impacts associated with your proposal. Please provide as much detail as possible in the following areas: specifics of proposed activities, project locations, size, layout, commitments to waste management and historic preservation. If project specific information is unknown, describe your plan for obtaining this information.

Appendix D – Budget Justification

Using the “Object Class Categories” in the SF-424A Budget form, justify the costs in each category **for each budget period of the project.**

The SF424A Budget form and the Budget Justification must include both Federal (DOE), and Non-Federal (cost share) funds, thereby reflecting TOTAL PROJECT COSTS proposed.

For each sub-recipient with total project costs of \$100,000 or more, a separate SF-424A budget and budget justification form must be submitted. For sub-recipients with estimated costs less than \$100,000, provide what Statement of Project Objectives task(s) are being performed, the purpose/need for the effort, and a basis of the estimated costs that is considered sufficient for DOE evaluation.

All costs incurred by the Applicant’s sub-recipients, vendors, contractors, consultants and Federal Research and Development Centers (FFRDCs), should be entered only in section f. Contractual. All other sections are for the costs of the Applicant only.

Personnel

List costs solely for employees of the Applicant. Identify positions to be supported. Key personnel should be identified by title. All other personnel should be identified either by title or a group category. State the amounts of time (e.g., hours or % of time) to be expended, the composite base pay rate, total direct personnel compensation and identify the rate basis (e.g., actual salary, labor distribution report, technical estimate, state civil service rates, etc.). Identify the number of employees (on a Full Time Equivalent) that will be employed in each position or group category. Note the prevailing wage requirements in the ARRA (P.L. 111-5). See example below.

Task # and Title	Position Title	Budget Period 1			Budget Period 2			Budget Period 3			Project Total Hours	Project Total Dollars	Rate Basis
		Time (Hours)	Pay Rate (\$/Hr)	Total Budget Period 1	Time (Hours)	Pay Rate (\$/Hr)	Total Budget Period 2	Time (Hours)	Pay Rate (\$/Hr)	Total Budget Period 3			
Task 1. – Task Name	Sr. Engineer (1)	2000	\$85.00	\$170,000	200	\$50.00	\$10,000	200	\$50.00	\$10,000	2400	\$190,000	Actual Salary
Task 2 – Task Name	Process engineers (3)	6200	\$35.00	\$217,000	400	\$35.00	\$14,000	600	\$35.00	\$21,000	7200	\$252,000	Actual Salary
Task 3 – Task Name	Technician (1)	1800	\$20.00	\$36,000	0	\$0.00	\$0	0	\$0.00	\$0	1800	\$36,000	Actual Salary

Fringe

A federally approved fringe benefit rate agreement, or a proposed rate supported and agreed upon by DOE for estimating purposes is required if reimbursement for fringe benefits is requested. If a fringe benefit rate has been negotiated with, or approved by, a federal government agency, a copy of the latest rate agreement must be included with this application. If there is not a current, federally approved rate agreement negotiated and available, provide a copy of the proposal with the application. If selected, the rate agreement will be finalized during award negotiations. Calculate the fringe rate and enter the total amount in Section B, line 6.b. (“Fringe Benefits”) of form SF-424A.

IMPORTANT: Provide all fringe rates, along with a complete explanation and the full calculations used to derive the total fringe costs. If the total fringe costs are a cumulative amount of more than one

calculation or rate application, the explanation and calculations should identify all rates used, along with the base they were applied to (and how the base was derived), and a total for each (along with grand total). The rates and how they are applied should not be averaged to get one fringe rate. NOTE: The fringe rate should be applied to both the Federal Share and Recipient Cost Share.

Travel

See example of travel detail below. Identify total Foreign and Domestic Travel as separate items. Purpose of travel are items such as professional conferences, DOE sponsored meetings, project management meetings, etc. Identify number of travelers, estimated cost per traveler, and duration of trip. The Basis for Estimating Costs could be items such as past trips, current quotations, Federal Travel Regulations, etc. All listed travel must be necessary for performance of the Statement of Project Objectives. NOTE: All projects should include travel for 1-2 travelers to a DOE project review during each year of the project. Each review will take approximately 2-3 days.

Purpose of travel	No. of Travelers	Depart From	Destination	No. of Days	Cost per Traveler	Cost per Trip	Basis for Estimating Costs
Budget Period 1							
Domestic Travel							
Visit to reactor mfr. to set up vendor agreement	2	Denver CO	Dallas TX	2	\$650	\$1,300	Internet prices
Domestic Travel subtotal						\$1,300	
International Travel							
Visit to technology provider to discuss IP agreement	2	Denver CO	Berlin Germany	5	\$4,000	\$8,000	Previous experience
International Travel subtotal						\$8,000	
Budget Period 1 Total						\$9,300	

(repeat as necessary for each Budget Period)

Equipment

Equipment is generally defined as an item with an acquisition cost greater than \$5,000 and a useful life expectancy of more than one year. All proposed equipment should be identified, providing a basis of cost such as vendor quotes, catalog prices, prior invoices, etc., and briefly justifying its need as it applies to the Statement of Project Objectives. If it is existing equipment, and the value of its contribution to the project budget is being shown as cost share, provide logical support for the estimated value shown. If it is new equipment which will retain a useful life upon completion of the project, provide logical support for the estimated value shown. For equipment over \$50,000 in price, also include a copy of the associated vendor quote or catalog price list. See example below.

Equipment Item	Qty	Unit Cost	Total Cost	Basis of Cost	Justification of need
Budget Period 1					
EXAMPLE ONLY!!! Thermal shock chamber	2	\$20,000	\$40,000	Vendor Quote	Reliability testing of PV modules- Task 4.3
Budget Period 1 Total			\$40,000		

(repeat as necessary for each Budget Period)

Supplies

Supplies are generally defined as an item with an acquisition cost of \$5,000 or less and a useful life

expectancy of less than one year. Supplies are generally consumed during the project performance. Further definitions can be found in 10 CFR 600.

Proposed supplies should be identified, providing a basis of cost such as vendor quotes, catalog prices, prior invoices, etc., and briefly justifying the need for the Supplies as they apply to the Statement of Project Objectives. Note that Supply items must be direct costs to the project at this budget category, and not duplicative of supply costs included in the indirect pool that is the basis of the indirect rate applied for this project.

General Category of Supplies	Qty	Unit Cost	Total Cost	Basis of Cost	Justification of need
Budget Period 1					
EXAMPLE ONLY!!! Wireless DAS components	10	\$360.00	\$3,600	Catalog price	For Alpha prototype - Task 2.4
Budget Period 1 Total			\$3,600		
(repeat as necessary for each Budget Period)					

Contractual

The applicant must provide and justify all costs related to sub-recipients, vendors, contractors, consultants and FFRDC partners. See example below.

Sub-recipients (partners, sub-awardees):

For each sub-recipient with total project costs of \$100,000 or more, a separate SF-424A budget and budget justification form must be submitted. For sub-recipients with estimated costs less than \$100,000, provide what Statement of Project Objectives task(s) are being performed, the purpose/need for the effort, and a basis of the estimated costs that is considered sufficient for DOE evaluation.

Vendors (includes contractors and consultants):

Identify all vendors, contractors and consultants supplying commercial supplies or services used to support the project. The support to justify vendor costs (in any amount) should provide the purpose for the products or services and a basis of the estimated costs that is considered sufficient for DOE evaluation.

Federal Research and Development Centers (FFRDCs):

For FFRDC partners, the applicant should provide a Field Work Proposal (if not already provided with the original application), along with the FFRDC labor mix and hours, by category and FFRDC major purchases greater than \$25,000, including Quantity, Unit Cost, Basis of Cost, and Justification.

Sub-Recipient Name/Organization	Purpose/Tasks in SOPO	Budget Period 1 Costs	Budget Period 2 Costs	Budget Period 3 Costs	Project Total
EXAMPLE ONLY!!! XYZ Corp.	Partner to develop optimal fresnel lens for Gen 2 product - Task 2.4	\$48,000	\$32,000	\$16,000	\$96,000
	Sub-total	\$48,000	\$32,000	\$16,000	\$96,000
Vendor Name/Organization	Product or Service, Purpose/Need and Basis of Cost (Provide additional support at bottom of page as needed)	Budget Period 1 Costs	Budget Period 2 Costs	Budget Period 3 Costs	Project Total
EXAMPLE ONLY!!! ABC Corp.	Vendor for developing custom robotics to perform lens inspection, alignment, and placement (Task 4). Required for expanding CPV module mfg. capacity. Cost is from competitive quotes.	\$32,900	\$86,500		\$119,400
	Sub-total	\$32,900	\$86,500	\$0	\$119,400
FFRDC Name/Organization	Purpose	Budget Period 1 Costs	Budget Period 2 Costs	Budget Period 3 Costs	Project Total

					\$0
	Sub-total	\$0	\$0	\$0	\$0
Total Contractual		\$80,900	\$118,500	\$16,000	\$215,400

Construction

Construction, for the purpose of budgeting, is defined as all types of work done on a particular facility, including erecting, altering, or remodeling. Construction conducted by the award recipient should be justified in this category. Any construction work that is performed by a vendor or subrecipient to the award recipient should be entered under “Contractual.”

Identify all proposed construction, providing a basis of cost such as engineering estimates, prior construction, etc., and briefly justify its need as it applies to the Statement of Project Objectives. For major endeavors, a copy of the engineering estimate or quote should also be provided. See example below.

Overall description of construction activities:			
Example Only!!! - Build wind turbine platform			
General Description	Cost	Basis of Cost	Justification of need
Budget Period 1			
Three days of excavation for platform site EXAMPLE ONLY!!!	\$28,000	Engineering estimate	Site must be prepared for construction of platform.
Budget Period 1 Total	\$28,000		
(repeat as necessary for each Budget Period)			

Other Direct Costs

Other direct costs are direct cost items required for the project which do not fit clearly into other categories, and are not included in the indirect pool for which the indirect rate is being applied to this project. Basis of cost are items such as vendor quotes, prior purchases of similar or like items, published price list, etc.

General description	Cost	Basis of Cost	Justification of need
Budget Period 1			
EXAMPLE ONLY!!! Grad student tuition	\$16,000	Established UCD costs	Support of graduate students working on project
Budget Period 1 Total	\$16,000		
(repeat as necessary for each Budget Period)			

Indirect Costs

A federally approved indirect rate agreement, or rate proposed supported and agreed upon by DOE for estimating purposes is required if reimbursement of indirect benefits is requested. If there is a federally approved indirect rate agreement, a copy must be provided with this application and if selected, must be provided electronically to the Contracting Officer for this project. If there is no current, federally approved indirect rate agreement or if the federally approved indirect rate agreement has been changed or

updated, a rate proposal must be included with the application. If selected, the rate agreement will be finalized during award negotiations. Calculate the indirect rate dollars and enter the total in the Section B., line 6.j. (Indirect Charges) of form SF 424A.

IMPORTANT: Provide a complete explanation and the full calculations used to derive the total indirect costs. If the total indirect costs are a cumulative amount of more than one calculation or rate application, the explanation and calculations should identify all rates used, along with the base they were applied to (and how the base was derived), and a total for each (along with grand total). The rates and how they are applied should not be averaged to get one indirect cost percentage. **NOTE:** The indirect rate should be applied to both the Federal Share and Recipient Cost Share.

Cost Share

A detailed presentation of the cash or cash value of all cost share proposed for the project must be provided. Identify the source and amount of each item of cost share proposed by the Applicant and each sub-recipient. Letters of commitment must be submitted for all third party cost share (other than award recipient).

Note that "cost-share" is not limited to cash investment. Other items that may be assigned value in a budget as incurred as part of the project budget and necessary to performance of the project, may be considered as cost share, such as: contribution of services or property; donated, purchased or existing equipment; buildings or land; donated, purchased or existing supplies; and/or unrecovered personnel, fringe benefits and indirect costs, etc. For each cost share contribution identified as other than cash, identify the item and describe how the value of the cost share contribution was calculated.

Funds from other Federal sources MAY NOT be counted as cost share. This prohibition includes FFRDC sub-recipients. Non-Federal sources include private, state or local Government, or any source not originally derived from Federal funds.

Fee or profit will not be paid to the award recipients or subrecipients of financial assistance awards. Additionally, foregone fee or profit by the applicant shall not be considered cost sharing under any resulting award. Reimbursement of actual costs will only include those costs that are allowable and allocable to the project as determined in accordance with the applicable cost principles prescribed in 10 CFR 600.127, 10 CFR 600.222 or 10 CFR 600.317. Also see 10 CFR 600.318 relative to profit or fee. See example below.

Organization/Source	Type (cash or other)	Cost Share Item	Budget Period 1 Cost Share	Budget Period 2 Cost Share	Budget Period 3 Cost Share	Total Project Cost Share
ABC Company EXAMPLE ONLY!!!	Cash	Project partner ABC Company will provide 40 PV modules for product development at 50% off the of the retail price of \$680	\$13,600			\$13,600
		Totals	\$0	\$0	\$0	\$0
Total Project Cost:		\$312,300	Cost Share Percent of Award:			0.0%

Appendix E
OMB Guidance for Implementing the Recovery Act At 2 CFR PART 176

The following Special Notices from OMB's guidance for implementing the Recovery Act at 2 CFR Part 176 are incorporated in this FOA:

- **Wage Rate Requirements under Section 1606 of the American Recovery and Reinvestment Act of 2009**

a) Section 1606 of the Recovery Act requires that all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to the Recovery Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code.

Pursuant to Reorganization Plan No. 14 and the Copeland Act, 40 U.S.C. 3145, the Department of Labor has issued regulations at 29 CFR Parts 1, 3, and 5 to implement the Davis-Bacon and related Acts. Regulations in 29 CFR 5.5 instruct agencies concerning application of the standard Davis-Bacon contract clauses set forth in that section. Federal agencies providing grants, cooperative agreements, and loans under the Recovery Act shall ensure that the standard Davis-Bacon contract clauses found in 29 CFR 5.5(a) are incorporated in any resultant covered contracts that are in excess of \$2,000 for construction, alteration or repair (including painting and decorating).

(b) For additional guidance on the wage rate requirements of section 1606, contact your awarding agency. Recipients of grants, cooperative agreements and loans should direct their initial inquiries concerning the application of Davis-Bacon requirements to a particular federally assisted project to the Federal agency funding the project. The Secretary of Labor retains final coverage authority under Reorganization Plan Number 14.

- **Buy American Requirements under Section 1605 of the American Recovery and Reinvestment Act of 2009**

Depending upon the applicability of relevant international agreements, one of the following two notices applies:

**NOTICE OF REQUIRED USE OF AMERICAN IRON, STEEL, AND
MANUFACTURED GOODS—SECTION 1605 OF THE AMERICAN RECOVERY
AND REINVESTMENT ACT OF 2009**

(a) *Definitions.* “Manufactured good,” “public building and public work,” and “steel,” as used in this notice, are defined in the 2 CFR 176.140.

(b) *Requests for determinations of inapplicability.* A prospective applicant requesting a determination regarding the inapplicability of section 1605 of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5)(Recovery Act) should submit the request to the award official in time to allow a determination before submission of applications or proposals. The prospective applicant shall include the information and applicable supporting data required by paragraphs (c) and (d) of the award term and condition at 2 CFR 176.140 in the request. If an applicant has not requested a determination regarding the inapplicability of 1605 of the Recovery Act before submitting its application or proposal, or has not received a response to a previous request, the applicant shall include the information and supporting data in the application or proposal.

(c) *Evaluation of project proposals.*

If the Federal government determines that an exception based on unreasonable cost of domestic iron, steel, and/or manufactured goods applies, the Federal Government will evaluate a project requesting exception to the requirements of section 1605 of the Recovery Act by adding to the estimated total cost of the project 25 percent of the project cost, if foreign iron, steel, or manufactured goods are used in the project based on unreasonable cost of comparable manufactured domestic iron, steel, and/or manufactured goods.

(d) *Alternate project proposals.*

(1) When a project proposal includes foreign iron, steel, and/or manufactured goods not listed by the Federal Government at paragraph (b)(2) of the award term and condition at 2 CFR 176.140, the applicant also may submit an alternate proposal based on use of equivalent domestic iron, steel, and/or manufactured goods.

(2) If an alternate proposal is submitted, the applicant shall submit a separate cost comparison table prepared in accordance with paragraphs (c) and (d) of the award term and condition at 2 CFR 176.140 for the proposal that is based on the use of any foreign iron, steel, and/or manufactured goods for which the Federal Government has not yet determined an exception applies.

(3) If the Federal government determines that a particular exception requested in accordance with paragraph (b) of the award term and condition at 2 CFR 176.140 does not apply, the Federal Government will evaluate only those proposals based on use of the equivalent domestic iron, steel, and/or manufactured goods, and the applicant shall be required to furnish such domestic items.

(End of notice)

NOTICE OF REQUIRED USE OF AMERICAN IRON, STEEL, AND
MANUFACTURED GOODS (COVERED UNDER INTERNATIONAL
AGREEMENTS)—SECTION 1605 OF THE AMERICAN RECOVERY AND
REINVESTMENT ACT OF 2009

(a) *Definitions.* “Designated country iron, steel, and/or manufactured goods,” “foreign iron, steel, and/or manufactured good,” “manufactured good,” “public building and public work,” and “steel,” as used in this provision, are defined in 2 CFR 176.160(a).

(b) *Requests for determinations of inapplicability.* A prospective applicant requesting a determination regarding the inapplicability of section 1605 of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5)(Recovery Act) should submit the request to the award official in time to allow a determination before submission of applications or proposals. The prospective applicant shall include the information and applicable supporting data required by paragraphs (c) and (d) of the award term and condition at 2 CFR 176.160 in the request. If an applicant has not requested a determination regarding the inapplicability of 1605 of the Recovery Act before submitting its application or proposal, or has not received a response to a previous request, the applicant shall include the information and supporting data in the application or proposal.

(c) *Evaluation of project proposals.*

If the Federal government determines that an exception based on unreasonable cost of domestic iron, steel, and/or manufactured goods applies, the Federal Government will evaluate a project requesting exception to the requirements of section 1605 of the Recovery Act by adding to the estimated total cost of the project 25 percent of the project cost if foreign iron, steel, or manufactured goods are used based on unreasonable cost of comparable domestic iron, steel, or manufactured goods.

(d) *Alternate project proposals.*

(1) When a project proposal includes foreign iron, steel, and/or manufactured goods, other than designated country iron, steel, and/or manufactured goods, that are not listed by the Federal Government in this Buy American notice in the request for applications or proposals, the applicant may submit an alternate proposal based on use of equivalent domestic or designated country iron, steel, and/or manufactured goods.

(2) If an alternate proposal is submitted, the applicant shall submit a separate cost comparison table prepared in accordance with paragraphs (c) and (d) of the award term and condition at 2 CFR 176.160 for the proposal that is based on the use of any foreign iron, steel, and/or manufactured goods for which the Federal Government has not yet determined an exception applies.

(3) If the Federal government determines that a particular exception requested in accordance with paragraph (b) of the award term and condition at 2 CFR 176.160 does not apply, the Federal Government will evaluate only those proposals based on use of the equivalent domestic or designated country iron, steel, and/or manufactured goods, and the applicant shall be required to furnish such domestic or designated country items.

(End of notice)

The following award provisions from OMB's guidance for implementing the Recovery Act at 2 CFR Part 176 are incorporated in awards resulting from this Funding Opportunity Announcement:

- **Reporting and Registration Requirements under Section 1512 of the American Recovery and Reinvestment Act of 2009, Public Law 111-5**

(a) This award requires the recipient to complete projects or activities which are funded under the American Recovery and Reinvestment Act of 2009 ("Recovery Act") and to report

on use of Recovery Act funds provided through this award. Information from these reports will be made available to the public.

(b) The reports are due no later than ten calendar days after each calendar quarter in which the recipient receives the assistance award funded in whole or in part by the Recovery Act.

(c) Recipients and their first-tier recipients must maintain current registrations in the Central Contractor Registration (www.ccr.gov) at all times during which they have active federal awards funded with Recovery Act funds. A Dun and Bradstreet Data Universal Numbering System (DUNS) Number (www.dnb.com) is one of the requirements for registration in the Central Contractor Registration.

(d) The recipient shall report the information described in section 1512(c) using the reporting instructions and data elements that will be provided online at www.FederalReporting.gov and ensure that any information that is pre-filled is corrected or updated as needed.

(End of award term)

- **Single Audit Information for Recipients of Recovery Act Funds**

Recovery Act Transactions listed in Schedule of Expenditures of Federal Awards and Recipient Responsibilities for Informing Sub-recipients

(a) To maximize the transparency and accountability of funds authorized under the American Recovery and Reinvestment Act of 2009 (Public Law 111-5)(Recovery Act) as required by Congress and in accordance with 2 CFR 215, subpart ___. 21 “Uniform Administrative Requirements for Grants and Agreements” and OMB A-102 Common Rules provisions, recipients agree to maintain records that identify adequately the source and application of Recovery Act funds.

(b) For recipients covered by the Single Audit Act Amendments of 1996 and OMB Circular A-133, “Audits of States, Local Governments, and Non-Profit Organizations,” recipients agree to separately identify the expenditures for Federal awards under the Recovery Act on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by OMB Circular A-133. This shall be accomplished by identifying expenditures for Federal awards made under Recovery Act separately on the SEFA, and as separate rows under Item 9 of Part III on the SF-SAC by CFDA number, and inclusion of the prefix “ARRA-” in identifying the name of the Federal program on the SEFA and as the first characters in Item 9d of Part III on the SF-SAC.

(c) Recipients agree to separately identify to each sub-recipient, and document at the time of sub-award and at the time of disbursement of funds, the Federal award number, CFDA number, and amount of Recovery Act funds. When a recipient awards Recovery Act funds for an existing program, the information furnished to sub-recipients shall distinguish the sub-awards of incremental Recovery Act funds from regular sub-awards under the existing program.

(d) Recipients agree to require their sub-recipients to include on their SEFA information to specifically identify Recovery Act funding similar to the requirements for the recipient SEFA described above. This information is needed to allow the recipient to properly monitor sub-recipient expenditure of ARRA funds as well as oversight by the Federal awarding agencies, Offices of Inspector General and the Government Accountability Office.

(End of award term)

Appendix F

Adequacy Of Cost Proposal Or Application Budget Submission For Audit

The work contemplated under an award made pursuant to this Funding Opportunity Announcement is in support of the Department of Energy's American Recovery and Reinvestment Act programs and represents a Departmental priority. In order to facilitate timely and efficient evaluation of cost proposals or indirect rate proposals, there is a need to ensure that the applicant's initial cost proposal/budget is adequate and complete for purposes of performing the pre-award audit. Accordingly, the applicant and major proposed subrecipients or subcontractors are strongly encouraged to review their cost proposals/budgets using the Defense Contract Audit Agency "Criteria for Adequate Contract Pricing Proposals" guidance (below) prior to submitting their cost proposals/budgets or indirect rate proposals in order to facilitate the audit of its cost proposal/budget.

CRITERIA FOR ADEQUATE CONTRACT PRICING PROPOSALS

(ADEQUACY.DOC, Version 3.0, June 2004)

PURPOSE - A well supported cost proposal reduces effort needed for review and will facilitate negotiations. Proposals should be evaluated for adequacy within seven days after receipt so that corrective action can be taken immediately. The criteria, found in the table below, can be used to evaluate the adequacy of a contract price proposal when the proposal is based on cost or pricing data. When the proposal is based on information other than cost or pricing data, the contracting officer is responsible for obtaining information that is adequate for evaluating price reasonableness. Inadequacies exist when the offeror does not comply with the contracting officer's requirements. The following criteria, while specifically not applicable to information other than cost or pricing data, may provide a guideline to the auditor in reaching an opinion as to the adequacy of the proposal. If the proposal is so deficient that an examination cannot be performed, recommend to the PCO/ACO that the proposal be returned to the offeror without audit until such time as an adequate proposal is received. This approach is intended to permit the efficient use of audit resources. Most of the criteria in the table below are specifically required by the Federal Acquisition Regulation (FAR) and are referenced accordingly. The items not referenced to the FAR are items that will still, in most cases, be needed for negotiations and Government review. Items may be added to the list if required by the contracting officer, as described in the solicitation. As this checklist was developed for contracts and cost proposals in accordance with the FAR, it is not directly applicable to financial assistance. However, the criteria and principles can be applied to financial assistance. Cost and pricing data are not required for financial assistance, think budget justification in its place. Some notes have been added in the checklist to assist in reviews of budgets for financial assistance applications.

The existence of some of the criteria (especially, 4a, 4b, and 8) can be determined only by discussing it with the offeror or during the course of a detailed audit. Therefore, an initial finding of adequacy may be changed once the audit has started.

DOES THE PROPOSAL INCLUDE THE FOLLOWING:			
Criteria	YES	NO	N/A
General			
1. A properly completed first page of the proposal or a summary format as specified by the Contracting Officer in			

the solicitation. (FAR 15.408) Financial Assistance (FA): A properly completed SF424A, SF424C, or SF424R&R budget form included.			
2. An index referencing all cost or pricing data and information accompanying or identified in the proposal. (FAR 15.408)			
3. A summary of total cost by element cross-referenced to supporting cost or pricing data. (FAR 15.408)			
4. An identification of cost or pricing data (i.e., data that are verifiable and factual) and an explanation of the estimating process. When applicable, the following items should be specifically identified: (FAR 15.408) FA: Budget justification included in accordance with the Funding Opportunity Announcement.			
a. Judgmental factors and the methods used in the estimate, including those used in projecting from known data.			
b. The nature and amount of any contingencies.			
5. An identification of any incurred costs for work performed before submission of a proposal. (FAR 15.408)			
6. An identification and description of any agreements with Government representatives on use of forward pricing rates/factors. (FAR 15.408)			
7. The location and point of contact for any cost or pricing data which is identified, but not included, in the proposal.			
8. Disclosure of any other known activity that could materially impact the costs (i.e., existing excess material, company reorganizations, new technology acquisitions, labor union discussions, etc.). (FAR 15.407-1)			
Materials and Services			
9. A consolidated priced summary of individual material quantities included in the various tasks, orders, or contract line items being proposed and the basis for pricing (vendor quotes, invoice prices, etc.). The offeror must include raw materials, parts, components, assemblies, and services to be produced or performed by others. For all items proposed, the offeror must identify the item and show the source, quantity, and price. (FAR 15.408) The auditor will need to exercise judgment in making the determination if a consolidated bill of material is required. The need for a bill of material will depend on the estimating techniques used and whether those techniques are appropriate in the circumstances. For example, a bill of material may not be feasible for products that are in the research and development stage. A parametric type estimate may be more appropriate in these circumstances.			
10. Price analyses of all subcontractor proposals, and cost analyses for all subcontracts when cost or pricing data are required to be submitted by the subcontractor, showing the basis for establishing source and reasonableness of price.			

The offeror must obtain cost or pricing data from prospective sources for those acquisitions exceeding the threshold in FAR 15.403-4 and not otherwise exempt in accordance with FAR 15.403-1(b). The offeror must provide a summary of the cost analysis and a copy of the cost or pricing data submitted by the prospective source in support of each subcontract when required by FAR 15.408. FA: If a DOE Lab is involved, is the Field Work Proposal included.			
Interorganizational Transfers			
11. a. The offeror's cost analysis of the proposed interorganizational transfers and a breakdown of the proposed costs by element, when the proposed transfers are based on cost. (FAR 15.408)			
b. An explanation of the pricing method used for proposed interorganizational transfers when the proposed transfers are based on other than cost. (FAR 15.408)			
Direct Labor			
12. A time phased (i.e., monthly, quarterly, etc.) breakdown of labor rates and hours by category or skill level and the basis for the estimates of rates and hours (i.e., historical experience, engineering estimates, learning curves, etc.). If labor is the allocation base for indirect costs, the labor cost should be summarized in order that the applicable overhead rate can be applied. (FAR 15.408)			
Indirect Costs			
13. In the absence of any agreements on the use of forward pricing rates/factors, the offeror should show how indirect rates were computed and applied. Support for the indirect rates could consist of cost breakdowns, trends, and budgetary data. (FAR 15.408)			
DOES THE PROPOSAL INCLUDE THE FOLLOWING:			
Criteria	YES	NO	N/A
Other Costs			
14. Identification of all other costs by category not described above (e.g., special tooling, travel, computer and consultant services) and bases for pricing. (FAR 15.408)			
Royalties and License Fees			
15. If royalties exceed \$1,500, the proposal must provide the information identified in FAR 15.408, Table 15-2 II.E.			
Facilities Capital Cost of Money			
16. When claiming facilities capital cost of money, the offeror must submit Form CASB-CMF and show the calculation of the proposed amount. (FAR 31.205-10)			
Change Orders, Modifications, and Claims			
17. For Change Orders, Modifications, and Claims, the contractor should follow the format for submission contained in FAR 15.408. a. <u>Deleted Work</u> : The current estimates of what the cost would have been to complete the deleted work not yet			

performed (not the original proposal estimates), and the cost of deleted work already performed. The cost of all deleted work performed should be separately identified.			
b. <u>Added Work</u> : A current estimate of the cost of work added by the change. When nonrecurring costs are significant, or when specifically requested to do so by the Contracting Officer, the contractor should provide a full identification and explanation of the nonrecurring costs. When any of the costs have already been incurred, these should be described on an attached supporting schedule.			
Price Revision / Redetermination			
18. For price revision/redetermination, the contractor should follow the format in FAR 15.408.			
Adequacy / Inadequacy Determination			
19. Is the proposal adequate? If not, list the inadequacies below and indicate when the information was requested. If the proposal is so deficient that an examination cannot be performed, the auditor should consider recommending that the Contracting Officer return the proposal to the contractor.			
Comments			

Appendix G – Template Project Impact Table For Topic 1 and Topic 2:

**Project Impact Table For Topic 1 [TO BE FILLED OUT AND ATTACHED TO APPLICATION];
DOES NOT COUNT IN NARRATIVE PAGE LIMIT**

Project Impact Metrics	During Project Period			Post project period, years 4 to 6		
	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6
Number of buildings retrofitted						
Total square footage of buildings retrofitted						
Average utilities savings (e.g. cost and fuel savings) achieved per unit retrofitted						
Jobs created or retained						
Average emissions reductions (MMT CO ₂ ¹) per unit						
EECBG Funds Expended						
Leveraged Funds and In-Kind Resources Expended						
{APPLICANT CAN ADD QUANTITATIVE METRIC}						

Assumptions;

The Applicant should list key assumptions made to form the projections listed in this table:

[Add assumptions here in bulleted form]

¹ MMT CO₂ is million metric tons carbon dioxide equivalent

**Project Impact Table For Topic 2 [TO BE FILLED OUT AND ATTACHED TO APPLICATION];
DOES NOT COUNT IN NARRATIVE PAGE LIMIT**

Project Impact Metrics	During Project Period			Post project period, years 4 to 6		
	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6
Average utilities savings (e.g. cost and fuel savings) achieved						
Average emissions reductions (MMT CO ₂ ²) per unit						
Number of buildings retrofitted						
Total square footage of buildings retrofitted						
Transportation impacts avoided (annual fuel savings or reduction in vehicle miles travelled)						
Renewable Energy Capacity Installed						
Jobs created or retained						
EECBG Funds Expended						

² MMT CO₂ is million metric tons carbon dioxide equivalent

Project Impact Metrics	During Project Period			Post project period, years 4 to 6		
	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6
Leveraged Funds and In-Kind Resources Expended						
{APPLICANT CAN ADD QUANTITATIVE METRIC}						

Assumptions;

The Applicant should list key assumptions made to form the projections listed in this table:

[Add assumptions here in bulleted form]

Recovery *Through* Retrofit

OCTOBER 2009

MIDDLE CLASS TASK FORCE

COUNCIL ON ENVIRONMENTAL QUALITY



CONTENTS

EXECUTIVE SUMMARY 1

INTRODUCTION 5

A STRATEGIC PLAN FOR RECOVERY THROUGH RETROFIT 5

IMPLEMENTATION12

CONCLUSION12

Executive Summary

Making American homes and buildings more energy efficient presents an unprecedented opportunity for communities throughout the country. The Recovery Through Retrofit Report builds on investments made in the American Recovery and Reinvestment Act of 2009 (Recovery Act) to expand the home energy efficiency and retrofit market. Home retrofits can potentially help people earn money, as home retrofit workers, while also helping them save money, by lowering their utility bills. By encouraging nationwide weatherization of homes, workers of all skill levels will be trained, engaged, and will participate in ramping up a national home retrofit market.

There are almost 130 million homes in this country. Combined, they generate more than 20 percent of our nation's carbon dioxide emissions, making them a significant contributor to global climate change. Existing techniques and technologies in energy efficiency retrofitting can reduce home energy use by up to 40 percent per home and lower associated greenhouse gas emissions by up to 160 million metric tons annually by the year 2020. Furthermore, home energy efficiency retrofits have the potential to reduce home energy bills by \$21 billion annually, paying for themselves over time.

By implementing Recovery Through Retrofit's recommendations, the Federal Government will lay the groundwork for a self-sustaining home energy efficiency retrofit industry. This Report provides a roadmap of how the Federal Government can use existing authorities and funds to unlock private capital and mobilize our communities.

Barriers to a National Retrofit Market

Despite the economic and environmental benefits of improving home energy efficiency, a series of barriers have prevented a self-sustaining retrofit market from forming, including:

1. **Access to Information:** Consumers do not have access to straightforward and reliable information on home energy retrofits that they need to make informed decisions.
2. **Access to Financing:** Homeowners face high upfront costs and many are concerned that they will be prevented from recouping the value of their investment if they choose to sell their home. The upfront costs of home retrofit projects are often beyond the average homeowner's budget.
3. **Access to Skilled Workers:** There are currently not enough skilled workers and green entrepreneurs to expand weatherization and efficiency retrofit programs on a national scale.

Recommendations Summary

The Recovery Act provides a unique opportunity to address these barriers. The Recovery Act allocates about \$80 billion to projects related to energy and the environment, and much of this money is targeted toward improving the energy efficiency in buildings, both Federal and non-Federal. Under the Recovery Act, state and local governments have an unprecedented opportunity to expand investments in energy retrofits and develop community-based programs on a large scale. These investments will put our country on a path to real reductions in greenhouse gases, and contribute to the economic recovery our country needs. The recommendations and actions in this Report have been carefully designed by eleven Departments and Agencies and six White House Offices to ensure that the energy efficiency market will thrive long after the Recovery Act money is fully spent.

By coordinating Recovery Act funds, Federal Departments and Agencies and resources; through building strong partnerships with states and local communities; and by targeting government policy changes, a foundation for self-sustaining energy efficiency retrofit market will be built. Through implementation of the Recovery Through Retrofit recommendations, the Federal Government will leverage private capital, streamline the retrofitting process, and reduce energy costs for homeowners.

Provide American Homeowners with Straightforward and Reliable Home Energy Retrofit Information

Develop Energy Performance Label for Homes

We propose to do for homes what ENERGY STAR[®] has done for appliances, helping consumers identify energy efficient products. New homes can already earn the ENERGY STAR[®] label – but no such label is available for existing homes. The Department of Energy and the Environmental Protection Agency are working together to develop an energy performance label for these homes. The end result will be an easily recognizable benchmark that energy auditors, retrofitters, lenders, realtors, and consumers can use to compare home energy performance and identify the most energy efficient homes.

Develop a National Home Energy Performance Measure

Before we can develop an energy performance label for existing homes, we must establish a standardized home energy performance measure applicable to every home in America. This measure will make it much easier for consumers to understand how much they can save by retrofitting their home. It will also give lenders the information they need to work with homeowners who are looking to invest in home energy improvements.

Reduce High Upfront Costs and Make it Easy for Homeowners to Borrow Money for Home Energy Retrofits

Support Municipal Energy Financing

Property tax or municipal energy financing allows the costs of retrofits to be added to a homeowner's property tax bill, with monthly payments generally lower than utility bill savings. This arrangement attaches the costs of the energy retrofit to the property, not the individual, eliminating uncertainty about

recovering the cost of the improvements if the property is sold. Federal Departments and Agencies will work in partnership with state and local governments to establish standardized underwriting criteria and safeguards to protect consumers and minimize financial risks to the homeowners and mortgage lenders. The Department of Energy will support model financing programs to provide much needed upfront capital utilizing Recovery Act funding provided for the Department's Energy Efficiency Conservation Block Grant and State Energy Programs.

Improve Energy Efficient Mortgages

Expanding the use of Energy Efficient Mortgages will simplify the process of obtaining and financing energy retrofits at a home's point of sale. This effort will also work to lower the cost of home energy audits as well as the monthly financing payments, and ensure that retrofits are accurately valued in the appraisal process. Federal Departments and Agencies will work collaboratively to: advance a standard home energy performance measure and more uniform underwriting procedures; develop procedures for more accurate home energy appraisals; and streamline the energy audit process.

Expand State Revolving Loan Funds

Expanding state revolving loan funds from 16 states to all 50 states will leverage private capital and achieve economies of scale necessary to produce consistent and affordable loan products. This will allow consumers to borrow money for home energy retrofits from private firms at lower interest rates. In addition to funding new programs through the Recovery Act, the Federal Government will work to provide examples of successful revolving loan programs and technical assistance to states without revolving loan programs in order to encourage their adoption.

Mobilize a Well-Trained National Energy Retrofit Workforce and Expand Good, Green Job Opportunities for All American Workers

Establish National Workforce Certifications and Training Standards

A uniform set of national standards to qualify energy efficiency and retrofit workers and industry training providers will establish the foundation of consumer confidence that work will be completed correctly and produce the expected energy savings and benefits. Consistent high-level national standards will spur the utilization of qualified training providers that offer career-track programs for people of all skill levels, promote and expand green jobs opportunities, and facilitate the mobilization of a national home retrofit workforce. Federal Departments and Agencies (including the Department of Labor, the Department of Energy, the Department of Housing and Urban Development, and the Environmental Protection Agency) will work in collaboration to assess existing standards and training programs and develop consistent models, guides, and best practices for training and certification. The Department of Education, the Department of Commerce, and the Small Business Administration will assist in implementing the best practices developed by the other Departments and Agencies.

These recommendations do not involve spending large new sums of Federal dollars in our fiscally-constrained environment. Rather, they focus on removing information barriers, transaction costs,

liquidity constraints, and other market failures that often prevent homeowners from making investments that have both private and social benefits.

Moving Forward

To ensure that the recommendations in this Report are implemented, CEQ will convene an interagency Energy Retrofit Working Group, which will be chaired by the Department of Energy, the Department of Housing and Urban Development, the Department of Agriculture, the Department of Labor, and the Environmental Protection Agency. In addition to implementing the recommendations and proposed actions of this Recovery Through Retrofit effort, the Working Group will track its progress and operate as the single point of contact for the successful implementation of this effort. Within thirty days, the Working Group will submit an implementation plan to the Vice President. Additional strategies will also be developed to expand the retrofit market to rental housing. Moreover, the Working Group will report to the Vice President regularly on its progress towards implementing each of the recommendations identified in this Report.

Introduction

On Tuesday, May 26, 2009, at a Middle Class Task Force meeting, Vice President Biden charged the White House Council on Environmental Quality (CEQ) with developing a proposal for Federal action that will grow green job opportunities and boost energy savings by retrofitting homes for energy efficiency. In response to this charge, CEQ has facilitated an interagency process with the Office of the Vice President to develop this Report—involving eleven Departments and Agencies and six White House Offices. This Report contains a set of recommendations for specific Federal actions, which address the market and non-market barriers that have prevented the home retrofit market from achieving national-scale. The following Departments and Agencies contributed to this Report and participated in drafting the recommendations:

- Office of the Vice President
- Department of Agriculture
- Department of Commerce
- Department of Education
- Department of Energy
- Department of Housing and Urban Development
- Department of Labor
- Department of Treasury
- Environmental Protection Agency
- Equal Employment Opportunity Commission
- General Services Administration
- Small Business Administration
- Executive Office of the President
 - Council of Economic Advisers
 - Domestic Policy Council
 - National Economic Council
 - Office of Management and Budget
 - Office of Public Engagement and Intergovernmental Affairs
 - Office of Science and Technology Policy

A Strategic Plan for Recovery Through Retrofit

Market Barrier 1: Consumers need reliable home retrofitting information to make informed decisions

Consistent, accessible, and trusted information is a critical element to building a robust, energy efficient home retrofit market in the United States. This information must provide consumers with a reliable benchmark for energy efficiency and sound estimates of the costs and benefits of home energy retrofits. Currently, there are a variety of energy performance rating tools in the home retrofit market, each one supplying different information and performance predictions. The lack of a standard rating causes great confusion for consumers. Without some level of standardization combined with an effort to increase recognition and awareness, energy efficiency retrofits will likely remain a niche product, keeping consumer demand low and investors out of the market.

Solution 1: We must provide straightforward and credible information to American homeowners on the costs and benefits of home energy retrofits

The Federal Government already promotes an energy efficiency measure that helps consumers save money by identifying appliances and other household products that use less energy. The ENERGY STAR® program is a proven solution that has helped to revolutionize the market for cost-effective, energy efficient products. With the help of ENERGY STAR® Americans saved \$19 billion on their utility bills last year. We propose to do for homes what ENERGY STAR® has done for appliances so homeowners know that retrofits will bring their home to a recognized and trusted standard of energy efficiency and home buyers, lenders, and realtors have an easy way to understand the energy performance of homes. To get there, we must take two steps:

Develop Energy Performance Label for Homes

When consumers see the ENERGY STAR® label on a dishwasher or a refrigerator, they know they are getting an energy efficient product and they can take the savings into account as they decide what to purchase. New homes can qualify for an ENERGY STAR® label but there is no similar label for existing homes that have undergone retrofits. The Federal Government will develop a home performance label for existing homes. The label will be based on the national home energy performance measure described below, and it will be developed in partnership with industry leaders, realtors, and efficiency advocates to promote widespread adoption. The end result will be an easily recognizable benchmark that auditors, retrofitters, lenders, realtors, and consumers can use to compare home energy performance and identify the most efficient homes.

The new home performance label should be accompanied by a national marketing campaign to increase consumer awareness and expand the demand for home energy retrofits. This campaign should build on the marketing that Federal Government already does in conjunction with the ENERGY STAR® label on products and the Home Performance with ENERGY STAR® program for whole-home retrofits. The national marketing campaign will help homeowners find reliable sources of information on how to improve their homes and quality, skilled contractors to do the work.

Develop a Standardized Home Energy Performance Measure

We cannot develop an energy performance label for existing homes without first developing a standardized home energy performance measure that is applicable to every home in America. The measure will make it much easier for consumers to understand how much they can save by investing in retrofitting. A uniform and nationally-recognized measure could be incorporated in home appraisals at the point of sale and utilized in energy retrofit transactions, which would spur new interest in the retrofit industry from large-scale suppliers and institutional lenders.

The Department of Energy (DOE) is currently working with the Department of Housing and Urban Development (HUD), the Environmental Protection Agency (EPA) and other Agencies to design a standard energy performance measure and related tools to meet this need. The Federal Housing Administration (FHA) will work to link the new energy performance measure to its redesigned Energy

Efficient Mortgage products. DOE will promote adoption of a national energy performance measure through its advisory role to States and will encourage the use of a common national standard.

Market Barrier 2: The costs of home retrofit projects are beyond the average homeowner's budget

High upfront costs and a lack of credit and financing options dissuade many homeowners from completing or even considering energy efficiency home retrofits. Many homeowners are understandably concerned with how to fund these key improvements. The Recovery Act began to address these issues by extending and expanding a 30% tax credit for investment in residential energy efficiency property, up to a cap of \$1,500 per primary residence over 2 years. Other existing financing tools, while successful in some local markets, have not succeeded in making significant inroads in the market at large. Because home buyers lack information about the payoffs associated with increasing a home's energy efficiency and because the industry does not properly incentivize retrofits that pay-off over long periods of time, homeowners often do not recoup the actual value of their energy efficiency investments when they sell. The solution is to make financing more transparent, more accessible, repayable over a longer time period, and overall, more consumer-friendly.

Solution 2: We must make it easy for homeowners to identify and access home energy retrofit financing tools and products

Today, the Recovery Act is already making it easier for homeowners to access home energy retrofit financing. A number of states are currently leveraging the Department of Energy's Recovery Act funds to support long lasting job creation and the deployment of renewable energy and energy efficiency technologies. For example, the State Energy Program (SEP) offers states the opportunity to encourage renewable energy and energy efficiency projects through their state's financing mechanisms, such as revolving loan funds. For example, Kansas plans on spending over \$34 million to establish a low-interest revolving loan fund to finance cost-effective energy efficiency improvements in homes and small commercial and industrial buildings. In addition, Nebraska plans on spending \$11 million to create a revolving loan fund to provide low-interest financing to deploy energy efficient building technologies to the residential, public, commercial and industrial building sectors. Lastly, Florida plans on spending \$10 million to create a low-interest solar loan program that will provide capital to deploy commercially available solar water heaters to Florida residents. These are just a few examples of how Recovery Act funding is currently creating green jobs and reducing greenhouse gas emissions, at the state level.

Support Municipal Energy Financing

The high turnover rate of housing in the United States has proven to be a significant problem when it comes to financing home retrofits. The debt accrued by a retrofit is tied to the individual making the investment, rather than the home itself, even though the savings are passed on to the next owner of the home. This means that retrofits frequently don't pay for themselves before the homeowner who took the initiative moves. As a result, people are less inclined to invest in home retrofitting. In recent years, a number of innovative financing mechanisms have been implemented by municipalities that permit property owners to request financing for energy retrofits or renewable energy systems secured by a special tax assessment on the property. These mechanisms tie the retrofitting loan to the property instead of the individual, permitting the energy retrofit assessment to be paid off in annual installments as part of the property's usual property tax bill.

The Property Assessed Clean Energy (PACE) financing programs enable the costs for energy efficiency retrofits to be added to an owner's property tax bill as part of a municipal property tax assessment, which takes the same priority as traditional property tax liens and assessments.

PACE programs are designed to overcome several barriers that may otherwise impede property owners from making energy investments. These barriers include: (1) limited access to capital; (2) high transaction costs; (3) lack of information on the part of home buyers that leads them to undervalue efficiency investments; and (4) potential downstream home sale, all of which may dissuade property owners from taking on debt that might not be fully recovered by energy savings before the property is sold.

PACE programs address these barriers by providing access to capital that might be otherwise limited to homeowners. PACE provides beneficial financial terms, streamlines the application process with lower application and transaction fees relative to other lending options, and establishes a financing mechanism in which that debt obligation is tied to the property and the owners receiving the energy savings benefits.

Along with the exciting potential of PACE programs for energy retrofits, homeowners and mortgage lenders can encounter certain risks if the programs are not implemented correctly. Building on the expertise of the Federal Government, the Department of Energy, the Department of Housing and Urban Development, and the Department of the Treasury will announce new principles for PACE program design. Moving forward, Federal Agencies will work in partnership with state and local governments to establish standardized underwriting criteria and safeguards to protect consumers and minimize financial risks to homeowners and mortgage lenders.

A Federal role to encourage PACE pilot programs will also facilitate the collection of data, objectively measure and evaluate the performance of PACE programs, and speed the adoption of more detailed, uniform "Best Practices" that include robust and effective homeowner and lender protections. Further research can then assess the efficacy of PACE programs, including the cost-effectiveness of energy retrofits, reductions in greenhouse gases, and economic impacts on community spending and green job creation.

DOE will be funding model PACE projects, which will incorporate the new principles for PACE program design. Under the State Energy Program, DOE has received approximately \$80 million of applications for PACE-type programs to provide upfront capital, out of nearly \$3.1 billion in total funding available. Smaller PACE-like programs may also be funded through the Energy Efficiency Conservation Block Grant Programs. Funding at these levels will encourage pilots of PACE programs, with more developed homeowner and lender protections than have been provided to date.

Improve Energy Efficient Mortgages

Energy Efficient Mortgages (EEMs) enable home buyers and homeowners refinancing their properties to add energy efficiency upgrades and improvements to their properties as part of the underlying mortgage financing transaction. This permits the energy retrofits to be financed over a longer period of time, with lower monthly payments. Energy improvements are typically identified as part of a Home Energy Rating or energy audit and must be cost effective, generating energy savings that are equal to or greater than the costs of the improvements over the useful life of the improvement.

Historically, there have been significant barriers to widespread utilization of Energy Efficient Mortgages. A four-part solution is proposed to expand and increase the effectiveness of Energy Efficient Mortgages:

1. To lower transaction costs, EPA and DOE will advance a standard home energy performance measure that can be used to easily rate the energy performance of a home;
2. Federal Agencies will work with the home energy rating and home performance industries, as well as states, municipalities and utilities to streamline the energy audit and the home energy ratings process, and expand consumer education and lender awareness of the product;
3. To the extent feasible, HUD will work with Fannie Mae and Freddie Mac to establish uniform procedures for Energy Efficient Mortgage products; and
4. Federal Agencies will work with the home appraisal industry to develop procedures for appraisals to more accurately reflect energy efficiency.

These enhancements are aimed at boosting the volume of Energy Efficient Mortgages. States, cities, or counties can also use their Recovery Act funds to provide credit enhancements and implement other initiatives to boost EEMs.

Expand State Revolving Loan Funds

A Revolving Loan Fund is a funding mechanism that enables loans to be provided to pay for an energy retrofit project's upfront capital costs. Once the energy retrofit is completed, the principal and interest on the loan, along with any financed transaction costs, are paid from the energy savings generated from the project. As energy retrofit loans are paid off, the funds are constantly "revolving" – being used, earned back, and reinvested, thus sustaining the fund over time.

Revolving Loan Funds for energy efficiency retrofits in homes already exist in 16 states. However, they are presently too diverse for private sector suppliers, installers, retail lenders and secondary loan markets to realize economies of scale, which would lower transaction costs. Conforming efficiency loans will be required to bring down capital costs and create sustainable secondary loan funding. Such conforming measures should require: (1) similar loan lengths up to 15 years, so monthly payments are greatly reduced; (2) standard approved products linked to ENERGY STAR®; (3) common procedures with product tiers installed in logical order, linked via Home Performance with ENERGY STAR®; and (4) standardized home energy performance measures and data protocols, so that both loan performance and retrofit performance can be measured accurately over time.

The Federal Government will also work to encourage the development of revolving loan funds in all 50 states. State revolving loan funds produce consistent and affordable loan products, allowing consumers to borrow money for home energy retrofits at lower interest rates. These efforts will create reliable, easy to close, unsecured loan products in every jurisdiction and mobilize private sector funds and achieve economies of scale in installation costs, transaction costs, and persuasive marketing efforts. In order to encourage development of state revolving loan funds in all 50 states, the Department of Energy will also provide technical assistance to states without revolving loan programs in order to encourage their adoption. Finally, existing funding through the Recovery Act can be used to expand current and create new revolving loan fund programs throughout the country.

Market Barrier 3: Increase the number of skilled workers and green entrepreneurs to successfully expand efficiency retrofit programs on a national-scale

To achieve the desired scale of efficient and healthy home retrofits, a sizable increase in the number of well-trained green retrofit workers is needed. Many states and localities are looking for guidance and information on how to both streamline and rapidly expand quality training opportunities for those looking to enter the home energy retrofit industry. Furthermore, there is no clear guideline or standard to assure consumers of the quality of the work being done on their home. A consistent set of standards will increase consumer confidence in energy retrofit workers, promote good green job opportunities and training opportunities for people of all skill levels, and facilitate the mobilization of a national home retrofit workforce.

In addition, a lack of business skills training has been a barrier to the widespread success of efficiency retrofits programs. Business skills training and business development must therefore be a key component of any large-scale efficiency retrofit workforce capacity development initiative to ensure that a commercially viable effort can be maintained by small- and medium-sized businesses in the open market over the long-term. Developing a workforce equipped with both technical and business skills will improve the rate of success for small efficiency retrofit businesses and increase the ability to respond to rising retrofit demand. This will enable sustained economic and green job growth while achieving further energy savings and healthy homes.

Solution 3: Mobilize a skilled national energy retrofit workforce and expand good, green job opportunities for all American workers

Develop Consistent Workforce Certifications and Training Standards

To rapidly expand retrofit capacity, a national effort is needed to conclusively identify required job skills upon which certification standards will be based, and develop standard training goals or methods. The availability of model training programs based around best practices will lower the barriers to entry for programs needed to train workers, allowing an expanded offering of quality training opportunities. The widespread adoption of model training approaches will also facilitate the development of a well-trained workforce across the country, which will improve energy and environmental outcomes, enable worker mobility, and enhance career opportunities. In addition, as outlined in the *Surgeon General's Call to Action To Promote Healthy Homes*,^[1] healthy and environmentally friendly housing education should be incorporated in weatherization training programs. Proper certification and training standards will ensure that retrofitted homes are healthy homes.

To facilitate consistent, high-quality training of a green retrofit workforce, the Federal Government will:

1. Advance a nationally recognized worker certification standard for comprehensive training that provides evidence that a worker is well qualified to properly complete efficiency and healthy home retrofits.
2. Promote a nationally recognized training accreditation standard to enable students to identify trainers with a demonstrated capacity to provide quality instruction.
3. Develop and deploy model training programs for workers, including pre-apprenticeship and other programs that serve as onramps for lower skilled workers, provide clear pathways to career track jobs, and assist training providers in ramping up training capacity efficiently and effectively.
4. Leverage existing workplace training, labor management partnerships, and other public-private partnerships and the local presence of Federal Agencies in communities to link workforce training to job opportunities.
5. Provide business development support and business skills training to improve the rate of success for small efficiency retrofit businesses and to engage both small businesses and larger contractors in entering the retrofit market to build an industry at scale. This support should also include a focus on making sure small businesses and minority and/or women owned businesses have a seat at the table.

To ensure that efficiency retrofit training programs translate into thriving efficiency retrofit businesses, the Federal Government will use its resources to make business skills a critical component of efficiency retrofit training. By combining industry-specific business skills training with industry-specific jobs skills training, the Federal Government can help provide a steady stream of skilled retrofit workers, and a steady stream of healthy small and medium-sized retrofit businesses ready to hire these workers.

^[1] For the full report, see: <http://www.surgeongeneral.gov/topics/healthyhomes/index.html>

Federal Departments and Agencies, including: the Department of Labor, the Department of Energy, the Department of Housing and Urban Development, and the Environmental Protection Agency will work in collaboration to assess existing standards and training programs and develop consistent models, guides, and best practices for training and certification. The Department of Education, the Department of Commerce, and the Small Business Administration will assist in implementing the best practices developed by the other Departments and Agencies.

Implementation

CEQ will convene an interagency Energy Retrofit Working Group chaired by the Department of Energy, Department of Housing and Urban Development, Department of Agriculture, the Department of Labor, and the Environmental Protection Agency, to implement the recommendations and proposed actions of this Recovery Through Retrofit effort and track its progress. The Working Group will operate as the single point of contact for the successful implementation of this effort. Within thirty days, the Working Group will submit an implementation plan to the Vice President. In addition, the Working Group will report to the Vice President regularly on the progress towards implementing each of the recommendations identified in this Report. Additional strategies will also be developed to expand the retrofit market to rental housing.

Further, Federal Agencies will collaborate with local communities to test business models and develop best practices for encouraging energy efficiency programs that address the three key market failures identified in this Report.

Conclusion

Coordinated and principled Federal actions, like those described in this Report, in partnership with states, cities, counties, and the existing home energy industry, may be able to tackle the challenges faced by the current retrofit market. These recommendations can pave the way for a self-sustaining retrofit market, a market that can reliably cut energy bills while also creating good green jobs and saving consumers money. We can build on the foundation of the Recovery Act to jumpstart a thriving, private market for energy efficient and healthy home retrofitting that will put thousands of people back to work while also reducing our impact on the environment.



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The American Recovery and Reinvestment Act (ARRA) of 2009

Innovative Energy Efficiency Financing Approaches

Speakers

U.S. Department of Energy

Charlie Hemmeline

Claire Broido Johnson

Guest Speakers

John Rhow and Chris Moriarty, Barclays

Cisco DeVries, Renewable Funding

Dale Hahs, Energy Services Coalition

Ted Atwood, City of Baltimore

June 15, 2009



Agenda

Welcome and Introduction – Charlie Hemmeline

Municipal Energy Financing

- Municipal Energy Financing Overview - Claire Johnson
- Capital Markets Considerations - John Rhow and Chris Moriarty
- Renewable Funding Experience - Cisco DeVries
- *Municipal Financing Q&A*

Energy Saving Performance Contracting

- Performance Contracting Overview - Dale Hahs
- City of Baltimore ESPC Experience - Ted Atwood
- *ESPC Q&A*



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Municipal Energy Financing

Claire Broido Johnson

Energy Efficiency Advisor

Office of the Secretary

US Department of Energy

claire.johnson@hq.doe.gov



Energy Efficiency Conundrums

- How will we create jobs and promote both energy efficiency and renewable energy long after American Recovery and Reinvestment Act money is gone?
- Existing Energy Efficiency Programs:
 - Limited Applicability to Households Most in Need
 - Low Participation Rates
 - Limited Support for Deep Energy Retrofits
 - Programs Do Not Always Cover Their Costs
 - Potential Issues with On-bill Financing Programs



What is Municipal Energy Financing?

- Definition: Property Owners (commercial, industrial, residential) borrow money to finance energy retrofits and repay over time through line item on property tax bill
 - Borrow money either via municipal bond or from financiers
 - Energy Retrofits = energy efficiency measures (EE) and renewable energy (RE)
- Impact: Property tax lien oriented financing dramatically improves economics of energy retrofits
 - Loan is secured by a lien on the property that takes precedence over any mortgage claims to the property
- Solves key problems of EE financing right now:
 - Credit (i.e. Property Owner (PO) credit is poor)
 - Municipal energy financing: loan linked to property ownership
 - Collateral (i.e. financier has no recourse in the event of nonpayment as EE retrofits are considered fixtures)
 - Municipal energy financing: EE/RE payments are senior to mortgage; collateral is easier to grasp using property taxes
 - EE harder than solar; EE is considered a fixture, solar is considered personal property. In the event of non-payment, solar panels can be removed



Steps

1. Identify Team of Champions – City Manager, legal counsel, finance staffer, sustainability program staff people
2. Decide who will manage administrative and financial aspects of program - do you need additional software, administrative, financial partners?
3. Create structure that treats EE/RE as senior “property tax lien” repaid by property owner through time, either:
 - Municipalities pass ordinances that enable citizens to add a line item to their property tax bill for EE/RE loans (i.e. Annapolis)
 - Special tax district (i.e. AB 811 – assessment district or Mello Roos)
4. Launch Program - Education and Outreach
 - PO’s “opt-in” to add line item to property tax bill for EE/RE loan
 - PO’s apply for funds to install hyper energy efficiency measures and renewable energy production (e.g. solar)



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Use EECBG Money to Jump Start a Program – and Get Economies of Scale

EECBG financing can be used:

- For Software Development – middle/back office
- To Create and Fund Aggregator
- For Pilot Program
- To Create Legislation and Contracts Between Entities
- To Buy Down Interest Rates

Create Economies of Scale!

- Working at the county level or state level allows municipalities to pool resources and minimize transaction costs



Where does potential aggregator fit in?

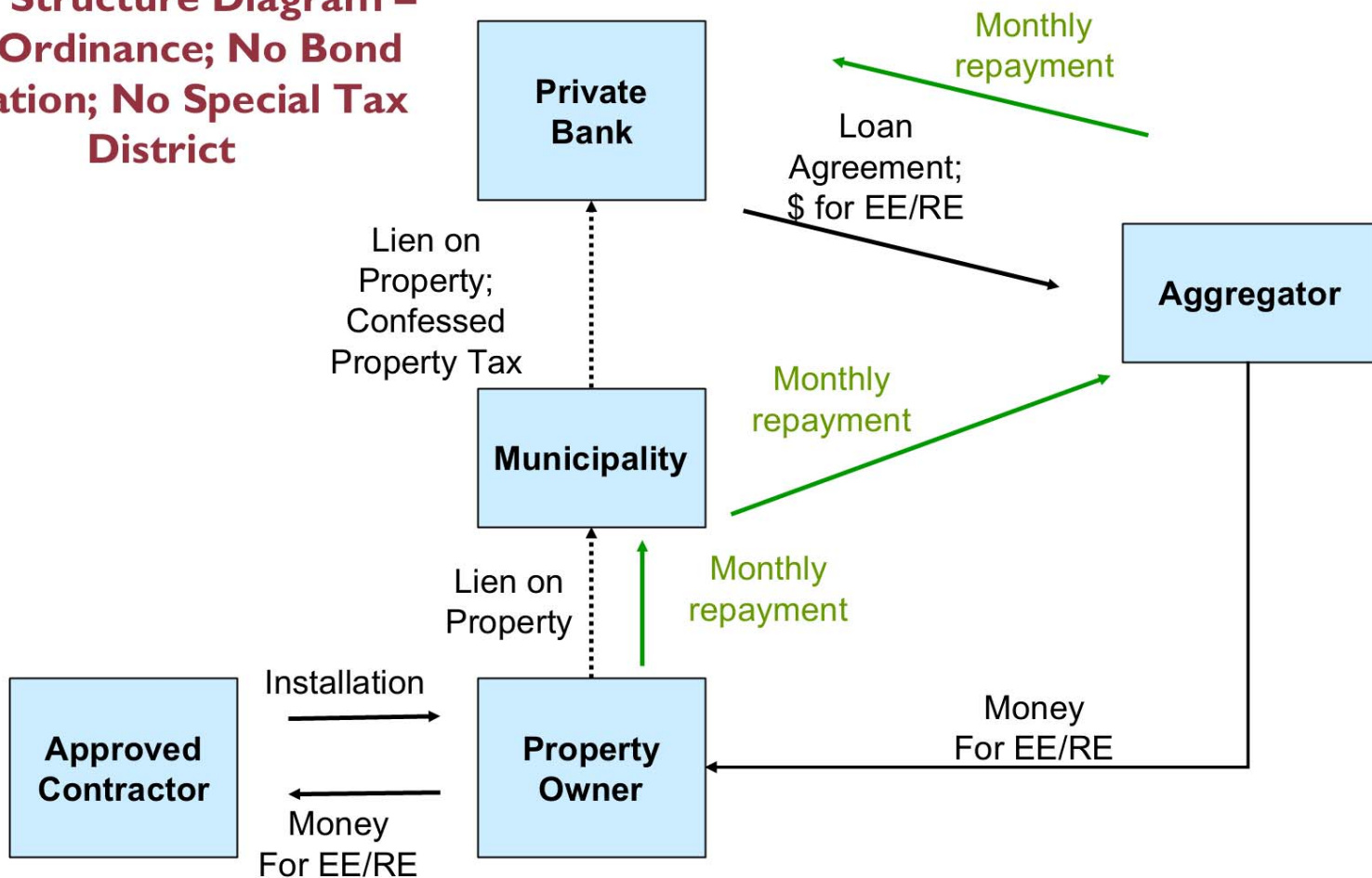
- Aggregates financiers, municipalities, property owners, and contractors who can all make or save money by financing and installing EE/RE
- Acts as a trusted agent for municipalities to quickly implement this structure
- Creates software, administration, and contracts
- Verifies contractors
- Implements program so that municipalities can be provided with full “program in a box” offer



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Deal Structure Diagram – Via Ordinance; No Bond Creation; No Special Tax District





Capital Markets Financing Considerations – Property Assessed Clean Energy Bond (“PACE” Model)

- Property Tax Assessment Bond programs are common in municipal bond markets
 - With enabling state legislation, ability for municipalities to create “clean energy” districts which can issue taxable bonds secured by project tax assessments
 - In May, Boulder County Clean Options Energy District issued \$7.6 million bonds
- Structural Considerations
 - Not qualify for tax-exempt status as end-user are voluntary participants in private sector
 - Amortization of bonds over an extended period (i.e. 20 years) in order for program participants to realize energy efficiency savings
 - Will require credit ratings from one or more rating agencies (preferably two or more)
- Issuance and credit rating challenges
 - Unlike general ad valorem property tax-backed bonds, not a broad diversification of taxpayers as program participation is voluntary – rating agencies likely to “notch” down from municipality ratings
 - Small issuers disadvantaged as investors/underwriters prefer secondary market liquidity – not big enough to dedicate internal resources to evaluate credit
- Risk mitigants
 - Sponsoring municipality may consider providing general obligation or moral obligation guarantee
 - Potential mechanisms to “pool” different programs to create credit diversification and issuance scale



Benefits

Property Owner

- Substantially reduced up front costs for energy retrofits
- Improved return on investment/positive cash flow on retrofits (annual savings > cost)

Municipality

- No credit or general obligation risk: Obligation is liability of PO
- Job creation
- Greenhouse gas reductions/energy independence
- Opt in: Only those real estate owners who opt in pay for it

Lender

- Super senior loan with low risk of capital impairment
 - Property tax liens are senior to first mortgage debt
 - Historical loss rates on property tax liens are low
 - 97% of property taxes are current; Property tax losses are less than 1%

Clean Energy Municipal Financing Bills (enacted)

State	Description
California: AB 811	Municipal financing for cities (& California – SB 279)
Colorado – HB 08-1350	Finances EE & RE improvements through assessments on real property
Maryland – HB 1567 (awaiting Governor signature)	Authorizing political subdivisions to create a Clean Energy Loan Program
New Mexico – HB 572	Allows counties to establish special assessment districts for solar-energy improvements
Virginia – SB 1212 Kammen – http://rael.berkeley.edu	Financing clean energy programs through the use of real property assessments

Clean Energy Municipal Financing Bills (in committee)

State	Description
Federal –\$ 10 billion National Home Energy Savings Revolving Fund Act – HR 1573 (Van Hollen, MD)	In House Energy and Commerce Committee
New York – A05998	Finances EE & RE on Long Island (Local committee)
Oregon – HB 2181 (EE & RE Local Improvements Districts)	In committee: Sustainability and Economic Development
Texas - HB 1391 (Clean energy bond authority)	In committee: Energy Efficiency & Renewable Energy Subcommittee
Vermont – H.161 (Debt financing for EE & RE)	In committee – Commerce and Economic Development
Active consultations in committees	Massachusetts , Nevada, New Jersey , Washington
Kammen – http://rael.berkeley.edu	



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Statistics on Existing Programs

	Berkeley, CA -FIRST	Annapolis EZ	Sonoma County	Boulder, CO – ClimateSmart Loan Program	Palm Desert, CA - Energy Independence Program	Long Island Green Homes Program, Babylon, NY
Program Launch Date	Nov-08	Nov-08	Apr-09	Apr-09	Oct-08	Aug-08
Current Status	38 projects financed; only \$1.5 MM avail	Pilot - working on contracts	Approved - for energy and water improvements	517 projects committed	End of Phase 2; 206 applications; maxed out financing	108 projects in queue; \$1.6 MM still available
eligible (non- rental) units	21436	8647	111896	81180	23430	59200
participation rate	0.177%			0.637%	0.879%	0.182%
Funding source	Municipal revenue bonds; microbonds	local banks	County Treasury Notes at 5% above UST	Tax-exempt + private activity bond repaid through special fee on HH property tax bills	Phase I: City's General Fund (\$2.5 million); Phase 2: \$5 MM in Bond Issuance	municipal solid waste revolving fund
\$ committed to program	\$1.5 MM pilot Phase II will be larger (75 residential, 25 commercial)	\$1.5 MM	\$5 MM	approved to sell up to \$40 MM bonds, including \$14 MM in Tax Exempt bonds	\$7.5 MM	\$2 MM from solid waste reserve fund acts as revolving fund; \$.5M for solar
interest rate	7.75%	5.50%	8.50%	6.75%	7%	3%
term	20 yrs	20 yrs	10-20 yrs (if over \$5000), 5 yrs if < \$5000	15-20 years	up to 20 years	based on matching savings with payments
Admin Fee paid by PO	1-2% total loan value	\$250	5%	\$75	\$200	3% interest rate covers admin costs
Other expenses			\$150 onsite inspection fee; title check of \$65-\$215	1-2% total loan value for loan processing fee	\$360 title insurance policy	\$250 audit cost

<http://www.eere.energy.gov/>



Statistics on Existing Programs

	Berkeley, CA -FIRST	Annapolis EZ	Sonoma County	Boulder, CO – ClimateSmart Loan Program	Palm Desert, CA - Energy Independence Program	Long Island Green Homes Program, Babylon, NY
How Quickly \$ is committed	received all avail applications in first day - committed 6 mo later	TBD	TBD		\$2.5 MM committed in 3 weeks; \$5 MM of Phase II committed in 3 weeks	\$400K in queue for retrofit in 5 months (\$1.6 MM still avail)
% to residential property owners	100%	100%	avail to res, commercial & industrial	70.0%	98.5%	100%
Loan Amt	max \$37,500	TBD	\$2500 up to \$500 K (requires approval after \$60 K)	min \$3000; \$15000 max for T-E bonds, \$50000 max or 20% property value for non T-E bonds	\$5000 or greater	up to \$12000
Enabling Legislation	CA – AB811+City Council Program approval	City Resolution and Ordinance	CA – AB811+City Council Program approval;	CO House Bill 08- 1350 + City Ballot Issue 1A: Nov 08	CA – AB811 + City Council Program approval	City Council Resolution Approval – Aug. 08 to expand Solid Waste Code
Owner Repayment Mechanism	Property Taxes; Special Tax	Loan through community bank		Property Tax Assessment	Property Tax Assessment	assessment fee for removing solid waste
Administration Provided by	1.25 FTE from City Planning Dept; \$227 K total in admin	Chamber of Commerce Foundation		1 FTE Finance Division	1.5 FTE - Office of Energy Mgmt; have \$90 K budget	3 FTE from City

Together We Save - Milwaukee Pilot Program Summary to Date May 1, 2009 - November 1, 2009

Goal:

Utilizing the social networking opportunities that a targeted community effort affords, test various partnerships, marketing methods/ vehicles/messages and building science concepts to help achieve deep impact home energy savings.

Opportunity:

The Milwaukee neighborhood efficiency project, Together We Save, is a pilot that aims to leverage a community-based approach for the purpose of increasing energy efficiency investments by homeowners in two neighborhoods in the City of Milwaukee. A priority of this pilot is to get deep energy savings in at least 100 homes in the target neighborhoods.

Homeowners who participate in the pilot will be eligible for sizable incentives on products and services (such as insulation, air sealing and mechanical equipment) that will increase the efficiency and comfort of their homes. In addition to financial incentives, the homeowner will receive support throughout the process from a program representative (an energy advocate) who will offer such services as walking the homeowner through the application and energy assessment process, selecting and scheduling of service contractors, setting home electronics and control equipment to optimal energy efficiency settings and educating the homeowner on sustainable energy practices/behaviors.

The Project will capitalize on the community-based design structure by testing different communication, delivery and implementation practices and learning from the group dynamic. Working together with the community leaders and neighborhood members, Together We Save will help make participants' homes more comfortable, durable, safe and energy efficient.

Objectives:

- Utilize the community by forming partnerships with neighborhood leaders, neighborhood groups and city/utility/government agencies
- Test various outreach/marketing and ongoing communication techniques to assure broad reach and pilot clarity, maximum participation and well-informed homeowners
- Deliver optimal building science practices/products (based on experience with weatherization and home performance programs) to assure energy efficiency standards are met
- Guide/redirect home energy efficiency attitudes/behaviors toward sustainability

Target Neighborhoods:

Two Milwaukee neighborhoods will be targeted for the pilot:

- *South side:* Lincoln Ave. (south) to Pierce St. (north); 43rd & 38th Sts. (west) to Layton Blvd (east)
- *North side:* Capitol Dr. (south) to Villard Ave. (north); 84th St. (west) to 60th St. (east)

Each neighborhood is comprised of older housing stock, with the south side homes being older, on average 50+ years, predominantly cape cods. The north side homes aren't quite as old, on average 30-50 years, with a greater mix of styles including bungalow, Cape Cod and ranch.

Marketing and Outreach:

The community setting of this pilot affords the ability to test various marketing methods, vehicles and messages. Some marketing strategies to employ include:

Strategies:

- Let the physical proximity advantages work to our favor, using signage that homeowners will see when driving/walking through the neighborhood and/or visiting local establishments
- Count on “buzz” created by homeowners through their daily interactions (backyard, school or church conversations) based on information that was provided
- Depend on events and communications from neighborhood leaders (block watch captains and association heads)
- Arm Energy Advocates with proper training and information to help make lasting impression on homeowners, thereby creating sustainable impacts
- Make information sharing and awareness building as seamless and easy as possible, recognizing the time constraints that most homeowners have

Roles/Responsibilities:

Pilot Administrator: Focus on Energy

- design, implement and manage pilot
- overall oversight

Energy Advocates: Trained Community Members

- assist/educate homeowner with/on “basic” energy efficiency practices
- educate homeowner to help create lasting energy efficient behavior/decision making
- Remove participation hassles/barriers for the homeowner by assisting with paperwork, Contractor selection, understanding financing options and general participation questions/concerns
- Address any language barriers

Energy Assessors: Building Science Experts (selected by competitive bidding process)

- Perform all energy assessments – pre and post
- Prepare written report and work order, explaining work to homeowner

Energy Contractors: Local Contractors (selected by competitive bidding process)

- Perform all energy efficiency improvements as outlined on each work order, meeting pilot standards

Quality Assurance Agent: Focus on Energy

- Conducts quality control inspection on at least 5% of the homes participating in the pilot

Process and payment summary

Process Overview

Stage 1: Generate Homeowner Interest/Sign Up

- Introduce targeted neighborhoods to program through community kick-off meetings and newsletters, marketing materials (door hangers, yard signs, posters and word of mouth).

Stage 2: Energy Advocate Audit

- Schedule audits
- Energy advocates conduct a audit, gathering information on appliances, electronics, HVAC equipment, lighting and the building shell
- Educate homeowners on energy efficiency, equipment settings/use and discuss utility bill.
- Explain upcoming stages

Stage 3: Consultant Assessment

- Professional consultant conducts building science testing for home safety, ventilation and energy efficiency
- Consultant provides summary report which advocate reviews with homeowner in separate meeting

Stage 4: Work Installation

- Upon receipt of homeowner payment, consultant contacts the contractor(s) to begin work

Stage 5: Completion

- Consultant performs post assessment
- Advocate conducts final visit and present homeowner with certificate of completion, discusses final tips and recommendations

Process Results to Date

Stage	Result
Sign Ups	157 (plus 7 on wait list)
Active Participants (of those that originally signed up, some did not qualify, some dropped out and some didn't respond)	121
Audits Completed	121
Assessments Completed	93+
Summary Reports	65
Work Installation	11
Completed Homes	10

Payment

The homeowner's portion of payment for the pilot was based on household income. Following the income guidelines set forth in the state's weatherization program, the following table was used to determine the homeowner's portion of payment:

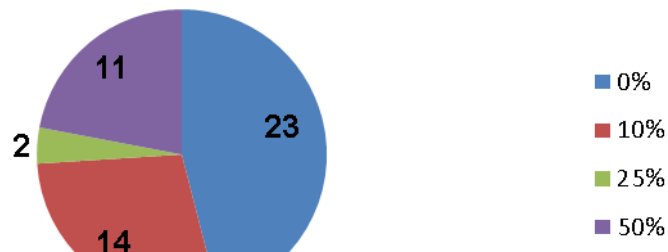
# in Household	Household Income less than: (Wx Eligible)	Household Income of: (Targeted Eligible)	Household Income of:*	Household Income Equal to or Greater Than:*
1	\$23,434	\$23,435-31,245	\$31,246-35,151	\$35,152
2	\$30,645	\$30,646-40,859	\$40,860-45,967	\$45,968
3	\$37,855	\$37,856-50,474	\$50,475-56,783	\$56,784
4	\$45,066	\$45,067-60,088	\$60,089-67,599	\$67,600
5	\$52,277	\$52,278-69,702	\$69,703-78,415	\$78,416
6	\$59,487	\$59,488-79,316	\$79,317-89,231	\$89,232
7	\$60,839	\$60,840-81,119	\$81,120-91,259	\$91,260
8	\$62,191	\$62,192-82,922	\$82,923-93,287	\$93,288
9	\$63,543	\$63,544-84,724	\$84,725-95,315	\$95,316
10	\$64,895	\$64,896-86,527	\$86,528-97,343	\$97,344
	Program pays 100% of cost	Program pays 90% of cost	Program pays 75% of cost	Program pays 50% of cost

**Homes in this income range are normally only qualified for home performance with ENERGY STAR where incentives run from 15% to 25% of project cost depending on installed measures.*

Homeowner costs

Of the jobs assessed to date, the average cost for renovations is \$6,787. The highest job cost totaled \$19,350. This particular project was a duplex in which contractors installed two boilers, two water heaters and over \$4,000 in exterior sidewall insulation. The lower job cost was \$950 and included improved attic insulation and proper exhaust ventilation.

Number of Homeowners Paying at Each Rate



Financing

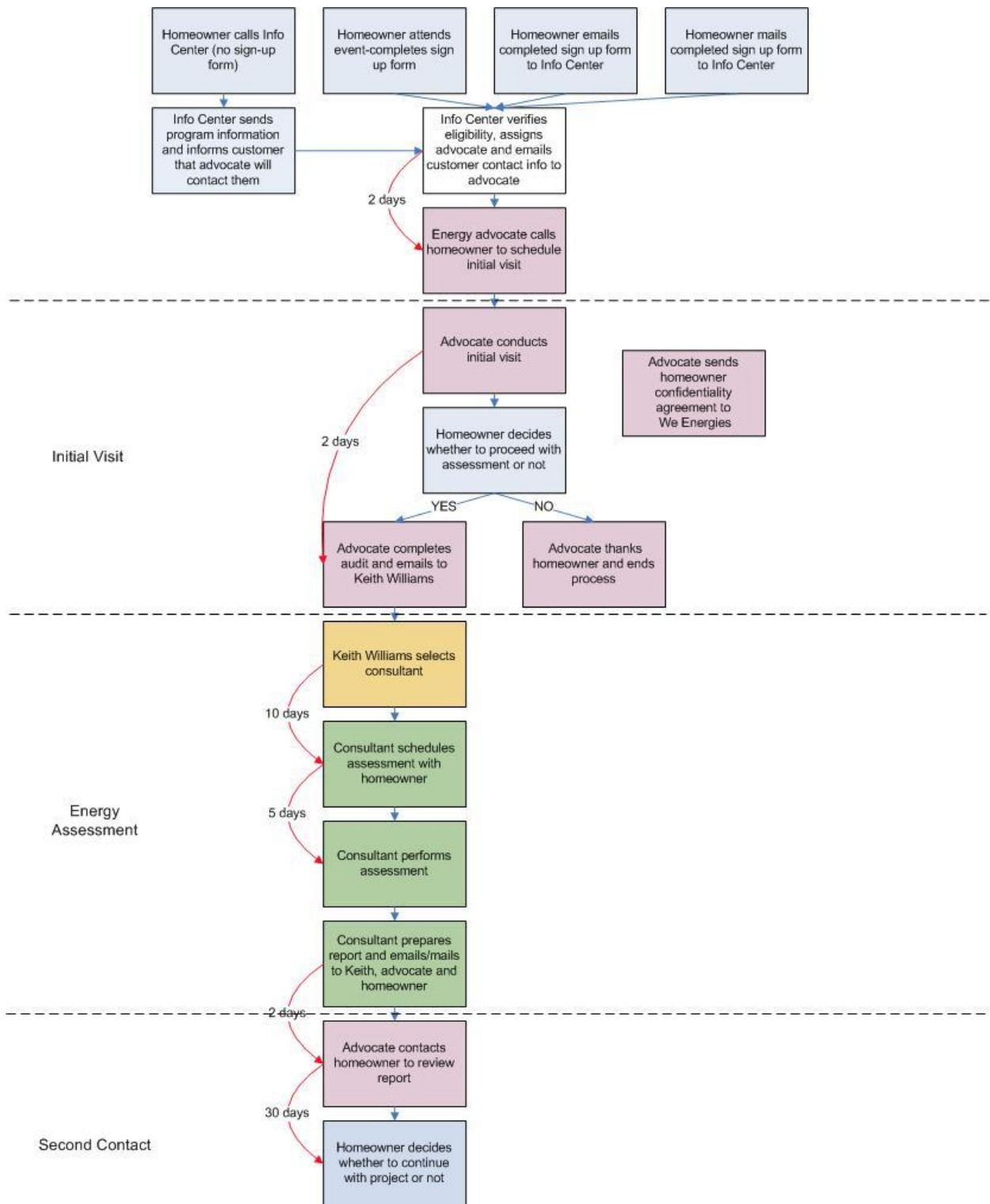
1. Payment in full by the homeowner.
2. Prepayment: Monthly payments made by the homeowner to the Administrator – interest free – with full payment received within 6 months of entering into the program. Once 75% of the homeowner's cost is pre - paid, work will commence. The remainder of the cost will be due by the time work is completed.
3. Fannie Mae Loan: with an interest rate buy down to 10%
4. Independent Loan: homeowner secures loan on their own

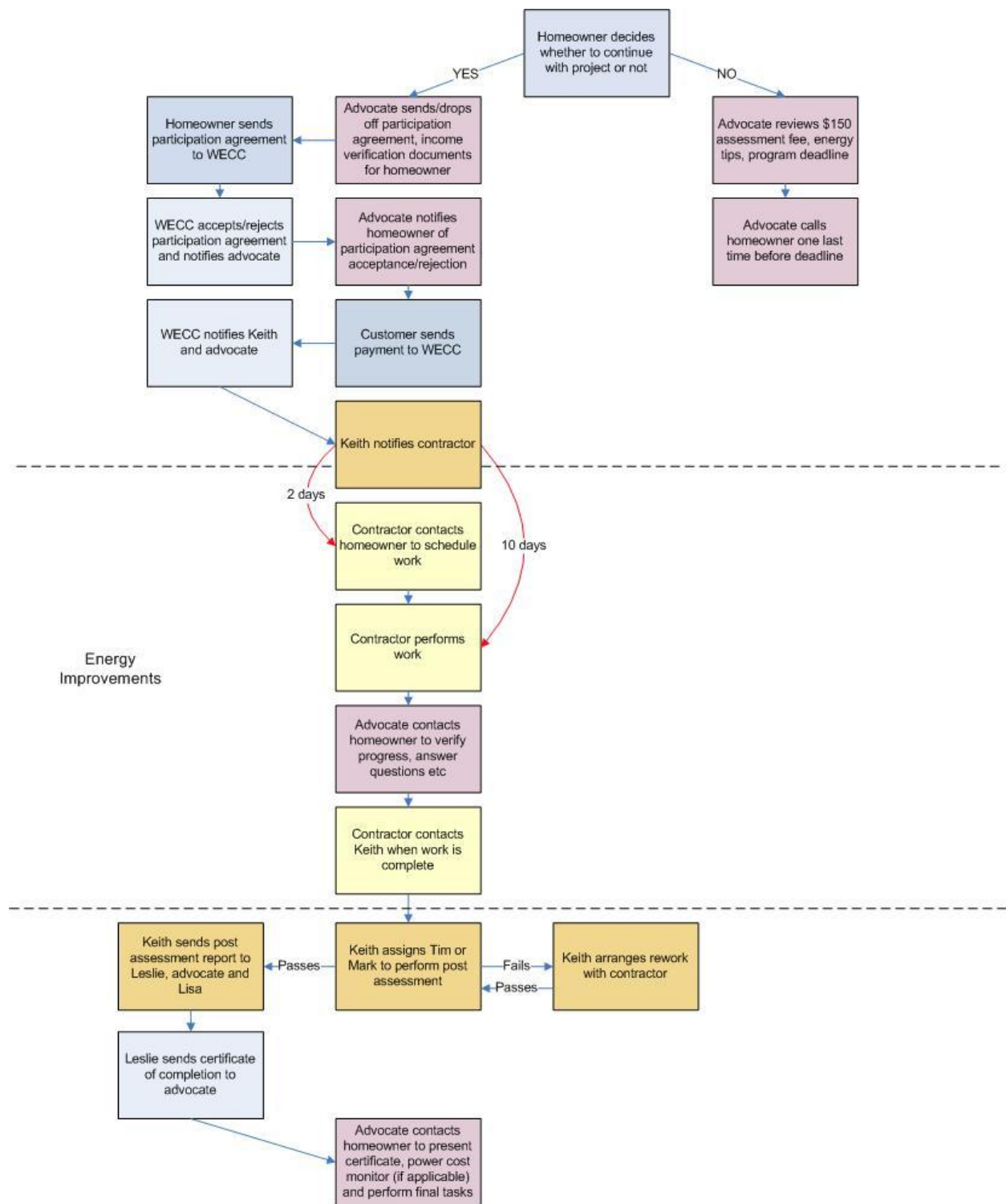
Financing	Participants
Payment in full by homeowner	18
Prepayment plan	3
Fannie Mae Loan	0
Independent loan	unknown

Health and Safety

To date there have been two emergency water heater replacement via the program due to dangerous levels of CO2 back drafting discovered at the time of assessment. It has also been found that a majority of the homes participating in the pilot have ventilation issues that must be addressed through the program. Other health and safety issues that have come up include one home with vermiculite in the attic and one home with electrical service at 60 amps. Although there was concern about running into homes with knob and tube wiring, there have been none to date.

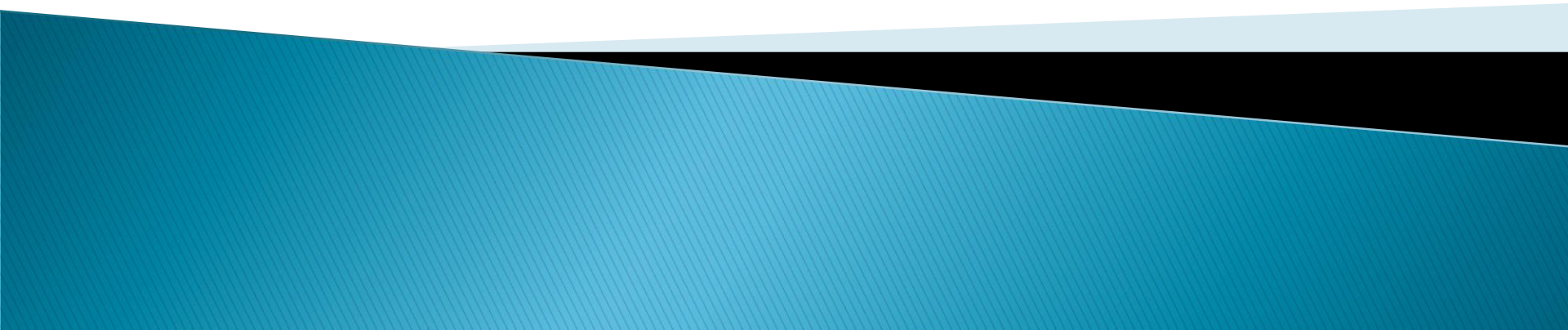
Together We Save Process Flow Chart





Energy Efficiency Conservation Block Grant- Competitive

A Proposed Approach for Milwaukee



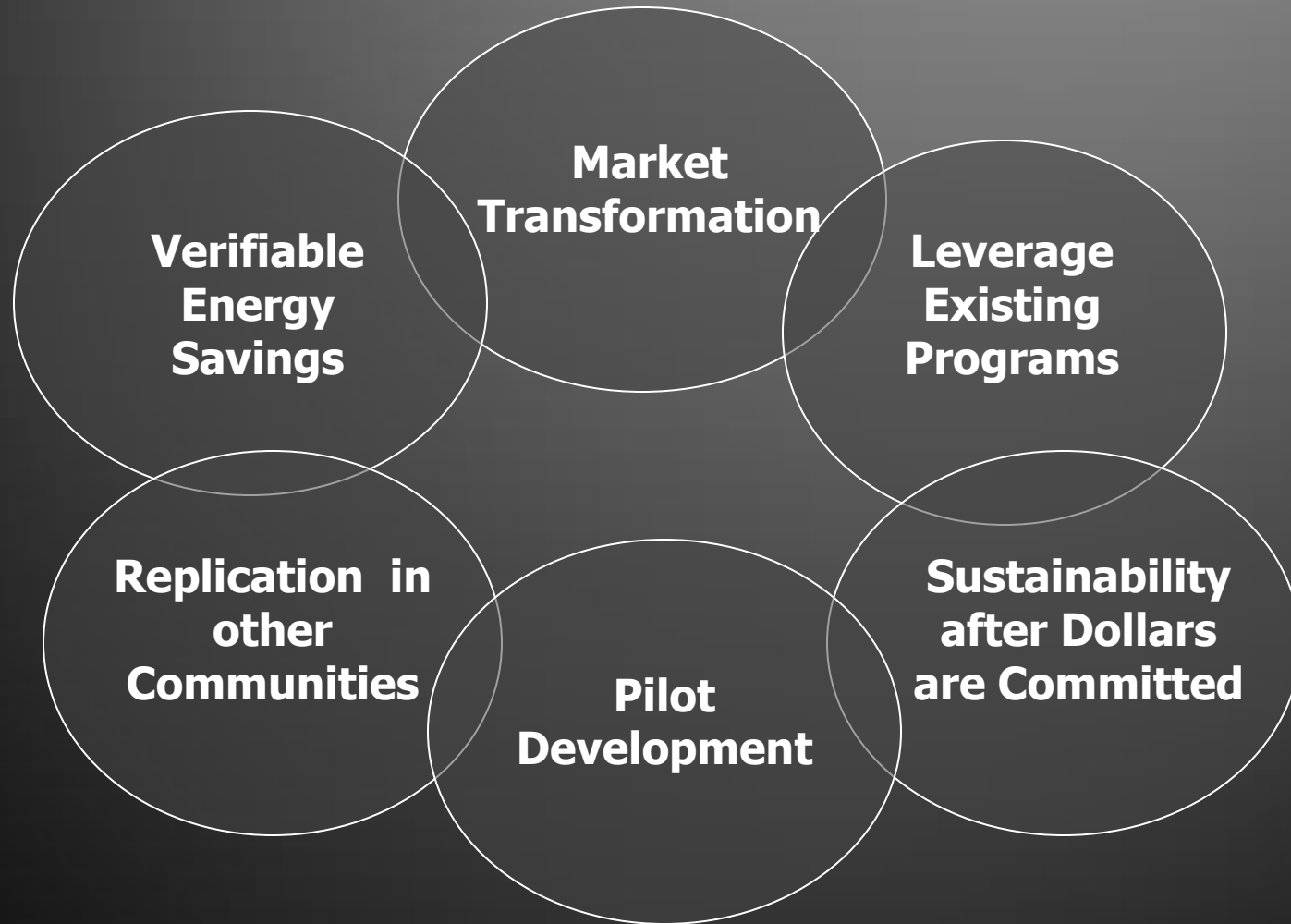
EECBG- Approved Formula Award

- ▶ City Facility Audits: \$78,000
- ▶ City Facilities Retrofit: \$2.7
- ▶ LED Street lights: \$440,000 for LED streetlights in Milwaukee's Third Ward
- ▶ ME2 Residential Retrofit program: \$1.47m for a revolving loan fund for home-owners to do energy retrofits.
- ▶ Business retrofit loans: \$865,000 for loans to businesses, particularly manufacturing businesses, to add energy efficiency to their operations.
- ▶ Business Retrofit incentive: \$132,000 for third party measurement and verification (M&V) to catalyze the private performance contracting market.
- ▶ City Fleet Retrofit: \$137,000 for the marginal cost to purchase hybrid vehicles and route management software.

Proposed EECGB Competitive Grant

- ▶ Administered by US Department of Energy (DOE)
- ▶ Retrofit Ramp-Up program: \$390M
- ▶ Eligible awardees are all EECBG direct formula grant communities (state, county, city)
- ▶ High profile large scale programs for energy efficiency retrofits in geographically focused areas
- ▶ 8–20 awards of \$5–\$75M
- ▶ Must be highly leveraged ($\geq 5:1$)
- ▶ Cities can delegate their grant application to non-profit entities

Federal Criteria and Markets



Residential

Commercial

Industrial

Public Buildings

Factors Influencing Milwaukee's Approach

- ▶ High local leverage requirements
- ▶ DOE's preference for regional partnership
- ▶ The ME2 model is highly encouraged in the grant application (a.k.a. Property Assessed Clean Energy, or PACE)
- ▶ The grant is *not* intended for:
 - Construction of new energy efficient buildings
 - Programs that only make incremental improvement over business-as-usual

Partnership Approach Part I

- ▶ Milwaukee will partner with select communities to issue a joint application
- ▶ Partners include:
 - City of Madison
 - City of Racine
- ▶ Wisconsin Energy Conservation Corporation (Focus on Energy)
- ▶ Johnson Controls
- ▶ Organized Labor
- ▶ State Office of Energy Independence
- ▶ UWM and We Energies may also partner

Partnership Approach Part II

- ▶ WECC would submit application on behalf of Milwaukee and other communities, with a specific dollar earmarked for Milwaukee (up to \$45 million)
- ▶ WECC would administer a residential retrofit program (ME2) for Milwaukee with revolving loan financing offer
- ▶ JCI would develop a program for Commercial Buildings, Industrial Buildings, and Government Buildings using a modified performance contracting offer
- ▶ Letters of support from Governor and other regional players make this application more attractive

Why WECC?

- ▶ Administered successful \$750,000 pilot program in two Milwaukee neighborhoods in 2009–2010
- ▶ Turnkey energy retrofits
- ▶ Ability to coordinate with existing *Focus on Energy* programs, rebates, incentives and marketing initiatives
- ▶ Committed to local jobs through sub-contracting other partners
- ▶ Experienced
- ▶ Ensures regional and replicable approach

Why Johnson Controls?

- ▶ Bring approximately \$50–100 million in leverage via line of credit from their financing partners
- ▶ Nationally recognized leader in this industry
- ▶ Committed to local jobs through sub-contracting other partners
- ▶ Experienced

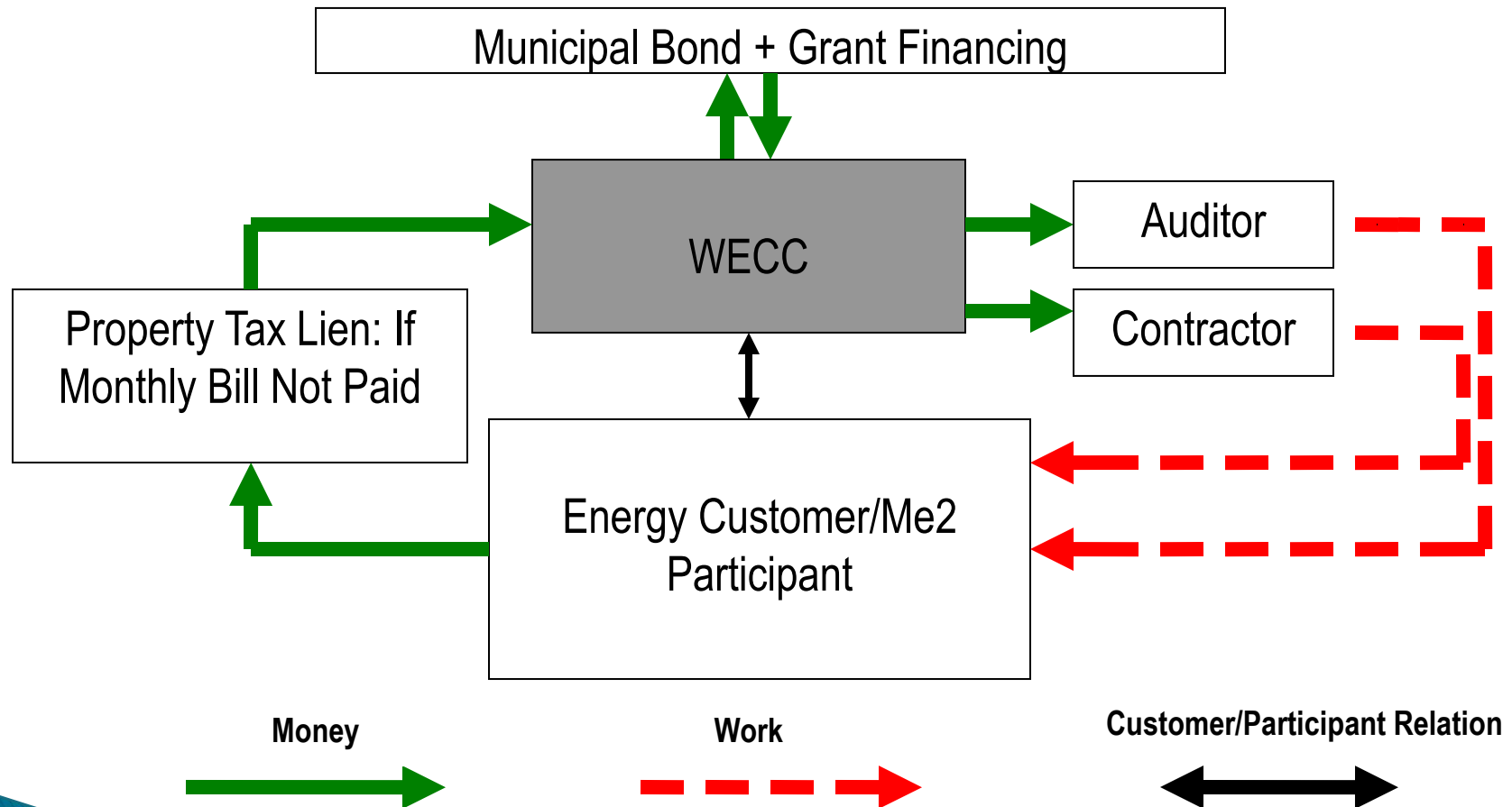
ME2: Overcoming Obstacles to Homeowners Investing in Energy Efficiency

Hassle of getting energy audit and coordinating multiple contractors	Turnkey approach coordinated by WECC
Lack of interest	Community based marketing
Information problems on everything (benefits, cost, reliable service)	Energy audit outlining savings and costs
Lack of capital	Tax lien financing offer
Uncertain duration of tenancy/ownership	Loan payments tied to property, not the person
Split Incentives between landlord and tenants	Not yet solved (need utility bill financing)

Residential Program

- ▶ Target particular neighborhoods (e.g. moderate income, low foreclosure rates, and old housing stock)
- ▶ Energy “Advocates” market program to homeowners and provide home “walk through” to identify good candidates
- ▶ Certified auditors evaluate home for energy saving opportunities with estimated cost of improvements and estimated paybacks
- ▶ If homeowner agrees, WECC provides certified contractors to complete work
- ▶ Homeowner has no upfront cost to complete work. They pay for the work as energy savings are realized
- ▶ Financing for the work is provided by a city revolving loan fund
- ▶ Residential loans are secured by tax lien

Residential Program Flow Chart



Tax Lien Financing for Revolving Loans

- ▶ Tax Lien financing, also known as Property Assessed Clean Energy (PACE) is being encouraged by this grant FOA and the White House.
- ▶ Municipal tax lien financing for residential energy efficiency improvements and renewable energy was approved by the Wisconsin legislature in May 2009.
- ▶ Homeowners in the program would receive a monthly coupon book to repay their loan, but the loan is assessed on the property tax in the event of non-payment.
- ▶ \$10 million ME2 revolving loan fund is capitalized by a combination of federal grants and potentially local revenue bonds.
- ▶ National expert on PACE, Cisco DeVries will be in Milwaukee December 10 to guide program development.

Commercial, Industrial, and Public Building Program

- ▶ Performance Contracting is the basis
 - Energy Service Company audits a building, provides energy retrofits based on audit to lighting, HVAC, building shell, etc. and guarantees the savings. ESCO provides initial capital financing through their lenders.

- ▶ Grant would improve this offer for businesses and government through:
 - Interest rate buy-down
 - Third party measurement and verification
 - One time grants for audits
 - Subsidize measures with longer energy paybacks

Inclusion of Labor Standards

- ▶ Mayor committed to family supporting jobs for Milwaukeeans
- ▶ Labor standards relative to wages and training ladders will be required of project partners and sub-contractors
- ▶ Portland Community Workforce Agreement could serve as a model

Potential Sources of Local Match

- ▶ JCI Line of Credit– \$100m+
- ▶ EECBG Formula Grant \$5–9m
- ▶ Local Revenue Bond \$10m
- ▶ Staff Time (in-kind) \$1m
- ▶ Solar Grant: \$150k
- ▶ Focus on Energy Incentives: \$11m
- ▶ Match from Partner Communities

Path Forward

- ▶ Short timeline to submit grant application (12/14/09)
- ▶ Work group coordinated by State Office of Energy Independence
- ▶ Confirm eligible local match
- ▶ Identify target neighborhoods for residential program
- ▶ Get letters of support from key stakeholders
- ▶ Get agreement on labor standards from WECC and JCI
- ▶ Tax-lien financing, revenue bonds, and performance contracting will require formal council approval
- ▶ Additional city legislation will be sought to accept the grant if we win

CITY OF MILWAUKEE FISCAL NOTE

A) DATE November 24, 2009FILE NUMBER: 091061Original Fiscal Note ☒ Substitute ☐SUBJECT: Resolution relating to application for a grant from the United States Department of Energy for the Energy Efficiency and Conservation Block Grant Retrofit Ramp-up Program.B) SUBMITTED BY (Name/title/dept./ext.): Erick Shambarger/DOA-Budget & Management Div./Ext. 8556

C) CHECK ONE: ☐ ADOPTION OF THIS FILE AUTHORIZES EXPENDITURES
☐ ADOPTION OF THIS FILE DOES NOT AUTHORIZE EXPENDITURES; FURTHER COMMON COUNCIL ACTION NEEDED. LIST ANTICIPATED COSTS IN SECTION G BELOW.
☒ NOT APPLICABLE/NO FISCAL IMPACT.

D) CHARGE TO: ☐ DEPARTMENT ACCOUNT(DA) ☐ CONTINGENT FUND (CF)
☐ CAPITAL PROJECTS FUND (CPF) ☐ SPECIAL PURPOSE ACCOUNTS (SPA)
☐ PERM. IMPROVEMENT FUNDS (PIF) ☐ GRANT & AID ACCOUNTS (G & AA)
☐ OTHER (SPECIFY)

E) PURPOSE	SPECIFY TYPE/USE	ACCOUNT	EXPENDITURE	REVENUE	SAVINGS
SALARIES/WAGES:					
SUPPLIES:					
MATERIALS:					
NEW EQUIPMENT:					
EQUIPMENT REPAIR:					
OTHER:					
TOTALS					

F) FOR EXPENDITURES AND REVENUES WHICH WILL OCCUR ON AN **ANNUAL** BASIS OVER SEVERAL YEARS CHECK THE APPROPRIATE BOX BELOW AND THEN LIST EACH ITEM AND DOLLAR AMOUNT **SEPARATELY**.

<input type="checkbox"/> 1-3 YEARS	<input type="checkbox"/> 3-5 YEARS	
<input type="checkbox"/> 1-3 YEARS	<input type="checkbox"/> 3-5 YEARS	
<input type="checkbox"/> 1-3 YEARS	<input type="checkbox"/> 3-5 YEARS	

G) LIST ANY ANTICIPATED FUTURE COSTS THIS PROJECT WILL REQUIRE FOR COMPLETION:

H) COMPUTATIONS USED IN ARRIVING AT FISCAL ESTIMATE:

PLEASE LIST ANY COMMENTS ON REVERSE SIDE AND CHECK HERE ☐

FILE NUMBER: 091061
Steering & Rules Committee

[illegible]



Legislation Details (With Text)

File #: 091051 **Version:** 0

Type: Communication **Status:** In Committee

File created: 11/20/2009 **In control:** STEERING & RULES COMMITTEE

On agenda: **Final action:**

Effective date:

Title: Communication relating to proposed changes in state law concerning the governance of the Milwaukee Public School system.

Sponsors: THE CHAIR

Indexes: MILWAUKEE PUBLIC SCHOOLS, SOCIAL CONCERNS, STATE LEGISLATION

Attachments:

Date	Ver.	Action By	Action	Result	Tally
11/20/2009	0	COMMON COUNCIL	ASSIGNED TO		

Number

091051

Version

ORIGINAL

Reference

Sponsor

THE CHAIR

Title

Communication relating to proposed changes in state law concerning the governance of the Milwaukee Public School system.

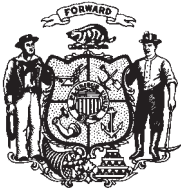
Requestor

Drafter

CC

jro

11/24/09



2009 SENATE BILL 405

November 20, 2009 – Introduced by Senators TAYLOR, PLALE and CARPENTER, cosponsored by Representatives COLON, FIELDS, RICHARDS, STASKUNAS, HINTZ and DANOU. Referred to Committee on Education.

1 **AN ACT** *to repeal* 119.36 and 121.137 (1) (a); *to renumber* 119.18 (2) and 119.18
2 (11); *to renumber and amend* 119.12 (4), 119.12 (6), 119.18 (15) and 119.70
3 (1); *to amend* 16.70 (8), 24.66 (3) (a), 24.66 (5) (a), 38.08 (1g), 40.02 (41), 40.02
4 (55) (b), 63.235, 63.36 (2), 63.53, 66.0217 (8) (c), 66.0901 (1) (a), 66.1333 (5r) (b)
5 1. (intro.) and a., 66.1333 (5s) (a), 111.70 (4) (m) 1., 111.70 (4) (m) 4., 115.001 (7),
6 115.001 (8), 115.98, 118.22 (1) (b), 119.02 (1), 119.04 (1), 119.04 (2), 119.10 (2),
7 119.16, 119.18 (title), (1g) and (1r), 119.18 (3) to (5), (6) (intro.) and (b) and (7)
8 to (10), 119.18 (12), (13) (intro.), (b) and (c) and (14), 119.18 (16) to (22), 119.19,
9 119.23 (4r) (intro.), 119.23 (6), 119.23 (7) (b) 7. a., 119.235 (1), 119.235 (2) (intro.)
10 and (b), 119.235 (2) (d), 119.235 (2) (e) 2., 119.235 (2) (f), 119.235 (3), 119.235 (4),
11 119.235 (5), 119.24, 119.245 (2), 119.245 (3), 119.245 (4), 119.25 (1) and (2) (a)
12 (intro.), (b) and (d) 2., 119.26, 119.28 (1), 119.28 (2), 119.28 (3), 119.28 (4), 119.30,
13 119.32 (1), 119.32 (2) (intro.), 119.32 (3), 119.32 (4), 119.32 (5), 119.32 (6), 119.32
14 (7), 119.40, 119.42 (1m), 119.42 (2), 119.44 (title), 119.44 (1), 119.44 (2) (intro.),

SENATE BILL 405

119.44 (2) (a) 3., 119.46 (1), 119.47, 119.48 (1), 119.48 (2) (intro.), 119.48 (2) (a),
119.48 (4) (a), 119.485, 119.49 (1) (a), 119.49 (2), 119.49 (3), 119.495 (2), 119.496
(2), 119.496 (6) (b), 119.498 (1), 119.498 (2), 119.499, 119.50 (2), 119.55, 119.60,
119.66, 119.68 (1), 119.70 (3), 119.70 (5), 119.71 (3), 119.73, 119.74 (intro.),
119.75, 119.78, 119.82 (1m) (intro.), 120.115 (1), 120.13 (1) (b) 1., 120.13 (17),
120.14 (1), 121.137 (2), 121.137 (3), 121.85 (6) (am) 1. a., 121.85 (6) (am) 2. a.,
121.85 (6) (am) 3. a., 121.85 (6) (am) 4. a., 121.85 (6) (am) 5., 121.85 (6) (am) 6.
a., 121.85 (6m), 121.87 (3) and 200.23 (2) (a) 6.; **to repeal and recreate** 111.70
(4) (m) 2. and 119.18 (23); and **to create** 20.255 (3) (cs), 115.28 (53), 119.02 (4),
119.14 (title), (1), (2) and (6) to (13), 119.14 (15), 119.16 (8) (am), 119.16 (11),
119.44 (4), 119.53, 119.70 (1) (b), 119.90 and 121.137 (1) (c) of the statutes;
relating to: the powers and duties of the board of school directors and the
superintendent of schools in a first class city school district, awarding a grant
to a nonprofit corporation, requiring a referendum, and granting rule-making
authority.

Analysis by the Legislative Reference Bureau

Under current law, a 1st class city school district (currently only the Milwaukee Public Schools, or MPS) is governed by an elected board of school directors. The board consists of nine members, eight of whom are elected from numbered election districts and one of whom is elected at large. Members are elected at the spring election and serve four-year terms. The board appoints the superintendent of schools. The board may remove the superintendent of schools for a misdemeanor in office, incompetency, or inattention to the duties of office.

This bill directs the mayor of the city of Milwaukee to appoint a superintendent of schools to serve at the mayor's pleasure. Under the bill, the superintendent of schools is in charge of MPS and most of the powers and duties of the board of school directors are transferred to the superintendent of schools, including the appointment of all staff, the formulation of the annual school budget, collective bargaining, school closings, and the determination of the school calendar. The board retains the authority to expel pupils from school, although the bill transfers the authority to suspend pupils to the superintendent of schools. In addition, the bill

SENATE BILL 405

allows the superintendent, in any school year, to permit an independent hearing panel or officer appointed by the superintendent to determine pupil expulsion instead of the board. The board, however, still hears appeals of expulsion orders.

The bill provides that the city attorney is the legal advisor to the superintendent of schools, although the superintendent may retain an attorney under certain circumstances. The board may retain an attorney only if the city attorney approves.

The bill prohibits the superintendent of schools from entering into a contract with an organization that is not a labor organization if the contract specifies the wages, hours, or conditions of employment of any school district employees. A labor organization is an employee organization that exists for the purpose of collective bargaining with municipal employees.

The bill creates a budget committee to advise the superintendent of schools on the formulation of the school budget. The committee consists of the city comptroller, the president of the common council, the president of the board of school directors, the state superintendent of public instruction, and three members appointed by the mayor.

The bill requires that a binding referendum be held in the city of Milwaukee at the April 2017 spring election. The question asked voters will be whether the board of school directors shall be in charge of MPS and appoint the superintendent of schools. If a majority of the voters vote “Yes,” the board of school directors is once again in charge of MPS, the term of the superintendent of schools appointed by the mayor is terminated, and the board of school directors appoints a superintendent of schools to act under the board’s direction.

Beginning in the 2011–12 school year, the bill directs the state superintendent of public instruction annually to award a grant to a non-profit corporation that jointly with a local governmental unit or state agency provides comprehensive services to improve the education, health, and economic opportunities of children residing in the city of Milwaukee.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 1 **SECTION 1.** 16.70 (8) of the statutes is amended to read:
- 2 16.70 **(8)** “Municipality” means a county, city, village, town, school district,
- 3 ~~board of school directors,~~ sewer district, drainage district, technical college district
- 4 or any other public or quasi-public corporation, officer, board or other body having
- 5 the authority to award public contracts.

SENATE BILL 405**SECTION 2**

SECTION 2. 20.005 (3) (schedule) of the statutes: at the appropriate place, insert the following amounts for the purposes indicated:

	2009-10	2010-11
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20.255 Public instruction, department of

(3) AID TO LIBRARIES, INDIVIDUALS, AND
ORGANIZATIONS

(cs) Comprehensive services	GPR	A	-0-	-0-
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SECTION 3. 20.255 (3) (cs) of the statutes is created to read:

20.255 (3) (cs) *Comprehensive services.* The amounts in the schedule for the grant to provide comprehensive services to children under s. 115.28 (53).

SECTION 4. 24.66 (3) (a) of the statutes is amended to read:

24.66 (3) (a) *For long-term loans by common, union high and 1st class city school districts.* Every application for a loan, the required repayment of which exceeds 10 years, shall be approved and authorized for a common, union high or 1st class city school district by a vote of a majority of its legal voters voting on this question. If the vote is taken at a special meeting the objects thereof shall be clearly stated in the notice of the meeting. The application shall state the facts in detail respecting the holding of the meeting, and the taking and the result of the vote required. The In a common or union high school district, the application shall be signed by a majority of the members of the district school board and verified by the clerk. In a 1st class city school district, the application shall be signed by the superintendent of schools. The statement accompanying the application shall contain a correct map or plat of the district. If the district is a joint district, the statement accompanying the application shall show the assessed valuation in its

SENATE BILL 405

several parts separately, so that the valuation of each part of the district which lies in each town or municipality may be readily shown.

SECTION 5. 24.66 (5) (a) of the statutes is amended to read:

24.66 (5) (a) Every application for a loan under this section by a municipality shall be accompanied by a certified copy under the hand of the proper clerk of a recorded resolution adopted by the municipality applying for or approving the loan, levying, except as provided in par. (b), upon all the taxable property of the municipality a direct annual tax for the purpose of paying and sufficient to pay the principal and interest on the proposed loan as they become due. In a 1st class city school district, the application shall be accompanied by a ~~certified copy of a resolution, adopted by the board of school directors~~ sworn affidavit by the superintendent of schools, stating that it is the intention of the ~~board of school directors~~ superintendent of schools to include in its his or her budget transmitted to the common council under s. 119.16 (8) (b) a written notice specifying the amount of money necessary to pay the principal and interest on the loan as they become due. Every application for a loan under this subsection by a cooperative educational service agency shall be accompanied by a copy of a recorded resolution adopted by the school board of each school district for which the loan is sought, certified by the school district clerk of that school district, levying upon all taxable property of the school district a direct annual tax for the purpose of paying and sufficient to pay the school district's share of the principal and interest on the proposed loan as they become due. The levy imposed by the municipality shall be void if the board declines to make the loan; otherwise it shall remain valid and irrevocable until the loan and all interest on the loan are fully paid.

SECTION 6. 38.08 (1g) of the statutes is amended to read:

SENATE BILL 405**SECTION 6**

1 38.08 **(1g)** The appointment committee for a district board that governs a
2 district encompassing a 1st class city shall include 4 additional members designated
3 by the ~~board of school directors in charge~~ superintendent of schools of the public
4 schools of the 1st class city. The additional members shall be appointed so as to
5 reflect, to the extent possible, the distribution of women and minorities within the
6 1st class city.

7 **SECTION 7.** 40.02 (41) of the statutes is amended to read:

8 40.02 **(41)** “Milwaukee teacher” means any teacher employed by the ~~board of~~
9 ~~school directors of the city of Milwaukee~~ superintendent of schools of a 1st class city
10 school district.

11 **SECTION 8.** 40.02 (55) (b) of the statutes is amended to read:

12 40.02 **(55)** (b) Any person employed as a full-time social center, community
13 house, adult education or recreation director, instructor or other employee employed
14 by the ~~board of school directors of the city of Milwaukee~~ superintendent of schools
15 of a 1st class city school district, who possesses the qualifications required for
16 employment as a teacher.

17 **SECTION 9.** 63.235 of the statutes is amended to read:

18 **63.235 Delegation to board of school directors.** In a 1st class city, the city
19 service commission shall delegate its recruitment and hiring duties related to
20 specified classifications of school employees to the ~~board of school directors~~
21 superintendent of schools if the ~~board adopts a resolution requesting~~ superintendent
22 of schools requests the commission to do so.

23 **SECTION 10.** 63.36 (2) of the statutes is amended to read:

24 63.36 **(2)** Persons in the service of the city shall not be compensated for acting
25 as examiners if they are public officers or if their service as examiners is rendered

SENATE BILL 405

1 during their paid working schedule, but the board may compensate employees of the
2 board of school directors superintendent of schools for serving as city service
3 examiners beyond their regular working hours and beyond their regular duties as
4 such employees.

5 **SECTION 11.** 63.53 of the statutes is amended to read:

6 **63.53 Board of school directors employees Employees of a 1st class city**
7 **school district.** (1) Except as provided under sub. (2), all officers and employees
8 of the board of school directors superintendent of schools of any 1st class city school
9 district are members of the classified service and shall be selected and have their
10 tenure and employment status determined in accordance with ss. 63.18 to 63.51, the
11 rules adopted under ss. 63.18 to 63.51 and the charter ordinances applying to the
12 board of city service commissioners of the city.

13 (2) The following employees are not members of the classified service: the
14 superintendent of schools, ~~deputy superintendent of schools, associate~~
15 ~~superintendent of schools, executive assistant to the superintendent of schools,~~
16 ~~assistant to the superintendent of schools, assistant superintendent, division~~
17 ~~director, department director~~ and employees appointed by the superintendent of
18 schools under s. 119.32 (3), principals, teachers and substitute teachers actually
19 engaged in teaching, staff of the board of school directors if the board so decides under
20 s. 119.18 (10) (c), and, in any department of the school board devoted wholly or
21 principally to the subjects of municipal recreation and adult education, all employees
22 of those departments whose duties are peculiar to municipal recreation and adult
23 education but not including employees whose duties are clerical or custodial.

24 **SECTION 12.** 66.0217 (8) (c) of the statutes is amended to read:

SENATE BILL 405**SECTION 12**

1 66.0217 **(8)** (c) The annexation is effective upon enactment of the annexation
2 ordinance. The ~~board of school directors~~ superintendent of schools in a 1st class city
3 is not required to administer the schools in any territory annexed to the city until
4 July 1 following the annexation.

5 **SECTION 13.** 66.0901 (1) (a) of the statutes is amended to read:

6 66.0901 **(1)** (a) “Municipality” means the state or a town, city, village, school
7 district, ~~board of school directors~~, sewer district, drainage district, technical college
8 district or other public or quasi-public corporation, officer, board or other public body
9 charged with the duty of receiving bids for and awarding any public contracts.

10 **SECTION 14.** 66.1333 (5r) (b) 1. (intro.) and a. of the statutes are amended to
11 read:

12 66.1333 **(5r)** (b) 1. (intro.) The authority of a 1st class city may issue up to
13 \$170,000,000 in bonds to finance or refinance the development or redevelopment of
14 sites and facilities to be used for public school facilities by the ~~board of school~~
15 ~~directors of the school district~~ operating under ch. 119 if all of the following apply:

16 a. The ~~board of school directors~~ superintendent of schools of the school district
17 operating under ch. 119 requests the issuance of the bonds to implement the report
18 approved under 1999 Wisconsin Act 9, section 9158 (7tw) (b).

19 **SECTION 15.** 66.1333 (5s) (a) of the statutes is amended to read:

20 66.1333 **(5s)** (a) *Bond issuance.* Subject to s. 119.499 (1), the authority of a 1st
21 class city may issue up to \$200,000,000 in bonds to finance or refinance the payment
22 of unfunded prior service liability contributions under the Wisconsin Retirement
23 System for the ~~board of school directors~~ of the school district operating under ch. 119
24 if the ~~board of school directors~~ superintendent of schools of the school district
25 operating under ch. 119 requests the issuance of the bonds.

SENATE BILL 405

SECTION 16. 111.70 (4) (m) 1. of the statutes is amended to read:

111.70 (4) (m) 1. Reassignment of municipal employees who perform services for ~~a board of school directors~~ the superintendent of schools under ch. 119, with or without regard to seniority, as a result of a decision of the ~~board of school directors~~ superintendent of schools to contract with an individual or group to operate a school as a charter school, as defined in s. 115.001 (1), or to convert a school to a charter school, or the impact of any such reassignment on the wages, hours or conditions of employment of the municipal employees who perform those services.

SECTION 17. 111.70 (4) (m) 2. of the statutes is repealed and recreated to read:

111.70 (4) (m) 2. Reassignment of municipal employees who perform services for the superintendent of schools, with or without regard to seniority, as a result of the decision of the superintendent of schools to close or reopen a school under s. 119.18 (23), or the impact of any such reassignment on the wages, hours or conditions of employment of the municipal employees who perform those services.

SECTION 18. 111.70 (4) (m) 4. of the statutes is amended to read:

111.70 (4) (m) 4. Any decision of ~~a board of school directors~~ the superintendent of schools to contract with a school or agency to provide educational programs under s. 119.235, or the impact of any such decision on the wages, hours or conditions of employment of the municipal employees who perform services for the ~~board~~ superintendent of schools.

SECTION 19. 115.001 (7) of the statutes is amended to read:

115.001 (7) SCHOOL BOARD. “School board” means the school board ~~or board of school directors~~ in charge of the schools of a school district, except that in a school district operating under ch. 119, “school board” means the board of school directors.

SECTION 20. 115.001 (8) of the statutes is amended to read:

SENATE BILL 405**SECTION 20**

1 115.001 **(8)** SCHOOL DISTRICT ADMINISTRATOR. “School district administrator”
2 means the school district superintendent, supervising principal or other person who
3 acts as the administrative head of a school district, or the superintendent of schools
4 of a school district operating under ch. 119.

5 **SECTION 21.** 115.28 (53) of the statutes is created to read:

6 115.28 **(53)** COMPREHENSIVE SERVICES TO CHILDREN IN MILWAUKEE. From the
7 appropriation under s. 20.255 (3) (cs), beginning in the 2011–12 school year annually
8 award a grant to a nonprofit corporation that jointly with a local governmental unit
9 or a state agency provides comprehensive services to improve the education, health,
10 and economic opportunities of children residing in a 1st class city school district. The
11 state superintendent shall promulgate rules to implement and administer this
12 subsection, including rules establishing a matching requirement.

13 **SECTION 22.** 115.98 of the statutes is amended to read:

14 **115.98 Bilingual–bicultural advisory committee.** In each school district
15 which establishes a bilingual–bicultural education program under this subchapter,
16 the school board may appoint a bilingual–bicultural advisory committee to afford
17 parents and educators of limited–English proficient pupils the opportunity to advise
18 the school board of their views and to ensure that a program is planned, operated and
19 evaluated with their involvement and consultation. In the school district operating
20 under ch. 119, the superintendent of schools shall appoint such a committee. The
21 committee shall assist the school board or the superintendent of schools in informing
22 educators, parents and legal custodians of limited–English proficient pupils that a
23 program exists. The committee shall be composed of parents of limited–English
24 proficient pupils enrolled in the bilingual–bicultural education program, bilingual
25 and other teachers, bilingual teacher’s aides, bilingual and other counselors and

SENATE BILL 405

1 bilingual counselor's aides in the district, at least one representative from the
2 community and a representative of the school district administration.

3 **SECTION 23.** 118.22 (1) (b) of the statutes is amended to read:

4 118.22 (1) (b) "Teacher" means any person who holds a teacher's certificate or
5 license issued by the state superintendent or a classification status under the
6 technical college system board and whose legal employment requires such
7 certificate, license or classification status, but does not include part-time teachers
8 or teachers employed by ~~any board of school directors~~ the superintendent of schools
9 in a city of the 1st class.

10 **SECTION 24.** 119.02 (1) of the statutes is amended to read:

11 119.02 (1) "Board" means the board of school directors ~~in charge of the public~~
12 ~~schools of a city of the 1st class~~ city school district.

13 **SECTION 25.** 119.02 (4) of the statutes is created to read:

14 119.02 (4) "Superintendent of schools" means the superintendent of schools in
15 charge of the public schools of a city.

16 **SECTION 26.** 119.04 (1) of the statutes, as affected by 2009 Wisconsin Act 28,
17 is amended to read:

18 119.04 (1) Subchapters IV, V and VII of ch. 115, ch. 121 and ss. 66.0235 (3) (c),
19 66.0603 (1m) to (3), 115.01 (1) and (2), 115.28, 115.31, 115.33, 115.34, 115.343,
20 115.345, 115.361, 115.365 (3), 115.38 (2), 115.445, 115.45, 118.001 to 118.04, 118.045,
21 118.06, 118.07, 118.10, 118.12, 118.125 to 118.14, 118.145 (4), 118.15, 118.153,
22 118.16, 118.162, 118.163, 118.164, 118.18, 118.19, 118.20, 118.24 (1), (2) (c) to (f), (6)
23 and (8), 118.255, 118.258, 118.291, 118.30 to 118.43, 118.51, 118.52, 118.55, 120.12
24 (5) and (15) to (25), 120.125, 120.13 (1), (2) (b) to (g), (3), (14), (17) to (19), (26), (34),
25 (35), (37), (37m), and (38), 120.14, 120.21 (3), and 120.25 are applicable to a 1st class

SENATE BILL 405**SECTION 26**

1 city school district and board. Except for ss. 118.06 (1), 118.13 (2) (a), 118.31 (4), and
2 120.13 (1) (c) and (17), in a 1st class city school district, any power conferred or duty
3 imposed upon a school board in these provisions is conferred or imposed instead upon
4 the superintendent of schools, and any prohibition upon a school board's actions in
5 these provisions applies to both the board and the superintendent of schools.

6 **SECTION 27.** 119.04 (2) of the statutes is amended to read:

7 119.04 (2) The ~~board~~ superintendent of schools shall exercise the powers,
8 perform the functions and be entitled to all school aid under sub. (1) insofar as the
9 same are relevant to cities of the 1st class. The superintendent of schools, the board,
10 and the schools in cities of the 1st class shall be governed in all matters by the general
11 laws of the state, except as altered or modified by express amendments.

12 **SECTION 28.** 119.10 (2) of the statutes is amended to read:

13 119.10 (2) Annually, no earlier than the 4th Monday in April and no later than
14 the first Monday in May, the board shall hold its organizational meeting, shall elect
15 a president from among its members to serve for one year and until a successor is
16 chosen, and shall designate an individual to serve as clerk and an individual to serve
17 as assistant clerk. In the absence or during the disability of the board president, the
18 board shall elect an acting president. The board president shall appoint standing
19 committees to serve for one year.

20 **SECTION 29.** 119.12 (4) of the statutes is renumbered 119.18 (25) and amended
21 to read:

22 119.18 (25) LIMIT ON DEBT AND EXPENSES. The ~~board~~ superintendent of schools
23 shall not in any one year contract any debt or incur any expense greater than the
24 amount of the school funds subject to its his or her order.

SENATE BILL 405

1 **SECTION 30.** 119.12 (6) of the statutes is renumbered 119.18 (24) and amended
2 to read:

3 **119.18 (24) ATTORNEY.** The city attorney of the city shall be the legal adviser
4 of and attorney for the board superintendent of schools, except that the board
5 superintendent of schools may retain an attorney to represent the board
6 superintendent of schools in any matter if the board superintendent of schools
7 determines that ~~it~~ he or she requires specialized legal expertise not possessed by the
8 city attorney, the city attorney does not have sufficient staff to adequately represent
9 the interests of the board superintendent of schools or a conflict of interest exists.
10 The board superintendent of schools shall provide the city attorney with reasonable
11 notice of any board meeting at which the board will whenever he or she intends to
12 consider retention of an attorney.

13 **SECTION 31.** 119.14 (title), (1), (2) and (6) to (13) of the statutes are created to
14 read:

15 **119.14 (title) Board; powers and duties. (1) GENERAL SUPERVISION.** The
16 board may visit and examine the schools of the school district and advise the
17 superintendent of schools regarding the instruction, government, and progress of the
18 pupils.

19 **(2) RULES.** The board may adopt and modify or repeal rules for its own
20 government.

21 **(6) PUBLIC INPUT.** The board shall allocate time at each board meeting for public
22 comment on issues of concern or interest to residents of the school district regarding
23 the education of pupils, management of the school district, the school district's
24 budget, or other issues of interest or concern. The board shall provide a written

SENATE BILL 405**SECTION 31**

1 summary of public comments received at each board meeting to the superintendent
2 of schools within 2 weeks of the board meeting.

3 **(7) DISCUSSION OF PUBLIC QUESTIONS.** Upon the written application of one-half
4 of the electors of the school district, the board shall allow the use of the school
5 buildings or grounds for the free discussion of public questions so far as such use does
6 not interfere, as determined by the superintendent of schools, with the prime
7 purpose of the school buildings or grounds.

8 **(8) FUNDS FOR REWARDS.** The board may establish a reward, not exceeding \$500,
9 for information leading to the arrest and conviction of persons who damage or destroy
10 school property or who injure any person while at school or under the supervision of
11 a school authority.

12 **(9) SCHOOL BOARD ORGANIZATION; FEE.** The board may pay the membership fee
13 in an organization of school boards in this state and the actual and necessary
14 expenses of its representatives incurred in attending meetings of such organization.

15 **(10) COMMUNITY PROGRAMS AND SERVICES.** The board may establish and
16 maintain community education, training, recreational, cultural, or athletic
17 programs and services, outside the regular curricular and extracurricular programs
18 for pupils, under such terms and conditions as the board prescribes. The board may
19 establish and collect fees to cover all or part of the costs of such programs and
20 services. Costs associated with such programs and services shall not be included in
21 the school district's shared cost under s. 121.07 (6).

22 **(11) LECTURES.** The board may provide free lectures on educational subjects in
23 school buildings, public library buildings, or other suitable places, and provide for
24 the further education of the adult residents of the school district. The superintendent

SENATE BILL 405

1 of schools may purchase books, stationery, charts, and other things necessary to
2 conduct such lectures. The board may designate a person to manage such lectures.

3 **(12) SCHOOL BOARD ORIENTATION.** The board may provide for the orientation and
4 continuing education of board members and persons who have been elected to the
5 board but have not yet taken office in the general duties and responsibilities of the
6 board and the school district, and pay for the actual and necessary expenses
7 incurred.

8 **(13) ATTORNEY.** The board may retain an attorney to advise and represent it
9 on matters relating to board governance and to subchs. II and V of ch. 19 if the city
10 attorney approves. The board shall provide the city attorney with reasonable notice
11 of any board meeting at which the board will consider retention of an attorney.

12 **SECTION 32.** 119.14 (15) of the statutes is created to read:

13 119.14 **(15) RECORDS CUSTODIAN.** The board may designate one or more persons
14 to be legal custodians of the board's records.

15 **SECTION 33.** 119.16 of the statutes is amended to read:

16 **119.16 Board Superintendent of schools; duties.** (1) EDUCATIONAL
17 PRIORITIES AND OBJECTIVES. ~~The board and the~~ superintendent of schools shall identify
18 broad yearly objectives and assess priorities for education in the school district and
19 shall issue an annual report and such additional reports as the ~~board and~~
20 superintendent ~~deem~~ deems desirable on the status of academic programs in the
21 school district and the progress of pupils enrolled in the public schools.

22 **(1m) MANAGEMENT OF SCHOOL DISTRICT.** ~~The board~~ superintendent of schools
23 shall have the possession, care, control and management of the schools, facilities,
24 operations, property and affairs of the school district.

SENATE BILL 405**SECTION 33**

1 **(2) ESTABLISH SCHOOLS AND DISTRICTS.** The ~~board~~ superintendent of schools shall
2 maintain the public schools in the city and shall establish, organize and maintain
3 such schools as the ~~board~~ superintendent of schools determines are necessary to
4 accommodate the children entitled to instruction therein. The ~~board~~ superintendent
5 of schools shall divide the city into attendance districts for such schools.

6 **(3) BUILDINGS AND SITES.** (a) The ~~board~~ superintendent of schools shall
7 construct, purchase, lease, improve or enlarge buildings and purchase furniture and
8 sites for the public schools, shall purchase, install and maintain heating systems in
9 public schools and may contract for carrying out any of these purposes.

10 (b) Except as provided in par. (c), schoolhouses and the sites on which they are
11 situated shall be the property of the city. No site may be purchased or leased and no
12 schoolhouse may be constructed unless ~~a resolution therefor is duly adopted by the~~
13 ~~board~~ the superintendent of schools issues an order to do so. Except as provided in
14 par. (c), deeds of conveyance and leases shall be made to the city.

15 (c) If the redevelopment authority of the city issues bonds under s. 66.1333 (5r),
16 the ~~board~~ superintendent of schools may lease buildings or sites from the
17 redevelopment authority or borrow money from the redevelopment authority for the
18 purposes of par. (a).

19 **(4) COMPETITIVE BIDDING.** The ~~board~~ superintendent of schools shall establish
20 competitive bidding policies and procedures for purchases and for construction
21 contracts.

22 **(5) SPECIAL COURSES.** Within budgetary limitations, the ~~board~~ superintendent
23 of schools shall establish in any public school, in grade 7 and higher, such classes of
24 instruction consistent with the educational goals and objectives adopted by the ~~board~~
25 superintendent of schools under sub. (1) as are petitioned for by the parents of a

SENATE BILL 405

1 number of pupils attending the school sufficient to form one or more classes of
2 instruction. Petition by the parents of 30 or more pupils of like classification
3 attending any such school requesting the establishment of instruction in a specified
4 subject is prima facie evidence of the sufficiency of the number of pupils to commence
5 instruction therein.

6 **(6) CUSTODIANS OF SCHOOL PREMISES.** The ~~board~~ superintendent of schools shall
7 fix the duties and responsibilities of principals, as custodians of the school premises,
8 and of the school engineers. Each principal shall have general supervision of and
9 shall be custodian of all school premises over which the principal presides.

10 **(8) BUDGET.** (a) Annually before adopting its ~~the~~ budget for the ensuing school
11 year and at least ~~5~~ 60 days before transmitting its ~~the~~ completed budget under par.
12 (b), the ~~board~~ shall hold a public hearing on the proposed school budget at a time and
13 place fixed by the board. ~~At least one week before the public hearing, the board shall~~
14 ~~publish a class 1 notice, under ch. 985, of the public hearing.~~ superintendent of
15 schools shall submit the proposed budget to the board for its review. If the board
16 objects to one or more items, it shall return the budget to the superintendent of
17 schools within 15 days, indicating the items to which it objects in writing. The
18 superintendent of schools shall respond to the board's objections, in writing, within
19 25 days. The response may include revised versions of the items to which the board
20 objected. The board may hold one or more public hearings on the superintendent's
21 response. At the board's request, the superintendent of schools shall participate in
22 the public hearings. If the board holds one or more public hearings, it shall provide
23 to the superintendent of schools a written report on the hearings within 15 days of
24 receiving the superintendent's response.

SENATE BILL 405**SECTION 33**

1 (b) The ~~board~~ superintendent of schools shall transmit ~~its~~ the completed budget
2 to the common council on or before the first Monday in August of each year on forms
3 furnished by the auditing officer of the city. Such completed budget shall be
4 published with the budget summary under s. 65.04 (2) or 65.20 and budget under s.
5 65.05 (7).

6 **(10) SCHOOL FACILITIES.** (a) The ~~board~~ superintendent of schools may not
7 demolish any school facility that is 50 years old or older without the approval of the
8 city historic preservation commission.

9 (b) The ~~board~~ superintendent of schools may construct new school facilities
10 only in the areas of greatest local need for such facilities.

11 **SECTION 34.** 119.16 (8) (am) of the statutes is created to read:

12 119.16 **(8)** (am) At least 5 days before transmitting the completed budget to the
13 common council under par. (b), the superintendent of schools shall hold a public
14 hearing on the proposed budget.

15 **SECTION 35.** 119.16 (11) of the statutes is created to read:

16 119.16 **(11) COLLECTIVE BARGAINING AGREEMENTS.** (a) Within 5 days of signing
17 a collective bargaining agreement, the superintendent of schools shall submit a copy
18 of the agreement to the board for its review. The superintendent of schools shall meet
19 with the board to discuss the agreement if the board requests such a meeting within
20 30 days of receiving a copy of the agreement.

21 (b) The superintendent of schools may not enter into a contract specifying
22 wages, hours, or conditions of employment with any organization that is not a labor
23 organization, as defined in s. 111.70 (1) (h).

24 **SECTION 36.** 119.18 (title), (1g) and (1r) of the statutes are amended to read:

SENATE BILL 405

1 **119.18** (title) **Board Superintendent of schools; powers. (1g)** GENERALLY.

2 The board superintendent of schools may do all things reasonable to promote the
3 cause of education, including establishing, providing and improving school district
4 programs, functions and activities for the benefit of pupils.

5 **(1r)** RULES. The board superintendent of schools may adopt and modify or
6 repeal rules for ~~its own government~~ the administration of the school district and for
7 the organization, discipline and management of the public schools which shall
8 promote the good order and public usefulness of the public schools.

9 **SECTION 37.** 119.18 (2) of the statutes is renumbered 119.14 (3).

10 **SECTION 38.** 119.18 (3) to (5), (6) (intro.) and (b) and (7) to (10) of the statutes
11 are amended to read:

12 119.18 **(3)** TRANSPORTATION. The board superintendent of schools may provide
13 for the transportation of pupils to and from any school within the city.

14 **(4)** INSURANCE. The board superintendent of schools may provide for accident
15 insurance covering pupils in the school district.

16 **(5)** TEXTBOOKS FOR INDIGENT PUPILS. The board superintendent of schools may
17 purchase textbooks for pupils whose parents, guardians or other persons having
18 control or custody of such pupils are without means to furnish them with textbooks,
19 if the indigency of such pupils have been investigated and certified by a welfare
20 worker or attendance officer. The local governmental authority administering poor
21 relief in the city shall reimburse the board superintendent of schools for all
22 expenditures by the board superintendent of schools for such textbooks. Such
23 textbooks shall be the property of the city and subject to the disposal of the board
24 superintendent of schools.

SENATE BILL 405**SECTION 38**

1 **(6) SCHOOL CALENDAR.** (intro.) The ~~board~~ superintendent of schools may
2 determine the school calendar and vacation periods for each school year for the
3 regular day schools, summer schools, social centers and playgrounds, except that:

4 (b) The ~~board~~ superintendent of schools may close any school or dismiss any
5 class in the event of an emergency, fire or other casualty, quarantine or epidemic.

6 **(7) SCHOOL HOURS.** The ~~board~~ superintendent of schools may establish rules
7 scheduling the hours of each school day during which the schools shall be in session.
8 The ~~board~~ superintendent of schools may differentiate between the various grades
9 in scheduling such school hours.

10 **(8) SCHOOLS CLOSED.** The ~~board~~ superintendent of schools may determine on
11 which national, state and local legal holidays and for which educational conventions
12 the public schools shall be closed. There shall be no deductions from the annual or
13 monthly compensation of employees not rendering services on such days.

14 **(9) ENROLLMENT UNDER LEGAL NAME.** The ~~board~~ superintendent of schools may
15 require that any pupil attending public school shall be enrolled under the pupil's
16 legal name.

17 **(10) EMPLOYEES.** (b) Subject to ss. 63.18 to 63.53 when applicable, the ~~board~~
18 superintendent of schools may employ and determine the qualifications, duties and
19 compensation of any persons as are required in the operation and management of the
20 schools.

21 (c) The ~~board~~ superintendent of schools may employ a staff to aid it in its his
22 or her duties. The ~~board~~ superintendent of schools shall determine the
23 compensation, duties and qualifications of its his or her staff, including whether or
24 not employment of such staff shall be subject to ss. 63.18 to 63.53.

25 **SECTION 39.** 119.18 (11) of the statutes is renumbered 119.14 (14).

SENATE BILL 405

1 **SECTION 40.** 119.18 (12), (13) (intro.), (b) and (c) and (14) of the statutes are
2 amended to read:

3 119.18 **(12)** EMPLOYER CONTRIBUTION. The ~~board~~ superintendent of schools may
4 make as the employer agency the contributions to the city retirement system payable
5 under chapter 396, laws of 1937, in respect to its his or her employees who are
6 members of such system.

7 **(13)** EXCHANGE TEACHERS. (intro.) The ~~board~~ superintendent of schools may
8 make an agreement with the managing body of the schools in any city or school
9 district in the United States or another country for the exchange of ~~one of the board's~~
10 ~~teachers~~ a teacher for a teacher of such other city or school district for a period not
11 exceeding one school year. The ~~board~~ superintendent of schools shall determine the
12 qualifications and compensation of the teacher rendering service under the
13 agreement in the schools under its his or her jurisdiction, who shall be counted as
14 a regular teacher in the city in the computation of state and county school aids. The
15 agreement shall state:

16 (b) That any teacher regularly employed by the ~~board~~ superintendent of schools
17 under this chapter shall receive credit for the year of exchange teaching service in
18 the computation of any benefits to which the teacher is entitled under ch. 40 and the
19 manner in which the monthly reservations shall be paid under that subchapter.

20 (c) Such other provisions as the ~~board~~ superintendent of schools and the other
21 managing body deem appropriate.

22 **(14)** SALES AND CHARGES. The ~~board~~ superintendent of schools may establish
23 and maintain, in any of the schools or playgrounds under its his or her jurisdiction,
24 cafeterias and stores for the sale of schoolbooks, candies, refreshments and supplies.
25 The ~~board~~ superintendent of schools also may charge or permit the making of a

SENATE BILL 405**SECTION 40**

1 charge for admission to any school, social center or athletic entertainment or activity,
2 under such terms and conditions as the board prescribes.

3 **SECTION 41.** 119.18 (15) of the statutes is renumbered 119.14 (4) and amended
4 to read:

5 119.14 **(4)** LEASE SCHOOL PROPERTY. In addition to any other authority, the board
6 may lease school sites, buildings and equipment not needed for school purposes, as
7 determined by the superintendent of schools, to any person for any lawful use at a
8 reasonable rental for a term not exceeding 15 years.

9 **SECTION 42.** 119.18 (16) to (22) of the statutes are amended to read:

10 119.18 **(16)** GIFTS AND GRANTS. The ~~board~~ superintendent of schools may
11 receive, accept and use gifts or grants of furniture, books, equipment, supplies,
12 moneys, securities or other property used or useful for school and educational
13 purposes. The ~~board~~ superintendent of schools shall make such use of gifts or grants,
14 or invest the same in the case of moneys, as the donor or grantor specifies. In the
15 absence of any specific direction as to the use of such gifts or grants by a donor or
16 grantor, the ~~board~~ superintendent of schools may determine the use of or may invest
17 the same in accordance with the law applicable to trust investments. In the use,
18 control or investment of such gifts or grants, the ~~board~~ superintendent of schools may
19 exercise the rights and powers generally conferred upon trustees.

20 **(17)** PURCHASES FROM HOUSE OF CORRECTION. The ~~board~~ superintendent of
21 schools may purchase for use in the schools, from any county in which the city is
22 located, furniture, furnishings and equipment manufactured in any house of
23 correction under s. 303.16 (1). The ~~board~~ superintendent of schools may waive the
24 furnishing by the county or institution of bid bonds and performance bonds otherwise
25 required by the statutes in connection with any such purchase.

SENATE BILL 405

1 **(18) COPYRIGHT MATERIALS.** The ~~board~~ superintendent of schools may copyright
2 under the applicable federal laws any book, pamphlet, bulletin or record form edited
3 and published by or under the direction of the ~~board~~ superintendent of schools.

4 **(19) FENCES.** The ~~board~~ superintendent of schools may construct around any
5 schoolhouse or playground site a fence of materials and design approved by the ~~board~~
6 superintendent of schools.

7 **(20) DIPLOMAS.** The ~~board~~ superintendent of schools may grant diplomas in
8 testimony of the completion of high school or special education requirements,
9 including the requirements of special schools established under s. 119.28.

10 **(21) RULES ON CONDUCT AND DRESS.** The ~~board~~ superintendent of schools may
11 establish rules pertaining to conduct and dress of pupils in order to maintain good
12 decorum and a favorable academic atmosphere.

13 **(22) RECORDS CUSTODIAN.** ~~On~~ Except as provided in s. 119.14 (15), on behalf of
14 any school district authority as defined in s. 19.32 (1), ~~including the board, school~~
15 ~~district officers and any subunit of the board or school district, the superintendent~~
16 of schools may designate one or more persons to be legal custodians of records.

17 **SECTION 43.** 119.18 (23) of the statutes is repealed and recreated to read:

18 119.18 **(23) SCHOOL CLOSINGS.** (a) Subject to par. (b), the superintendent of
19 schools may close any school that he or she determines is low in performance. If the
20 superintendent of schools closes a school, he or she may reassign the school's staff
21 members without regard to seniority in service. If the superintendent of schools
22 reopens the school, he or she may reassign staff members to the school without
23 regard to seniority in service.

24 (b) At least 60 days before closing a school, the superintendent of schools shall
25 submit the proposal to close the school to the board for its review. If the board objects

SENATE BILL 405**SECTION 43**

1 to the closing, it shall return the proposal to the superintendent of schools within 15
2 days, indicating in writing the reasons for its objection. The superintendent of
3 schools shall respond to the board's objection, in writing, within 25 days. The
4 response may include a revised proposal. The board may hold one or more public
5 hearings on the superintendent's response. At the board's request, the
6 superintendent of schools shall participate in the public hearings. If the board holds
7 one or more hearings, it shall provide to the superintendent of schools a written
8 report on the hearings within 15 days of receiving the superintendent's response.

9 **SECTION 44.** 119.19 of the statutes is amended to read:

10 **119.19 Released time for religious instruction. (1)** The board
11 superintendent of schools may permit a pupil, with the written permission of the
12 pupil's parent or guardian, to be absent from school for up to 180 minutes per week
13 to obtain religious instruction outside the school during the required school period.
14 The board superintendent of schools shall determine periods allotted for the pupil
15 to be absent from school for the purpose of religious instruction. Monthly, the
16 supervisor of the religious instruction shall report the names of the pupils who
17 attended such weekly religious instruction to the principal of the school that the
18 pupil regularly attends. The board superintendent of schools may withdraw
19 permission to be absent from school if a pupil does not attend the religious
20 instruction.

21 **(2)** The board superintendent of schools is not responsible for transporting a
22 pupil to or from religious instruction under sub. (1).

23 **(3)** The board superintendent of schools is released from all liability for a pupil
24 who is absent from school under sub. (1).

SENATE BILL 405

1 **SECTION 45.** 119.23 (4r) (intro.) of the statutes, as created by 2009 Wisconsin
2 Act 28, is amended to read:

3 119.23 **(4r)** (intro.) If, after the 3rd Friday in September in any school year, a
4 private school participating in the program under this section closes, for each
5 installment under sub. (4) (c) that was not paid to the private school in that school
6 year, the state superintendent shall pay to the ~~board~~ school district operating under
7 this chapter, from the appropriation under s. 20.255 (2) (fv), the amount determined
8 as follows for each pupil who had been attending the private school under this section
9 in that school year and who enrolls in the school district operating under this chapter
10 in that school year:

11 **SECTION 46.** 119.23 (6) of the statutes is amended to read:

12 119.23 **(6)** The ~~board~~ superintendent of schools shall provide transportation to
13 pupils attending a private school under this section if required under s. 121.54 and
14 may claim transportation aid under s. 121.58 for pupils so transported.

15 **SECTION 47.** 119.23 (7) (b) 7. a. of the statutes, as created by 2009 Wisconsin
16 Act 28, is amended to read:

17 119.23 **(7)** (b) 7. a. Except as provided in subd. 7. b., if the private school ceases
18 operating as a private school, immediately transfer all of the progress records of the
19 pupils who attended the school under this section to the ~~board~~ superintendent of
20 schools. The private school shall send written notice to each pupil, or to the parent
21 or guardian of a minor pupil, of the transfer of progress records under this subd. 7.
22 a.

23 **SECTION 48.** 119.235 (1) of the statutes is amended to read:

24 119.235 **(1)** The ~~board~~ superintendent of schools may contract with any
25 nonsectarian private school located in the city or any nonsectarian private agency

SENATE BILL 405**SECTION 48**

1 located in the city to provide educational programs to pupils enrolled in the school
2 district operating under this chapter. The ~~board~~ superintendent of schools shall
3 ensure that each private school or agency under contract with the ~~board~~
4 superintendent of schools complies with ss. 118.125 and 118.13, 20 USC 1232g, 20
5 USC 1681 to 1688, 20 USC 3171 to 3197, 29 USC 794, 42 USC 2000d and 42 USC
6 6101 to 6107, and all health and safety laws and rules that apply to public schools.

7 **SECTION 49.** 119.235 (2) (intro.) and (b) of the statutes are amended to read:

8 119.235 (2) (intro.) Each private school or agency under contract with the ~~board~~
9 superintendent of schools shall do all of the following:

10 (b) Participate in the ~~board's~~ superintendent of schools' parent information
11 program.

12 **SECTION 50.** 119.235 (2) (d) of the statutes is amended to read:

13 119.235 (2) (d) Meet insurance and financial requirements established by the
14 ~~board~~ superintendent of schools.

15 **SECTION 51.** 119.235 (2) (e) 2. of the statutes is amended to read:

16 119.235 (2) (e) 2. A pupil selection process that gives preference to the siblings
17 of enrolled pupils and that gives no other preferences except those approved by the
18 ~~board~~ superintendent of schools.

19 **SECTION 52.** 119.235 (2) (f) of the statutes is amended to read:

20 119.235 (2) (f) Report to the ~~board~~ superintendent of schools any information
21 requested by the ~~board~~ superintendent of schools.

22 **SECTION 53.** 119.235 (3) of the statutes is amended to read:

23 119.235 (3) Any pupil enrolled in the school district operating under this
24 chapter may attend, at no charge, any private school or agency with which the ~~board~~

SENATE BILL 405

1 superintendent of schools has contracted under sub. (1) if space is available in the
2 private school or agency.

3 **SECTION 54.** 119.235 (4) of the statutes is amended to read:

4 119.235 (4) The ~~board~~ superintendent of schools shall establish appropriate,
5 quantifiable performance standards for pupils at each private school or agency with
6 which it he or she contracts in such areas as attendance, reading achievement, pupil
7 retention, pupil promotion, parent surveys, credits earned and grade point average.

8 **SECTION 55.** 119.235 (5) of the statutes is amended to read:

9 119.235 (5) Annually, the ~~board~~ superintendent of schools shall monitor the
10 performance of the program under this section. The ~~board~~ superintendent of schools
11 may use the results of standardized basic educational skills tests to do so. The ~~board~~
12 superintendent of schools shall include a summary of its his or her findings in its the
13 annual report to the state superintendent under s. 119.44.

14 **SECTION 56.** 119.24 of the statutes is amended to read:

15 **119.24 Admission of pupils.** A pupil may attend a school in an attendance
16 district other than the one in which he or she resides with the written permission of
17 the superintendent of schools. ~~Beginning in the 2000–01 school year, the board~~ The
18 superintendent of schools shall provide spaces in each school for pupils who reside
19 outside the attendance district for the school, but shall fill any unused spaces with
20 pupils who reside in the attendance district. A pupil who attends a school may
21 continue to attend that school until he or she graduates from the school and each
22 sibling of that pupil shall be given priority over other pupils in the process of
23 admission for that school.

24 **SECTION 57.** 119.245 (2) of the statutes, as affected by 2009 Wisconsin Act 58,
25 is amended to read:

SENATE BILL 405**SECTION 57**

1 119.245 (2) Beginning in the 2008–09 school year, the ~~board~~ superintendent
2 of schools may apply to the department for an annual grant of up to \$10,000,000 to
3 implement initiatives to improve pupil academic achievement in all grades, such as
4 employing licensed teachers to tutor pupils who are struggling academically, or
5 employing persons to coordinate the district's instructional programs and provide
6 ongoing professional development for teachers. The ~~board~~ superintendent of schools
7 shall submit with its his or her application a plan for the department's approval
8 describing the initiatives for which the grant will be used, describing the research
9 showing that the initiatives have a positive effect on pupil academic achievement,
10 and including criteria for evaluating the effectiveness of the initiatives, such as high
11 school graduation rates or the results of the statewide pupil assessments under s.
12 118.30.

13 **SECTION 58.** 119.245 (3) of the statutes, as affected by 2009 Wisconsin Act 58,
14 is amended to read:

15 119.245 (3) The department may approve the plan submitted under sub. (2) in
16 whole or in part. If the department approves a plan in part, the ~~board~~ superintendent
17 of schools may submit an additional plan for the same school year and the
18 department may award the ~~board~~ school district operating under ch. 119 all or part
19 of the balance of grant funds.

20 **SECTION 59.** 119.245 (4) of the statutes, as affected by 2009 Wisconsin Act 58,
21 is amended to read:

22 119.245 (4) The department shall award grants to the ~~board~~ school district
23 operating under ch. 119 from the appropriation under s. 20.255 (2) (df).

24 **SECTION 60.** 119.25 (1) and (2) (a) (intro.), (b) and (d) 2. of the statutes are
25 amended to read:

SENATE BILL 405

1 119.25 (1) The board superintendent of schools may ~~adopt a resolution issue~~
2 a directive, which is effective only during the school year in which it is adopted
3 issued, authorizing any of the following to determine pupil expulsion from school
4 under sub. (2) instead of using the procedure under s. 120.13 (1) (c):

5 (a) An independent hearing panel appointed by the board superintendent of
6 schools.

7 (b) An independent hearing officer appointed by the board superintendent of
8 schools.

9 (2) (a) (intro.) During any school year in which a ~~resolution adopted~~ directive
10 issued under sub. (1) is effective, the independent hearing officer or independent
11 hearing panel appointed by the board superintendent of schools:

12 (b) No administrator may be designated to participate in an expulsion hearing
13 if he or she was involved in the incident that led to the expulsion proceeding. Prior
14 to expelling a pupil, the hearing officer or panel shall hold a hearing. Upon request
15 of the pupil and, if the pupil is a minor, the pupil's parent or guardian, the hearing
16 shall be closed. The pupil and, if the pupil is a minor, the pupil's parent or guardian,
17 may be represented at the hearing by counsel. The hearing officer or panel shall keep
18 a full record of the hearing. The hearing officer or panel shall inform each party of
19 the right to a complete record of the proceeding. Upon request, the hearing officer
20 or panel shall direct that a transcript of the record be prepared and that a copy of the
21 transcript be given to the pupil and, if the pupil is a minor, the pupil's parent or
22 guardian. Upon the ordering by the hearing officer or panel of the expulsion of a
23 pupil, the school district shall mail a copy of the order to the board, the pupil and, if
24 the pupil is a minor, the pupil's parent or guardian. A ~~school board~~, hearing officer
25 or panel may disclose the transcript to the parent or guardian of an adult pupil, if the

SENATE BILL 405**SECTION 60**

1 adult pupil is a dependent of his or her parent or guardian under section 152 of the
2 internal revenue code. Within 30 days after the date on which the order is issued,
3 the board shall review the expulsion order and shall, upon review, approve, reverse
4 or modify the order. The order of the hearing officer or panel shall be enforced while
5 the board reviews the order. The expelled pupil or, if the pupil is a minor, the pupil's
6 parent or guardian may appeal the board's decision to the state superintendent. If
7 the board's decision is appealed to the state superintendent, within 60 days after the
8 date on which the state superintendent receives the appeal, the state superintendent
9 shall review the decision and shall, upon review, approve, reverse or modify the
10 decision. The decision of the board shall be enforced while the state superintendent
11 reviews the decision. An appeal from the decision of the state superintendent may
12 be taken within 30 days to the circuit court for the county in which the school is
13 located.

14 (d) 2. An independent hearing panel or independent hearing officer appointed
15 by the board superintendent of schools may specify one or more early reinstatement
16 conditions in the expulsion order under par. (b) if the early reinstatement conditions
17 are related to the reasons for the pupil's expulsion. Within 15 days after the date on
18 which the expulsion order is issued, the expelled pupil or, if the pupil is a minor, the
19 pupil's parent or guardian may appeal the determination regarding whether an early
20 reinstatement condition specified in the expulsion order is related to the reasons for
21 the pupil's expulsion to the board. The decision of the board regarding that
22 determination is final and not subject to appeal.

23 **SECTION 61.** 119.26 of the statutes is amended to read:

24 **119.26 Partial annexation of school district.** When the city has annexed
25 a portion of the territory of a school district and such annexation does not include the

SENATE BILL 405

1 site of any school building of such school district, the school board of the district and
2 the ~~board~~ superintendent of schools may enter into an agreement to permit pupils
3 residing in the annexed territory to continue to attend school in the school district,
4 and the ~~board~~ superintendent of schools shall pay tuition to the school district for the
5 pupils in accordance with s. 121.78.

6 **SECTION 62.** 119.28 (1) of the statutes is amended to read:

7 119.28 (1) The ~~board~~ superintendent of schools shall establish and maintain
8 such special schools for children with disabilities, as defined in s. 115.76 (5), as are
9 required to accommodate pupils of school age desiring to attend school. The ~~board~~
10 superintendent of schools shall prescribe the courses of study and the educational
11 and other activities in special schools.

12 **SECTION 63.** 119.28 (2) of the statutes is amended to read:

13 119.28 (2) The ~~board~~ superintendent of schools may employ teachers to give
14 instruction in homes or hospitals to pupils unable to attend special schools.

15 **SECTION 64.** 119.28 (3) of the statutes is amended to read:

16 119.28 (3) The ~~board~~ superintendent of schools may provide transportation for
17 pupils attending special schools and provide school lunches for pupils under such
18 terms as it he or she determines.

19 **SECTION 65.** 119.28 (4) of the statutes is amended to read:

20 119.28 (4) The superintendent of schools shall prescribe, with the approval of
21 the committee on instruction, the periods of instruction at special schools subject to
22 amendment, rejection or confirmation by the board.

23 **SECTION 66.** 119.30 of the statutes is amended to read:

24 **119.30 Trade schools.** (1) The ~~board~~ superintendent of schools may
25 establish, conduct and maintain one or more schools for the purpose of giving

SENATE BILL 405**SECTION 66**

1 practical instruction in the useful trades and may purchase the proper machinery,
2 tools and equipment and employ a sufficient number of teachers and other necessary
3 employees in such schools. Such schools shall be known as senior trade schools and
4 junior trade schools.

5 (2) Until otherwise determined by the ~~board~~ superintendent of schools, only
6 pupils who have completed the 8th grade in an accredited school whose graduates
7 are eligible for admission to a high school in the city shall be admitted to the senior
8 trade schools. Only pupils who have attained the age of 14 years or have completed
9 at least 6 grades in elementary school shall be admitted to the junior trade schools.

10 (3) The ~~board~~ superintendent of schools may require pupils in trade schools to
11 pay the cost of all materials consumed in the course. In lieu of that requirement, the
12 ~~board~~ superintendent of schools may establish a fixed sum to be paid by each pupil
13 in a course which shall be sufficient to cover the cost of materials to be consumed by
14 the pupil in the course. The ~~board~~ superintendent of schools may sell any articles
15 made or manufactured in a trade school and determine the use of the proceeds from
16 the sale.

17 **SECTION 67.** 119.32 (1) of the statutes is amended to read:

18 119.32 (1) The ~~board~~ mayor shall ~~elect by roll call vote at a regular meeting~~
19 appoint a superintendent of schools, to serve at his or her pleasure, whenever that
20 office becomes vacant. The superintendent of schools shall be a person of suitable
21 learning and experience in the art of instruction and shall have practical familiarity
22 with the most approved methods of organizing and conducting a system of schools.

23 **SECTION 68.** 119.32 (2) (intro.) of the statutes is amended to read:

24 119.32 (2) (intro.) ~~Under the direction of the board, the~~ The superintendent of
25 schools shall have general supervision of:

SENATE BILL 405

1 **SECTION 69.** 119.32 (3) of the statutes is amended to read:

2 119.32 **(3)** ~~Subject to confirmation by the board, the~~ The superintendent of
3 schools shall appoint the deputy superintendent of schools, associate superintendent
4 of schools, executive assistant to the superintendent of schools, assistant to the
5 superintendent of schools, assistant superintendent, division director, department
6 director and any other supervisory or administrative employees ~~designated by the~~
7 ~~board.~~

8 **SECTION 70.** 119.32 (4) of the statutes is amended to read:

9 119.32 **(4)** The superintendent of schools shall be an advisory member of every
10 committee of the board, ~~except when an inquiry into his or her acts or an~~
11 ~~investigation of his or her official conduct is under consideration by such committee.~~

12 **SECTION 71.** 119.32 (5) of the statutes is amended to read:

13 119.32 **(5)** The superintendent of schools shall assign all teachers and engage
14 and assign substitute teachers at the per diem compensation fixed by the ~~board~~
15 superintendent of schools.

16 **SECTION 72.** 119.32 (6) of the statutes is amended to read:

17 119.32 **(6)** The superintendent of schools shall collect such statistics and
18 information relating to schools and the population entitled to school privileges in the
19 city as ~~the board directs~~ he or she deems necessary.

20 **SECTION 73.** 119.32 (7) of the statutes is amended to read:

21 119.32 **(7)** Notwithstanding ss. 115.28 (7), 118.19 (1) and 121.02 (1) (a), the
22 ~~board~~ mayor may elect appoint a superintendent of schools, and the superintendent
23 of schools may employ a business manager, who are not licensed by the department.

24 **SECTION 74.** 119.36 of the statutes is repealed.

25 **SECTION 75.** 119.40 of the statutes is amended to read:

SENATE BILL 405**SECTION 75**

1 119.40 (1) (a) Annually, the ~~board~~ superintendent of schools shall establish a
2 schedule of salaries for all classroom teachers, not including principals and vice
3 principals, in the schools of the city.

4 (b) Annually, the ~~board~~ superintendent of schools may establish one or more
5 schedules of salaries for all its employees not covered under par. (a).

6 (2) All schedules of salaries annually fixed by the ~~board~~ superintendent of
7 schools shall be adopted for the same period and on the same year basis as the annual
8 school budget is adopted by the ~~board~~ superintendent of schools.

9 **SECTION 76.** 119.42 (1m) of the statutes is amended to read:

10 119.42 (1m) The appointment of a teacher in a 1st class city school district shall
11 be probationary. After successful probation by completing 3 years of continuous
12 service, the appointment shall be permanent during efficiency and good behavior.
13 A teacher who has a permanent appointment shall not be discharged, except for
14 cause upon written charges. After 10 days' written notice to the teacher of the
15 charges and upon the teacher's written request, the charges shall be investigated,
16 heard and determined by the ~~board~~ superintendent of schools. The action of the
17 ~~board~~ superintendent of schools on the matter shall be final.

18 **SECTION 77.** 119.42 (2) of the statutes is amended to read:

19 119.42 (2) Any teacher employed in a public school in territory annexed to the
20 city, who at the time of the annexation possesses the qualifications required by law
21 and by the rules of the ~~board~~ superintendent of schools for probationary or
22 permanent appointment to a teaching position in the city, shall have the status of a
23 regularly appointed teacher in the schools of the city and shall be entitled to all the
24 rights and privileges of regularly appointed teachers in the city. Time spent in

SENATE BILL 405

1 teaching in the annexed territory prior to annexation shall be credited to each such
2 teacher as time spent in teaching in the city.

3 **SECTION 78.** 119.44 (title) of the statutes is amended to read:

4 **119.44 (title) Board Superintendent of schools report; meetings with**
5 **mayor.**

6 **SECTION 79.** 119.44 (1) of the statutes is amended to read:

7 119.44 **(1)** The ~~board~~ superintendent of schools shall file its the annual
8 financial report with the city clerk and shall send a copy of the report to the state
9 superintendent.

10 **SECTION 80.** 119.44 (2) (intro.) of the statutes is amended to read:

11 119.44 **(2)** (intro.) Annually at such times as the department prescribes but on
12 or before September 1, the ~~board~~ superintendent of schools shall file a verified
13 annual report with the department, on forms supplied by the department. The
14 annual report shall contain all of the following:

15 **SECTION 81.** 119.44 (2) (a) 3. of the statutes is amended to read:

16 119.44 **(2)** (a) 3. The number of pupils transferred by the ~~school-board~~
17 superintendent of schools to a different school in the same school district.

18 **SECTION 82.** 119.44 (4) of the statutes is created to read:

19 119.44 **(4)** At least annually, the mayor shall meet with the superintendent of
20 schools and other persons, as determined by the mayor, who are leaders in
21 elementary and secondary education in the city and elsewhere, to evaluate and
22 discuss the status of education in the city's public schools.

23 **SECTION 83.** 119.46 (1) of the statutes, as affected by 2009 Wisconsin Act 28,
24 is amended to read:

SENATE BILL 405**SECTION 83**

1 119.46 (1) As part of the budget transmitted annually to the common council
2 under s. 119.16 (8) (b), the board superintendent of schools shall report the amount
3 of money required for the ensuing school year to operate all public schools in the city
4 under this chapter, to repair and keep in order school buildings and equipment, to
5 make material improvements to school property and to purchase necessary additions
6 to school sites. The amount included in the report for the purpose of supporting the
7 Milwaukee Parental Choice Program under s. 119.23 shall be reduced by the amount
8 of aid received by the board school district under s. 121.136 and by the amount
9 specified in the notice received by the board superintendent of schools under s.
10 121.137 (2). The common council shall levy and collect a tax upon all the property
11 subject to taxation in the city, which shall be equal to the amount of money required
12 by the board superintendent of schools for the purposes set forth in this subsection,
13 at the same time and in the same manner as other taxes are levied and collected.
14 Such taxes shall be in addition to all other taxes which the city is authorized to levy.
15 The taxes so levied and collected, any other funds provided by law and placed at the
16 disposal of the city for the same purposes, and the moneys deposited in the school
17 operations fund under s. 119.60 (1), shall constitute the school operations fund.

18 **SECTION 84.** 119.47 of the statutes is amended to read:

19 **119.47 Taxes for school extension fund. (1)** If activities are being
20 conducted under s. 119.70 (1), the board superintendent of schools as part of the
21 budget transmitted annually to the common council under s. 119.16 (8) (b) shall
22 specify the amount of money required for the ensuing school year under s. 119.70 (3).
23 The taxes so levied and collected shall constitute the school extension fund.

24 **(2)** The board school district may receive and expend, in addition to the tax
25 levied and collected under s. 119.70 (3), any sums of money appropriated by the

SENATE BILL 405

1 common council of the city for community services. The common council may
2 appropriate from the city general fund or a similar fund to the school district such
3 sums of money as the common council deems expedient.

4 **SECTION 85.** 119.48 (1) of the statutes is amended to read:

5 119.48 (1) If the ~~board adopts a resolution by a two-thirds vote of the~~
6 ~~members-elect~~ superintendent of schools determines to provide funds, in addition
7 to receipts from the sale of bonds, to purchase school sites, to construct school
8 buildings and additions thereto or to remodel existing buildings, ~~the board~~ he or she
9 may include, as part of the budget transmitted to the common council under s. 119.16
10 (8) (b), a communication stating the amount of funds needed for such purposes. Upon
11 receipt of the communication, the common council shall levy and collect a tax upon
12 all property subject to taxation in the city, which shall be equal to the amount of
13 money required by the ~~board~~ superintendent of schools for the purposes set forth in
14 the communication, at the same time and in the same manner as other taxes are
15 levied and collected. Such taxes shall be in addition to all other taxes which the city
16 is authorized to levy. The taxes so levied and collected and the moneys under s.
17 119.60 (1) that are deposited in the school construction fund shall constitute the
18 school construction fund. If moneys under s. 119.60 (1) are deposited in the school
19 construction fund, the moneys shall be used for the purchase of real property for
20 school purposes. The ~~board~~ superintendent of schools may allow the school
21 construction fund to accumulate from year to year.

22 **SECTION 86.** 119.48 (2) (intro.) of the statutes is amended to read:

23 119.48 (2) (intro.) The common council shall have the following options on the
24 ~~board's~~ superintendent's communication under sub. (1):

25 **SECTION 87.** 119.48 (2) (a) of the statutes is amended to read:

SENATE BILL 405**SECTION 87**

1 119.48 (2) (a) To levy and collect a tax equal to the amount of money specified
2 by the board superintendent of schools under sub. (1).

3 **SECTION 88.** 119.48 (4) (a) of the statutes is amended to read:

4 119.48 (4) (a) If the board superintendent of schools deems it necessary to
5 exceed the levy rate specified under s. 65.07 (1) (f), it he or she may ~~by a two-thirds~~
6 ~~vote of the members-elect~~ include a communication to the common council as part
7 of the budget transmitted to the common council under s. 119.16 (8) (b).

8 **SECTION 89.** 119.485 of the statutes is amended to read:

9 **119.485 Taxes for state trust fund loans. (1)** If the board school district is
10 awarded a state trust fund loan under subch. II of ch. 24, the board superintendent
11 of schools shall include in its his or her budget transmitted to the common council
12 under s. 119.16 (8) (b) a written notice specifying the amount of money necessary to
13 pay the principal and interest on the loan as they become due. The common council
14 shall levy and collect a tax upon all property subject to taxation in the city, at the
15 same time and in the same manner as other taxes are levied and collected, equal to
16 the amount of money required to make such payments. The taxes are in addition to
17 all other taxes that the city is authorized to levy.

18 **(2)** Annually by December 31, the board superintendent of schools shall
19 transfer to the city an amount which, when added to the interest that will accrue on
20 the amount, is sufficient to meet the anticipated costs of debt service on the loan in
21 the ensuing year.

22 **SECTION 90.** 119.49 (1) (a) of the statutes is amended to read:

23 119.49 (1) (a) If the board superintendent of schools deems it necessary to
24 construct buildings or additions to buildings, to remodel buildings or to purchase
25 school sites or to provide funds for any such purpose as a participant in a contract

SENATE BILL 405

1 under s. 120.25, it may by a two-thirds vote of the members elect he or she shall send
2 a written communication to the common council of the city and issue a public notice.

3 **SECTION 91.** 119.49 (2) of the statutes is amended to read:

4 119.49 (2) Upon receipt of the communication, the common council shall file the
5 communication as provided in s. 8.37 and shall cause the question of issuing such
6 school bonds in the stated amount and for the stated school purposes to be submitted
7 to the voters of the city at the next election held in the city. The question of issuing
8 such school bonds shall be submitted so that the vote upon issuing such school bonds
9 is taken separately from any other question submitted to the voters. If a majority
10 of the electors voting on the school bond question favors issuing such school bonds,
11 the common council shall cause the school bonds to be issued immediately or within
12 the period permitted by law, in the amount requested by the board superintendent
13 of schools and in the manner other bonds are issued.

14 **SECTION 92.** 119.49 (3) of the statutes is amended to read:

15 119.49 (3) The proper city officials shall sell or dispose of the bonds in the same
16 manner as other bonds are disposed of. The entire proceeds of the sale of the bonds
17 shall be placed in the city treasury, subject to the order of the board superintendent
18 of schools for the purposes named in the communication under sub. (1). Such school
19 bonds shall be payable within 20 years from the date of their issue.

20 **SECTION 93.** 119.495 (2) of the statutes is amended to read:

21 119.495 (2) The board shall include in its budget transmitted to the common
22 council under s. 119.16 (8) (b), 2007 stats., a written notice specifying the amount of
23 borrowing to be authorized in the budget for the ensuing year. The common council
24 shall issue the notes and levy a direct annual irrevocable tax sufficient to pay the
25 principal and interest on the notes as they become due. The common council may

SENATE BILL 405**SECTION 93**

1 issue the notes by private sale. The common council shall make every effort to
2 involve a minority investment firm certified under s. 560.036 as managing
3 underwriter of the notes or to engage a minority financial adviser certified under s.
4 560.036 to advise the city regarding any public sale of the notes.

5 **SECTION 94.** 119.496 (2) of the statutes is amended to read:

6 119.496 (2) The board shall include in its budget transmitted to the common
7 council under s. 119.16 (8) (b), 2007 stats., a written notice specifying the amount of
8 borrowing to be authorized in the budget for the ensuing year. The common council
9 shall issue the notes and levy a direct annual irrepealable tax sufficient to pay the
10 principal and interest on the notes as they become due. The common council may
11 issue the notes by private sale. The common council shall establish goals of involving
12 minority investment firms certified under s. 560.036 as managing underwriters for
13 at least 50% of the total amount financed by the notes and of engaging a minority
14 financial adviser certified under s. 560.036 to advise the city regarding any public
15 sale of the notes.

16 **SECTION 95.** 119.496 (6) (b) of the statutes is amended to read:

17 119.496 (6) (b) The board adopts a resolution declaring its intention, beginning
18 in 1992 and annually thereafter until all notes issued under this section are repaid,
19 to include as part of its budget transmitted to the common council under s. 119.16
20 (8) (b), 2007 stats., a communication under s. 119.48, 2007 stats., stating an amount
21 needed for a school construction fund that is sufficient to require the common council
22 to levy 0.6 mills on each dollar of the assessed valuation of all taxable property in the
23 city, and notifies the secretary of administration of its action.

24 **SECTION 96.** 119.498 (1) of the statutes is amended to read:

SENATE BILL 405

1 119.498 (1) Subject to s. 119.499 (1), the ~~board~~ superintendent of schools may
2 adopt a resolution requesting request the common council of the city to authorize the
3 issuance of promissory notes under s. 67.12 (12) for school purposes consisting of
4 paying unfunded prior service liability contributions under the Wisconsin
5 Retirement System.

6 **SECTION 97.** 119.498 (2) of the statutes is amended to read:

7 119.498 (2) If the ~~board adopts a resolution~~ superintendent of schools makes
8 a request under sub. (1) and the city issues the notes, annually the ~~board~~
9 superintendent of schools shall include in its the budget transmitted to the common
10 council under s. 119.16 (8) (b) an amount sufficient to pay the principal of and interest
11 and redemption premium on the notes as they become due. The common council may
12 authorize the issuance of the notes at public or private sale.

13 **SECTION 98.** 119.499 of the statutes is amended to read:

14 **119.499 Borrowing; unfunded prior service liability. (1)** The ~~board~~
15 superintendent of schools may not request the redevelopment authority of the city
16 to issue bonds under s. 66.1333 (5s) or adopt a resolution under s. 119.498 (1) unless
17 it he or she develops information on both options and chooses the option that is in the
18 best public interest.

19 **(1m)** If the redevelopment authority of the city issues bonds under s. 66.1333
20 (5s), the ~~board~~ superintendent of schools may borrow money from the redevelopment
21 authority to pay unfunded prior service liability contributions under the Wisconsin
22 Retirement System for the board. If the ~~board~~ superintendent of schools borrows
23 money from the redevelopment authority of the city to make such payments, it he or
24 she may use any school district revenues, including state aid, to repay the loan.

SENATE BILL 405**SECTION 98**

1 **(2)** (a) If the ~~board~~ superintendent of schools decides to use school district
2 revenues to repay the loan, it he or she may request the city to remit designated
3 revenues of the school district to the redevelopment authority of the city at such
4 times and in such amounts as ~~the board~~ he or she determines. The city may agree
5 to the request, which is irrevocable while any amount due under the loan remains
6 outstanding.

7 (b) If the ~~board~~ superintendent of schools decides to use state aid to repay the
8 loan, it he or she may request the department to remit the aid to the redevelopment
9 authority of the city in an annual amount agreed to by the ~~board~~ superintendent of
10 schools and the department, and the department shall ensure that the aid
11 remittance does not affect the amount determined to be received by the ~~board~~ school
12 district as state aid under s. 121.08 for any other purpose.

13 **SECTION 99.** 119.50 (2) of the statutes is amended to read:

14 119.50 **(2)** The ~~board~~ superintendent of schools shall provide ~~by resolution~~ for
15 the manner in which the payroll shall be certified, audited, approved and paid.

16 **SECTION 100.** 119.53 of the statutes is created to read:

17 **119.53 Budget committee. (1)** There is created a budget committee
18 consisting of the following members:

19 (a) The city comptroller or his or her designee.

20 (b) The president of the common council or his or her designee.

21 (c) The president of the board or his or her designee.

22 (d) The state superintendent or his or her designee.

23 (e) Three members appointed by the mayor to serve at his or her pleasure.

24 **(2)** The budget committee shall advise the superintendent of schools on the
25 formulation of the annual school budget.

SENATE BILL 405**SECTION 101**

1 **SECTION 101.** 119.55 of the statutes is amended to read:

2 **119.55 Youth service centers, truancy abatement and burglary**
3 **suppression. (1)** (a) The ~~board~~ superintendent of schools shall establish one or
4 more youth service centers for the counseling of children who are taken into custody
5 under s. 938.19 (1) (d) 10. for being absent from school without an acceptable excuse
6 under s. 118.15. The ~~board~~ superintendent of schools shall contract with the boys and
7 girls clubs of Greater Milwaukee for the operation of the centers.

8 (b) The ~~board~~ superintendent of schools shall establish 2 youth service centers
9 under par. (a).

10 **(2)** The ~~board~~ superintendent of schools shall pay the city a sum sufficient to
11 pay the costs of salaries and fringe benefits of 4 law enforcement officers to work on
12 truancy abatement and burglary suppression on a full-time basis.

13 **SECTION 102.** 119.60 of the statutes is amended to read:

14 **119.60 Real property. (1)** If any real property within the city which is used
15 for school purposes is sold, the ~~board~~ superintendent of schools shall determine
16 whether the proceeds of the sale are deposited in the school operations fund under
17 s. 119.46 or are deposited in the school construction fund under s. 119.48.

18 **(2)** City-owned property used for school purposes shall be sold by the city upon
19 written request of the ~~board~~ superintendent of schools if the common council adopts
20 a resolution approving the sale. If, within 12 months after a written request by the
21 ~~board~~ superintendent of schools, the city has not disposed of the property, has failed
22 to obtain a written agreement to dispose of the property or has not provided the ~~board~~
23 superintendent of schools with a written report giving specific reasons, which are not
24 identified by the city attorney as constituting a conflict of interest, for its failure to
25 dispose of the property or to obtain an agreement to dispose of the property, the ~~board~~

SENATE BILL 405**SECTION 102**

1 superintendent of schools may retain a real estate agent to represent the board
2 superintendent of schools in its his or her real estate transactions.

3 (3) The board's superintendent's authority to retain a real estate agent under
4 sub. (2) is limited to the actual sale of property. The board superintendent of schools
5 may compensate the real estate agent for his or her services only on the basis of a
6 commission for specific property sold, and no property taxes may be levied for the
7 purpose of providing funds to pay such commissions.

8 (4) The city is not liable for any action of the board superintendent of schools
9 or its his or her real estate agent in the sale of property under this section.

10 **SECTION 103.** 119.66 of the statutes is amended to read:

11 **119.66 Interest in contracts forbidden.** During the term for which elected
12 or appointed and for 2 years after the expiration of the term, no member of the board
13 may be employed by the board school district or by the department of employee trust
14 funds in any capacity for which a salary or emolument is provided by the board school
15 district or the department of employee trust funds. For 2 years after leaving office,
16 the superintendent of schools may not be employed by the school district or by the
17 department of employee trust funds in any capacity for which a salary or emolument
18 is provided by the school district or the department of employee trust funds. No
19 board member, superintendent of schools, assistant superintendent, other assistant,
20 teacher or other employee of the board may have any interest in the purchase or sale
21 of property by the city for the use or convenience of the schools. No contract made
22 in violation of this section is valid. Any consideration paid by the city for a purchase
23 or sale prohibited by this section may be recovered in an action at law in the name
24 of the city. Any person violating this section shall be removed from any position held
25 under this chapter.

SENATE BILL 405**SECTION 104**

1 **SECTION 104.** 119.68 (1) of the statutes is amended to read:

2 119.68 (1) All claims against the city or ~~board~~ school district shall be audited
3 for sufficiency of funds by the auditing officer of the city. The superintendent of
4 schools shall furnish the auditing officer of the city a complete list of the claims.
5 Before a warrant is issued therefor, the auditing officer of the city shall countersign
6 it. ~~Within 20 days after each regular or special meeting of the board~~ Monthly, the
7 superintendent of schools shall make and file with the auditing officer of the city
8 statements ~~of~~ on the condition of the funds for the support of the schools and of the
9 financial transactions of the ~~board~~ school district during the period next preceding
10 any such statement.

11 **SECTION 105.** 119.70 (1) of the statutes is renumbered 119.70 (1) (a) and
12 amended to read:

13 119.70 (1) (a) The ~~board~~ superintendent of schools may establish and maintain
14 for children ~~and adults~~, in the school buildings and on the school grounds, evening
15 schools, vacation schools, reading rooms, library stations, debating clubs,
16 gymnasiums, public playgrounds, public baths and similar activities and
17 accommodations to be determined by the ~~board~~ superintendent of schools. The ~~board~~
18 superintendent of schools may cooperate, by agreement, with other commissions or
19 boards having the custody and management of public parks, libraries, museums and
20 public buildings and grounds of whatever sort to provide the equipment, supervision,
21 instruction and oversight necessary to carry on such public educational and
22 recreational activities in and upon such other buildings and grounds.

23 **SECTION 106.** 119.70 (1) (b) of the statutes is created to read:

24 119.70 (1) (b) The board may establish and maintain for adults, in the school
25 buildings and on the school grounds, evening schools, vacation schools, reading

SENATE BILL 405**SECTION 106**

rooms, library stations, debating clubs, gymnasiums, public playgrounds, public baths and similar activities and accommodations to be determined by the board. The board may cooperate, by agreement, with other commissions or boards having the custody and management of public parks, libraries, museums and public buildings and grounds of whatever sort to provide the equipment, supervision, instruction and oversight necessary to carry on such public educational and recreational activities in and upon such other buildings and grounds.

SECTION 107. 119.70 (3) of the statutes is amended to read:

119.70 (3) The ~~board~~ superintendent of schools shall report to the common council on or before the first Monday in August of each year the amount of money required during the ensuing school year for the support of activities under sub. (1). The common council shall levy and collect a special tax in the manner that other taxes are levied and collected, equal to the amount of money so required for the activities. The tax shall not be used or appropriated, directly or indirectly, for any other purpose.

SECTION 108. 119.70 (5) of the statutes is amended to read:

119.70 (5) Nothing in this section prohibits the board or the superintendent of schools from granting the use of school property to religious organizations under s. 120.13 (17).

SECTION 109. 119.71 (3) of the statutes is amended to read:

119.71 (3) (a) Annually, the ~~board~~ superintendent of schools shall spend at least \$5,090,000 to expand its the half-day 5-year-old kindergarten program to a full-day program, as provided under par. (b), and shall enroll in the expanded program only pupils who meet the income eligibility standards for a free lunch under

SENATE BILL 405**SECTION 109**

1 42 USC 1758 (b). The ~~board~~ superintendent of schools shall select pupils for the
2 expanded program based on the order in which the pupils register for the program.

3 (b) The ~~board~~ superintendent of schools shall use the funds specified under par.
4 (a) to pay the costs of teachers, aides and other support staff, transportation of staff
5 to pupils' homes, in-service programs, parental involvement programs and
6 instructional materials. The ~~board~~ superintendent of schools may not use the funds
7 to provide facilities to house the program or to pay pupil transportation or indirect
8 administrative costs associated with the program.

9 **SECTION 110.** 119.73 of the statutes is amended to read:

10 **119.73 Kindergarten programs.** The ~~board~~ superintendent of schools shall
11 evaluate the effectiveness of the expanded 5-year-old kindergarten programs under
12 s. 119.71 in meeting the needs of disadvantaged children. Annually by January 1,
13 the ~~board~~ superintendent of schools shall submit a report summarizing its his or her
14 findings to the state superintendent and to the chief clerk of each house of the
15 legislature for distribution to the appropriate standing committees under s. 13.172
16 (3).

17 **SECTION 111.** 119.74 (intro.) of the statutes is amended to read:

18 **119.74 Extended-day elementary grade, 4-year-old kindergarten and**
19 **alcohol and other drug abuse programs.** (intro.) The ~~board~~ superintendent of
20 schools shall spend at least \$430,000 for the following programs in each school year:

21 **SECTION 112.** 119.75 of the statutes is amended to read:

22 **119.75 First grade programs. (1)** The ~~board~~ superintendent of schools shall
23 provide expanded educational opportunities for first grade pupils who have
24 participated in an expanded 5-year-old kindergarten program under s. 119.71.

SENATE BILL 405**SECTION 112**

1 **(2)** Annually, the board superintendent of schools shall spend at least
2 \$1,070,000 to pay the costs of teachers, aides and other support staff, transportation
3 of staff to pupils' homes, in-service programs, parental involvement programs and
4 instructional materials related to the programs under sub. (1). The board
5 superintendent of schools may not use the funds to provide facilities to house the
6 programs under sub. (1) or to pay pupil transportation or indirect administrative
7 costs associated with the programs under sub. (1).

8 **SECTION 113.** 119.78 of the statutes is amended to read:

9 **119.78 Family resource center.** The board superintendent of schools shall
10 establish a family resource center to distribute parent education materials, conduct
11 workshops on child development, facilitate communication between school
12 personnel and parents of pupils enrolled in the school district and provide volunteer
13 opportunities for parents within the schools.

14 **SECTION 114.** 119.82 (1m) (intro.) of the statutes is amended to read:

15 **119.82 (1m)** (intro.) Upon the request of the child or the child's parent or
16 guardian, the board superintendent of schools shall provide an alternative
17 educational program for any child who resides in the city and satisfies all of the
18 following:

19 **SECTION 115.** 119.90 of the statutes is created to read:

20 **119.90 Referendum; effect of adoption. (1)** There shall be submitted to the
21 electors of the city of Milwaukee at the April 2017 spring election the following
22 question: "Shall the law be changed so that the board of directors of the Milwaukee
23 Public Schools is in charge of the public schools in the city and appoints the
24 superintendent of schools?"

SENATE BILL 405**SECTION 115**

1 **(2)** The chairperson of the government accountability board or the
2 chairperson's designee shall certify the result of the referendum to the secretary of
3 administration. If the question is adopted, beginning on the day after the
4 certification, all of the following apply:

5 (a) Notwithstanding ss. 119.02 (1) and (4), 119.04 (2), 119.16 (1m) and (2), and
6 119.18 (1g) and (1r), the board is in charge of the school district operating under this
7 chapter and s. 119.44 (4) does not apply.

8 (b) Notwithstanding s. 119.32 (1) and (7), the board shall appoint the
9 superintendent of schools, and the superintendent of schools acts under the direction
10 of the board, and the superintendent of schools may be removed from office as
11 provided in s. 119.36, 2007 stats.

12 (c) Notwithstanding ss. 40.02 (41) and (55) (b), 63.235, 63.36 (2), 63.53, 111.70
13 (4) (m) 1., 2., and 4., 118.22 (1) (b), 119.16 (6), 119.18 (10), (12), and (13), 119.28 (2),
14 the board may employ and determine the qualifications, duties, and compensation
15 of all school district staff.

16 (d) Notwithstanding ss. 24.66 (3) (a) and (5) (a), 66.1333 (5r) (b) 1. a. and (55)
17 (a), 119.16 (3) (c), 119.49, 119.498, and 119.499, the board may apply for loans and
18 request the issuance of bonds and promissory notes and the prohibition in s. 119.18
19 (25) applies to the board.

20 (e) Notwithstanding s. 119.04 (1), all powers conferred and duties imposed
21 upon a school board in the statutory sections specified in that subsection are
22 conferred or imposed upon the board.

23 (f) Notwithstanding s. 119.18 (24), the city attorney is the legal advisor of and
24 attorney for the board; the superintendent of schools may not retain an attorney; the

SENATE BILL 405**SECTION 115**

1 board may retain an attorney in the circumstances specified for the superintendent
2 of schools; and s. 119.14 (13) does not apply.

3 (g) Notwithstanding ss. 119.16 (8) (a) and (b), 119.46 (1), 119.47 (1), 119.48 (1),
4 (2), and (4) (a), 119.485, and 119.70 (3), the board formulates the budget and submits
5 it to the common council; s. 119.16 (8) (am) does not apply; and the budget committee
6 under s. 119.53 is terminated.

7 (h) Notwithstanding ss. 111.70 (4) (m) 1., 2., and 4. and 119.16 (11) (a), the board
8 is in charge of collective bargaining on behalf of the school district, and the
9 prohibition in s. 119.16 (11) (b) applies to the board.

10 (i) Notwithstanding s. 119.18 (23) (a), the board has the powers conferred upon
11 the superintendent of schools in that paragraph, and s. 119.18 (23) (b) does not apply.

12 (j) Notwithstanding s. 120.13 (1) (b) 1., neither the superintendent of schools
13 nor any person designated by the superintendent of schools may make rules without
14 consent of the board.

15 (k) The board has the powers and duties given to the superintendent of schools
16 in ss. 119.25 (1) and (2) (a) (intro.), (b), and (d) 2., relating to pupil expulsion.

17 (L) Notwithstanding s. 119.14 (6), the board need not provide the
18 superintendent of schools with a summary of comments received at a board meeting.

19 (m) Notwithstanding s. 119.16 (10), the prohibitions in that subsection apply
20 equally to the board.

21 (n) Notwithstanding s. 119.14 (4), the board may exercise the powers in that
22 subsection without the involvement of the superintendent of schools.

23 (o) Notwithstanding s. 119.42 (1m), the board has the powers and duties given
24 to the superintendent of schools in that subsection.

SENATE BILL 405**SECTION 115**

1 (p) 1. The superintendent of schools on April 4, 2017, may continue to hold that
2 office and exercise the powers and duties of that office until his or her successor is
3 appointed by the board and qualifies.

4 2. The employment of the person holding the position of superintendent of
5 schools on April 4, 2017, terminates on the date that his or her successor is appointed
6 by the board and qualifies.

7 **SECTION 116.** 120.115 (1) of the statutes is amended to read:

8 120.115 (1) (a) Within 10 days after adopting a resolution that authorizes the
9 school board to incur debt, ~~or that authorizes~~ within 10 days of issuing a written
10 communication to the common council of a 1st class city that authorizes it to incur
11 debt on behalf of the school district operating under ch. 119, the school board or
12 superintendent of schools shall notify the department of the scheduled date of the
13 referendum and submit a copy of the resolution to the department.

14 (b) Within 10 days after holding a referendum that would authorize the school
15 district to incur debt or that would authorize the common council of a 1st class city
16 to incur debt on behalf of the school district operating under ch. 119, the school board
17 or superintendent of schools shall notify the department of the approval or rejection
18 of the referendum.

19 **SECTION 117.** 120.13 (1) (b) 1. of the statutes is amended to read:

20 120.13 (1) (b) 1. In addition to rule-making authority granted school boards
21 under par. (a), the school district administrator, or any principal or teacher
22 designated by the school district administrator, may make rules with the consent of
23 the school board, except that the superintendent of schools in a school district
24 operating under ch. 119, or any principal or teacher designated by the

SENATE BILL 405**SECTION 117**

1 superintendent of schools, may make rules without the consent of the board of school
2 directors.

3 **SECTION 118.** 120.13 (17) of the statutes is amended to read:

4 120.13 (17) TEMPORARY USE OF SCHOOL PROPERTY. Grant the temporary use of
5 school grounds, buildings, facilities, or equipment, upon such conditions, including
6 fees not to exceed actual costs, as determined by the school board, to any responsible
7 person for any lawful nonschool purpose if such use does not interfere with use for
8 school purposes or school-related functions. Fees received under this subsection
9 shall be paid into the school district treasury and accounted for as prescribed under
10 s. 115.28 (13). The user shall be primarily liable, and the school board secondarily
11 liable, for any damage to property and for any expense incurred in consequence of
12 any use of school grounds, buildings, facilities, or equipment under this subsection.
13 In the school district operating under ch. 119, both the board and the superintendent
14 of schools have the authority granted to the school board under this subsection, and
15 the school district is secondarily liable for damage to property and for any expense
16 incurred in consequence of any use of school grounds, buildings, facilities, or
17 equipment under this subsection.

18 **SECTION 119.** 120.14 (1) of the statutes is amended to read:

19 120.14 (1) At the close of each fiscal year, the school board of each school district
20 shall employ a licensed accountant to audit the school district accounts and certify
21 the audit. The audit shall include information concerning the school district's
22 self-insurance plan under s. 120.13 (2) (b), as specified by the commissioner of
23 insurance. If required by the state superintendent under s. 115.28 (18), the audit
24 shall include an audit of the number of pupils reported for membership purposes
25 under s. 121.004 (5). The cost of the audit shall be paid from school district funds.

SENATE BILL 405**SECTION 119**

1 The superintendent of schools of a school district operating under ch. 119 shall
2 provide a copy of the audit to the budget committee under s. 119.53. Annually by
3 September 15, the school district clerk shall file a financial audit statement with the
4 state superintendent.

5 **SECTION 120.** 121.137 (1) (a) of the statutes, as created by 2009 Wisconsin Act
6 28, is repealed.

7 **SECTION 121.** 121.137 (1) (c) of the statutes is created to read:

8 121.137 (1) (c) “Superintendent of schools” means the superintendent of
9 schools of the school district operating under ch. 119.

10 **SECTION 122.** 121.137 (2) of the statutes, as created by 2009 Wisconsin Act 28,
11 is amended to read:

12 121.137 (2) Annually, the department shall calculate the amount of the state
13 aid reduction under s. 121.08 (4) (b) 2. in the current school year and shall notify the
14 board superintendent of schools, in writing, of the result.

15 **SECTION 123.** 121.137 (3) of the statutes, as created by 2009 Wisconsin Act 28,
16 is amended to read:

17 121.137 (3) From the appropriation under s. 20.255 (2) (ac), annually the
18 department shall pay the amount calculated under sub. (2) to the city in installments
19 according to the schedule used by the board school district operating under ch. 119
20 for the distribution of state aid under s. 121.15 (1) or (1g). The city shall pay an
21 amount equal to the amount received under this subsection to the board school
22 district operating under ch. 119.

23 **SECTION 124.** 121.85 (6) (am) 1. a. of the statutes is amended to read:

SENATE BILL 405**SECTION 124**

1 121.85 (6) (am) 1. a. Subtract from 75% the percentage of pupils whose parents
2 or guardians have provided the ~~board of school directors~~ superintendent of schools
3 with written consent to a pupil transfer to another attendance area.

4 **SECTION 125.** 121.85 (6) (am) 2. a. of the statutes is amended to read:

5 121.85 (6) (am) 2. a. Subtract from 80% the percentage of pupils whose parents
6 or guardians have provided the ~~board of school directors~~ superintendent of schools
7 with written consent to a pupil transfer to another attendance area.

8 **SECTION 126.** 121.85 (6) (am) 3. a. of the statutes is amended to read:

9 121.85 (6) (am) 3. a. Subtract from 90% the percentage of pupils whose parents
10 or guardians have provided the ~~board of school directors~~ superintendent of schools
11 with written consent to a pupil transfer to another attendance area.

12 **SECTION 127.** 121.85 (6) (am) 4. a. of the statutes is amended to read:

13 121.85 (6) (am) 4. a. Subtract from 95% the percentage of pupils whose parents
14 or guardians have provided the ~~board of school directors~~ superintendent of schools
15 with written consent to a pupil transfer to another attendance area.

16 **SECTION 128.** 121.85 (6) (am) 5. of the statutes is amended to read:

17 121.85 (6) (am) 5. In the 2004–05 school year, the number of pupils whose
18 parents or guardians have not provided the ~~board of school directors~~ superintendent
19 of schools with written consent to a pupil transfer to another attendance area.

20 **SECTION 129.** 121.85 (6) (am) 6. a. of the statutes is amended to read:

21 121.85 (6) (am) 6. a. Subtract from 95% the percentage of pupils whose parents
22 or guardians have provided the ~~board of school directors~~ superintendent of schools
23 with written consent to a pupil transfer to another attendance area.

24 **SECTION 130.** 121.85 (6m) of the statutes is amended to read:

SENATE BILL 405**SECTION 130**

1 121.85 **(6m)** USE OF AID FOR LEASE OR LOAN PAYMENTS. If the ~~board of directors~~
2 superintendent of schools of the school district operating under ch. 119 leases
3 buildings or sites from the redevelopment authority of the city or borrows money
4 from the redevelopment authority of the city under s. 119.16 (3) (c), it he or she may
5 use intradistrict transfer aid under sub. (6) to make lease payments or repay the
6 loan. If the ~~board of school directors~~ superintendent of schools decides to use the aid
7 to make lease payments or repay the loan, it he or she may request the department
8 to remit the intradistrict transfer aid under sub. (6) to the redevelopment authority
9 of the city of Milwaukee in an annual amount agreed to by the ~~board of school~~
10 ~~directors~~ superintendent of schools and the department, and the department shall
11 ensure that the aid remittance does not affect the amount determined to be received
12 by the ~~board of school directors~~ school district operating under ch. 119 as state aid
13 under s. 121.08 for any other purpose.

14 **SECTION 131.** 121.87 (3) of the statutes is amended to read:

15 121.87 **(3)** In addition to the report under sub. (1), annually by May 1 the ~~board~~
16 ~~of school directors~~ superintendent of schools of the school district operating under ch.
17 119 shall submit a report to the legislature under s. 13.172 (2) that specifies the
18 number, percentage, race, sex, grade and attendance area of pupils transferred
19 outside their attendance area without written consent under s. 121.85 (6) (am).

20 **SECTION 132.** 200.23 (2) (a) 6. of the statutes is amended to read:

21 200.23 **(2)** (a) 6. Members of the board of school directors in ~~charge of the public~~
22 ~~schools of the a~~ 1st class city school district.

23 **SECTION 133. Nonstatutory provisions.**

24 (1) MAYORAL APPOINTMENTS.

SENATE BILL 405**SECTION 133**

1 (a) The mayor of a 1st class city shall make the appointment under section
2 119.32 (1) of the statutes, as affected by this act, within 90 days after the effective
3 date of this paragraph.

4 (b) The mayor of a 1st class city shall make the appointments under section
5 119.53 (1) (d) of the statutes, as created by this act, within 90 days after the effective
6 date of this paragraph.

7 (2) SUPERINTENDENT OF SCHOOLS; INCUMBENCY.

8 (a) Notwithstanding section 119.32 (1) of the statutes, as affected by this act,
9 the superintendent of schools of the school district operating under chapter 119 of the
10 statutes on the effective date of this paragraph may continue to hold that office and
11 exercise the powers and duties of that office until his or her successor under section
12 119.32 of the statutes, as affected by this act, is appointed and qualified.

13 (b) Notwithstanding section 119.32 (1) of the statutes, as affected by this act,
14 the employment of the person holding the position of superintendent of schools of the
15 school district operating under chapter 119 of the statutes on the effective date of this
16 paragraph terminates on the date that his or her successor under section 119.32 (1)
17 of the statutes, as affected by this act, is appointed and qualified.

18 (3) TECHNICAL COLLEGE APPOINTMENT COMMITTEE. Notwithstanding section
19 38.08 (1g) of the statutes, as affected by this act, the members of the appointment
20 committee on the effective date of this subsection who were designated by the board
21 of school directors may continue to serve until their successors are appointed by the
22 superintendent of schools of the school district operating under ch. 119.

23 **SECTION 134. Initial applicability.**

SENATE BILL 405

1 (1) The treatment of section 63.53 of the statutes first applies to persons
2 appointed to positions on the effective date of this subsection.

3 (END)

FILE NUMBER: 091051
Steering & Rules Committee

[illegible]



City of Milwaukee

200 E. Wells Street
Milwaukee, Wisconsin
53202

Master With Text

File Number: 090078

File ID: 090078

Type: Resolution

Status: In Committee

Version: 0

Reference:

Controlling Body: STEERING &
RULES
COMMITTEE

Requester: CITY ATTORNEY

Cost:

File Created: 05/05/2009

File Name:

Final Action:

Title: Resolution approving the execution of a second amendment to a lease agreement with Milwaukee World Festival, Inc.

Notes:

Code Sections:

Indexes: AGREEMENTS, LEASES, SUMMERFEST

Sponsors: Ald. Murphy

Attachments: Cover Letter

Drafter: tog

Contact:

Agenda Date:

Agenda Number:

Enactment Date:

Enactment Number:

Effective Date:

Extra Date 2:

History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
0	COMMON COUNCIL	05/05/2009	ASSIGNED TO	PUBLIC WORKS COMMITTEE			
	Action Text: This Resolution was ASSIGNED TO to the PUBLIC WORKS COMMITTEE						
0	PUBLIC WORKS COMMITTEE	06/19/2009	HEARING NOTICES SENT		06/24/2009		
0	PUBLIC WORKS COMMITTEE	06/19/2009	HEARING NOTICES SENT		06/24/2009		
0	PUBLIC WORKS COMMITTEE	06/24/2009	REFERRED TO	STEERING & RULES COMMITTEE			Pass
	Action Text: A motion was made by ALD. PUENTE that this Resolution be REFERRED TO the STEERING & RULES COMMITTEE . The motion PREVAILED by the following vote:						
Mover:	ALD. PUENTE	Aye:3 - Bauman, Dudzik, and Puente No:0 Excused:2 - Wade, and Donovan					3-0-2
0	STEERING & RULES COMMITTEE	11/30/2009					

Text of Legislative File 090078

..Number

090078

..Version

Original

..Reference

..Sponsor

ALD. MURPHY

..Title

Resolution approving the execution of a second amendment to a lease agreement with Milwaukee World Festival, Inc.

..Drafter

City Atty.

TOG

5/5/09

GRANT F. LANGLEY
City Attorney

RUDOLPH M. KONRAD
LINDA ULISS BURKE
VINCENT D. MOSCHELLA
Deputy City Attorneys



THOMAS O. GARTNER
BRUCE D. SCHRIMPF
SUSAN D. BICKERT
STUART S. MUKAMAL
THOMAS J. BEAMISH
MAURITA F. HOUREN
JOHN J. HEINEN
DAVID J. STANOSZ
SUSAN E. LAPPEN
JAN A. SMOKOWICZ
PATRICIA A. FRICKER
HEIDI WICK SPOERL
KURT A. BEHLING
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EDWARD M. EHRLICH
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MIRIAM R. HORWITZ
MARYNELL REGAN
G. O'SULLIVAN-CROWLEY
KATHRYN Z. BLOCK
MEGAN T. CRUMP
ELOISA DE LEÓN
ADAM B. STEPHENS
KEVIN P. SULLIVAN
BETH CONRADSON CLEARY
THOMAS D. MILLER
HEIDI E. GALVÁN
JARELY M. RUIZ
ROBIN A. PEDERSON
DANIELLE M. BERGNER
Assistant City Attorneys

May 4, 2009

Ronald D. Leonhardt, City Clerk
City Hall, Room 205
200 East Wells Street
Milwaukee, WI 53202

Re: Title-only Resolution -- 2nd Amendment to Lease Agreement
Milwaukee World Festival, Inc.

Dear Mr. Leonhardt:

On Friday May 1, 2009, I spoke with Alderman Michael Murphy relative to introduction of a title-only file approving and authorizing the execution of a 2nd Amendment to the Milwaukee World Festival, Inc. Lease. Our office is working together with a negotiating team from the City of Milwaukee Board of Harbor Commissioners to finalize a 2nd Amendment and would like to proceed at this point with introduction of a file to allow Common Council approval.

Please introduce a resolution by title only entitled "Resolution Approving and Authorizing the Execution of A 2nd Amendment to Lease Agreement -- Milwaukee World Festival, Inc."

Alderman Murphy has agreed to act as a sponsor for this file and we anticipate that there may be other members of the Council who also wish to be listed as sponsors at such time as we prepare the actual text of the Resolution.

Thank you for your cooperation with respect to this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Thomas O. Gartner". The signature is fluid and cursive, with a large, stylized "T" and "G".

THOMAS O. GARTNER
Assistant City Attorney

FILE NUMBER: 090078
Steering & Rules Committee

[illegible]

c via e-mail: Alderman Michael Murphy
Alderman Robert Bauman
Eric Reinelt
Ron Sanfelippo
Craig Mastantuono
Claude Krawczyk
Tim Hoelter
Danielle Bergner
James Owczarski
Debra Fowler

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