

**COLORADO DEPARTMENT OF EDUCATION**

**STATE BOARD OF EDUCATION**

**1 CCR 301-85**

**RULES GOVERNING THE RENEWABLE ENERGY AND ENERGY EFFICIENCY FOR SCHOOLS LOAN PROGRAM**

**Background**

The Renewable Energy and Energy Efficiency for Schools Loan Program “REEES Loan Program” was created by House Bill 09-1312. The goal of the program is to provide low interest loans to school districts for the purpose of installing renewable energy systems and purchasing hybrid school buses. These rules govern the administration and implementation of the school REEES Loan Program under HB 09-1312.

**Authority**

These rules are adopted pursuant to the powers and duties of the state board set forth in 22-2-107(1)(c) C.R.S. and § 22-92-105(1) C.R.S. Under this provision, the state board of education, in consultation with the governor's energy office, shall promulgate rules establishing policies and procedures for the administration of the Renewable Energy and Energy Efficiency for Schools Loan Program.

Additional authority for these rules is Section 3 of Article IX of the Colorado Constitution which states in relevant part: [i]n order to assist public schools in the state in providing necessary buildings, land, and equipment, the general assembly may adopt laws establishing the terms and conditions upon which the state treasurer may . . . (3) make loans to school districts.

**Scope and Purpose**

These rules are promulgated pursuant to the “Renewable Energy and Energy Efficiency for Schools Loan Program Act,” § 22-92-101 *et seq.* C.R.S. As set forth in the legislative declaration, § 22-92-102(3) the general assembly determined that it would serve the best interests of Colorado schools for the state to make available loans to support the efforts of that choose to undertake renewable energy projects or energy-efficient bus projects. Pursuant to § 22-92-105(1), the state board of education, in consultation with the governor's energy office, shall promulgate rules establishing policies and procedures for the administration of the renewable energy and energy efficiency for schools loan program. §22-92-105(1) provides that at a minimum, the rules shall include:

- (a) procedures by which a qualified school district may apply for a loan, the form of the loan application, the information to be provided by an applicant, and the criteria used by the office for recommending awarding and denying loans;
- (b) The requirements that the office shall require of loan applicants, which requirements shall include, but need not be limited to a requirement that a loan applicant submit with its application:
  - (l) An energy rating for the facility for which the loan is intended that demonstrates that the facility qualifies for federal energy star label, which rating has been issued as a result of an audit performed by a qualified energy efficiency auditor; or

(II) An energy efficiency plan that is created in consultation with the office, which plan includes:

(A) Cost-effective energy-saving measures and programs that the applicant will implement; and

(B) Actions that the applicant will take to implement, monitor, review, and revise the plan.

## 1. Definitions

- 1.1. "Applicant" means a Qualified School District that has applied and/or intends to apply for a loan.
- 1.2. "Bank" shall have the same meaning as set forth in section 11-101-401(5), C.R.S.
- 1.3. "Energy Efficiency Plan" means a formal plan designed by a Qualified School District, in consultation with the Governor's Energy Office, to devise and implement the most appropriate and cost-effective measures to reduce the consumption of energy in a given school.
- 1.4. "Energy-Efficient Bus Project" means a project to help a qualified school district attain and employ battery-powered, compressed natural gas, propane gas, or hybrid-electric buses in its daily transportation operations for the purpose of reducing energy consumption and expenditures.
- 1.5. "Energy Rating" means the assessment obtained through EPA's energy performance rating system, a method that rates the performance of a building on a scale of 1 to 100.
- 1.6. A "Facility" is defined as all land, balance of system components, and project site improvements relating to the construction and operation of qualifying renewable energy projects. This includes, but is not limited to, transmission and distribution interconnect systems..
- 1.7. "Financial Assistance" means a loan received by a qualifying school district under the REEES Loan Program.
- 1.8. "Governor's Energy Office" or "Office" means the Governor's Energy Office (GEO) created in section 24-38.5-101, C.R.S., or any successor office.
- 1.9. "Incentives" are different forms of economic assistance offered to qualifying technologies to promote their use. For example, the Federal Investment Tax Credit provides a 30% tax credit and accelerated asset value depreciation for solar systems.
- 1.10. "Public School Fund" means the public school fund created and existing pursuant to section 3 of Article IX of the state constitution.
- 1.11. "Qualified School District" means a school district in the state that has a renewable energy project team.
- 1.12. "Renewable Energy and Energy Efficiency for Schools Loan Program" or "REEES Loan Program" means the renewable energy and energy efficiency for schools loan program created in section 22-92-104 C.R.S.
- 1.13. "Renewable Energy and Energy Efficiency for Schools Loan Program Administration Fund" or "Fund" means the Renewable Energy and Energy Efficiency for Schools Loan Program Administration Fund created in section 22-92-106 C.R.S.

- 1.14. "Renewable Energy Project" means a means a project to help a qualified school district install equipment and related infrastructure that will help defray the school district's energy costs and provide educational opportunities for students relating to the generation of renewable energy. A "Renewable Energy Project" shall be operated in compliance with existing laws and may incorporate one or more of the following:
  - 1.14.1. Wind energy;
  - 1.14.2. Solar energy;
  - 1.14.3. Biomass
  - 1.14.4. Small Hydro, or
  - 1.14.5. Other sources of renewable energy.
- 1.15. "Renewable Energy Project Team" means a team of people who are dedicated to a renewable energy project at a school district. The team may be designated by a school district and shall act as technical advisors and prepare a proposal for a loan under the REEES Loan Program. A Renewable Energy Project Team shall include, at a minimum, representatives of the school district, representatives of the local community, and at least one member who provides professional technical assistance to the school district to facilitate a Renewable Energy Project or an Energy-Efficient Bus Project. The member of a Renewable Energy Project Team who provides professional technical assistance to the school district may be a representative of a local electrical utility.
- 1.16. "School District Contact Person" is the person designated by the Qualified School District to act as the interface with the Office and the State Treasurer for matters related to the School District application to the REEES Loan Program.
- 1.17. "State Board of Education" is the State Board of Education established pursuant to Section 1 of Article IX of the state constitution.
- 1.18. "State Treasurer," is the Colorado State Treasury established pursuant to Section 1 and 22 of Article IV of the state constitution.
- 1.19. "Technical Assistant" means the member(s) of the Renewable Energy Project Team that provides professional technical assistance to the applicant.
- 1.20. "Technical Application" means the application under the REEES Loan Program submitted to the Office.

## **2. Eligibility and General Terms**

- 2.1. The following entities are eligible to apply for a Loan:
  - 2.1.1. Qualified School Districts that choose to undertake Renewable Energy Projects or Energy-Efficient Bus Projects.
  - 2.1.2. A Qualified School District may apply for a loan from the REEES Loan Program on behalf of a charter school authorized by the school district. The State Treasurer cannot make loans directly to a charter school.

- 2.2. Renewable Energy Project loans are provided to qualified school districts on a competitive basis. Limited loan funds are available and not all applications may be selected for loans.
- 2.3. Participation in the Program requires that the applicant consider working with a third party to capture all incentives and benefits such as tax credits when available. Should the applicant decide not to work with a third party developer, the applicant must explain their decision in the application.
- 2.4. No school district shall have more than \$1,000,000 in Program Loans outstanding at any time.
- 2.5. The maximum loan term allowed shall be fifteen (15) years commencing on the date of the REEES Loan approval and cannot exceed the life of the Renewable Energy Project.

### **3. REEES Loan Program Process Outline**

- 3.1. The Office shall review each Technical Application received from a Qualified School District pursuant to Section 22-92-104(1), C.R.S. and evaluate the Renewable Energy Project or Energy-Efficient Bus Project described therein, and make a recommendation to the State Treasurer as to whether to award the loan and the amount of the loan. If the Office determines an application is missing any information required by the Office, the Office may contact the applicant to obtain the missing information.
- 3.2. Application cycles run on a semi-annual basis and will close on, or the next business day following, October 31 and April 30 of each year. Technical applications must be postmarked by the closing date to be considered valid. The date an electronic email was sent containing a Technical Application shall be considered the postmark date.
  - 3.2.1. The Office shall date stamp each application, and review the application within 30 days of receipt.
  - 3.2.2. The Office shall notify the Applicant that the application has been received within three (3) days or receipt.
  - 3.2.3. In the event the application is incomplete, the Office shall notify the Qualified School District in writing that additional information is needed, and the Qualified School District shall provide such information within thirty (30) days of notification.
- 3.3. In reviewing Technical Applications for Renewable Energy Projects and Energy-Efficient Bus Projects the Office shall consider, at a minimum, whether a Qualified School District would reduce its energy costs by the implementation of the Renewable Energy Project or Energy-Efficient Bus Project that is the subject of each application.
- 3.4. The school district shall pay any fees established by the state treasury. As set forth in 22-92-105(3) C.R.S., the State Treasurer is authorized to require each Qualified School District that receives a loan from the REEES Loan Program to pay to the Office a fee that reflects the direct and indirect costs incurred in administering the loans pursuant to 22-92-107 C.R.S. If the State Treasurer elects to impose a fee pursuant to 22-92-105(3) C.R.S., he or she shall notify the Governor's Energy Office and the State Board of Education of the decision to impose the fee. A fee imposed pursuant to 22-92-105(3) C.R.S., may be imposed on a regularly scheduled basis to be determined by the State Treasurer. A qualified school district that receives a loan from the loan program shall be required to pay the fee until the loan is repaid in full.
- 3.5. A Qualified School District that applies for a loan through the REEES Loan Program for a Renewable Energy Project shall contact its local electrical utility and request the utility, at the

utility's discretion, to appoint a representative of the utility on the Qualified School District's Renewable Energy Project Team.

#### **4. Permissible Uses of Loans**

- 4.1. A Qualified School District that receives a loan through the REEES Loan Program shall use the moneys received to pay for technical assistance, equipment, and/or installation costs associated with a Renewable Energy Project or an Energy-Efficient Bus Project, or to finance the acquisition of a Renewable Energy Project.

#### **5. Technical Application**

##### 5.1. Technical Application Requirements.

- 5.1.1. Technical Application forms shall be available from the Governor's Energy Office and on the Office website at [www.colorado.gov/energy/](http://www.colorado.gov/energy/)
- 5.1.2. Technical Applications shall be sent to the Office in electronic form sent to the following email address REEESLoan@state.co.us with one hard copy provided via first class mail. Each application shall be in a form prescribed by the Office and shall include the items described in Section 5 of these rules.
- 5.1.3. The Office shall assess the merit of the expected benefits of the Renewable Energy Project by reviewing the technical eligibility and merit of the applicant's project. The Office shall provide a written report, make a recommendation to the State Treasurer and notify the Applicant that the recommendation has been sent to the treasurer no more than fifteen (15) after the application has been reviewed.
- 5.1.4. The State Treasurer shall review the Technical Application and the Governor's Energy Office's recommendation and make the final loan decision based on its findings and the Office's technical opinion and recommendation and any other considerations he or she deems relevant.

##### 5.2. Information to be provided by an applicant.

- 5.2.1. Project Name: Provide the full name of the proposed Renewable Energy or Energy-Efficient Bus Project.
- 5.2.2. Applicant Information: Name, position, phone and fax number, and email address of the contact person within the Qualified School District.
- 5.2.3. Technical Assistant Information: Name, position, phone and fax number, and email address of the Technical Assistant.
- 5.2.4. A detailed description of the scope and nature of the Project;
- 5.2.5. The estimated amount of Financial Assistance needed for the Project;
- 5.2.6. Proposed Technology
  - 5.2.6.1. Renewable Energy Project Information.
    - 5.2.6.1.1. A copy of any existing master plan or facility assessment relating to the Facility or Facilities for which Financial Assistance is sought.

- 5.2.6.1.2. Renewable Energy Technology. A detailed description of the type of technology the Qualified School District proposes to use and why such technology would reduce energy costs by the implementation of the technology.
- 5.2.6.1.3. Equipment Specifications.
- 5.2.6.1.4. Monitoring. A detailed description of the methodology used to monitor the energy produced by the Renewable Energy Project.
- 5.2.6.1.5. The estimated annual energy that will be generated by the Renewable Energy Project.
- 5.2.6.2. The following information shall be provided in the Technical Application for an Energy-Efficient Bus Project:
  - 5.2.6.2.1. The manufacturer of the Energy-Efficient Bus Project vehicle;
  - 5.2.6.2.2. The maximum number of passengers which may utilize the bus(es)
  - 5.2.6.2.3. The type of fuel that will be used by the Energy-Efficient Bus Project bus(es); and
  - 5.2.6.2.4. The mileage per fuel unit
- 5.2.7. Project Capital Costs. The Technical Application shall include information on the annual operation and maintenance costs, including but not limited to the economic benefits, the carbon reduction benefits, etc., substantiating each assertion with an analysis provided by an individual or entity qualified to render such an opinion.
  - 5.2.7.1. Project Annual Operation and Maintenance Costs
  - 5.2.7.2. Project Annual Benefits
    - 5.2.7.2.1. Economic Benefits
    - 5.2.7.2.2. Carbon reduction benefits
    - 5.2.7.2.3. Other environmental and health benefits
    - 5.2.7.2.4. If the project benefit calculations depend on sales of energy to any outside purchaser, a copy of the energy purchase agreement must be included with the Technical Application.
- 5.2.8. Third-Party Contractors
  - 5.2.8.1. Applicants who work with a third party contractor or developer must show that any incentive available for the project is either integrated into the project cost or monetized in an alternative fashion.
  - 5.2.8.2. Participants who choose not to work with a third-party contractor must include an explanation of this decision.
- 5.2.9. Preferred Method of Repayment. School districts shall state the term and payment schedule that best fits their necessities.

5.2.10. An explanation of how the Qualified School District shall use the Project(s) to educate the students in the Qualified School District about renewable energy and energy efficiency

5.2.11. Certification. Every application must contain the signatures of the School District Contact Person, the district's superintendent and the Technical Assistant.

5.2.11.1. An application for a project at a charter school must include signatures of the Qualified School District superintendent, school board officer, the charter school director, and the Technical Assistant;

5.2.12. Any other information that the Office may require for the evaluation of the project.

5.3. A Qualified School District shall also provide the following information:

5.3.1. An Energy Rating for the Facility for which the loan is intended that demonstrates that the Facility qualifies for the Federal Energy Star label, which rating has been issued as a result of an audit performed by a qualified energy efficiency auditor, or

5.3.2. An Energy Efficiency Plan that is created by the Applicant, in consultation with the Office, which includes:

5.3.2.1. A list of cost-effective energy-saving measures and programs that the Applicant will implement; and

5.3.2.2. Actions that the applicant will take to implement, monitor, review, and revise the energy efficiency plan.

## **6. Ranking Criteria used by the Office**

6.1. All applications that meet the criteria for completeness and financial feasibility shall be ranked according to the project's technical merit. The highest ranking projects shall be recommended by the Office for loan approval, subject to the available funding during that application cycle.

6.1.1. Criteria for completeness and financial feasibility

6.1.1.1. Completeness. If an applicant fails to submit a complete application after the 30-day period defined in 3.2.3, such application will be rejected.

6.1.1.2. Financial feasibility. Applications failing to show that the projected revenues meet operating, debt service and replacement costs will be rejected.

6.1.2. Ranking Criteria

6.1.2.1. Energy cost reductions (30%). Reductions in energy costs will be considered in relation to the capital and operative costs of the project.

6.1.2.2. Technical merit (40%). Technical reviewers will consider the likelihood of achieving the projected results, the experience of the technical assistant, the soundness of the project design, benefits other than the economic, and the maturity of the proposed technology when assessing the technical merit of an application.

6.1.2.3. Educational benefit (30%). The narrative required in 5.2.10 will be evaluated by the technical reviewers to determine the education benefit of the proposed project.

- 6.2. Applicants with eligible projects that are not selected for the loan due to lack of funding are eligible to resubmit the application during future application cycles.
- 6.3. Applicants that are not recommended for approval shall be notified within sixty (60) days of the submission date, or if additional information has been requested by the Office and provided by the Qualified School District, the postmark or email submission date of the last document provided.

## **7. Application Review**

- 7.1.1. The Office shall submit the prioritized list of projects to the State Treasurer for which the Office is recommending assistance within 75 days of the application deadline;
- 7.1.2. The Office may, in its discretion, extend these deadlines.

## **8. Availability and Oversight**

- 8.1. All Financial Assistance awarded is expressly conditioned on the availability of funds.
- 8.2. Oversight
  - 8.2.1. Applicants shall submit a written progress report to the Office by March 30<sup>th</sup>, June 30<sup>th</sup>, September 30<sup>th</sup>, and December 30<sup>th</sup>, on a form provided by the Office for each loan received which has not been closed out.
  - 8.2.2. When a school district completes a project it must submit a final project report to the Office in the format required by the Office. Once the final report is submitted and final payment is made, the loan shall be considered closed.
  - 8.2.3. The Office may make site visits to review project progress or to review a completed project;
  - 8.2.4. The Office may require a Qualified School District to hire additional independent professional management to represent the applicant's interests, if the Office deems it necessary due to the size of the project, the complexity of the project, or the school district's ability to manage the project with their Renewable Energy Project Team. The cost of the independent professional management shall be paid by the School Districts out of the Loan.