

115TH CONGRESS
2D SESSION

H. R. 5042

To establish the Financing Energy Efficient Manufacturing Program at the Department of Energy to provide financial assistance to promote energy efficiency and onsite renewable technologies in manufacturing facilities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 15, 2018

Mr. CARTWRIGHT (for himself, Mr. TONKO, Ms. WASSERMAN SCHULTZ, Ms. ESHOO, Mr. MCGOVERN, Mr. POCAN, Ms. WILSON of Florida, Ms. NORTON, Ms. KUSTER of New Hampshire, Mr. KHANNA, Mr. QUIGLEY, Mr. RASKIN, Ms. LOFGREN, Ms. CASTOR of Florida, Mr. CONNOLLY, Ms. LEE, Mr. WELCH, Mr. GRIJALVA, Mr. HUFFMAN, Mr. CROWLEY, Mr. JOHNSON of Georgia, Mr. WALZ, and Ms. HANABUSA) introduced the following bill; which was referred to the Committee on Science, Space, and Technology, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To establish the Financing Energy Efficient Manufacturing Program at the Department of Energy to provide financial assistance to promote energy efficiency and onsite renewable technologies in manufacturing facilities, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Job Creation through
3 Energy Efficient Manufacturing Act”.

4 **SEC. 2. DEFINITIONS.**

5 In this Act:

6 (1) **ENERGY EFFICIENCY IMPROVEMENT**
7 **PROJECT.**—The term “energy efficiency improve-
8 ment project” means a project to—

9 (A) improve the energy efficiency of a
10 small or medium-sized manufacturer; and

11 (B) develop technologies to reduce elec-
12 tricity or natural gas use by a small or medium-
13 sized manufacturer.

14 (2) **ENERGY MANAGEMENT PLAN.**—The term
15 “energy management plan” means a plan estab-
16 lished under section 3(c)(5) for a small or medium-
17 sized manufacturer to carry out an energy efficiency
18 improvement project.

19 (3) **PROGRAM.**—The term “program” means
20 the Financing Energy Efficient Manufacturing Pro-
21 gram established under section 3(a).

22 (4) **PROGRAM MANAGER.**—The term “program
23 manager” means a qualified entity that receives a
24 grant under section 3(a).

25 (5) **QUALIFIED ENTITY.**—The term “qualified
26 entity” means—

1 (A) a State energy office;

2 (B) a nonprofit organization that—

3 (i) is focused on providing energy effi-
4 ciency or renewable energy services; and

5 (ii) receives funding from a State,
6 Tribe, or electric utility (as defined in sec-
7 tion 3 of the Federal Power Act (16
8 U.S.C. 796));

9 (C) an electric cooperative, as defined in
10 section 3 of the Federal Power Act (16 U.S.C.
11 796); or

12 (D) a manufacturing extension center cre-
13 ated pursuant to section 25(b) of the National
14 Institute of Standards and Technology Act (15
15 U.S.C. 278k(b)).

16 (6) SECRETARY.—The term “Secretary” means
17 the Secretary of Energy.

18 (7) SMALL OR MEDIUM-SIZED MANUFAC-
19 Turer.—The term “small or medium-sized manu-
20 facturer” means a manufacturing establishment—

21 (A) classified in Sector 31, 32, or 33 in the
22 North American Industry Classification System;
23 and

24 (B) that employs not more than 750 em-
25 ployees.

1 **SEC. 3. FINANCING ENERGY EFFICIENT MANUFACTURING**
2 **PROGRAM.**

3 (a) ESTABLISHMENT.—The Secretary shall establish
4 a program, to be known as the “Financing Energy Effi-
5 cient Manufacturing Program”, to provide grants to quali-
6 fied entities to fund energy efficiency improvement
7 projects to be carried out by small and medium-sized man-
8 ufacturers.

9 (b) GRANT APPLICATIONS; SELECTION OF GRANT
10 RECIPIENTS.—

11 (1) GRANT APPLICATIONS.—

12 (A) IN GENERAL.—Qualified entities desir-
13 ing a grant under subsection (a) shall submit to
14 the Secretary an application in such manner
15 and containing such information as the Sec-
16 retary may require, including a description of—

17 (i) how the qualified entity will work
18 with small and medium-sized manufactur-
19 ers to assess the most promising opportu-
20 nities for energy efficiency improvements;

21 (ii) how the qualified entity will work
22 with small and medium-sized manufactur-
23 ers and, if appropriate, licensed engineers
24 to establish energy management plans;

25 (iii) the methods and cost-sharing
26 plans the qualified entity will use to dis-

1 tribute funds to small and medium-sized
2 manufacturers to subsidize the costs of
3 carrying out an energy efficiency improve-
4 ment project;

5 (iv) the standards by which the quali-
6 fied entity will set energy efficiency goals
7 for an energy efficiency improvement
8 project that will result in meaningful re-
9 ductions in electricity or natural gas use by
10 the small or medium-sized manufacturer
11 carrying out the project;

12 (v) how the qualified entity will pro-
13 vide support to the small or medium-sized
14 manufacturer carrying out an energy effi-
15 ciency improvement project;

16 (vi)(I) any history of the qualified en-
17 tity of working collaboratively with the
18 technical assistance programs of the De-
19 partment of Energy; and

20 (II) how the qualified entity plans to
21 involve such technical assistance programs
22 in the activities to be funded by a grant;

23 (vii) how the qualified entity plans to
24 support small or medium-sized manufac-
25 turers to create new jobs or retain existing

1 jobs while carrying out an energy efficiency
2 improvement project; and

3 (viii) how the qualified entity will col-
4 lect measurements throughout the imple-
5 mentation of the applicable energy man-
6 agement plan—

7 (I) to demonstrate how energy ef-
8 ficiency improvements are being
9 achieved; and

10 (II) to maximize opportunities
11 for the success of the energy efficiency
12 improvement project.

13 (B) PARTNERSHIPS.—Two or more quali-
14 fied entities may form a partnership to apply,
15 and act as program manager, for a grant under
16 this subsection.

17 (2) SELECTION OF GRANT RECIPIENTS.—

18 (A) IN GENERAL.—Not later than 90 days
19 after the date on which the Secretary receives
20 an application under paragraph (1), the Sec-
21 retary shall—

22 (i) review the application;

23 (ii) provide the applicant with an op-
24 portunity to respond to any questions of

1 the Secretary regarding the application;
2 and

3 (iii) select or deny the applicant based
4 on the criteria described in subparagraph
5 (B).

6 (B) SELECTION CRITERIA.—

7 (i) IN GENERAL.—The Secretary shall
8 select for grants under this subsection
9 qualified entities that demonstrate a his-
10 tory of successfully implementing energy
11 efficiency improvement programs for small
12 and medium-sized manufacturers.

13 (ii) PRIORITY.—In making selections
14 under clause (i), the Secretary shall give
15 priority to qualified entities that dem-
16 onstrate—

17 (I) effective methods for reducing
18 barriers to entry that might otherwise
19 prevent small and medium-sized man-
20 ufacturers from receiving a subgrant
21 under subsection (c);

22 (II) flexibility in addressing the
23 needs of different small and medium-
24 sized manufacturers;

1 (III) a history of hiring contrac-
2 tors that comply with the labor re-
3 quirements described in subpara-
4 graphs (A) through (M) of subsection
5 (d)(1); and

6 (IV) a commitment to assisting
7 small or medium-sized manufacturers
8 create new jobs or retain existing jobs
9 while carrying out an energy efficiency
10 improvement project.

11 (c) SUBGRANTS FOR ENERGY EFFICIENCY IMPROVE-
12 MENTS.—

13 (1) IN GENERAL.—A qualified entity (including
14 a partnership of two or more qualified entities under
15 subsection (b)(1)(B)) that receives a grant under
16 subsection (a) shall act as a program manager to
17 distribute subgrants to small and medium-sized
18 manufacturers located in the State in which the pro-
19 gram manager is located to carry out energy effi-
20 ciency improvement projects.

21 (2) APPLICATIONS.—A small or medium-sized
22 manufacturer desiring a subgrant under paragraph
23 (1) shall submit to the program manager an applica-
24 tion at such time, in such manner, and containing
25 such information as the program manager may re-

1 quire, including a proposal describing the energy ef-
2 ficiency improvement project to be carried out using
3 the subgrant funds.

4 (3) PRIORITY.—In selecting small or medium-
5 sized manufacturers for subgrants under this sub-
6 section, the program manager shall give priority to
7 small or medium-sized manufacturers that dem-
8 onstrate—

9 (A) a history of hiring contractors that
10 comply with the labor requirements described in
11 subparagraphs (A) through (M) of subsection
12 (d)(1); and

13 (B) a commitment to creating new jobs or
14 retaining existing jobs.

15 (4) ELIGIBILITY REQUIREMENTS.—To be eligi-
16 ble to receive a subgrant under paragraph (1), a
17 small or medium-sized manufacturer shall be a pri-
18 vate, nongovernmental entity.

19 (5) ENERGY MANAGEMENT PLANS.—Each small
20 or medium-sized manufacturer receiving a subgrant
21 under paragraph (1), in consultation with the pro-
22 gram manager and, if appropriate, one or more li-
23 censed engineers, shall establish a plan for the small
24 or medium-sized manufacturer to carry out the en-
25 ergy efficiency improvement project.

1 (d) CONTRACTORS.—

2 (1) LABOR REQUIREMENTS REPORTING.—In an
3 application for a grant or subgrant under this sec-
4 tion, a program manager or a small or medium-sized
5 manufacturer, respectively, shall commit to hiring
6 contractors that represent to the best of the knowl-
7 edge and belief of the contractor, whether, during
8 the 3-year period preceding the date of application,
9 any administrative merits determination, arbitral
10 award or decision, or civil judgment (as defined in
11 guidance issued by the Secretary of Labor) was ren-
12 dered against the contractor for a violation of—

13 (A) the National Labor Relations Act (29
14 U.S.C. 151 et seq.);

15 (B) the Fair Labor Standards Act of 1938
16 (29 U.S.C. 201 et seq.);

17 (C) the Age Discrimination in Employment
18 Act of 1967 (29 U.S.C. 621 et seq.);

19 (D) the Occupational Safety and Health
20 Act of 1970 (29 U.S.C. 651 et seq.);

21 (E) the Migrant and Seasonal Agricultural
22 Worker Protection Act (29 U.S.C. 1801 et
23 seq.);

24 (F) the Family and Medical Leave Act of
25 1993 (29 U.S.C. 2611 et seq.);

1 (G) subchapter IV of chapter 31 of part A
2 of subtitle II of title 40, United States Code
3 (commonly referred to as the “Davis-Bacon
4 Act”);

5 (H) chapter 67 of title 41, United States
6 Code;

7 (I) title VII of the Civil Rights Act of 1964
8 (42 U.S.C. 2000e et seq.);

9 (J) the Americans with Disabilities Act of
10 1990 (42 U.S.C. 12101 et seq.);

11 (K) Executive Order 11246 (42 U.S.C.
12 2000e note) (relating to equal employment op-
13 portunity);

14 (L) Executive Order 13658 (79 Fed. Reg.
15 9851 (February 20, 2014)) (relating to estab-
16 lishing a minimum wage for contractors); or

17 (M) an applicable State law that provides
18 similar protections to employees.

19 (2) ADDITIONAL LABOR REQUIREMENTS.—A
20 program manager or small or medium-sized manu-
21 facturer receiving a grant or subgrant, respectively,
22 under this section shall, with respect to activities
23 carried out using such funds—

24 (A) provide each contractor an opportunity
25 to disclose any steps taken to correct a violation

of, or improve compliance with, a law or Executive order described in any of subparagraphs (A) through (M) of paragraph (1), including any agreements entered into with an enforcement agency;

(B) give preference to contractors that have the fewest number of violations (particularly serious, repeated, willful, or pervasive violations) of the laws and Executive orders described in subparagraphs (A) through (M) of paragraph (1); and

(C) not hire contractors that fail to take steps to correct violations of, or improve compliance with, a law or Executive order described in any of subparagraphs (A) through (M) of paragraph (1).

(e) AMERICAN IRON, STEEL, AND MANUFACTURED PRODUCTS.—

(1) DEFINITIONS.—In this subsection:

(A) MANUFACTURED PRODUCT.—The term “manufactured product” includes any construction material or end product (as those terms are defined in subpart 25.003 of the Federal Acquisition Regulation) that does not wholly or

predominantly consist of iron or steel, including—

(i) an electrical component;

(ii) a non-ferrous building material,

including—

(I) aluminum and polyvinylchloride;

ride;

(II) glass;

(III) fiber optics;

(IV) plastic;

(V) wood;

(VI) masonry;

(VII) rubber;

(VIII) manufactured stone; and

(IX) any other non-ferrous building materials; and

ing materials; and

(iii) any unmanufactured construction

material.

(B) PRODUCED IN THE UNITED STATES.—

(i) IN GENERAL.—The term “produced in the United States”—

(I) with respect to an iron or

steel product, means that all manufacturing processes for such iron or steel

turing processes for such iron or steel

products, from the initial melting

1 stage through the application of coat-
2 ings, occurred in the United States;
3 and

4 (II) with respect to a manufac-
5 tured product, means that the manu-
6 factured product was manufactured in
7 the United States and the cost of the
8 components of the manufactured
9 product that were mined, produced, or
10 manufactured in the United States ex-
11 ceeds 60 percent of the cost of all the
12 components of the manufactured
13 product.

14 (ii) EXCLUSIONS.—The term “pro-
15 duced in the United States”, with respect
16 to an iron or steel product, does not in-
17 clude an iron or steel product that was
18 manufactured—

19 (I) abroad from semi-finished
20 iron or steel from the United States;
21 or

22 (II) in the United States from
23 semi-finished iron or steel of foreign
24 origin.

1 (2) REQUIREMENT.—Funds made available
2 under the program may not be used for an energy
3 efficiency improvement project unless all of the iron
4 or steel products and manufactured products used in
5 the project are produced in the United States.

6 (3) WAIVER.—

7 (A) IN GENERAL.—On request of the re-
8 cipient of a grant under the program, the Sec-
9 retary may grant a waiver of the requirement
10 described in paragraph (2) if the Secretary
11 finds that—

12 (i) the application of paragraph (2)
13 would be inconsistent with the public inter-
14 est;

15 (ii) iron or steel products, or manu-
16 factured products, are not produced in the
17 United States—

18 (I) in sufficient and reasonably
19 available quantities; or

20 (II) of a satisfactory quality; or

21 (iii) the inclusion of iron or steel prod-
22 ucts, or manufactured products, produced
23 in the United States would increase the
24 overall cost of the project by more than 25
25 percent.

1 (B) PUBLIC NOTICE.—On receipt of a re-
2 quest for a waiver under subparagraph (A), the
3 Secretary shall—

4 (i) make available to the public, in-
5 cluding by electronic means, including on
6 the official public website of the Depart-
7 ment of Energy, on an informal basis, a
8 copy of the request and all information
9 available to the Secretary relating to the
10 request; and

11 (ii) provide for informal public input
12 on the request for a period of not fewer
13 than 15 days before making the finding de-
14 scribed in subparagraph (A).

15 (f) REPORTING REQUIREMENTS.—

16 (1) DATA COLLECTION.—Each program man-
17 ager shall—

18 (A) determine what data shall be required
19 to be collected from each small or medium-
20 sized manufacturer receiving a subgrant under
21 subsection (c) and submitted to the program
22 manager in order to—

23 (i) permit analysis of the quantity and
24 quality of jobs created or retained by each
25 small or medium-sized manufacturer re-

1 ceiving a subgrant under subsection (c);
2 and

3 (ii) permit analysis of the success of
4 energy efficiency improvement projects the
5 program manager oversees; and

6 (B) develop metrics to determine the suc-
7 cess of energy efficiency improvement projects
8 the program manager oversees.

9 (2) PROVISION OF DATA.—As a condition of re-
10 ceiving a subgrant under subsection (c), a small or
11 medium-sized manufacturer shall provide to the pro-
12 gram manager relevant data, as determined by the
13 program manager under paragraph (1)(A).

14 (3) PROPRIETARY INFORMATION.—In carrying
15 out this subsection, each program manager, as ap-
16 propriate, shall provide for the protection of propri-
17 etary information and intellectual property rights.

18 (g) FUNDING.—

19 (1) IN GENERAL.—Out of amounts made avail-
20 able to the Secretary and not otherwise obligated,
21 the Secretary shall use not more than \$600,000,000
22 to carry out this section.

23 (2) REQUIREMENTS FOR PROGRAM MAN-
24 AGERS.—A program manager may use not more

1 than 7 percent of the grant funds received by the
2 program manager under this section—

3 (A) to hire and train staff to assist the
4 program manager in administering energy effi-
5 ciency improvement projects the program man-
6 ager oversees; and

7 (B) to market the availability of subgrants
8 to small and medium-sized manufacturers.

9 (3) MANAGEMENT AND OVERSIGHT.—The Sec-
10 retary may use not greater than 0.25 percent of the
11 funds made available to carry out this section for
12 management and oversight of the requirements of
13 subsection (e).

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