

SERVICE DATE Mar 28, 2024
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PUBLIC SERVICE COMMISSION OF WISCONSIN

Energy Efficiency and Conservation Block Grant Funded by the
Infrastructure Investment and Jobs Act in a Department of Energy Grant

9714-FG-2023

ORDER

This is the Order approving \$705,698.02 in grants for the 2023 Rural Energy Startup Program (RESP) and establishing direction on processing applications filed during the extended application period.

Introduction**Background**

The Rural Energy Startup Program (RESP) is a grant program administered by the Commission's Office of Energy Innovation (OEI). The RESP furthers the mission of the OEI through a broad tailored program scope for rural Wisconsin communities covering a variety of energy planning and building upgrade related projects. RESP is funded by the 2021 Infrastructure Investment and Jobs Act (IIJA), also known as the Bipartisan Infrastructure Law (BIL), under IIJA section 40552, *Energy Efficiency and Conservation Block Grant* (EECBG), which provided an allocation to the State of Wisconsin of \$2,330,720. In its Order issued on November 29, 2023, the Commission established the program design of the RESP, establishing elements including (1) eligible applicant types; (2) eligible activity categories; and (3) maximum grant requests for such activities. ([PSC REF#: 485930](#).)

On November 30, 2023, the RESP launched with the issuance of the Rural Energy Startup Program Application Instructions specifying an application deadline of January 31, 2024,

Docket 9714-FG-2023

at 1:30 PM Central, and providing instructions consistent with the Commission’s order. ([PSC REF#: 486067.](#))

The timeline for this program is expedited. According to the EECBG instructions from the U.S. Department of Energy (DOE), “states shall provide the subgrants no later than 180 days after the date on which U.S. DOE approves the proposed energy efficiency and conservation strategy.”¹ In the case of the Commission’s federal grant assistance agreement, the DOE considers the 180-day deadline to be May 11, 2024. The DOE has provided clarification² that states “are required to subgrant not less than 60 percent of the amount provided to the State.” For Wisconsin, the 60 percent requirement totals \$1,398,432 of the \$2,330,720 allocation be provided as subgrants as of this date. According to this timeline, the Commission must make all awards decisions by May 11, 2024, though grant agreements need not be executed on that day. To aid in this process, the OEI held an informational webinar on December 14, 2023, made webinar materials and other resources available on the Commission website, and provided additional outreach with over 5,000 emails and phone calls to all 171 rural disadvantaged communities (DACs).

As the initial due date of January 31, 2024 approached, the number of pending or submitted applications present in the PSC Grants System indicated that the sum of requests would not likely make use of the full program budget. At the direction of the delegated Commissioner, the deadline was extended to March 29, 2024, at 1:30 PM Central to provide communities with more time to apply, understanding the short timeline and the fact that many applicants are likely first-time grant applicants as potential barriers to their participation. On

¹ See the [EECBG Formula Grant Application Instructions \(energy.gov\)](#).

² See page 33 of the [EECBG Eligible Activities and Program Guidance \(energy.gov\)](#).

Docket 9714-FG-2023

January 30, 2024, updated Rural Energy Startup Program Application Instructions were posted specifying a new application deadline of March 29, 2024, at 1:30 PM Central. ([PSC REF#: 489992](#).)

To demonstrate progress toward the 60 percent goal, all applications submitted by January 31, 2024, were reviewed by OEI staff, who prepared a memorandum providing information and analysis regarding eligibility and awards for applications submitted in the initial batch of applications, and requesting direction on the processing of applications filed during the extended application period. ([PSC REF#: 494012](#)). The Commission considered the matter at its open meeting of March 14, 2024. ([PSC REF#: 493874](#).)

Funding Available

In its Order of November 29, 2023, the Commission established a budget for RESP of \$2,330,720.

Applications Received

The OEI received 18 applications by the initial deadline of January 31, 2024, at 1:30 PM Central with a sum of the grant requests totaling \$740,698.02, or approximately 32 percent of available funding. Two applications were received on January 31, 2024, at 1:31 PM Central, after the 1:30 PM initial deadline, totaling \$120,000. The eligibility of these two applications was reviewed by the Commission. Individual grant requests ranged from \$3,950 to \$75,000.

Evaluation Methodology

A three-member review panel³ was assembled to consider eligibility of the applications to facilitate the Commission's own review. Review panel members were selected based on their

³ The review panel consisted of three staff members of the OEI: Nicholas Labinski, Heidi Marson, and Penny Lien.

Docket 9714-FG-2023

knowledge of the program and its guidelines and review criteria. The review panel processed applications by performing an eligibility screening but did not conduct competitive scoring of grant applications because the requested funding from reviewed applications did not exceed the available budget. ([PSC REF#: 489992](#) at 15).

To facilitate the Commission's own review, the review panel checked each application to ensure it met the rural eligibility requirement, then reviewed the following to ensure they provided a substantive response to the narrative questions outlined in the Application Instructions relating to: Equity, Energy Justice—Justice40 Screening; New or Existing Plans and Opportunities; Ability and Preparedness to Achieve Objectives; Budget Justification and Contributions; Cost Savings and Payback/Economic Impacts; and Energy Saving and Environmental Impact. When deemed necessary to provide the most complete record possible for Commission review, OEI staff reached out for clarification and supplemental material.⁴

To assist the Commission, OEI staff provided the Commission with a memorandum summarizing the review panel's results. ([PSC REF#: 494012](#)).

Justice40 Initiative

Commission staff developed the Applicant Metrics Excel document⁵ as the primary data collection tool for data related to the Justice40 initiative. The Applicant Metrics Excel document requests a complete list of all census tracts that would benefit from the proposed project, regardless of whether the tract is identified as a DAC. Applicants were directed to report all project-benefitting census tracts in the Excel document by using the Climate and Economic

⁴ Requests for supplemental material included one or more of the following: verification of rural status and DAC status, uploading of the required Applicant Metric Excel document, and clarification of question #12 regarding use of an audit or assessment for Activity 3.

⁵ See [9714-FG-2023 Applicant Metrics.xlsx Document](#)

Justice Screening Tool (CEJST) or the OEI Map that includes rural designations and CEJST-defined DACs, and to identify rural and DAC designated census tract(s) within the project boundaries.

Findings of Fact and Conclusions of Law

1. The Commission has jurisdiction under 2015 Wisconsin Act 55 and Wis. Stat. §§ 196.02 and 196.025 to oversee the RESP and to determine eligibility and selection of grant applicants for awards.
2. The Commission may impose any term, condition, or requirement necessary to protect the public interest pursuant to Wis. Stat. §§ 196.02 and 196.395.
3. The issuance of this Order is a Type III action under Wis. Admin. Code § PSC 4.10(3) and requires neither an environmental impact statement nor an environmental assessment.

Opinion

Application Eligibility Determinations

Filing Matters

Eligibility parameters for applicants and activities were discussed in the Application Instructions, Section 1.3. Additionally, the Application Instructions Section 5.2, “RESP Grant Application Instructions,” specified that late filings will be automatically rejected by the grants system. However, the extension of the RESP deadline to March 29, 2024, at 1:30 PM Central kept the grant system open and two applicants filed at 1:31 PM on January 31, 2024, (Applications #650 Town of Fairfield and #651 Town of Lake).

Those two applications were identified for a Commission determination of eligibility. The Commission deems that applications #650 and #651 are not “late” because applications are

Docket 9714-FG-2023

still open, but because they came in after the initial January 31, 2024, 1:30 PM Central deadline they were filed under the extended application timeline. Both applications will be considered with any other applications received under the extended application deadline of March 29, 2024.

Activity 3 Energy Audit Requirement for Building Upgrades and Retrofits

The Application Instructions Section 5.5, “Application organization and format,” specified that unanswered questions may make an application ineligible for funding. Per the U.S. DOE Blueprint⁶ used to define eligible proposals within Activity 3, an audit or assessment of the project site or building would need to be conducted to provide a baseline, complete with data to show how the upgrade or retrofit would provide increased energy efficiency and/or cost savings. In the application form in the PSC Grants System, Question 12 was intended for applicants to acknowledge the required use of an audit or assessment meeting certain key components, whether completing the audit or assessment as part of the proposed project or if already completed for use during the proposed project.

Activity 3 applicants identified for an eligibility determination in this section did not initially respond correctly to Question 12 indicating they would meet the requirement. The applicants responded “N/A” instead of “Yes” to Question 12. On February 15, 2024, Commission staff made a request for supplemental information from the applicants to affirm the completion and/or intended completion and use of an audit or assessment that meets the required components by submitting a revised response to Question 12. Fourteen applicants supplied the revised response of “Yes” to Question 12 to affirm. As of the date of the Commission open

⁶ See U.S. DOE Blueprint 2A: Energy Efficiency: Energy Audits, Building Upgrades, [Blueprint 2A: Energy Efficiency: Energy Audits, Building Upgrades | Department of Energy](#).

Docket 9714-FG-2023

meeting on March 14, 2024, the two applicants had not responded or filed supplemental information are City of Edgerton (#655) and City of Evansville (#653).⁷

Those two applications were identified for a Commission determination of eligibility. The Commission deems that both applications are not eligible for consideration of funding of awards at the time of its review, because of their lack of an affirmative response to Question 12. However, because applications are still open, these applicants have until the March 29, 2024, 1:30 PM Central deadline to provide an answer and ensure their application is complete and eligible. Additionally, Commission staff will conduct outreach to the City of Edgerton and the City of Evansville with the opportunity to correct and supplement their response to Question 12 by the end of the extended deadline, March 29, 2024, at 1:30 PM Central to be considered for funding under the extended deadline.

Awards Determinations

The Commission is appreciative of the efforts of all the applicants to bring forth meritorious projects for the purpose of reduce energy use, reduce fossil fuel emissions, and improve energy efficiency.

The evaluation of technical and complex applications to the program objectives is an area in which the Commission has special expertise. In addition to the RESP, the Commission also has statutory oversight of the Focus on Energy program and the Universal Service Fund and associated grant programs; and it administers the Energy Innovation Grant Program (EIGP), and the State Energy Program as part of the OEI. Evaluating the relative merits of each application

⁷ The Town of Edgerton has since provided the requested updated response to Question #12.

Docket 9714-FG-2023

received for funding through the RESP requires a high degree of discretion and judgment, and reasonable people may reach different conclusions.

Discretionary decisions contemplate a process of reasoning based on facts in the record or reasonably inferred from the record, and a conclusion based on a logical rationale founded upon proper legal standards. *Reidinger v. Optometry Examining Bd.*, 81 Wis. 2d 292, 297, 260 N.W.2d 270, 273 (1977).

To ensure a thorough decision-making process in awarding grants, the Commission reviews the applications, considers the initial funding recommendations from the review panel, and considers additional factors.

The Commission awards grants to all 16 applications determined eligible for funding in the amounts set forth in Attachment 1, totaling \$705,698.02. Of the 39 census tracts receiving benefits from those 16 applications, 10 census tracts, or 25.6 percent, are identified as a DAC.

Applications Received in the Extended Application Period

As discussed in the section above, the Commission awards \$705,698.02 to applicants that were determined eligible and filed under by the initial deadline. With these funds awarded, \$1,625,021.98 remains. With the deadline extended to March 29, 2024, Commission staff sought guidance on how to process applications received during the extended application period.

The Commission authorizes the Delegated Commissioner to make subsequent eligibility and awards decisions and to grant awards through a comparative review of all applications received by the extended deadline March 29 at 1:30 PM. The OEI has some experience with issuing awards in this way through the Wisconsin Refueling Readiness ([PSC REF#: 464921](#) and [PSC REF#: 427684](#)), which is also a non-competitive grant program. A comparative review

process will permit projects that benefit DACs to be prioritized for funding in the event that applications request funding in excess of total funds remaining.

Order

1. The grant applications listed in Attachment 1 are approved in the award amounts stated therein.

2. Each grant recipient may accept the grant award for its respective project by entering into a grant agreement prepared by Commission staff. The grant awards referred to herein are not final until the grant recipient completes and signs the grant agreement, and the Commission's duly designated representative signs and delivers the executed grant agreement to the grant recipient.

3. Prior to the delivery of the executed grant agreement, the Commission may rescind any grant award for any reason. The project may not commence and project costs must not be incurred prior to the project start date finalized in the executed grant agreement.

4. Applicants not listed in Attachment 1 are eligible to be considered under the extended application deadline and/or have the opportunity to submit supplemental information that provides the Commission with further information.

5. Additional funds may be awarded through a comparative review of all applications at the discretion of the Delegated Commissioner. In the event that funds are limited, prioritization of projects that benefit DACs will be given.

6. This Order is effective one day after the date of service.

7. Jurisdiction is retained.

Docket 9714-FG-2023

Dated at Madison, Wisconsin, the 28th day of March, 2024.

By the Commission:

A handwritten signature in black ink, appearing to read "Cru Stublely". The signature is written in a cursive style with a large, sweeping initial "C" and a horizontal line extending to the right.

Cru Stublely
Secretary to the Commission

CS:NL:OS:JP:TK:JF:bs:kle DL:02003247

Attachments: Attachment 1: Rural Energy Startup Grant Awards
Notice of Rights

**Attachment 1
Rural Energy Startup Grant Awards**

Grant Applicant	Activity Type	Award Amount
Village of Mount Horeb	Activity 1: Comprehensive Energy Planning	\$70,000.00
City of Beaver Dam	Activity 1: Comprehensive Energy Planning	\$72,800.00
City of Ashland	Activity 2: Renewable Resource Planning	\$75,000.00
Oneida County	Activity 3: Energy Audits and Building Upgrades	\$75,000.00
Jefferson County	Activity 3: Energy Audits and Building Upgrades	\$75,000.00
City of Prairie du Chien	Activity 3: Energy Audits and Building Upgrades	\$10,602.00
Town of Draper	Activity 3: Energy Audits and Building Upgrades	\$30,754.00
Town of Breed	Activity 3: Energy Audits and Building Upgrades	\$61,300.00
Village of Hammond	Activity 3: Energy Audits and Building Upgrades	\$75,000.00
Town of East Troy	Activity 3: Energy Audits and Building Upgrades	\$3,950.00
Florence County	Activity 3: Energy Audits and Building Upgrades	\$18,875.00
Town of Hill	Activity 3: Energy Audits and Building Upgrades	\$22,908.00
Town of Wilson	Activity 3: Energy Audits and Building Upgrades	\$11,300.62
Town of Russell	Activity 3: Energy Audits and Building Upgrades	\$22,200.00
Village of La Farge	Activity 3: Energy Audits and Building Upgrades	\$52,928.40
Town of Kickapoo	Activity 3: Energy Audits and Building Upgrades	\$28,080.00

PUBLIC SERVICE COMMISSION OF WISCONSIN
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**NOTICE OF RIGHTS FOR REHEARING OR JUDICIAL REVIEW, THE
TIMES ALLOWED FOR EACH, AND THE IDENTIFICATION OF THE
PARTY TO BE NAMED AS RESPONDENT**

The following notice is served on you as part of the Commission's written decision. This general notice is for the purpose of ensuring compliance with Wis. Stat. § 227.48(2), and does not constitute a conclusion or admission that any particular party or person is necessarily aggrieved or that any particular decision or order is final or judicially reviewable.

PETITION FOR REHEARING

If this decision is an order following a contested case proceeding as defined in Wis. Stat. § 227.01(3), a person aggrieved by the decision has a right to petition the Commission for rehearing within 20 days of the date of service of this decision, as provided in Wis. Stat. § 227.49. The date of service is shown on the first page. If there is no date on the first page, the date of service is shown immediately above the signature line. The petition for rehearing must be filed with the Public Service Commission of Wisconsin and served on the parties. An appeal of this decision may also be taken directly to circuit court through the filing of a petition for judicial review. It is not necessary to first petition for rehearing.

PETITION FOR JUDICIAL REVIEW

A person aggrieved by this decision has a right to petition for judicial review as provided in Wis. Stat. § 227.53. In a contested case, the petition must be filed in circuit court and served upon the Public Service Commission of Wisconsin within 30 days of the date of service of this decision if there has been no petition for rehearing. If a timely petition for rehearing has been filed, the petition for judicial review must be filed within 30 days of the date of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition of the petition for rehearing by operation of law pursuant to Wis. Stat. § 227.49(5), whichever is sooner. If an *untimely* petition for rehearing is filed, the 30-day period to petition for judicial review commences the date the Commission serves its original decision.⁸ The Public Service Commission of Wisconsin must be named as respondent in the petition for judicial review.

If this decision is an order denying rehearing, a person aggrieved who wishes to appeal must seek judicial review rather than rehearing. A second petition for rehearing is not permitted.

Revised: March 27, 2013

⁸ See *Currier v. Wisconsin Dep't of Revenue*, 2006 WI App 12, 288 Wis. 2d 693, 709 N.W.2d 520.