



State of Rhode Island and Providence Plantations
Department of State | Office of the Secretary of State
 Nellie M. Gorbea, *Secretary of State*

Rules and Regulations Filing Form

1. Agency Name and Address

Energy Resources, Office of
 One Capitol Hill 4th Fl., Providence RI 02908

2. Title of Rule

Rules and Regulations for the Efficient Building Fund Project Priority List

3. Statutory Source of Authority

R.I. Gen. Laws § 46-12.2-4.2 (as enacted in Article 14 of the 2016 Fiscal Year Budget)

4. Concise Explanatory Statement - §42-35-2.3

State and local governments each have a key role to play in helping Rhode Island achieve its economic, energy, and environmental goals through strategic investments in energy efficiency and renewable energy. Such measures can present cost-effective opportunities to reduce public sector energy consumption and generate cost savings that provide relief for constrained budgets and the taxpayers who support them. Investments in no-to-low carbon clean energy resources can also create local jobs, support local businesses and reduce greenhouse gas emissions. The Rhode Island Infrastructure Bank's (RIIB) Efficient Buildings Fund will provide technical, administrative and financial assistance to local governmental units and, to the extent eligible, state entities for energy efficiency and renewable energy upgrades to public buildings and infrastructure. The Rhode Island Office of Energy Resources (OER) shall accept applications periodically, but not less than once every calendar year. OER will review all submitted applications, which will then be evaluated, scored, ranked and incorporated into a Project Priority List in accordance with the Rules and Regulations. OER shall provide the Project Priority List to RIIB, which will be used by RIIB to determine the order in which financial assistance shall be provided. All financing requirements shall be governed by RIIB Efficient Buildings Fund Policies and Procedures.

5. Type of Filing

| Emergency Rules | |
|---|---|
| A1. Emergency 120-day initial - §42-35-3(b) <input type="checkbox"/> Adoption <input type="checkbox"/> Amendment of ERLID: <input type="checkbox"/> Repeal of ERLID: | A2. Emergency 90-day renewal - §42-35-3(b) <input type="checkbox"/> Adoption <input type="checkbox"/> Amendment Indicate ERLID of 120-day initial: |
| Brief Statement of Reason for Finding Imminent Peril §42-35-3(b)(2): | |

| Final Rules | | | |
|---|--|-------------------------------------|--|
| <input type="checkbox"/> B1. Amendment | <input checked="" type="checkbox"/> B2. Adoption | <input type="checkbox"/> B3. Repeal | <input type="checkbox"/> C. Technical Revision |
| If B1 or C, please indicate new, amended, deleted, or revised sections: | | | |

6. Notice and Hearing Information

Date of Public Notice - §42-35-3(a)(1):10/30/2015
 Date of Public Hearing - §42-35-3(a)(2):11/30/2015
 End of Comment Period:11/30/2015

7. Agency Additional Information - Web Page

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

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8. Certification

I hereby certify that the attached rules and regulations were adopted in accordance with the Administrative Procedures Act (42-35) and that they are true copies of this Department, attest,

Daniel W. Majcher
 Name
 Daniel W. Majcher
 Title Rules coordinator
 12/4/15

Anna Marie L. Young, RI ID# 46284
 Notary Public
 Exp: 3/15/17
 Subscribed and sworn before me
 this 4th day of December, 2015

**State of Rhode Island and Providence Plantations
Department of Administration**

Office of Energy Resources

**Rules and Regulations for the
EFFICIENT BUILDINGS FUND PROJECT PRIORITY LIST**

Effective Date: December 24, 2015

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ADMINISTRATIVE RECORDS**

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ADMINISTRATION

**RULES AND REGULATIONS for the
EFFICIENT BUILDINGS FUND PROJECT PRIORITY LIST**

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SECTION 1.0 PURPOSE

The purpose of these regulations is to establish a **Project Priority List** for the Efficient Buildings Fund. The Efficient Buildings Fund will provide technical, administrative and financial assistance to Local Governmental Units and, to the extent eligible, State Entities for energy efficiency and renewable energy upgrades to public buildings and infrastructure. All financing requirements shall be governed by Rhode Island Infrastructure Bank Efficient Buildings Fund Policies and Procedures.

SECTION 2.0 LEGAL AUTHORITY

These rules and regulations are promulgated pursuant to the authority provided by Rhode Island General Laws, Chapter 46-12.2-4.2 as amended and in accordance with Rhode Island General Laws 42-35, the Administrative Procedures Act.

SECTION 3.0 LIBERAL APPLICATION

The terms and provisions of these rules and regulations shall be liberally construed to allow the Rhode Island Office of Energy Resources to effectuate the purposes of State law, goals, and policies.

SECTION 4.0 SEVERABILITY

If a court of competent jurisdiction thereof holds any provision of these rules and regulations or the application invalid, the remainder of the rules and regulations shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections shall not affect the validity of the remainder of these rules and regulations.

SECTION 5.0 ADMINISTRATIVE FINDINGS

State and local governments each have a key role to play in helping Rhode Island achieve its economic, energy, and environmental goals through strategic investments in energy efficiency and renewable energy. Such measures can present cost-effective opportunities to reduce public sector energy consumption and generate cost savings that provide relief for constrained budgets and the taxpayers who support them. Investments in no-to-low carbon clean energy resources can also create local jobs, support local businesses and reduce greenhouse gas emissions.

SECTION 6.0 DEFINITIONS

As used in these rules and regulations the following definitions will apply:

Application – shall mean the Efficient Buildings Fund Project Priority List application form and content.

Applicant – shall mean the Local Governmental Unit or, to the extent eligible, State Entity submitting an Application pursuant to these rules and regulations.

Commissioner – shall mean the Commissioner of the Office of Energy Resources or the subordinate(s) to whom the Commissioner has delegated powers and duties vested in the Commissioner by these regulations.

Commissioning – shall mean the process of ensuring that systems are designed, installed, functionally tested and capable of being operated and maintained to perform in conformity with the design intent of a project.

Cost Effective – shall mean the projected lifetime savings exceeds the cost of the project.

Delivered Fuels – shall mean heating fuels other than natural gas, including but not limited to, oil, kerosene, propane and biofuel.

Distressed Community – shall mean, at the time of application, a community that is identified by Rhode Island General Law 45-13 as a “Distressed Community” and is eligible to receive assistance from the Distressed Communities Relief Fund Program.

Efficient Buildings Fund – shall mean the fund established pursuant to Rhode Island General Law 46-12.2-4.2 for the purpose of providing technical, administrative and financial assistance to Local Governmental Units and, to the extent eligible, State Entities for energy efficiency and renewable energy upgrades to public buildings and infrastructure.

Eligible Energy Efficiency Project – shall mean one or more Energy Efficiency Measures that are collectively cost effective.

Eligible Renewable Energy Projects – shall mean those projects that have been defined as eligible in these Rules and Regulations pursuant to Section 8.4.

Energy Efficiency Measure – shall mean equipment or technology that reduces energy consumption.

Energy Efficiency Project – shall mean one or more Energy Efficiency Measures.

Green Initiatives - shall mean clean energy programs and policies for Local Governmental Units.

Job Types – shall mean the types of professions utilized to implement the measure or project (i.e. electrician, plumber, and laborer).

Lead by Example – shall mean clean energy programs and policies for State Entities.

Local Governmental Unit or LGU - means any town, city, district, commission, agency, authority, board or other political subdivision or instrumentality of the state or of any political subdivision thereof.

Office or OER– shall mean the Rhode Island Office of Energy Resources.

Project Priority List (“PPL”) – shall mean the list of eligible projects, as determined by the OER, ranked in order in which financial assistance shall be awarded by the Rhode Island Infrastructure Bank.

Qualified Energy Conservation Bond (“QECB”) – shall mean a bond that may be issued by state, local and tribal governments to finance qualified energy conservation projects as designated in 26 USC 54D.

Rhode Island Infrastructure Bank (“RIIB”) – shall mean the entity created by Rhode Island General Laws 46-12.2.

Shovel Ready Project – shall mean a project that will commence construction activities within ninety (90) days following a loan closing from the RIIB.

State Entities – shall mean a Department of the State of Rhode Island and its Judicial, Legislative and Executive branches.

Technical Review Committee – shall mean a Review Committee, established by the Commissioner, to review the Applications. All Applications shall be subject to review by at least three (3) members of the Office and may include an additional two (2) members selected by the Commissioner from outside the Office.

SECTION 7.0 ELIGIBLE ENTITIES

Local Governmental Units and, to the extent eligible, State Entities shall be eligible to apply for financial assistance from the Efficient Buildings Fund. Receipt of financial assistance shall be conditioned upon the Local Governmental Unit reallocating their remaining QECB allocation to the State of Rhode Island.

SECTION 8.0 ELIGIBLE PROJECTS

8.1 Unless subject to Section 14.0 only new equipment can be financed through the Efficient Buildings Fund. Remanufactured, refurbished, slightly used, or new equipment transferred from a previous location are not eligible. Previously installed equipment are not eligible for financing.

8.2 Local Governmental Units and, to the extent eligible, State Entities are encouraged to pursue all appropriate Energy Efficiency Measures prior to installing renewable energy projects.

8.3 Energy Efficiency Projects shall be eligible for financing, alone or in combination with renewable energy projects and may be, but are not required to be, eligible for utility-administered energy efficiency incentives.

8.4 Renewable Energy Projects eligible for financing, alone or in combination with eligible Energy Efficiency Measures, shall include:

- a. Solar electric (photovoltaic) systems: Only electric (PV) projects are eligible. All projects must include the components necessary to result in a functional system. Battery back-up systems are also eligible.
- b. Wind: Only systems that are 100kW or greater with a direct drive nacelle are eligible.

8.5 Projects for other renewable energy technologies, as stated in accordance with Rhode Island General Law 39-26-5, may be deemed eligible by OER on a periodic basis. A determination of eligibility for non-solar PV and non-wind renewable energy resource types will be made by OER in advance of the start of any application period and be detailed in the Application. Applicants may contact the OER at any time if they are interested in other renewable energy technologies.

SECTION 9.0 APPLICATIONS

9.1 Applications shall be accepted periodically, but not less than once every calendar year. Announcements regarding requests for Applications shall be, at a minimum, posted on the websites of RIIB (www.riinfrastructurebank.com) and OER (www.energy.ri.gov).

9.2 Applications are available on the RIIB (www.riinfrastructurebank.com) and OER (www.energy.ri.gov) websites and shall be submitted in accordance with the requirements stated in the Application.

SECTION 10.00 APPLICATION REVIEW AND EVALUATION CRITERIA

10.1 APPLICATION REVIEW

In order for an Application to be evaluated, scored and ranked it must be COMPLETE. The Application must contain all of the required information.

Applications shall be reviewed for completeness within five (5) business days of receipt. OER shall notify the Applicant if an Application is incomplete and identify the missing documentation. The Applicant shall submit the missing documentation within five (5) business days of notification in order to be considered for the funding round. If the Applicant does not submit the required information in the designated time period the Application will be denied and the Applicant will need to re-submit a complete application in a subsequent application period.

10.2 EVALUATION CRITERIA

a. Evaluation Criteria for Local Governmental Unit Applications

All **complete** Local Governmental Unit Applications will be evaluated based on criteria identified in the Application, which may include, but are not limited to, the following:

Renewable Energy Project Applications (Solar PV)

- Energy output of the installed system (kWh)
- Installed price per watt of the installation
- Green Initiatives
- Shovel Ready – timeliness and readiness

Renewable Energy Project Applications (Wind)

- Energy output of the installed system (kWh)
- Installed price per watt of the installation
- Green Initiatives
- Shovel Ready – timeliness and readiness

Energy Efficiency Project Applications

- Energy savings and comprehensiveness
- Green Initiatives
- Shovel Ready – timeliness and readiness

Criteria for other renewable technologies, as identified in Section 8.5, shall be determined as necessary.

Additional Criteria:

- Distressed Community status
- Energy Efficiency and Renewable Energy Projects in the same Application

b. Evaluation Criteria, to the extent eligible, for State Entity Applications

To the extent eligible all **complete** State Entity Applications will be evaluated based on criteria identified in the application, which may include, but are not limited to, the following:

Renewable Energy Project Applications (Solar PV)

- Energy output of the installed system (kWh)
- Installed price per watt of the installation
- Lead by Example
- Shovel Ready – timeliness and readiness

Renewable Energy Project Applications (Wind)

- Energy output of the installed system (kWh)
- Installed price per watt of the installation
- Lead by Example
- Shovel Ready – timeliness and readiness

Energy Efficiency Project Applications

- Energy savings and comprehensiveness
- Lead by Example
- Shovel Ready – timeliness and readiness.

Criteria for other renewable technologies, as identified in Section 8.5, shall be determined as necessary.

Additional Criteria:

- Energy Efficiency and Renewable Energy Projects in the same Application

SECTION 11.0 APPLICATION RANKING

11.1 The Technical Review Committee shall review all Applications to determine completeness and eligibility.

- a. The Applicants and their proposed projects must meet the requirements of these Rules and Regulations.
- b. Projects accepted by OER as complete and consistent with these regulations will be evaluated in accordance with Section 10.2, and scored, ranked, and incorporated into a PPL to be used by the RIIB to determine the order in which financial assistance shall be provided.
- c. Recommendations for funding shall be prioritized based on the overall score of the Application. There is no guarantee that an Applicant will receive financing from RIIB even though they are listed on the PPL.

11.2 Once the PPL is established it shall be, at a minimum, posted on the RIIB (www.riinfrastructurebank.com) and OER (www.energy.ri.gov) websites. Additionally, the scoring detail will be made available upon request. All Applicants shall be notified that the PPL has been made public. The Applicant shall have five (5) business days to submit any comments regarding the PPL ranking for consideration by the OER.

11.3 If OER determines that an error had been made with the PPL ranking, an updated PPL shall be reposted on the RIIB (www.riinfrastructurebank.com) and OER (www.energy.ri.gov) websites and the process in Section 11.2 shall proceed accordingly.

SECTION 12.0 PROJECT INSPECTIONS

12.1 OER, or its designated representative, may inspect the project at any time during the construction process and following project completion.

12.2 Energy Efficiency Projects: Within thirty (30) days of construction completion all Applicants are required to have an independent third - party Commissioning of all installed Energy Efficiency Measures. A copy of the

Commissioning report (hard copy and electronic copy) shall be forwarded to OER and RIIB within thirty (30) days following the Commissioning.

12.3 Solar PV projects: Within thirty (30) days of interconnection all Applicants are required to have an independent third party inspection of the renewable energy system. Third party independent inspections completed pursuant to existing State Programs are acceptable. A copy of the inspection report (hard copy and electronic copy) shall be forwarded to OER and RIIB within thirty (30) days following the inspection.

12.4 Wind projects: All Applicants are required to have an independent third party inspection of the renewable energy system after the interconnection. Third party independent inspections completed pursuant to existing State Programs are acceptable. A copy of the inspection report (hard copy and electronic copy) shall be forwarded to OER and RIIB within sixty (60) days following the inspection.

12.5 Inspections for all other eligible renewable technologies shall be determined as necessary.

SECTION 13.0 REPORTING REQUIREMENTS

All recipients of RIIB EBF financing are required to comply with all OER data and reporting requests for at least five (5) years following project completion, including, but not limited to, the requirements specified below:

- Actual number of Full Time Equivalent jobs for the project;
- Job types;
- Entity-wide energy consumption compared to baseline consumption that was submitted in the Efficient Buildings Fund PPL Application;
- For Energy Efficiency Projects, comparison of actual units of energy (e.g. kWh, therms, gallons) saved versus estimated units of energy saved based on the project Application submitted;
- For Renewable Energy Projects, accessibility to the project production dash boards (Locus, Solectria, etc.).

SECTION 14.0 REFINANCING

Local Governmental Units, and to the extent eligible, State Entities shall be eligible to submit an Application to refinance a previously installed project. The previously installed project must otherwise meet the requirements of these Rules and Regulations. Applications submitted for refinancing shall receive the lowest ranking on the PPL.

The foregoing "Rules and Regulations for the Efficient Buildings Fund Project Priority List," after due notice and Public Comment, are hereby adopted and filed with the Secretary of State.



Marion S. Gold, Commissioner
Office of Energy Resources

ERLID# 8322

EFFECTIVE DATE: December 24, 2015

