

116TH CONGRESS
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S. 2185

To provide labor standards for certain energy jobs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 18, 2019

Mr. MERKLEY (for himself, Mrs. GILLIBRAND, Mr. BLUMENTHAL, Ms. SMITH, Mr. BOOKER, Ms. HARRIS, Ms. STABENOW, Mr. BROWN, Ms. HIRONO, Mr. SCHATZ, and Mr. BENNET) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To provide labor standards for certain energy jobs, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Good Jobs for 21st
5 Century Energy Act”.

6 **SEC. 2. DEPARTMENT OF LABOR CERTIFICATION OF QUALI-**
7 **FIED ENTITIES.**

8 (a) DEFINITIONS.—In this section:

9 (1) APPLICABLE CONSTRUCTION PROJECT.—

10 The term “applicable construction project”, with re-

1 spect to an entity, means construction by the entity
2 of any property described in section 45L, 48D, or
3 179D of the Internal Revenue Code of 1986.

4 (2) COVERED PROJECT LABOR AGREEMENT.—

5 The term “covered project labor agreement” means
6 a project labor agreement that—

7 (A) binds all contractors and subcontractors
8 on the construction project through the in-
9 clusion of appropriate specifications in all rel-
10 evant solicitation provisions and contract docu-
11 ments;

12 (B) allows all contractors and subcontractors
13 to compete for contracts and subcontracts
14 without regard to whether they are otherwise a
15 party to a collective bargaining agreement;

16 (C) contains guarantees against strikes,
17 lockouts, and other similar job disruptions;

18 (D) sets forth effective, prompt, and mutu-
19 ally binding procedures for resolving labor dis-
20 putes arising during the covered project labor
21 agreement; and

22 (E) provides other mechanisms for labor-
23 management cooperation on matters of mutual
24 interest and concern, including productivity,
25 quality of work, safety, and health.

1 (3) PROJECT LABOR AGREEMENT.—The term
2 “project labor agreement” means a pre-hire collec-
3 tive bargaining agreement with one or more labor
4 organizations that establishes the terms and condi-
5 tions of employment for a specific construction
6 project and is described in section 8(f) of the Na-
7 tional Labor Relations Act (29 U.S.C. 158(f)).

8 (4) QUALIFIED ENTITY.—The term “qualified
9 entity” means an entity that the Secretary of Labor
10 certifies as a qualified entity in accordance with sub-
11 section (b).

12 (5) REGISTERED APPRENTICESHIP PROGRAM.—
13 The term “registered apprenticeship program” has
14 the meaning given the term in section 171 of the
15 Workforce Innovation and Opportunity Act (29
16 U.S.C. 3226).

17 (b) CERTIFICATION OF QUALIFIED ENTITIES.—

18 (1) IN GENERAL.—The Secretary of Labor shall
19 establish a process for certifying entities that submit
20 an application under paragraph (2) as qualified enti-
21 ties for purposes of the amendments made by sec-
22 tions 3, 4, and 5.

23 (2) APPLICATION PROCESS.—

24 (A) IN GENERAL.—An entity seeking cer-
25 tification as a qualified entity under this sub-

1 section shall submit an application to the Sec-
2 retary of Labor at such time, in such manner,
3 and containing such information as the Sec-
4 retary may reasonably require, including infor-
5 mation to demonstrate compliance with the re-
6 quirements under paragraph (3).

7 (B) REQUESTS FOR ADDITIONAL INFORMA-
8 TION.—Not later than 1 year after receiving an
9 application from an entity under subparagraph
10 (A)—

11 (i) the Secretary of Labor may re-
12 quest additional information from the enti-
13 ty in order to determine whether the entity
14 is in compliance with the requirements
15 under paragraph (3); and

16 (ii) the entity shall provide such addi-
17 tional information.

18 (C) DETERMINATION DEADLINE.—The
19 Secretary of Labor shall make a determination
20 on whether to certify an entity under this sub-
21 section not later than—

22 (i) in a case in which the Secretary
23 requests additional information described
24 in subparagraph (B)(i), 1 year after the

1 Secretary receives such additional informa-
2 tion from the entity; or

3 (ii) in a case that is not described in
4 clause (i), 1 year after the date on which
5 the entity submits the application under
6 subparagraph (A).

7 (D) PRE-CERTIFICATION REMEDIES.—The
8 Secretary shall consider any corrective actions
9 taken by an entity seeking certification under
10 this subsection to remedy an administrative
11 merits determination, arbitral award or deci-
12 sion, or civil judgment identified under para-
13 graph (3)(A)(iv) and shall impose as a condi-
14 tion of certification any additional remedies
15 necessary to avoid further or repeated viola-
16 tions.

17 (3) LABOR STANDARDS REQUIREMENTS.—

18 (A) IN GENERAL.—The Secretary of Labor
19 shall require an entity, as a condition of certifi-
20 cation under this subsection, to satisfy each of
21 the following requirements:

22 (i) The entity shall ensure that all la-
23 borers and mechanics employed by contrac-
24 tors and subcontractors in the performance
25 of any applicable construction project shall

1 be paid wages at rates not less than those
2 prevailing on projects of a similar char-
3 acter in the locality as determined by the
4 Secretary of Labor in accordance with sub-
5 chapter IV of chapter 31 of title 40,
6 United States Code (commonly known as
7 the “Davis-Bacon Act”).

8 (ii) The entity shall give preference in
9 hiring to workers who—

10 (I) have been previously em-
11 ployed in the fossil fuel industry;

12 (II) are members of
13 deindustrialized communities; or

14 (III) are members of commu-
15 nities with a significant presence of
16 fossil fuel infrastructure or oper-
17 ations.

18 (iii) The entity shall be a party to, or
19 require contractors and subcontractors in
20 the performance of any applicable con-
21 struction project to consent to, a covered
22 project labor agreement.

23 (iv) The entity, and all contractors
24 and subcontractors in performance of any
25 applicable construction project, shall rep-

1 resent in the application submitted under
2 paragraph (2) whether there has been any
3 administrative merits determination, arbitral
4 award or decision, or civil judgment,
5 as defined in guidance issued by the Secretary
6 of Labor, rendered against the entity
7 in the preceding 3 years for violations
8 of—

9 (I) the Fair Labor Standards Act
10 of 1938 (29 U.S.C. 201 et seq.);

11 (II) the Occupational Safety and
12 Health Act of 1970 (29 U.S.C. 651 et
13 seq.);

14 (III) the Migrant and Seasonal
15 Agricultural Worker Protection Act
16 (29 U.S.C. 1801 et seq.);

17 (IV) the National Labor Relations
18 Act (29 U.S.C. 151 et seq.);

19 (V) subchapter IV of chapter 31
20 of title 40, United States Code (commonly
21 known as the “Davis-Bacon
22 Act”);

23 (VI) chapter 67 of title 41,
24 United States Code (commonly known
25 as the “Service Contract Act”);

1 (VII) Executive Order 11246 (42
2 U.S.C. 2000e note; relating to equal
3 employment opportunity);

4 (VIII) section 503 of the Reha-
5 bilitation Act of 1973 (29 U.S.C.
6 793);

7 (IX) section 4212 of title 38,
8 United States Code;

9 (X) the Family and Medical
10 Leave Act of 1993 (29 U.S.C. 2601 et
11 seq.);

12 (XI) title VII of the Civil Rights
13 Act of 1964 (42 U.S.C. 2000e et
14 seq.);

15 (XII) the Americans with Dis-
16 abilities Act of 1990 (42 U.S.C.
17 12101 et seq.);

18 (XIII) the Age Discrimination in
19 Employment Act of 1967 (29 U.S.C.
20 621 et seq.);

21 (XIV) Executive Order 13658
22 (79 Fed. Reg. 9851; relating to estab-
23 lishing a minimum wage for contrac-
24 tors); or

1 (XV) equivalent State laws, as
2 defined in guidance issued by the Sec-
3 retary of Labor.

4 (v) The entity, and all contractors and
5 subcontractors in the performance of any
6 applicable construction project, shall not
7 require mandatory arbitration for any dis-
8 pute involving a worker engaged in a serv-
9 ice for the entity.

10 (vi) The entity, and all contractors
11 and subcontractors in the performance of
12 any applicable construction project, shall
13 consider an individual performing any serv-
14 ice in such performance as an employee
15 (and not an independent contractor) of the
16 entity, contractor, or subcontractor, respec-
17 tively, unless—

18 (I) the individual is free from
19 control and direction in connection
20 with the performance of the service,
21 both under the contract for the per-
22 formance of the service and in fact;

23 (II) the service is performed out-
24 side the usual course of the business

1 of the entity, contractor, or subcon-
2 tractor, respectively; and

3 (III) the individual is customarily
4 engaged in an independently estab-
5 lished trade, occupation, profession, or
6 business of the same nature as that
7 involved in such service.

8 (vii) The entity shall prohibit all con-
9 tractors and subcontractors in the per-
10 formance of any applicable construction
11 project from hiring employees through a
12 temporary staffing agency unless the rel-
13 evant State workforce agency certifies that
14 temporary employees are necessary to ad-
15 dress an acute, short-term labor demand.

16 (viii) The entity shall require all con-
17 tractors, subcontractors, successors in in-
18 terest of the entity, and other entities that
19 may acquire the entity, in the performance
20 or acquisition of any applicable construc-
21 tion project, to have an explicit neutrality
22 policy on any issue involving the organiza-
23 tion of employees of the entity, and all con-
24 tractors and subcontractors in the per-
25 formance of any applicable construction

1 project, for purposes of collective bar-
2 gaining.

3 (ix) The entity shall, for each skilled
4 craft employed on any applicable construc-
5 tion project, demonstrate an ability to use
6 and commit to use individuals enrolled in
7 a registered apprenticeship program, which
8 such individuals shall, to the greatest ex-
9 tent practicable, constitute not less than
10 20 percent of the individuals working on
11 such project.

12 (x) The entity, and all contractors and
13 subcontractors in the performance of any
14 applicable construction project, shall not
15 request or otherwise consider the criminal
16 history of an applicant for employment be-
17 fore extending a conditional offer to the
18 applicant, unless—

19 (I) a background check is other-
20 wise required by law;

21 (II) the position is for a Federal
22 law enforcement officer (as defined in
23 section 115(c) of title 18, United
24 States Code) position; or

1 (III) the Secretary, in consulta-
2 tion with the Secretary of Energy,
3 certifies that precluding criminal his-
4 tory prior to the conditional offer
5 would pose a threat to national secu-
6 rity.

7 (B) DAVIS-BACON ACT.—The Secretary of
8 Labor shall have, with respect to the labor
9 standards described in subparagraph (A)(i), the
10 authority and functions set forth in Reorganiza-
11 tion Plan Numbered 14 of 1950 (64 Stat.
12 1267; 5 U.S.C. App.) and section 3145 of title
13 40, United States Code.

14 (4) PERIOD OF VALIDITY FOR CERTIFI-
15 CATIONS.—A certification made under this sub-
16 section shall be in effect for a period of 5 years. An
17 entity may reapply to the Secretary of Labor for an
18 additional certification under this subsection in ac-
19 cordance with the application process under para-
20 graph (2).

21 (5) REVOCATION OF QUALIFIED ENTITY STA-
22 TUS.—The Secretary of Labor may revoke the cer-
23 tification of an entity under this subsection as a
24 qualified entity at any time in which the Secretary

1 determines the entity is no longer in compliance with
2 paragraph (3).

3 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
4 authorized to be appropriated to carry out this section
5 \$10,000,000 for fiscal year 2019 and each fiscal year
6 thereafter.

7 **SEC. 3. JOBS IN ENERGY CREDIT.**

8 (a) IN GENERAL.—Subpart E of part IV of sub-
9 chapter A of chapter 1 of the Internal Revenue Code of
10 1986 is amended by inserting after section 48C the fol-
11 lowing new section:

12 **“SEC. 48D. JOBS IN ENERGY CREDIT.**

13 “(a) INVESTMENT CREDIT FOR QUALIFIED PROP-
14 erty.—For purposes of section 46, the Jobs in Energy
15 credit for any taxable year in which the taxpayer has been
16 certified as a qualified entity (as defined in subsection (e))
17 is an amount equal to 10 percent of the qualified invest-
18 ment for such taxable year with respect to—

19 “(1) any qualified facility,

20 “(2) qualified carbon capture and sequestration
21 equipment, and

22 “(3) energy storage property.

23 “(b) QUALIFIED INVESTMENT WITH RESPECT TO
24 ANY QUALIFIED FACILITY.—

1 “(1) IN GENERAL.—For purposes of subsection
2 (a)(1), the qualified investment with respect to any
3 qualified facility for any taxable year is the basis of
4 any qualified property placed in service by the tax-
5 payer during such taxable year which is part of a
6 qualified facility.

7 “(2) QUALIFIED PROPERTY.—The term ‘quali-
8 fied property’ means property—

9 “(A) which is—

10 “(i) tangible personal property, or

11 “(ii) other tangible property (not in-
12 cluding a building or its structural compo-
13 nents), but only if such property is used as
14 an integral part of the qualified facility,

15 “(B) with respect to which depreciation (or
16 amortization in lieu of depreciation) is allow-
17 able,

18 “(C) which is constructed, reconstructed,
19 erected, or acquired by the taxpayer, and

20 “(D) the original use of which commences
21 with the taxpayer.

22 “(3) QUALIFIED FACILITY.—For purposes of
23 this section, the term ‘qualified facility’ means a fa-
24 cility which is—

1 “(A)(i) used for the generation of elec-
2 tricity from qualified energy resources (as such
3 term is defined in section 45(c)(1)), or

4 “(ii) described in section 638(a)(1) of the
5 Energy Policy Act of 2005 (42 U.S.C.
6 16014(a)(1)), and

7 “(B) originally placed in service after De-
8 cember 31, 2020.

9 “(c) QUALIFIED INVESTMENT WITH RESPECT TO
10 QUALIFIED CARBON CAPTURE AND SEQUESTRATION
11 EQUIPMENT.—

12 “(1) IN GENERAL.—For purposes of subsection
13 (a)(2), the qualified investment with respect to
14 qualified carbon capture and sequestration equip-
15 ment for any taxable year is the basis of any quali-
16 fied carbon capture and sequestration equipment
17 placed in service by the taxpayer during such taxable
18 year.

19 “(2) QUALIFIED CARBON CAPTURE AND SE-
20 QUESTRATION EQUIPMENT.—The term ‘qualified
21 carbon capture and sequestration equipment’ means
22 property—

23 “(A) installed at a facility placed in service
24 before January 1, 2021, which—

25 “(i) produces electricity, or

1 “(ii) emits greenhouse gases as a re-
2 sult of industrial processes,

3 “(B) which results in the elimination of
4 carbon dioxide emissions from the facility
5 through the capture and disposal or utilization
6 of qualified carbon dioxide (as defined in para-
7 graph (3)),

8 “(C) with respect to which depreciation is
9 allowable,

10 “(D) which is constructed, reconstructed,
11 erected, or acquired by the taxpayer, and

12 “(E) the original use of which commences
13 with the taxpayer.

14 “(3) QUALIFIED CARBON DIOXIDE.—The term
15 ‘qualified carbon dioxide’ means carbon dioxide cap-
16 tured from an industrial source which—

17 “(A) would otherwise be released into the
18 atmosphere as industrial emission of green-
19 house gas,

20 “(B) is measured at the source of capture
21 and verified at the point of disposal or utiliza-
22 tion,

23 “(C)(i) is disposed of by the taxpayer in
24 secure geological storage (as such term is de-
25 fined under section 45Q(f)(2)), or

1 “(ii) utilized by the taxpayer in a manner
2 described in section 45Q(f)(5), and

3 “(D) is captured and disposed or utilized
4 within the United States (within the meaning of
5 section 638(1)) or a possession of the United
6 States (within the meaning of section 638(2)).

7 “(d) QUALIFIED INVESTMENT WITH RESPECT TO
8 ENERGY STORAGE PROPERTY.—

9 “(1) IN GENERAL.—For purposes of subsection
10 (a)(3), the qualified investment with respect to en-
11 ergy storage property for any taxable year is the
12 basis of any energy storage property placed in serv-
13 ice by the taxpayer during such taxable year.

14 “(2) ENERGY STORAGE PROPERTY.—The term
15 ‘energy storage property’ means property—

16 “(A) which receives, stores, and delivers
17 electricity, or energy for conversion to elec-
18 tricity, provided that such electricity is—

19 “(i) sold by the taxpayer to an unre-
20 lated person, or

21 “(ii) in the case of a facility which is
22 equipped with a metering device which is
23 owned and operated by an unrelated per-
24 son, sold or consumed by the taxpayer,

1 “(B) with respect to which depreciation is
2 allowable,

3 “(C) which is constructed, reconstructed,
4 erected, or acquired by the taxpayer,

5 “(D) the original use of which commences
6 with the taxpayer, and

7 “(E) which is placed in service after De-
8 cember 31, 2020.

9 “(e) QUALIFIED ENTITY.—

10 “(1) IN GENERAL.—For purposes of this sec-
11 tion, the term ‘qualified entity’ means an entity
12 which has been certified by the Secretary of Labor
13 as being in compliance with all of the applicable re-
14 quirements under section 2 of the Good Jobs for
15 21st Century Energy Act.

16 “(2) AGGREGATION RULE.—All persons which
17 are treated as a single employer under subsections
18 (a) and (b) of section 52 shall be treated as a single
19 taxpayer.

20 “(3) REQUIREMENT FOR CERTIFICATION PRIOR
21 TO CONSTRUCTION.—For purposes of this section,
22 an entity shall not be considered a qualified entity
23 unless such entity—

24 “(A) has been certified by the Secretary of
25 Labor as being in compliance with all of the ap-

1 plicable requirements described in paragraph
2 (1) prior to the date with respect to which con-
3 struction of the property begins, and

4 “(B) maintains such certification for the
5 entirety of the period beginning on the date de-
6 scribed in subparagraph (A) and ending on the
7 date in which the property is placed in serv-
8 ice.”.

9 (b) CONFORMING AMENDMENTS.—

10 (1) Section 46 of such Code is amended—

11 (A) by striking “and” at the end of para-
12 graph (5),

13 (B) by striking the period at the end of
14 paragraph (6) and inserting “, and”, and

15 (C) by adding at the end the following new
16 paragraph:

17 “(7) the Jobs in Energy credit.”.

18 (2) Section 49(a)(1)(C) of such Code is amend-
19 ed—

20 (A) by striking “and” at the end of clause
21 (iv),

22 (B) by striking the period at the end of
23 clause (v) and inserting a comma, and

24 (C) by adding at the end the following new
25 clauses:

1 year, if such property was installed by an entity
 2 which is certified as a qualified entity (as defined in
 3 section 48D(e)) for such taxable year, subsection
 4 (b)(1) shall be applied by substituting ‘\$2.00’ for
 5 ‘\$1.80’ in subparagraph (A) thereof.”.

6 (c) EFFECTIVE DATE.—The amendments made by
 7 this section shall apply to any property placed in service
 8 after December 31, 2020.

9 **SEC. 6. CLEAN ENERGY MANUFACTURING INITIATIVE.**

10 (a) IN GENERAL.—The Secretary of Energy (referred
 11 to in this section as the “Secretary”) shall establish a
 12 Clean Energy Manufacturing Initiative within the Depart-
 13 ment of Energy—

14 (1) to increase the competitiveness of the
 15 United States in manufacturing clean energy tech-
 16 nologies;

17 (2) to increase the competitiveness of the
 18 United States across the manufacturing sector by—

19 (A) boosting energy productivity; and

20 (B) leveraging clean affordable domestic
 21 energy resources and feedstocks; and

22 (3) to develop manufacturing supply chains—

23 (A) for the clean energy economy;

24 (B) that prioritize family-sustaining jobs;

25 and

1 (C) that prioritize the development of man-
2 ufacturing facilities in deindustrialized commu-
3 nities.

4 (b) CLEAN JOBS WORKFORCE HUB.—

5 (1) IN GENERAL.—As part of the Clean Energy
6 Manufacturing Initiative established under sub-
7 section (a), the Secretary shall establish a clean jobs
8 workforce hub under which the Secretary shall con-
9 vene the entities described in paragraph (2) to work
10 together to train and provide direct assistance to un-
11 derserved communities in accessing renewable en-
12 ergy-related jobs.

13 (2) ENTITIES DESCRIBED.—The entities re-
14 ferred to in paragraph (1) are—

15 (A) labor organizations;

16 (B) renewable energy employers and indus-
17 try;

18 (C) frontline and deindustrialized commu-
19 nities; and

20 (D) any other community, industry, or
21 public sector stakeholders, as determined by the
22 Secretary.

23 (3) FUNDING.—Of the funding authorized
24 under subsection (c) for each fiscal year, the Sec-

1 (B) 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,
5 Tribe, or utility;

6 (C) an electric cooperative group; and

7 (D) an entity with a public-private part-
8 nership under the Hollings Manufacturing Ex-
9 tension Partnership established under section
10 25(b) of the National Institute of Standards
11 and Technology Act (15 U.S.C. 278k(b)).

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

14 (7) 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 (b) FINANCING ENERGY EFFICIENT MANUFAC-
23 TURING PROGRAM.—

24 (1) ESTABLISHMENT.—The Secretary shall es-
25 tablish a program, to be known as the “Financing

1 Energy Efficient Manufacturing Program” to pro-
2 vide grants to qualified entities to fund energy effi-
3 ciency improvement projects in the manufacturing
4 sector.

5 (2) GRANT APPLICATIONS; SELECTION OF
6 GRANT RECIPIENTS.—

7 (A) GRANT APPLICATIONS.—

8 (i) IN GENERAL.—Not later than 180
9 days after the date of enactment of this
10 Act, qualified entities desiring a grant
11 under paragraph (1) shall submit to the
12 Secretary an application in such manner
13 and containing such information as the
14 Secretary may require, including a descrip-
15 tion of—

16 (I) how the qualified entity will
17 work with small- and medium-sized
18 manufacturers to assess the most
19 promising opportunities for energy ef-
20 ficiency improvements;

21 (II) how the qualified entity will
22 work with small- and medium-sized
23 manufacturers and, if appropriate, li-
24 censed engineers to establish an en-
25 ergy management plan for the small-

1 or medium-sized manufacturer to
2 carry out a project;

3 (III) the methods and cost-shar-
4 ing plans the qualified entity will use
5 to distribute funds to small- and me-
6 dium-sized manufacturers to subsidize
7 the costs of carrying out a project;

8 (IV) the standards by which the
9 qualified entity will set energy effi-
10 ciency goals for a project that will re-
11 sult in meaningful reductions in elec-
12 tricity or natural gas use by the
13 small- or medium-sized manufacturer
14 carrying out the project;

15 (V) how the qualified entity will
16 provide support to the small- or me-
17 dium-sized manufacturer carrying out
18 a project during the implementation
19 of the energy management plan;

20 (VI)(aa) any history of the quali-
21 fied entity of working collaboratively
22 with the regional technical assistance
23 programs of the Department; and

24 (bb) how the qualified entity
25 plans to involve the regional technical

1 assistance programs in the activities
2 to be funded by a grant; and

3 (VII) how the qualified entity will
4 collect measurements throughout the
5 implementation of the energy manage-
6 ment plan—

7 (aa) to demonstrate how en-
8 ergy efficiency improvements are
9 being achieved; and

10 (bb) to maximize opportuni-
11 ties for project success.

12 (ii) PARTNERSHIPS.—Two or more
13 qualified entities may form a partnership
14 to apply, and act as program manager, for
15 a grant under this paragraph.

16 (B) SELECTION OF GRANT RECIPIENTS.—

17 (i) IN GENERAL.—Not later than 90
18 days after the date on which the Secretary
19 receives an application under subparagraph
20 (A), the Secretary shall—

21 (I) review the application;

22 (II) provide the applicant with an
23 opportunity to respond to any ques-
24 tions of the Secretary regarding the
25 application; and

1 (III) select or deny the applicant
2 based on the criteria described in
3 clause (ii).

4 (ii) SELECTION CRITERIA.—

5 (I) IN GENERAL.—The Secretary
6 shall select for grants under this para-
7 graph qualified entities that dem-
8 onstrate a history of successfully im-
9 plementing energy efficiency improve-
10 ment programs for small- and me-
11 dium-sized manufacturers.

12 (II) PRIORITY.—In making selec-
13 tions under subclause (I), the Sec-
14 retary shall give priority to qualified
15 entities that demonstrate—

16 (aa) effective methods for
17 reducing barriers to entry that
18 might otherwise prevent small-
19 and medium-sized manufacturers
20 from participating in the
21 subgrant program under para-
22 graph (3);

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

1 (cc) a commitment to hiring
2 for projects contractors that com-
3 ply with the labor requirements
4 described in paragraph (4)(B).

5 (3) SUBGRANTS FOR ENERGY EFFICIENCY IM-
6 PROVEMENTS.—

7 (A) IN GENERAL.—A qualified entity (in-
8 cluding a partnership of 1 or more qualified en-
9 tities under paragraph (2)(A)(ii)) that receives
10 a grant under paragraph (1) shall act as a pro-
11 gram manager to distribute subgrants to small-
12 and medium-sized manufacturers located in the
13 State in which the program manager is located
14 to carry out projects—

15 (i) to improve the energy efficiency of
16 the small- or medium-sized manufacturer;
17 and

18 (ii) to develop technologies to reduce
19 electricity or natural gas use by the small-
20 or medium-sized manufacturer.

21 (B) APPLICATIONS.—A small- or medium-
22 sized manufacturer desiring a subgrant under
23 subparagraph (A) shall submit to the program
24 manager an application at such time, in such
25 manner, and containing such information as the

1 program manager may require, including a pro-
2 posal describing the project to be carried out
3 using the subgrant funds.

4 (C) PRIORITY.—In selecting small- or me-
5 dium-sized manufacturers for subgrants under
6 this paragraph, the program manager shall give
7 priority to small- or medium-sized manufactur-
8 ers that commit to hiring for projects contrac-
9 tors that comply with the labor requirements
10 described in paragraph (4)(B).

11 (D) ELIGIBILITY REQUIREMENTS.—To be
12 eligible to receive a subgrant under subpara-
13 graph (A), a small- or medium-sized manufac-
14 turer shall be a private, nongovernmental enti-
15 ty.

16 (E) ENERGY MANAGEMENT PLANS.—Each
17 small- or medium-sized manufacturer receiving
18 a subgrant under subparagraph (A), in con-
19 sultation with the program manager and, if ap-
20 propriate, 1 or more licensed engineers, shall
21 establish an energy management plan for the
22 small- or medium-sized manufacturer to carry
23 out the project.

24 (F) EFFECT ON TITLE TO PROPERTY.—
25 The receipt of Federal funds under this para-

1 graph shall not prohibit an entity that pur-
2 chased equipment or other property using those
3 funds from owning sole, permanent title to the
4 equipment or other property.

5 (4) CONTRACTORS.—

6 (A) IN GENERAL.—Program managers and
7 small- or medium-sized manufacturers may
8 hire, if necessary, contractors to perform work
9 relating to the installation, repair, or mainte-
10 nance of equipment used under a project.

11 (B) LABOR REQUIREMENTS.—In an appli-
12 cation for a grant or subgrant under this sub-
13 section, a program manager or a small- or me-
14 dium-sized manufacturer, respectively, shall
15 commit to hiring contractors that are certified
16 by the Secretary of Labor under section 2 as
17 being in compliance with all of the applicable
18 requirements under that section.

19 (5) AMERICAN IRON, STEEL, AND MANUFAC-
20 TURED PRODUCTS.—

21 (A) DEFINITIONS.—In this paragraph:

22 (i) IRON OR STEEL MANUFACTURED
23 PRODUCT.—The term “iron or steel manu-
24 factured product” includes any construc-
25 tion material or end product (as those

1 terms are defined in subpart 25.003 of the
2 Federal Acquisition Regulation) that does
3 not otherwise qualify as an iron or steel
4 product, including—

5 (I) an electrical component;

6 (II) a non-ferrous building mate-
7 rial, including—

8 (aa) aluminum and
9 polyvinylchloride;

10 (bb) glass;

11 (cc) fiber optics;

12 (dd) plastic;

13 (ee) wood;

14 (ff) masonry;

15 (gg) rubber;

16 (hh) manufactured stone;

17 and

18 (ii) any other non-ferrous
19 metals; and

20 (III) any unmanufactured con-
21 struction material.

22 (ii) PRODUCED IN THE UNITED
23 STATES.—

24 (I) IN GENERAL.—The term
25 “produced in the United States”—

1 (aa) with respect to an iron
2 or steel product or an iron or
3 steel manufactured product,
4 means that all manufacturing
5 processes for, and materials and
6 components of, the iron or steel
7 product or iron or steel manufac-
8 tured product, from the initial
9 melting stage through the appli-
10 cation of coatings, occurred in
11 the United States; and

12 (bb) with respect to an iron
13 or steel manufactured product,
14 means that—

15 (AA) the iron or steel
16 manufactured product was
17 manufactured in the United
18 States; and

19 (BB) the cost of the
20 components of the iron or
21 steel manufactured product
22 that were mined, produced,
23 or manufactured in the
24 United States is greater
25 than 60 percent of the total

1 cost of the components of
2 the iron or steel manufac-
3 tured product.

4 (II) EXCLUSIONS.—The term
5 “produced in the United States”, with
6 respect to an iron or steel product or
7 an iron or steel manufactured prod-
8 uct, does not include an iron or steel
9 product or an iron or steel manufac-
10 tured product the materials and com-
11 ponents of which were manufac-
12 tured—

13 (aa) abroad from semi-fin-
14 ished steel or iron from the
15 United States; or

16 (bb) in the United States
17 from semi-finished steel or iron
18 of foreign origin.

19 (B) REQUIREMENT.—Funds made avail-
20 able under the program may not be used for a
21 project unless all of the iron and steel products
22 and iron and steel manufactured products used
23 in the project are produced in the United
24 States.

25 (C) WAIVER.—

1 (i) IN GENERAL.—On request of the
2 recipient of a grant under the program,
3 the Secretary may grant for the project of
4 the recipient of the grant a waiver of the
5 requirement described in subparagraph (B)
6 if the Secretary finds that—

7 (I) the application of subpara-
8 graph (B) would be inconsistent with
9 the public interest;

10 (II) iron or steel products or iron
11 or steel manufactured products are
12 not produced in the United States—

13 (aa) in sufficient and rea-
14 sonably available quantities; or

15 (bb) of a satisfactory qual-
16 ity; or

17 (III) the inclusion of iron or steel
18 products or iron or steel manufac-
19 tured products produced in the United
20 States would increase the cost of the
21 overall project by greater than 25 per-
22 cent.

23 (ii) PUBLIC NOTICE.—On receipt of a
24 request for a waiver under clause (i), the
25 Secretary shall—

1 (I) make available to the public,
2 including by electronic means, includ-
3 ing on the official public website of
4 the Department, on an informal basis,
5 a copy of the request and all informa-
6 tion available to the Secretary relating
7 to the request; and

8 (II) provide for informal public
9 input on the request for a period of
10 not fewer than 15 days before making
11 with respect to the request the finding
12 described in clause (i).

13 (6) REPORTING REQUIREMENTS.—

14 (A) IN GENERAL.—Each program manager
15 shall—

16 (i) determine what data shall be re-
17 quired—

18 (I) to be collected by or from
19 each small- or medium-sized manufac-
20 turer receiving a subgrant under para-
21 graph (3); and

22 (II) to be submitted to the pro-
23 gram manager to permit analysis of
24 the subgrant program under para-
25 graph (3); and

1 (ii) develop metrics to determine the
2 success of the subgrant program under
3 paragraph (3).

4 (B) PROVISION OF DATA.—As a condition
5 of receiving a subgrant under paragraph (3), a
6 small- or medium-sized manufacturer shall pro-
7 vide to the program manager relevant data, as
8 determined by the program manager under sub-
9 paragraph (A)(i).

10 (C) PROPRIETARY INFORMATION.—In car-
11 rying out this paragraph, each program man-
12 ager, as appropriate, shall provide for the pro-
13 tection of proprietary information and intellec-
14 tual property rights.

15 (7) FUNDING.—

16 (A) IN GENERAL.—Out of amounts made
17 available to the Secretary and not otherwise ob-
18 ligated, the Secretary shall use to carry out this
19 subsection not more than \$600,000,000.

20 (B) REQUIREMENTS FOR PROGRAM MAN-
21 AGERS.—A program manager shall use not
22 greater than 7 percent of the grant funds re-
23 ceived by the program manager, at the discre-
24 tion of the program manager—

1 (i) to hire and train staff to assist the
2 program manager in administering the
3 subgrant program of the program man-
4 ager; and

5 (ii) to market the subgrant program
6 to small- and medium-sized manufacturers.

7 (C) MANAGEMENT AND OVERSIGHT.—The
8 Secretary may use not greater than 0.25 per-
9 cent of the funds made available under sub-
10 paragraph (A) to carry out paragraph (5).

11 **SEC. 8. INCENTIVES FOR INNOVATIVE TECHNOLOGIES.**

12 Section 1703(b) of the Energy Policy Act of 2005
13 (42 U.S.C. 16513(b)) is amended—

14 (1) by redesignating paragraphs (1) through
15 (10) as subparagraphs (A) through (J), respectively,
16 and indenting appropriately;

17 (2) in the matter preceding subparagraph (A)
18 (as so redesignated), by striking “Projects” and in-
19 serting the following:

20 “(1) IN GENERAL.—Projects”; and

21 (3) by adding at the end the following:

22 “(2) PRIORITY.—In making guarantees under
23 this section, the Secretary shall give priority to
24 projects proposed by applicants that commit to hir-
25 ing contractors that have been certified by the Sec-

1 retary of Labor under section 2 of the Good Jobs for
2 21st Century Energy Act as being in compliance
3 with all of the applicable requirements under that
4 section.”.

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