

3 AAC 107 is amended by adding new sections to read:

Article 4. Emerging Energy Technology Grant Program.

3 AAC 107.700. Purpose. 3 AAC 107.700 to 3AAC 107.799 establishes standards and procedures regarding the emerging energy technology fund program and grants under AS 42.45.375. These standards and procedures include criteria for grant applications, the evaluation of applications, the award of grants, the administration of grants, and other matters related to the emerging energy technology fund. (Eff. _____/_____/__, Register _____) **Authority:** AS 42.45.375 AS 44.83.080

3 AAC 107.705. Public purpose. To advance the public purpose of promoting the expansion of energy sources available for residents of the state or to enhance the use of energy in the state, the authority may

(1) in consultation with the emerging energy technology advisory committee, establish that certain types of potential projects will receive priority consideration under a solicitation for applications, subject to AS 42.45.375; the public notice for the solicitation must identify and describe any priority consideration for the review of abstracts and full proposals submitted under 3 AAC 107.700 - 3 AAC 107.799;

(2) solicit, award, or fund grants in phases; recommendations for awarding and funding grants for preliminary development phases may be limited or delayed until the authority determines that subsequent phases of a project are feasible, will result in sufficient benefit to the public, or are otherwise appropriate for the grant; and

(3) require a grantee to repay the grant if the grantee sells, conveys, or encumbers a project constructed with grant funds without the prior written approval of the authority. (Eff. ___/___/_____, Register ___)

Authority: AS 42.45.375 AS 44.83.080

3 AAC 107.710. Eligible grantees. (a) To be eligible for an emerging energy technology grant, an applicant must

(1) be an eligible applicant under AS 42.45.375;

and

(2) demonstrate that the applicant will

(A) own, operate, and maintain the emerging energy technology project, unless the grantee obtains the authority's consent under (b) of this section;

(B) own, lease, or otherwise have adequate legal access to the site upon which the project is located; and

(C) provide adequate demonstration of the technology.

(b) The authority may consent to a grantee not owning an emerging energy technology project, or not retaining operation or maintenance responsibilities, if the authority determines that conditions imposed or the alternative ownership, operation, or maintenance protects the public interest in and benefit from the grant. (Eff. ___/___/_____, Register ___)

Authority: AS 42.45.375 AS 44.83.080

3 AAC 107.715. Eligible projects. A project is eligible for a grant from the emerging energy technology grant fund if the project meets

(1) the requirements of AS 42.45.375(c); and

(2) the definition of energy technology under AS 42.45.375(j)(2) and promotes the expansion of energy sources available for residents of the state or enhances the efficient use of energy in the state. (Eff. _____/___/_____, Register ___)

Authority: AS 42.45.375 AS 44.83.080

3 AAC 107.720. Advisory committee. The emerging energy technology fund advisory committee shall

(1) advise the authority regarding solicitations for applications, including whether and how certain types of projects should receive priority consideration under a solicitation; and

(2) review, advise on ranks, and make recommendations to the authority regarding the quality of abstracts and full proposals. (Eff. _/_____/_____, Register _____)

Authority: AS 42.45.375 AS 44.83.080

3 AAC 107.725. Public notice of application period; solicitation of grant applications. (a) The authority will publish public notice of the application period on the authority's website, and on the Alaska Online Public Notice System. The authority also may publish notice on or through other media outlets.

(b) The notice published on the authority's website must request grant applications, and include the date, time, place, and method for delivering applications, and a description of the application requirements. (Eff. ___/_____/_____, Register _____)

Authority: AS 42.45.375 AS 44.83.080

3 AAC 107.730. Grant applications. The authority under 3 AAC 107.700 - 3 AAC 107.799 will process grant applications in two steps. In step one, the authority under 3 AAC 107.735 - 3 AAC 107.745 will solicit and review abstracts, and select proposal abstracts for

further evaluation. In step two, the authority under 3 AAC 107.750 - 3 AAC 107.760 will solicit a full proposal from applicants that submitted abstracts that have been selected for further evaluation. In step two, the authority will also review and evaluate full proposals to determine who will be awarded emerging energy technology grants. (Eff. ___/___/___, Register _____)

Authority: AS 42.45.375 AS 44.83.080

3 AAC 107.735. Abstracts. (a) The request for grant applications will establish the deadline for submitting abstracts to the authority, the necessary documentation to be included with the abstract, and the format and size for the abstract and documentation. Upon request by the applicant, the executive director may accept an abstract filed after the established deadline only upon finding that extraordinary circumstances caused the delayed delivery and the delay did not give the applicant a substantive advantage. The acceptance or denial must be in writing, and may be given by electronic mail.

(b) An abstract must include

(1) documentation to establish that the applicant is an eligible applicant under AS42.45.375(j) (1) and 3 AAC 107.715;

(2) a summary of the proposed project, including a description of how the proposed project will

(A) test emerging technologies;

(B) test methods of conserving energy;

(C) improve an existing energy technology; or

(D) use an existing technology that has not previously been demonstrated in the state;

(3) a description of how the proposed project addresses the priority considerations established by AS 42.45.375(d) and by the request for grant applications;

(4) a description of the how the proposed project will advance the commercialization of the energy technology not later than the next five years, and the market for purchasing energy generated by the proposed project;

(5) statement of the project team’s qualifications;

(6) a budget for the proposed project;

(7) a description of how the proposed project will collect technical and economic data for analysis; and

(8) any additional information required in the request for grant applications or under 3AAC 107.775.

(d) The authority may require applicants who have previously received grants from the emerging energy technology fund for preliminary development phases or partial grants, to submit new abstracts for each solicitation for applications. (Eff. _____/___/____, Register ___)

Authority: AS 42.45.375 AS 44.83.080

3 AAC 107.740. Eligibility review. The authority will review each timely received abstract, and determine whether the abstract is complete, is submitted by an eligible applicant, relates to an eligible project, and complies with AS 42.45.375 and 3 AAC 107.700 – 3 AAC 107.799. The authority will reject abstracts that fail to meet those requirements. The authority will provide written notice to the applicant of the rejection. The notice may be given by

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electronic mail. (Eff. _____ / _____ / _____, Register _____)

Authority: AS 42.45.375 AS 44.83.080

3 AAC 107.745. Review of abstracts. (a) The authority, in consultation with the emerging energy technology fund advisory committee, will evaluate and rank abstracts not rejected under 3 AAC 107.740 based on how well the proposed project addresses the statutory priorities under AS 42.45.375, and the following criteria:

- (1) feasibility of the proposed technology;
- (2) innovation and quality of the technical explanations submitted;
- (3) how well the proposed project will demonstrate emerging energy technologies, test methods of conserving energy, improve an existing energy technology, or deploy an existing technology that has not previously been demonstrated in the state;
- (4) how well the proposed project addresses the priority considerations established for projects under the request for grant applications;
- (5) whether the proposed schedule is realistic;
- (6) whether the energy technology can be beneficial when deployed in the state;
- (7) how suitable the proposed project site is;
- (8) the extent to which existing research and development demonstrates the energy technology and the systems and components included are likely to successfully work in the proposed location and environment in the state;
- (9) the extent to which the proposed project will advance the commercialization of the energy technology not later than the next five years;
- (10) capabilities of the project team;

(11) potential commercial market for the proposed technology or energy from the proposed technology ; and

(12) an evaluation of the finance plan and budget for the proposed project.

(b) The authority may reject a proposal based upon the review under this section and AS 42.45.375. The authority will provide written notice to the applicant of the rejection. The notice may be given by electronic mail. (Eff. ___/___/_____, Register ___)

Authority: AS 42.45.375 AS 44.83.080

3 AAC 107.750. Full proposal. The authority will select applicants to submit full proposals based on ranking of abstracts and available funding. A full proposal must be submitted not later than the time specified, and include documentation in the format required in the request for full proposals. The full proposal must include

(1) a description of the proposed technology, any improvements, or both of current technology;

(2) a description of the commercial availability of the proposed technology;

(3) a discussion of any intellectual property issues, including

(A) ownership;

(B) licenses; and

(C) agreement for use;

(4) a description of the technical components of the proposed project, including

(A) key technology elements to be implemented;

(B) potential hurdles and how they will be addressed;

(C) phasing of the project;

(D) deliverables;

(E) the data acquisition and management plan; and

(F) schedule;

(5) the project team and any partnerships with postsecondary institutions in this state, residents of this state, associations, organizations, or manufacturers;

(6) the project site, evidence that the applicant has appropriate legal access to the proposed site, and description of why the technology is appropriate for the area that the project will be located;

(7) how the proposed project will be integrated in the existing energy system;

(8) the potential market and commercialization plan for the proposed project or energy to be generated or transmitted by the project;

(9) a complete project budget, including funding requested, the amount and source of matching funding to be provided, and proposed development, operation, and maintenance costs;

(10) potential public benefits from the technology and potential for widespread deployment;

(11) any regulatory issues specific to the project, the site, the proposed technology, or other matters which could impact the project or public benefits from the project; and

(12) any additional information the authority decides it needs to complete its review of the application. (Eff. Register _____)

Authority: AS 42.45.375 AS 44.83.080

3 AAC 107.755. Review of full proposals. (a) The authority, in consultation with the emerging energy technology fund advisory committee, will evaluate and rank full proposals

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using criteria and processes established in 3 AAC 107.760, and AS 42.45.375 and

award grants according to ranking of the projects and the criteria established in the solicitation.

(b) The authority may ask applicants to make presentations to the authority, authority staff, and emerging energy technology fund advisory committee. During a presentation, the authority, the authority staff and emerging energy technology fund advisory committee members may ask questions concerning the application.

(c) As a result of the evaluation under (a) of this section, the advisory committee may recommend the authority award or not award a grant, either in the amount requested by the applicant or a different amount.

(d) The authority will determine whether to award or not award a grant. The authority may award a grant for less than the amount requested by the applicant. (Eff. _____/_____/_____, Register_____)

Authority: AS 42.45.375 AS 44.83.080

3 AAC 107.760. Review criteria for full proposals. (a) The criteria for reviewing full proposals must include how well the full proposal addresses the statutory priorities at AS 42.45.375, and

- (1) the feasibility of the proposed technology;
- (2) the innovation and quality of the technical explanations submitted;
- (3) how well the proposed project will test emerging energy technologies, test methods of conserving energy, improve an existing energy technology, or deploy an existing technology that has not previously been demonstrated in the state;
- (4) how well the proposed project addresses the priority considerations established

for projects under the request for grant applications;

- (5) how the proposed project will demonstrate the energy technology;
- (6) whether the proposed schedule is realistic;
- (7) whether the energy technology can be beneficial when deployed in the state;
- (8) how suitable the proposed project site is;
- (9) the extent to which existing research and development demonstrates the energy technology and the systems and components included are likely to successfully work in the proposed location and environment in the state;
- (10) the extent to which the proposed project will advance the commercialization of the energy technology not later than the next five years;
- (11) the capabilities of the project team;
- (12) the potential commercial market for the proposed technology or energy from the technology;
- (13) an evaluation of the finance plan and budget for the proposed project, and
- (14) whether all regulatory and legal issues have been adequately addressed.

(b) The authority may reject a full proposal based upon the review under this section and AS 42.45.375. The authority will provide written notice to the applicant of the rejection.

The notice may be given by electronic mail. (Eff. ___/___/___, Register _____)

Authority: AS 42.45.375 AS 44.83.080

3 AAC 107.765. Reconsideration; abstracts or full proposals. (a) An applicant who believes an error was made when its abstract or full proposal was rejected or ranked may request reconsideration to the executive director of the authority. The request for

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reconsideration must be in writing, must state the error made during the review, and must be received by the authority no more than 10 days after the notice of rejection or ranking.

(b) The executive director on reconsideration may accept or overturn the decision made during the review of the abstract or full proposal, or request additional information from the applicant before making a decision. If the executive director overturns the decision, the authority shall further consider the abstract under 3 AAC 107.740 and 3 AAC 107.745 or the full proposal under 3 AAC 107.750 – 3 AAC 107.760. The decision of the executive director on reconsideration is the final agency decision. If the executive director fails to issue a decision not later than 30 days, the request for reconsideration is denied. (Eff. ___/_____/_____, Register ___)

Authority: AS 42.45.375 AS 44.83.080

3 AAC 107.770. Confidentiality of abstracts, full proposals and other materials submitted to the authority. (a) An abstract, full proposal, and other materials submitted to the authority under AS 42.45.375 and 3 AAC 107.700 - 3 AAC 107.799 are records subject to AS 40.25.100 – 40.25.295 (Alaska Public Records Act) and 2 AAC 96, and may be disclosed to the public unless the records are confidential or otherwise protected from disclosure under AS 40.25.120 or other applicable law.

(b) A person submitting an abstract, full proposal, or other material under AS42.45.375 and 3 AAC 107.700 - 3 AAC 107.799 may request that certain information be kept confidential. The request must

- (1) clearly designate the specific information to be kept confidential; and
- (2) specifically describe the basis for asserting that the information is

protected from disclosure under AS 40.25.120; if the person believes the information is protected as a trade secret or business proprietary information, the description must include analysis of whether the person’s commercial privacy interest in protecting the information from disclosure outweighs the public interest in obtaining the information.

(c) If the authority determines the records submitted do not appear to be confidential or otherwise protected from disclosure under AS 40.25.100 – 40.25.295 (Alaska Public Records Act), the authority will notify the applicant so that the applicant may request to withdraw all or parts of the abstract or full proposal.

(d) If the authority agrees that records received from a grantee appear to be confidential or otherwise protected from disclosure under AS 40.25.100 – 40.25.295 (Alaska Public Records Act), the authority will agree in the grant agreement to notify the applicant if the authority receives a public records request so that the applicant may seek judicial relief or take other action necessary to protect the records from disclosure. (Eff. _____/____/_____, Register ____)

Authority: AS 42.45.375 AS 44.83.080

3 AAC 107.775. Additional information from applicant. (a) The authority may require the applicant or grantee to provide additional information which the authority considers necessary or desirable to complete review of an abstract, a full proposal, or during project operation and maintenance reporting required under 3 AAC 107.790. The authority may require the additional information and at any stage in the review, evaluation, or award process. Required additional information may include information sufficient for the authority to confirm that

- (1) an application meets the requirements for abstracts and full proposals; or
- (2) an applicant or grantee is willing and able to adjust the project scope and budget as required by the authority in awarding a grant.

(b) If an applicant or grantee fails to provide timely or adequate information required by

the authority, the authority may reject the abstract or full proposal, modify the grant

award, or cancel an award of a grant. (Eff. /_____/_____, Register_____)

Authority: AS 42.45.375 AS 44.83.080

3 AAC 107.780. Grant agreement. (a) Before the authority may disburse any grant funds, the applicant must sign a grant agreement acceptable to the authority. The grant agreement must contain the terms and conditions of the grant, including

- (1) a description of the project;
- (2) a project schedule;
- (3) a grant fund disbursement schedule that addresses disbursement upon the grantee achieving milestones including
 - (A) completion and approval by the authority of pre-construction phases of the project;
 - (B) the grantee demonstrating that it has site control for the project;
 - (C) the grantee demonstrating that it has required permits or authorizations for construction of the project;
 - (D) the grantee demonstrating that it has obtained the required intellectual property rights or licensing for the project; and
 - (E) the grantee's successful completion of activities or objectives set under the project schedule;
- (4) requirements for project management;
- (5) a description of allowable costs;
- (6) requirements for the documentation of expenditures and procurements;
- (7) procedures for making grant payments to the grantee;

(8) requirements for the grantee's accounting and reporting;

(9) requirements for the grantee's maintenance and retention of project records;

(10) hiring preferences applicable under AS 36.10.150 - 36.10.180 and 8 AAC 30.064 - 30.088 to the grantee and its agents, contractors, and subcontractors;

(11) procedures for verifying the provision of the grantee's matching contributions to the project;

(12) requirements for providing information on project operations and maintenance activities and costs, other costs of the project, energy output, estimated fuel displacement resulting from the energy output, operational issues, and other project elements and outputs useful to the authority for its evaluation of the project and the grant;

(13) the grantee's agreement to allow access to the project site and project data by a third party chosen by the authority to verify the reporting submitted by the grantee; and

(14) other terms and conditions that the authority determines are appropriate to ensure the public purpose of and maximize the public benefit from the grant.

(b) If an applicant fails to execute the grant agreement not later than 30 days after receiving the agreement from the authority, the authority may cancel a grant award and may offer the grant funds to another eligible applicant. (Eff. ___/___/___, Register _____)

Authority: AS 42.45.375 AS 44.83.080

3 AAC 107.785. Grant closeout; return of unexpended grant money. Upon completion of the grant project, or termination of the grant, the authority will close out the grant and the grantee shall return to the authority any grant funds not spent on project work under the terms and conditions of the grant agreement and any earnings on grant money. The grant agreement may provide that specified obligations of the grantee survive grant closeout.

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Authority: AS 42.45.375 AS 44.83.080

3 AAC 107.790. Reporting on project technology, operations and maintenance.

The grantee must provide the authority with technical and economic data, project and budget reports, and other technology validation information appropriate to the project which the authority specifies in the grant agreement. The grantee must use data collection designs and processes to capture performance information and validate the demonstrated technology as determined by the authority. The authority may use third party agents to receive and analyze data from the grantee. If the grantee fails to cooperate in providing information and data required under this section and in the grant agreement, the authority may cancel the project, require reimbursement of grant funds, determine the grantee ineligible for future emerging energy technology fund grants or other grants from the authority, or take a combination of these actions. (Eff. ____/_____/_____, Register ____)

Authority: AS 42.45.375 AS 44.83.080

3 AAC 107.795. Dispute resolution. A person who has a claim concerning a grant awarded under AS 42.45.375 and 3 AAC 107.700 - 3 AAC 107.799 may submit that claim in accordance with 3 AAC 108.915 – 108.920. (Eff. __/___/___, Register __) **Authority:** AS 42.45.375 AS 44.83.080

3 AAC 107.799. Definitions. (a)In 3 AAC 107.700 – 3 AAC 107.799, unless the context requires otherwise,

(1) "advisory committee" means the emerging energy technology advisory committee;

(2) "emerging energy technology" has the same meaning given "energy technology" in AS 42.45.375(j)(2);

(3) "emerging energy technology advisory committee" means the advisory committee established under AS 42.45.375(f);

(4) "emerging energy technology grant" means a grant awarded under AS 42.45.375 and 3 AAC 107.700 – 3 AAC 107.799;

(5) "grant" means an emerging energy technology grant;

(6) "grant funds" means amounts awarded as grants from the emerging energy technology fund under AS 42.45.375;

(7) "preliminary development phase" includes

(A) feasibility studies;

(B) reconnaissance studies;

(C) energy resource monitoring;

(D) design phases; and

(E) obtaining required permits and authorizations. (b) In AS 42.45.375, "matching funds" or "matching resources" means those resources that the grantee dedicates for the completion of the project; "matching funds or matching resources includes

(A) cash;

(B) loan proceeds; and

(C) grantee-provided equipment, labor, materials, or services needed for

completion of the project. (Eff. _____ / _____ / _____)

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Authority: AS 42.45.375 AS 44.83.080