

310 CMR: DEPARTMENT OF ENVIRONMENTAL PROTECTION

310 CMR 31.00: WATER CONSERVATION GRANTS PROGRAM

Section

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31.01: General Provisions

(1) Purpose

310 CMR 31.00 establishes the criteria and standards by which the Department of Environmental Protection administers the program of water conservation grants established in Line Item 2200-0300 of St. 1982, c. 241, § 2, and are promulgated pursuant to authority in St. 1982, c. 241, § 2. Line Item 2200-0300 authorizes the expenditure of funds by the Department for grants to cities, towns, and districts of the Commonwealth, excluding the Metropolitan District Commission, for the provision of information and technical assistance to water consumers regarding water supply conservation and protection and projects which promote water conservation.

(2) Definitions

Department means the Department of Environmental Quality Engineering.

District means a water district established under general law or special act or other district, howsoever named, established under general law or special act, where the promotion of water conservation relates directly to the purpose for which it was formed.

Existing Structure means a building of any kind which was substantially completed before July 6, 1982. (Note: buildings built since August 1980 must have complied with the Plumbing Code, 248 CMR 2.14, requiring use of water conserving fixtures and should not require retrofit under this program.)

Residence means actual place of abode, whether single family or multi-unit.

Resident means a natural person having his or her place of abode in the particular city, town or district. A person may be a seasonal resident and may have more than one residence within the Commonwealth. Only natural persons are residents; associations, corporations, organizations and the like are not persons for the purpose of 310 CMR 31.00.

Retrofit means the furnishing or replacement of new parts or equipment of an existing water fixture, not available at time of original installation.

Water Conservation means the utilization of less water supply such that the unnecessary or wasteful use of potable water is minimized.

Water Conserving Devices means water using fixture hardware that is either adapted to existing fixtures, or replaces existing fixtures, which reduces the amount of water the original fixture required to accomplish its function, to an amount which accomplishes the intended function without impairment.

Water Consumer means a person or entity who purchases water from a water supplier.

Water Manager means a person who manages a public water system.

Water Using Fixtures means installed receptacles, devices, or appliances either supplied with water and/or receive and/or, discharge liquids, or liquid-borne wastes, or both, with or without discharge into the drainage system to which they may be directly or indirectly connected.

31.02: Program and Cost Requirements

- (1) Projects. Eligible projects include, but are not limited to:
 - (a) Purchase and distribution of water conserving devices for the retrofit of water using fixtures in existing private residences where such devices will be sold to residents at cost.
 - (b) Provision of information and technical assistance to water consumers regarding the need for water conservation and methods by which water supply can be conserved and protected.
 - (c) Projects which are designed to specifically promote water conservation.

- (2) Program Proposals. Program proposals should include:
 - (a) Existing and projected need. This data will be obtained from local water management plans, in the process of being developed in accordance with 313 CMR 2.00 (Water Resources Commission).
 - (b) Per capita water use.
 - (c) Percent of residential water usage to total usage.
 - (d) Number of devices committed for installation.
 - (e) Estimated water savings.
 - (f) Percent of residential units metered.
 - (g) Percent of water system that is paid for by the water revenues. This includes a list of total revenues and disbursements of the water supply system.
 - (h) Implemented water conservation measures.
 - (i) Implementation plan.

- (3) Program Costs.
 - (a) Program costs shall include, but are not limited to the purchase and distribution of water conserving devices for the retrofit of water using fixtures in existing structures.
 - (b) Salary costs for a regular, full-time employee of the applicant are not eligible costs.
 - (c) No more than 20% of the program cost for any proposed program shall be for information and technical assistance.

- (4) Ineligible Residents. Residents who do not purchase water from a public or private water company may not receive devices under a program.

- (5) Matching Appropriations. Grants must be matched by an equal amount appropriated by the city, town or district applicant.

- (6) Rollover of Funds From Sale of Devices. Funds collected by the applicant through the sale of water conserving devices shall be paid into a city, town, or district account designated for funding water conservation projects. Such funds shall be used by the applicant to purchase additional water conservation devices for sale to residents until the demand for such devices has ended. At that time the funds shall be used for any other water conservation projects.

31.03: Eligible Grantees

- (1) Cities, Towns, Districts. Cities, towns, and districts are eligible grantees. Any agency, division or department of a city, town, or district may apply on behalf of the body which it represents so long as it has the authority necessary to implement the program.

- (2) Metropolitan District Commission. The Metropolitan District Commission is not an eligible grantee; however, communities served by the Metropolitan District Commission are eligible.

31.04: Criteria for Proposal Evaluation

The following criteria will be used and are listed in order of importance:

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- (1) Need. Consideration will be given to: existing need, determined by comparing the daily demand with the existing safe yield for water supply sources; and the 1990 projected need, determined by water demand projections versus the existing safe yield to include water supply augmentation projects under construction. Data from local water management plans, developed in accordance with 313 CMR 2.00: *Water Resources Management Program*, will be used in evaluating this criterion.
- (2) Ability of Applicant to Implement Program. Evaluation of this criterion will be based on the applicant's implementation strategy for implementing the program, including, but not limited to: a detailed description (or plan) of program for the distribution and promotion of devices, public information and technical assistance, in addition to demonstration of local cooperation with public officials and community groups.
- (3) Percent of Water System That Is Paid For By the Water Revenues. This will be determined by: total revenues and total disbursements which include: the cost of water supply, water distribution operation, water distribution maintenance, planning, and administration. This criterion will be used to give priority to communities who charge for the actual cost of service.
- (4) Demonstrated Commitment to Water Conservation. Demonstrated Commitment to water conservation will be evaluated on the basis of the applicant's utilization of water conservation measures, including, but not limited to: the presence of, or in the process of, developing a water conservation plan; maintenance of the distribution system which includes a leak detection program, replacement of leaking system components, a system rehabilitation program, and water meter maintenance; a public education program.
- (5) Cost-Effectiveness (Amount of Conservation/\$1). This will be determined by comparing gallons saved per grant dollar spent with a factor allowing greater weight for greater number of persons using a device. This will be based on: the number of water saving devices committed for installation, the number of gallons of savings per device and the number of persons per service.
- (6) Percent of Residential Units Metered. This criterion promotes the State water policy of residential metering as an effective water conservation measure for demand management. This criterion also provides a means to assess the effectiveness of such water conservation projects and to measure "the utilization of less water supply".
- (7) Per Capita Residential Water Use/Total Water Use. This will be evaluated by determining gallons per day per person served by residential water service.

31.05: Grants

- (1) Application Procedures.
 - (a) Any eligible grantee shall complete and file the application with the Department.
 - (b) The Department shall review each application submitted to determine the adequacy, accuracy, and completeness of the information contained therein. The Department may request that an applicant furnish additional information if it feels the information in the application is inadequate for review of the project. At the time of request, the Department may specify when the supplementary information must be submitted in order to be considered with the application.
- (2) Preconditions to Grant Award. Prior to award of a grant, the Department shall determine:
 - (a) That the applicant is an eligible grantee under 310 CMR 31.03.
 - (b) That the project meets program requirements under 310 CMR 31.03.

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(c) That the award of the grant will not cause the total of all grants awarded in the funding year to exceed the total funds available to the Department for expenditure.

(3) Grant Award

(a) The program grant shall be deemed awarded when the Grant Agreement is executed by the Department and the grantee. The Grant Agreement shall consist of the grant offer as executed by the Department and the grant acceptance as executed by the grantee.

(b) The project scope shall be as described in the project application filed by the grantee and accepted by the Department or modified by the Department in its grant offer.

(c) The grant amount shall be the amount stated in the final grant offer. The Department reserves the right to offer only a part of the amount requested by the applicant.

(4) Limitations in Grant Award

(a) Total Project Funding. The Department shall condition its grant offer as follows: the total of all funds received by the public entity for the project do not exceed 100% of the total project cost. Any funds previously received by the grantee in excess of a revised grant award shall be reimbursed to the Department within 60 days of the revised grant award.

(b) Termination of Grant for Failure of Grantee to Commence Project. The Department may condition its grant offer to provide that, in the event a grantee fails to initiate work under the grant agreement, within six months of the acceptance of a grant award, the Department may terminate the grant. Prior to termination of a grant award under 310 CMR 31.05(4)(b), the Department shall give due consideration to any extenuating circumstances presented in writing by the applicant, and may extend the grant award for an additional period of up to six months, if the Department determines such extension is warranted.

(c) Appropriation of Matching Funds. The Department may condition its grant offer to provide that funds will not be distributed to the grantee until the grantee provides proof that it has appropriated its share of the program costs.

(d) Suspension or Termination of Grant Payments. The Department may condition its grant offer to provide for suspension or termination of payments to the grantee under the grant award in instances where the Department determines that there is probable cause to believe the grant was obtained on the basis of fraud, deceit, or illegality, or that the grantee has failed to comply with 310 CMR 31.00 or the terms of the grant agreement.

(e) Funds Received Through Sale of Devices. The Department may condition its grant offer to provide that funds received by the grantee through the sale of water conservation devices which are not used for additional water conservation projects shall be reimbursed to the Department.

REGULATORY AUTHORITY

310 CMR 31.00: M.G.L. c. 21A, § 2(28).