

116TH CONGRESS
2D SESSION

H. R. 7446

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

JULY 1, 2020

Mr. CARTWRIGHT (for himself, Mr. McNERNEY, Mr. CONNOLLY, Mr. HUFFMAN, Mr. GRIJALVA, Ms. KUSTER of New Hampshire, Mr. KHANNA, Mr. POCAN, Ms. LEE of California, Ms. WASSERMAN SCHULTZ, Mr. TONKO, Mr. WELCH, Mr. COHEN, Mr. RASKIN, Ms. NORTON, Ms. PINGREE, and Mr. HIMES) 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 MANAGEMENT PLAN.**—The term
7 “energy management plan” means a plan estab-
8 lished under section 3(c)(4).

9 (2) **INDIAN TRIBE.**—The term “Indian tribe”
10 has the meaning given the term in section 4 of the
11 Indian Self-Determination and Education Assistance
12 Act (25 U.S.C. 5304).

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

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

19 (5) **PROJECT.**—The term “project” means an
20 energy efficiency improvement project carried out by
21 a small- or medium-sized manufacturer using grant
22 funds distributed by a project manager.

23 (6) **QUALIFIED ENTITY.**—The term “qualified
24 entity” means—

25 (A) a State energy office;

26 (B) an Indian tribe;

1 (C) a nonprofit organization that—

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

4 (ii) receives funding from a State, In-
5 dian tribe, or utility;

6 (D) an electric cooperative group; and

7 (E) an entity with a public-private partner-
8 ship under the Hollings Manufacturing Exten-
9 sion Partnership established under section
10 25(b) of the National Institute of Standards
11 and Technology Act (15 U.S.C. 278k(b)).

12 (7) SECRETARY.—The term “Secretary” means
13 the Secretary of Energy.

14 (8) SMALL- OR MEDIUM-SIZED MANUFAC-
15 Turer.—The term “small- or medium-sized manu-
16 facturer” means a manufacturing establishment—

17 (A) classified in Sector 31, 32, or 33 in the
18 North American Industry Classification System;
19 and

20 (B) that employs not more than 750 em-
21 ployees.

22 **SEC. 3. FINANCING ENERGY EFFICIENT MANUFACTURING**
23 **PROGRAM.**

24 (a) ESTABLISHMENT.—The Secretary shall establish
25 a program, to be known as the “Financing Energy Effi-

1 cient Manufacturing Program” to provide grants to quali-
2 fied entities to fund energy efficiency improvement
3 projects in the manufacturing sector.

4 (b) GRANT APPLICATIONS; SELECTION OF GRANT
5 RECIPIENTS.—

6 (1) GRANT APPLICATIONS.—

7 (A) IN GENERAL.—Not later than 180
8 days after the date of enactment of this Act,
9 qualified entities desiring a grant under sub-
10 section (a) shall submit to the Secretary an ap-
11 plication in such manner and containing such
12 information as the Secretary may require, in-
13 cluding a description of—

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

18 (ii) how the qualified entity will work
19 with small- and medium-sized manufactur-
20 ers and, if appropriate, licensed engineers
21 to establish an energy management plan
22 for the small- or medium-sized manufac-
23 turer to carry out a project;

24 (iii) the methods and cost-sharing
25 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 a project;

4 (iv) the standards by which the quali-
5 fied entity will set energy efficiency goals
6 for a project that will result in meaningful
7 reductions in electricity or natural gas use
8 by the small- or medium-sized manufac-
9 turer carrying out the project;

10 (v) how the qualified entity will pro-
11 vide support to the small- or medium-sized
12 manufacturer carrying out a project during
13 the implementation of the energy manage-
14 ment plan;

15 (vi)(I) any history of the qualified en-
16 tity of working collaboratively with the re-
17 gional technical assistance programs of the
18 Department of Energy; and

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

23 (vii) how the qualified entity will col-
24 lect measurements throughout the imple-

1 mentation of the energy management
2 plan—

3 (I) to demonstrate how energy ef-
4 ficiency improvements are being
5 achieved; and

6 (II) to maximize opportunities
7 for project success.

8 (B) PARTNERSHIPS.—Two or more quali-
9 fied entities may form a partnership to apply,
10 and act as program manager, for a grant under
11 this subsection.

12 (2) SELECTION OF GRANT RECIPIENTS.—

13 (A) IN GENERAL.—Not later than 90 days
14 after the date on which the Secretary receives
15 an application under paragraph (1), the Sec-
16 retary shall—

17 (i) review the application;

18 (ii) provide the applicant with an op-
19 portunity to respond to any questions of
20 the Secretary regarding the application;
21 and

22 (iii) select or deny the applicant based
23 on the criteria described in subparagraph
24 (B).

25 (B) SELECTION CRITERIA.—

1 (i) IN GENERAL.—The Secretary shall
2 select for grants under this subsection
3 qualified entities that demonstrate a his-
4 tory of successfully implementing energy
5 efficiency improvement programs for small-
6 and medium-sized manufacturers.

7 (ii) PRIORITY.—In making selections
8 under clause (i), the Secretary shall give
9 priority to qualified entities that dem-
10 onstrate—

11 (I) effective methods for reducing
12 barriers to entry that might otherwise
13 prevent small- and medium-sized man-
14 ufacturers from participating in the
15 subgrant program under subsection
16 (c);

17 (II) flexibility in addressing the
18 needs of different small- and medium-
19 sized manufacturers; and

20 (III) a commitment to hiring for
21 projects contractors that comply with
22 the labor requirements described in
23 subsection (d)(2).

24 (c) SUBGRANTS FOR ENERGY EFFICIENCY IMPROVE-
25 MENTS.—

1 (1) IN GENERAL.—A qualified entity (including
2 a partnership of one or more qualified entities under
3 subsection (b)(1)(B)) that receives a grant under
4 subsection (a) shall act as a program manager to
5 distribute subgrants to small- and medium-sized
6 manufacturers located in the State in which the pro-
7 gram manager is located to carry out projects—

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

10 (B) to develop technologies to reduce elec-
11 tricity or natural gas use by the small- or me-
12 dium-sized manufacturer.

13 (2) APPLICATIONS.—A small- or medium-sized
14 manufacturer desiring a subgrant under paragraph
15 (1) shall submit to the program manager an applica-
16 tion at such time, in such manner, and containing
17 such information as the program manager may re-
18 quire, including a proposal describing the project to
19 be carried out using the subgrant funds.

20 (3) PRIORITY.—In selecting small- or medium-
21 sized manufacturers for subgrants under this sub-
22 section, the program manager shall give priority to
23 small- or medium-sized manufacturers that commit
24 to hiring for projects contractors that comply with

1 the labor requirements described in subsection
2 (d)(2).

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

7 (5) ENERGY MANAGEMENT PLANS.—Each
8 small- or medium-sized manufacturer receiving a
9 subgrant under paragraph (1), in consultation with
10 the program manager and, if appropriate, one or
11 more licensed engineers, shall establish an energy
12 management plan for the small- or medium-sized
13 manufacturer to carry out the project.

14 (6) EFFECT ON TITLE TO PROPERTY.—The re-
15 ceipt of Federal funds under this subsection shall
16 not prohibit an entity that purchased equipment or
17 other property using those funds from owning sole,
18 permanent title to the equipment or other property.

19 (d) CONTRACTORS.—

20 (1) IN GENERAL.—Program managers and
21 small- or medium-sized manufacturers may hire, if
22 necessary, contractors to perform work relating to
23 the installation, repair, or maintenance of equipment
24 used under a project.

1 (2) LABOR REQUIREMENTS.—In an application
2 for a grant or subgrant under this section, a pro-
3 gram manager or a small- or medium-sized manu-
4 facturer, respectively, may commit to hiring contrac-
5 tors that represent to the best of the knowledge and
6 belief of the contractor, whether, during the 3-year
7 period preceding the date of application, any admin-
8 istrative merits determination, arbitral award or de-
9 cision, or civil judgment (as defined in guidance
10 issued by the Secretary of Labor) was rendered
11 against the contractor for violations of—

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

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

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

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

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

23 (F) the Family and Medical Leave Act of
24 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) equivalent State laws.

18 (3) ADDITIONAL LABOR REQUIREMENTS.—A
19 program manager or small- or medium-sized manu-
20 facturer receiving a grant or subgrant, respectively,
21 under this section that has committed to complying
22 with the labor requirements described in paragraph
23 (2)—

24 (A) shall provide each contractor an oppor-
25 tunity to disclose any steps taken to correct a

1 violation of, or improve compliance with, a law
2 or Executive order described in any of subpara-
3 graphs (A) through (M) of paragraph (2), in-
4 cluding any agreements entered into with an
5 enforcement agency;

6 (B) shall give preference to contractors
7 that have the fewest number of violations (par-
8 ticularly serious, repeated, willful, or pervasive
9 violations) of the laws and Executive orders de-
10 scribed in subparagraphs (A) through (M) of
11 paragraph (2); and

12 (C) shall not hire contractors that fail to
13 take steps to correct violations of, or improve
14 compliance with, a law or Executive order de-
15 scribed in any of subparagraphs (A) through
16 (M) of paragraph (2).

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

19 (1) DEFINITIONS.—In this subsection:

20 (A) IRON OR STEEL MANUFACTURED
21 PRODUCT.—The term “iron or steel manufac-
22 tured product” includes any construction mate-
23 rial or end product (as those terms are defined
24 in subpart 25.003 of the Federal Acquisition

Regulation) that does not otherwise qualify as an iron or steel product, including—

(i) an electrical component;

(ii) a non-ferrous building material,

including—

(I) aluminum and polyvinylchloride;

ide;

(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

(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 or an iron or steel manufactured product, means that all

manufacturing processes for, and ma-

1 materials and components of, the iron or
2 steel product or iron or steel manufac-
3 tured product, from the initial melting
4 stage through the application of coat-
5 ings, occurred in the United States;
6 and

7 (II) with respect to an iron or
8 steel manufactured product, means
9 that—

10 (aa) the iron or steel manu-
11 factured product was manufac-
12 tured in the United States; and

13 (bb) the cost of the compo-
14 nents of the iron or steel manu-
15 factured product that were
16 mined, produced, or manufac-
17 tured in the United States is
18 greater than 60 percent of the
19 total cost of the components of
20 the iron or steel manufactured
21 product.

22 (ii) EXCLUSIONS.—The term “pro-
23 duced in the United States”, with respect
24 to an iron or steel product or an iron or
25 steel manufactured product, does not in-

1 clude an iron or steel product or an iron
2 or steel manufactured product that was
3 manufactured—

4 (I) abroad from semi-finished
5 steel or iron from the United States;
6 or

7 (II) in the United States from
8 semi-finished steel or iron of foreign
9 origin.

10 (2) REQUIREMENT.—Funds made available
11 under the program may not be used for a project
12 unless all of the iron and steel products and iron
13 and steel manufactured products used in the project
14 are produced in the United States.

15 (3) WAIVER.—

16 (A) IN GENERAL.—On request of the re-
17 cipient of a grant under the program, the Sec-
18 retary may grant for the project of the recipient
19 of the grant a waiver of the requirement de-
20 scribed in paragraph (2) if the Secretary finds
21 that—

22 (i) the application of paragraph (2)
23 would be inconsistent with the public inter-
24 est;

1 (ii) iron or steel products or iron or
2 steel manufactured products are not pro-
3 duced in the United States—

4 (I) in sufficient and reasonably
5 available quantities; or

6 (II) of a satisfactory quality; or

7 (iii) the inclusion of iron or steel prod-
8 ucts or iron or steel manufactured prod-
9 ucts produced in the United States would
10 increase the cost of the overall project by
11 greater than 25 percent.

12 (B) PUBLIC NOTICE.—On receipt of a re-
13 quest for a waiver under subparagraph (A), the
14 Secretary shall—

15 (i) make available to the public, in-
16 cluding by electronic means, including on
17 the official public website of the Depart-
18 ment of Energy, on an informal basis, a
19 copy of the request and all information
20 available to the Secretary relating to the
21 request; and

22 (ii) provide for informal public input
23 on the request for a period of not fewer
24 than 15 days before making with respect

1 to the request the finding described in sub-
2 paragraph (A).

3 (f) REPORTING REQUIREMENTS.—

4 (1) IN GENERAL.—Each program manager
5 shall—

6 (A) determine what data shall be re-
7 quired—

8 (i) to be collected by or from each
9 small- or medium-sized manufacturer re-
10 ceiving a subgrant under subsection (c);
11 and

12 (ii) to be submitted to the program
13 manager to permit analysis of the subgrant
14 program under subsection (c); and

15 (B) develop metrics to determine the suc-
16 cess of the subgrant program under subsection
17 (c).

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

23 (3) PROPRIETARY INFORMATION.—In carrying
24 out this subsection, each program manager, as ap-

1 appropriate, shall provide for the protection of propri-
2 etary information and intellectual property rights.

3 (g) FUNDING.—

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

8 (2) REQUIREMENTS FOR PROGRAM MAN-
9 AGERS.—A program manager shall use not greater
10 than 7 percent of the grant funds received by the
11 program manager, at the discretion of the program
12 manager—

13 (A) to hire and train staff to assist the
14 program manager in administering the sub-
15 grant program of the program manager; and

16 (B) to market the subgrant program to
17 small- and medium-sized manufacturers.

18 (3) MANAGEMENT AND OVERSIGHT.—The Sec-
19 retary may use not greater than 0.25 percent of the
20 funds made available under paragraph (1) to carry
21 out subsection (e).

○