



# U.S. Department of Energy Office of Clean Energy Demonstrations

## Bipartisan Infrastructure Law Energy Improvement in Rural or Remote Areas Fixed Award Grant Program

**Funding Opportunity Announcement Number: DE-FOA-0003045**

**Type: Initial**

**Assistance Listing Number: 81.255**

**FOA Issue Date: May 11, 2023**

This FOA may be re-opened for subsequent funding cycles, potentially with adjusted funding amounts, topic areas, or other requirements.

**Cycle 2023-1:**

<b>Informational Webinar:</b>	05/30/2023 / 2:00pm ET
<b>Submission Deadline for Pre-Applications:</b>	07/13/2023 / 5:00pm ET
<b>Submission Deadline for Applications:</b>	10/12/2023 / 5:00pm ET
<b>Expected Date for DOE Selection Notifications:</b>	February 2024
<b>Expected Timeframe for Award Negotiations:</b>	Spring 2024

Applicants **must** submit a Pre-Application by 5:00pm ET on the due date listed above. Only successful pre-applicants will be invited to complete a more detailed full application.



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# 1.0 Funding Opportunity Description

## 1.0 Background

The Infrastructure Investment and Jobs Act, commonly referred to as the Bipartisan Infrastructure Law (BIL) authorizes DOE to invest \$1 billion in energy improvements in rural or remote areas. DOE's Energy Improvements in Rural or Remote Areas (ERA) Program is managed by the Office of Clean Energy Demonstrations (OCED). OCED will provide financial investment, technical assistance, and other resources to advance clean energy demonstrations and energy solutions that benefit rural and remote communities.<sup>1</sup> ERA aims to fund clean energy projects with three specific goals:

1. **Deliver measurable benefits to energy customers in rural or remote areas** by funding replicable energy projects that lower energy costs, improve energy access and resilience, and/or reduce environmental harm;
2. **Support new rural or remote energy system models** using climate-resilient technologies, business structures that promote economic resilience, new financing mechanisms, and/or new community engagement practices; and
3. **Build clean energy knowledge, capacity, and self-reliance in rural America.**

This FOA provides \$50 million in Federal funding and is designed to support small community-driven clean energy projects requiring \$500,000 to \$5 million in Federal funding.

Other ERA funding opportunities include a \$300 million [FOA](#), which provides \$5 million to \$100 million in Federal funding to community- and large-scale demonstration projects that address region-specific energy challenges, and a \$15 million [Energizing Rural Communities Prize](#), which provides up to \$300,000 cash prizes to assist development of partnerships and financing models to advance clean energy projects.

This FOA utilizes a simplified application process and will award fixed-amount grants. This grant mechanism significantly reduces financial reporting requirements associated with larger DOE awards. Recipients are responsible for accomplishing their proposed work. Technical assistance is available to support the initial development of project concepts, as described in [Section 1.3](#).

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<sup>1</sup> For the purposes of this statutory section, the term "rural or remote area" means a city, town, or unincorporated area that has a population of not more than 10,000 inhabitants. The terms "rural or remote area" and "rural or remote community" are used interchangeably.

## 1.1 Goals

This FOA provides funding for clean energy projects up to \$5 million that meaningfully benefit rural and remote communities by addressing their energy needs and priorities.

Clean energy projects funded under this FOA must satisfy at least one of the objectives listed in BIL Section 40103(c)(3). These "resilient clean energy objectives" are:

- A. Improving overall cost-effectiveness of energy generation, transmission, or distribution systems;
- B. Siting or upgrading transmission and distribution lines;
- C. Reducing greenhouse gas emissions from energy generation in rural or remote areas;
- D. Providing or modernizing electric generation facilities;
- E. Developing microgrids; and
- F. Increasing energy efficiency.

Additional benefits could include:<sup>2</sup>

- G. Decrease energy burden in disadvantaged communities (DACs);
- H. Decrease environmental exposure and burdens for DACs;
- I. Increase parity in clean energy technology (e.g., solar, storage) access and adoption in DACs;
- J. Increase access to low-cost capital in DACs;
- K. Increase clean energy enterprise creation and contracting (MBE/DBE) in DACs;
- L. Increase clean energy jobs, job pipeline, and job training for individuals from DACs;
- M. Increase energy resiliency in DACs; and
- N. Increase energy democracy in DACs.

This FOA may consider the extent to which projects benefit communities most impacted by high energy burden, poor energy reliability and resilience, or environmental harm from energy generation. This may be considered using data from the Climate & Economic Justice Screening Tool (CEJST), DOE's [Energy Justice Dashboard](#), and information from applicants.<sup>3</sup>

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<sup>2</sup> Benefits outlined reflect the Justice40 Initiative policy priorities identified by DOE's Office of Economic Impact and Diversity. For more on Justice40 and these priorities, see: [Justice40 Initiative | Department of Energy](#)

<sup>3</sup> Pursuant to Executive Order 14008 and the Office of Management and Budget's Interim Justice40 Implementation Guidance M-21-28, DOE has developed a definition and tools to locate and identify disadvantaged communities. These resources can be located at <https://energyjustice.egs.anl.gov/>. Pursuant to Office of Management and Budget's Memorandum M-23-09, DOE recognizes disadvantaged communities as defined and identified by the White House Council on Environmental Quality's Climate and Economic Justice Screening Tool (CEJST) Version 1.0, which can be located at <https://screeningtool.geoplatform.gov/>. DOE's Justice40 Implementation Guidance is located at <https://www.energy.gov/sites/default/files/2022-07/Final%20DOE%20Justice40%20General%20Guidance%20072522.pdf>.

To support the goal of building a clean and equitable energy economy, the BIL-funded projects are expected to (1) support meaningful community and labor engagement; (2) invest in America’s workforce; (3) advance diversity, equity, inclusion, and accessibility; and (4) contribute to the President’s goal that 40% of the overall benefits of certain federal investments flow to disadvantaged communities (the Justice40 Initiative). To ensure these goals are met, applications must include a Community Benefits Plan that describes how the proposed project would incorporate the four objectives stated above.

Applicants are encouraged to submit Community and Labor Partnership Documentation from established labor and community-based organizations that demonstrate the applicant’s ability to achieve the above goals as outlined in the Community Benefits Plan. Within the Community Benefits Plan, the applicant is encouraged to provide specific detail on how to ensure the delivery of measurable community and jobs benefits, ideally through the use of negotiated agreements between the applicant and the community, and/or the applicant and labor unions referred to collectively here as “Workforce and Community Agreements.” These include good neighbor agreements, community benefits agreements, community workforce agreements, project labor agreements, and other collective bargaining agreements. See [Section 4.4.2.2](#) for the Community Benefits Plan content requirements.

## 1.2 Anticipated Award Size and Funding Amount

This FOA has one topic area, which solicits proposals to implement community-driven clean energy projects of **at least \$500,000** and **at most \$5 million**, using one or more clean energy technologies that improve reliability and/or resilience of energy systems, reduce energy poverty, or improve environmental performance of energy generation in a rural or remote community.

Table 1: Topic Area Overview

Topic Area No.	Topic Area Title	Anticipated Number of Awards	Anticipated Cost Share per Award		Total Anticipated Fed Share <sup>1</sup>
			Award Size (Fed Share)	Applicant Share <sup>2</sup>	
1	Community-Driven Clean Energy Projects	10-100	\$500K - \$5M	\$0	\$50M
				<b>Total<sup>1</sup></b>	<b>\$50M</b>

Notes:

1. Total anticipated under this FOA.
2. This FOA does not require applicant cost share.

Applicants should assemble a project management team and illustrate the capacity to execute the proposed projects. Applicants should consider and clearly define project ownership models, including community or Tribal ownership<sup>4</sup> of systems and assets.

Proposals must show that the technology is commercially available. For the purposes of this FOA, commercially available technology is defined as a product that has been offered for sale, lease, or license to the public. This could be done by showing the product can be warrantied, can be purchased from a commercial vendor for the intended purpose, or some other justification of the applicant's choosing.

Applicants must propose a project that benefits at least one rural or remote area and ideally should be sited within the rural or remote community they are designed to benefit. Applicants should also demonstrate that projects are supported by the community. This could be done by including participation by community-based organizations; local environmental justice organizations; community leadership groups; building owners and developers; local labor groups including unions; local planning, zoning, and code officials; or state, local, or Tribal governments.

### **1.2.1 Example Projects**

Examples of projects that could be constructed under this FOA are provided below for illustrative purposes. Applicants are not limited to these examples and are encouraged to propose projects that best address the energy priorities of their community.

Example projects include:

- Installation of standalone microgrids in critical facilities or resilience centers to ensure continuation of services during natural disasters.
- Installation of a community-owned solar and battery project to reduce electricity cost and increase energy resilience.
- Siting or upgrading of transmission and distribution lines, grid stability and resilience with substation improvements, or other electrical infrastructure improvements (hardware or software).

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<sup>4</sup> For the purposes of this FOA, community ownership and partnership refers to a wide array of energy project models in which members of nearby communities that are served or impacted by the project have some level of equity stake and/or control in the project and/or receive some level of compensation or direct financial benefit from the proposed investment. Direct benefits may include, but are not limited to, on-bill energy savings, long-term purchase agreement of low-cost power, and renewable energy certificates (RECs) produced by the project. In cases where direct ownership is either not applicable or not feasible, agreements (e.g., contracted power purchase agreements or Community Benefits Agreements) between the project developer and community (e.g., through representative bodies such as local government, community-based organizations, and/ or community boards) are expected to ensure proposed community benefits are formalized. The definition of community ownership and partnership for this FOA is intentionally broad to allow for flexibility and to reflect the diversity of communities, state and local regulations, and project types.

- Replacement of fossil fuel-powered heating with heat pumps in community buildings or in a residential neighborhood.
- Deployment of small hydropower in existing conduits to generate recurring revenue that enables reinvestment in other community infrastructure.
- Innovative siting of solar panels, such as over canals or on agricultural land, to reduce local siting constraints and enable new ownership structures.
- Energy efficiency improvements for community-owned buildings (e.g., city hall, police or fire station, schools) that reduce electric loads and energy costs.
- Installation of a distributed wind microgrid to reduce electricity cost and increase energy resilience through reducing demand upon diesel in a remote community.
- Installation of geothermal heating or ground loops for heat pumps.
- Installation of small-scale energy storage to provide power regulation or backup electricity to the grid.
- Replacement of a diesel generator with combined heat and power (CHP) fed by Renewable Natural Gas (RNG) at a food waste or wastewater treatment facility.
- Use of biogas from agricultural waste, either from biogas capturing or biogas generation through anaerobic digestion, to fuel onsite equipment and/or for pipeline injection.
- Replacement of a non-clean backup energy generation system, such as a diesel generator, with a clean energy generation backup system and/or energy storage system, at a water treatment plant or pump station.

### 1.3 Pre-award Technical Assistance and Related Programming

The ERA Program will provide resources to assist communities in building successful teams, developing necessary technical analysis, tracking metrics, and sharing experiences. For this FOA, the Energizing Rural Communities Prize competition, and subsequent ERA FOAs, technical assistance is available to communities to support the initial development of project concepts. Options for technical assistance and other ERA activities are illustrated in Figure 2.

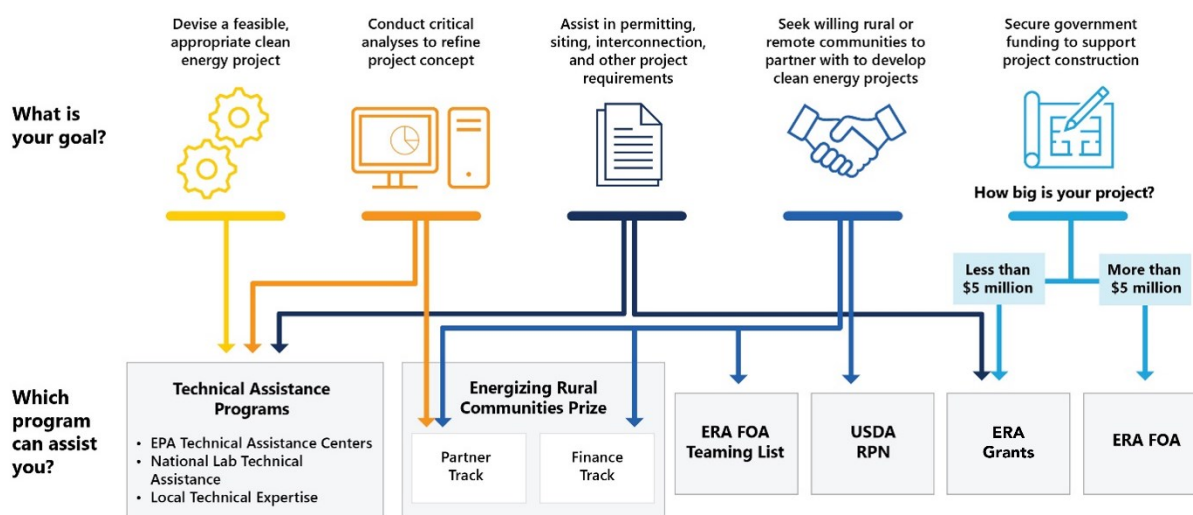


Figure 2: Pre-Award Technical Assistance, Prize competition and related programming

Applicants can access the technical assistance through the [ERA website](#). Experts from the DOE National Laboratories are available to meet with communities in an “Office Hours” format, as well as limited individual sessions. “Office Hours” technical assistance will consist of regularly scheduled virtual meetings in which members of the public may join to ask questions about this FOA. Technical assistance may not include any direct support to a specific applicant, including the preparation of an application, detailed project design, or coordination with State or Federal agencies.

By mid-2023, technical assistance also will be available by region through a partnership with the [EPA’s Environmental Justice Thriving Community Technical Assistance Centers \(EJ TCTAC\)](#). The ERA Program will coordinate with established federal and non-profit entities that can facilitate connections, including the [Rural Partners Network](#) (RPN), led by the U.S. Department of Agriculture (USDA). RPN Community Liaisons help enhance connections between rural communities and Federal programs and access technical assistance.

## 2.0 Award Information

<b>Anticipated Type of Award:</b>	Fixed Amount Grant
<b>Application Types Allowed:</b>	New
<b>Estimated Number of Awards:</b>	10-100
<b>Anticipated Funding Amount:</b>	\$50,000,000
<b>Award Budget:</b>	Application budgets are limited to amounts noted on <a href="#">Table 1</a> per award.
<b>Award Project Period:</b>	The maximum project period is 5 years or as proposed.

See [Appendix A](#) of this FOA for additional award information, and the Guidance Document available on OCED eXCHANGE under the FOA’s posting for additional award guidance.

After awards are made, DOE will work with each awardee to establish milestones for the proposed project. DOE will provide funding at the completion of each milestone. Advanced funding to begin the first milestone may be available. Funding for subsequent milestones will depend on meeting performance requirements in prior milestones.

Fixed amount grants may include, but are not limited to:

1. Partial payments, based on milestones or “triggering events”, agreed to in advance by the parties;
2. Payments based on unit prices agreed to in advance; or
3. One payment for the full amount upon project completion.



## 3.0 Eligibility Information

Section 40103(c) of the BIL defines rural or remote areas as a “city, town, or unincorporated area that has a population of not more than 10,000 inhabitants.” Applications must identify at least one area in the United States (including U.S. territories) with a population of not more than 10,000 (using the 2020 Census Bureau figures) that will benefit from the proposal. The identified area must be either: (a) a city, town, or other unincorporated municipality or (b) a Census Designated Place (CDP) or similarly discreet and identifiable community that is not located within an incorporated municipality. Applications that do not satisfy this requirement will be considered ineligible and removed from further evaluation. See the Guidance Document for this FOA available on OCED eXCHANGE under this FOA’s posting for information on how to use the U.S. Census Bureau Data to determine a community’s population.

Projects ideally should be sited within the rural or remote community or communities they are designed to benefit. Projects proposed to be built outside of a rural or remote area may be considered for funding but must clearly define the rural or remote area(s) of less than 10,000 inhabitants receiving the benefits.

All projects are required to be built within the United States.

DOE will not make eligibility determinations for potential applicants prior to the date on which Applications to this FOA must be submitted.

### 3.0.1 Eligible Applicants

The applicant and subrecipient(s) must be domestic entities. The following types of entities are eligible to participate either as prime recipients or subrecipients of this FOA:

1. State and local governmental entities;
2. Indian Nations (DOE Order 144.1, 7.a);
3. Non-profit entities;
4. For-profit entities;
5. Institutions of higher education;
6. Consortia.

### 3.0.2 Domestic Entities

To qualify as a domestic entity, the entity must be organized, chartered, or incorporated (or otherwise formed) under the laws of a particular state or territory of the United States; have majority domestic ownership and control; and have a physical place of business in the United States. A foreign entity waiver can be requested and [Appendix B](#) lists the information that must be included in a waiver request. The applicant does not have the right to appeal DOE’s decision concerning a waiver request.

Federal agencies and instrumentalities (other than DOE) are not eligible to participate in projects funded under this FOA under any capacity. DOE/NNSA Federally Funded Research and Development Center (FFRDC) and non-DOE/NNSA FFRDC are not eligible to participate as prime or subrecipients under this FOA.

Please refer to the Applicant Eligibility Guidance section on the Guidance Document for this FOA available on OCED eXCHANGE under this FOA's posting for descriptions on the types of entities listed above and requirements.

Please note that DOE will not assess an organization's eligibility prior to the application deadline.

### **3.1 Cost Sharing**

There is no cost sharing requirement for this FOA.

### **3.2 Responsiveness Criteria**

The following types of applications will be deemed nonresponsive and will not be reviewed or considered:

- Applications outside the technical parameters specified in [Section 1.2](#).
- Applications that do not benefit at least one rural or remote area as described throughout [Section 3.0](#).
- Applications for proposed technologies that are not based on sound scientific principles.
- Applications for proposed technologies that are not commercially available.
- Applications including research, development, pilot-scale, and demonstration activities.

### **3.3 Limitation on Number of Pre-Applications and Applications Eligible for Review**

An entity may submit more than one Pre-Application and Application to this FOA provided that each Pre-Application and subsequent Application describes a unique, distinct concept and provided that an eligible Pre-Application was submitted for each Application. There are no limits to submissions by prime applicant. DOE will notify applicants of its determination of selection or non-selection of the Pre-Application.

## 4.0 Application and Submission Information

### 4.0 Application Package

This FOA has a two-part application process:

1. A pre-application consisting of short-answer questions to solicit targeted information on the proposed project and how it will benefit the community. Only successful pre-applicants will be invited to complete a more detailed full application.
2. A full application, where selected applicants will expand upon and substantiate their pre-application with short-answer questions and supplementary information.

The Pre-Application process requires all applicants to submit a Pre-Application as described in [Section 4.4.1](#). Pre-Applications will be reviewed following the criteria described in [Section 5.0.1](#). Based on the results of the review, DOE will invite selected applicants to submit a Full Application. Applicants not invited to submit Full Applications will not be further considered for funding under this FOA.

Invited applicants will submit Full Applications as described in [Section 4.4.2](#). DOE will review Full Applications according to the criteria in [Section 5.0.2](#) and apply program policy factors to select projects for funding.

All submissions must conform to the form and content requirements described below, including maximum page lengths. Submissions must follow the following requirements:

- Each must be submitted in PDF format unless stated otherwise;
- Each must be written in English;
- All pages must be formatted to fit on 8.5 x 11 inch paper with margins not less than one inch on every side. Use Calibri typeface, a black font color, and a font size of 12 point or larger (except in figures or tables, which may be 10 point font). References must be included as footnotes or endnotes in a font size of 10 or larger. Footnotes and endnotes are counted toward the maximum page requirement;
- A **control number** will be issued when an applicant begins the OCED eXCHANGE application process. The control number must be included with all application documents. Specifically, the control number must be prominently displayed on the upper right corner of the header of every page and included in the file name (i.e., *Control Number\_Applicant Name\_Application*);
- Page numbers must be included in the footer of every page; and
- Each submission must not exceed the specified maximum page limit, including cover page, charts, graphs, maps, and photographs when printed using the formatting requirements set forth above and single spaced. If applicants exceed the maximum page lengths indicated below, DOE will review only the authorized number of pages and disregard any additional pages.

Note: The maximum file size that can be uploaded to the OCED eXCHANGE website is 50MB. Files in excess of 50MB cannot be uploaded, and hence cannot be submitted for review. If a file exceeds 50MB but is still within the maximum page limit specified in the FOA it must be broken into parts and denoted to that effect.

DOE will not accept late submissions that resulted from technical difficulties due to uploading files that exceed 50MB.

Applicants not invited to submit a Full Application may apply to future ERA funding opportunities and seek technical assistance described in [Section 1.2](#).

## 4.1 Application Submission

There are several one-time actions required before submitting an application in response to this FOA, and it is vital that applicants address these items as soon as possible. Some may take several weeks, and failure to complete them could interfere with an applicant's ability to apply to this FOA, or to meet the negotiation deadlines and receive an award if the application is selected. These requirements are as follows:

### 4.1.1 OCED eXCHANGE

To apply to this FOA, applicants must register with and submit application materials through OCED eXCHANGE at <https://oced-exchange.energy.gov>, OCED's online application portal. See detailed instructions at [Financial Opportunities: Manuals \(energy.gov\)](#). If an applicant experiences technical difficulties with a submission, the applicant should contact the OCED eXCHANGE helpdesk for assistance ([OCED-exchangeSupport@hq.doe.gov](mailto:OCED-exchangeSupport@hq.doe.gov)).

### 4.1.2 Unique Entity Identifier (UEI) and System for Award Management

Each applicant (unless the applicant is excepted from those requirements under 2 CFR 25.110) is required to: (1) Be registered in the System for Award Management (SAM) at <https://www.sam.gov> before submitting its full application; (2) provide a valid UEI number in its full application; and (3) continue to maintain an active SAM registration with current information at all times during which it has an active federal award or an application or plan under consideration by a federal awarding agency. DOE may not make a federal award to an applicant until the applicant has complied with all applicable UEI and SAM requirements. Designating an Electronic Business Point of Contact and obtaining a special password called a Marketing Partner ID Number are important steps in SAM registration.

**NOTE: Entities should start the UEI and SAM registration process as soon as possible. If entities have technical difficulties with the UEI validation or SAM registration process, they should utilize the HELP feature on SAM.gov. Additional entity validation resources can be found here: [GSAFSD Tier 0 Knowledge Base - Validating your Entity](#).**

### 4.1.3 FedConnect

Register in FedConnect at <https://www.fedconnect.net>. To create an organization account, your organization's SAM MPIN is required. For more information about the SAM MPIN or other registration requirements, review the FedConnect Ready, Set, Go! Guide at [https://www.fedconnect.net/FedConnect/Marketing/Documents/FedConnect\\_Ready\\_Set\\_Go.pdf](https://www.fedconnect.net/FedConnect/Marketing/Documents/FedConnect_Ready_Set_Go.pdf).

### 4.1.4 Grants.gov

Prospective applicants may register in Grants.gov (<http://www.grants.gov>) to receive automatic updates when Modifications to this FOA are posted. However, please note that Applications will not be accepted through Grants.gov.

As applicable, modifications to this FOA will be posted on the OCED eXCHANGE website and the Grants.gov system. However, you will only receive an email when a modification is posted if you register for email notifications for this FOA in Grants.gov. OCED recommends that you register as soon after the release of the FOA as possible to ensure you receive timely notice of any amendments or other FOAs. However, registering in grants.gov is not required to apply to this opportunity.

### 4.1.5 Electronic Authorization of Applications and Award Documents

Submission of an application and supplemental information under this FOA through electronic systems used by the DOE, including OCED eXCHANGE and FedConnect.net, constitutes the authorized representative's approval and electronic signature.

## 4.2 Application Forms

The application forms and instructions are available on OCED eXCHANGE. To access these materials, go to <https://OCED-exchange.energy.gov> and select the appropriate funding opportunity number.

## 4.3 Requirement for Full and Complete Disclosure

Applicants are required to make a full and complete disclosure of all information requested. Any failure to make a full and complete disclosure of the requested information may result in:

- The termination of award negotiations;
- The modification, suspension, and/or termination of a funding agreement;
- The initiation of debarment proceedings, debarment, and/or a declaration of ineligibility for receipt of federal contracts, subcontracts, and financial assistance and benefits; and
- Civil and/or criminal penalties.

## 4.4 Proposal Content

This application process includes two parts: Pre-Application and Application.

### 4.4.1 Pre-Application Required Documents and Questions

Each Pre-Application describes a single project. The Pre-Application must conform to the requirements listed below, including the stated page and word limits. Each Pre-Application must be submitted on OCED eXCHANGE.

DOE will review each Pre-Application based on the criterion in [Section 5.0.1](#). Based on the results of the review, DOE will invite a subset of applicants to submit a Full Application. DOE will only accept Full Applications from those who have been invited to submit a full application.

#### Pre-Application

(PDF)	<b>File Naming Convention:</b> ControlNumber_LeadOrganization_PreApplication.pdf
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The Pre-Application must address all the requirements described in this subsection. A template is provided to assist applicants in preparing their Pre-Application and may be found on OCED eXCHANGE. Use of the template is not mandatory but is highly encouraged to ensure an appropriate review. The template includes all questions below and suggested word counts for each question. Applicants are not required to follow these word counts, but the Pre-Application must not exceed 10 pages.

DOE will review only the information provided to support the questions in the Pre-Application template. Additional information will not be considered. Note that responses provided in the Pre-Application must be verified and/or substantiated in the full application. These are noted in the Pre-Application template.

Section and Content	Approximate length
<b>a) Applicant Information</b>	1 page
<ol style="list-style-type: none"> <li>1. Provide the name, mailing address, phone number, and email address of applicant.</li> <li>2. Project Title</li> <li>3. Identify the project location, and community that benefits from the project. Include the community size and community point of contact</li> </ol>	

Section and Content	Approximate length
<b>b) Project Overview</b>	2 pages
<ul style="list-style-type: none"> <li>4. Describe the proposed clean energy project, including a summary of the energy technology or infrastructure to be constructed or improved.</li> <li>5. Identify which of the “resilient clean energy objectives” will be addressed by the proposed project<sup>5</sup>.</li> <li>6. Provide an estimate of the total project costs and a short rationale for the estimate.</li> <li>7. Identify who will own the project (i.e., city government, installer/developer, electric utility, etc.).</li> </ul>	
<b>c) Project Benefits</b>	3 pages
<ul style="list-style-type: none"> <li>8. Describe the community that will benefit from the project. Include a description of the community’s energy needs or priorities.</li> <li>9. Describe the project team’s relationship to the community and community engagement strategy, including efforts to build support for the project.</li> <li>10. Describe any anticipated benefits of the proposed project, and the project team’s efforts to align these benefits to the community’s energy needs and priorities discussed in question 9.</li> <li>11. Describe any anticipated negative impacts of the proposed project, and the steps the project team will take to minimize these impacts. Please describe the extent to which the project may disproportionately impact vulnerable populations within the community, and how the project team will minimize these impacts.</li> </ul>	
<b>d) Technical Approach</b>	4 pages
<ul style="list-style-type: none"> <li>12. Explain the technology selection.</li> <li>13. Provide justification that proposed technology is commercially available.</li> <li>14. Specify the capacity of the proposed system and the capacity for each of the elements below, if applicable for your project: <ul style="list-style-type: none"> <li>a. Power generated in kW or MW</li> <li>b. Energy stored kWh or MWh</li> <li>c. Energy saved annually in kWh or MWh</li> <li>d. Distance (in miles) and voltage (in kV) of transmission and/or distribution lines provided</li> </ul> </li> <li>15. Provide the estimated system lifetime (in years).</li> <li>16. Identify the system scale; Facility Scale, Community Scale or Utility Scale</li> <li>17. State whether the project will be connected to the grid: Yes/No</li> <li>18. Describe any work, including studies or engineering design, completed to date. What additional steps are needed to design and implement the project? A detailed workplan with milestones will be required at the full application stage.</li> <li>19. Describe environmental regulations that will impact the project, including any needed permits. Have necessary permits been obtained? If no, what is needed to obtain them?</li> <li>20. Describe how the project will be maintained after operation begins and the grant ends.</li> </ul>	

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<sup>5</sup> Clean energy projects funded under this FOA must satisfy at least one of the objectives listed in BIL Section 40103(c)(3). These “resilient clean energy objectives” are: (A) Improving overall cost-effectiveness of energy generation, transmission, or distribution systems; (B) Siting or upgrading transmission and distribution lines; (C) Reducing greenhouse gas emissions from energy generation in rural or remote areas; (D) Providing or modernizing electric generation facilities; (E) Developing microgrids; and (F) Increasing energy efficiency.

This could include a summary of an operations and maintenance plan, operations and maintenance workforce needs, the intent to hire/contract operations and maintenance, or some other explanation.	
<b>Total Pre-Application Maximum Page Limit</b>	<b>10 pages</b>

## 4.4.2 Full Application

**Only applicants who have submitted an eligible Pre-Application and received an invitation from DOE will be eligible to submit a Full Application. To remain competitive, a Full Application must reflect the project presented in the Pre-Application.**

Applicants will have approximately 60 days from DOE's invitation to prepare and submit a Full Application through OCED eXCHANGE. Regardless of the date the applicant receives the invitation, the submission deadline for the Full Application remains the date and time stated on the FOA cover page.

Each Full Application must be limited to a single proposal. Full Applications must conform to the content and form requirements listed below and must not exceed the stated page limits. Applicants must provide sufficient citations and references to justify the claims and approaches made to DOE. However, DOE and reviewers are under no obligation to review cited sources.

### 4.4.2.1 Application for Federal Assistance (SF-424)

(PDF)	<b>File Naming Convention:</b> ControlNumber_LeadOrganization_App424.pdf
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The Standard Form ([SF-424](#)) represents the government-wide standard form for grant application packages, and requires basic information about the applicant (name, address, telephone number, type of applicant, etc.), including a list of sources of proposed funding and a description of the proposed project. Complete all required fields in accordance with the instructions on the form.

In Field 21 of the SF-424, the authorized representative must certify and agree with the Certification and Assurances found at <http://energy.gov/management/office-management/operational-management/financial-assistance/financial-assistance-forms>.

Note: The dates and dollar amount on the SF-424 are for the complete project.

### 4.4.2.2 Project and Community Benefits Plan

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The Project and Community Benefits Plan must include all the components listed below, including a project overview, workplan, business and management, and Community Benefits



Plan. The Applicant should consider the weighting of each of the review criterion (see [Section 5.0.2](#) of the FOA) when preparing the Project and Community Benefits Plan.

BIL-funded projects are expected to:

- 1) Support meaningful community and labor engagement.
- 2) Invest in the American workforce.
- 3) Advance diversity, equity, inclusion, and accessibility.
- 4) Contribute to the President’s goal that 40% of overall benefits of certain federal investments flow to disadvantaged communities (the Justice40 Initiative).

Applications must include a Community Benefits Plan (CBP) that addresses questions in the table below. The plan should explain how and when the project will incorporate these four objectives. CBP milestones and outcomes should be incorporated into the project schedule, workplan, budget, and other key documents. For projects impacting multiple communities, CBPs should address all four objectives across all communities. CBPs must address the technical review criterion titled, “Community Benefits” (see [Section 5.0.2](#)). Applicants are encouraged to provide Community and Labor Partnership Documentation (submitted under the Community Partnership Documentation, [Section 4.4.2.3](#)) from organizations reflecting support for the project.

CBP requirements are flexible to allow project teams to respond to communities, workers, and impacted groups. In case of incomplete information, applicants should explain the reason and describe plans to address gaps.

Please refer to the more detailed Guidance for Creating a CBP for ERA, which is available on OCED Exchange website at <https://oced-Exchange.energy.gov>. Applicants are encouraged to read this guidance, which includes examples of CBP milestones, goals, outcomes, benefits, and potential negative impacts.

**All elements of the table below must be addressed; however, it is expected the applicant will tailor the information provided in the Project and Community Benefits Plan to the size and complexity of the proposed project.**

Section and Content	Approximate length
<b>a) Project Overview</b>	1 page
<ul style="list-style-type: none"> <li>• Provide contact information for both Project Manager and the Project Business Contact, including, name, phone number, email address.</li> <li>• Project location information including, city, state, and zip code of community or communities benefitting from the proposed project, population of community (must be less than 10,000 inhabitants to qualify, project location, physical address (or crossroads or other identifying geographic feature), city, state, and zip code, if project will be constructed outside the community that will benefit</li> <li>• Community point of contact, if different from applicant, including name, title, email address, phone number, project title</li> <li>• What is the capacity of the proposed system? Specify capacity for each of the elements</li> </ul>	

below, if applicable for your project:

- Power generated in kW or MW
- Energy stored kWh or MWh
- Energy saved annually in kWh or MWh
- Distance (in miles) and voltage (in kV) of transmission and/or distribution lines provided
- What is the estimated system lifetime (in years)?
- What is the system scale; Facility Scale, Community Scale or Utility Scale?
- Will the project be connected to the grid? Yes/No

#### **b) Work Plan**

8 pages

This section requests details on how each of the following tasks will be completed throughout the duration of the project: site preparation, engineering, permitting, procurement, construction, interconnection (if required), and management and operation of the project.

1. Describe the site and facilities associated with the proposed project. Attach a map of the proposed site showing the location of the proposed project in [Section 4.4.2.8](#).
  - a. Clarify ownership of the proposed site. If the project team does not currently have control of the site, list the steps required to buy, lease, or otherwise access the proposed site. Identify milestones to achieve site control.
  - b. Is this project a portion of a larger project? If so, describe how this project fits into the larger project.
2. The project team should describe why they selected the proposed technology and outline a plan to procure and install the proposed technology.
  - a. Describe the technology proposed and why it is appropriate for your site selection. In [Section 4.4.2.7](#), attach any studies you have completed illustrating the technology selected is likely to succeed. These could include options (alternative technology) analyses, feasibility studies, energy assessments or audits, or results from previously completed technical assistance.
  - b. Identify milestones required to achieve a 90% engineering design and attach any previously completed engineering evaluations and designs. In [Section 4.4.2.7](#), attach copies of any hardware performance specifications, warranties, engineering drawings, and or any other design files that support your proposal.
3. Are interconnection agreements, net energy metering agreements, or arrangements/agreements for the sale or purchase of energy required as part of this project?
  - a. If yes, identify the agreements or permissions required to complete the proposed project and the process required to obtain these documents. Clarify if agreements or permissions are currently obtained or identify the milestone date(s) when they would need to be obtained. Attach any agreements that have been obtained in [Section 4.4.2.5](#).
4. Describe permits required to construct the project. If permits are required, include a permitting workflow overview that identifies the anticipated federal, state, and local codes, regulations, and permitting requirements applicable to siting, construction, and operation of the proposed project. If an application is selected for negotiation of award, applicants will be required to complete an Environmental Considerations Summary in support of National Environmental Policy Act (NEPA) compliance. Identify milestones to obtain all required permits.
5. Outline construction and commissioning steps for the proposed project. Clarify how much of the project construction will be managed by the project team and how much will be contracted. Construction and commissioning requirements identified here should be noted

<p>as milestones.</p> <p>6. Describe operations and maintenance needs of this project for the life of the project. Will the operations and maintenance be managed by the project team, by contract, or other? If additional staff will be hired for operations and maintenance, describe how staff will be recruited, hired, and trained.</p> <p>7. Identify any barriers or obstacles that could impede the project. Examples of barriers or obstacles might include weather, permitting or approval delays, supplier/vendor contracts, pending net metering or interconnection agreements, supply chain delays, lack of site control, or system integration. For each barrier or obstacle, explain potential impacts and how impacts can be made less severe.</p> <p>8. Use the milestones identified above to generate an Integrated Schedule for the Project. The schedule should illustrate all milestones required for project success.</p>	
<b>c) Business and Management</b>	<b>5 pages</b>
<p>9. Provide an organizational chart of the project's management structure. The chart should identify the owner, project manager, business contact, and other key personnel or organizations required to complete the proposed project.</p> <p>a. Identify the key personnel responsible for site preparation, engineering, permitting, procurement, construction, interconnection (if required), and management and operation of the project. Resumes are required in <a href="#">Section 4.4.2.4</a>.</p> <p>b. For any tasks not yet contracted, identify the key personnel responsible for securing future contracts.</p> <p>c. Identify which position in the organizational chart is responsible for procurement of the proposed technology and the vendor or procurement method to obtain the proposed technology. If the procurement of technology will be contracted, describe the project's contract process. Applicants may reference any Diversity, Equity, Inclusion, and Accessibility goals, described in the Community Benefits Plan section, to contract minority or underrepresented businesses.</p> <p>d. List any letters of commitment (see <a href="#">Section 4.4.2.5</a>) or formal partnerships required for the proposed project and whether they have been obtained. For letters you have obtained, provide them as attachments. For letters not yet obtained, include when they will be obtained as milestones.</p> <p>10. Describe the project's financial plan, including descriptions of the following:</p> <p>a. Ownership, off-takers, and co-parties such as critical suppliers</p> <p>b. Estimated revenue and use of the revenue</p> <p>c. How taxes, tax credits, incentives, or fees will be managed</p> <p>d. List any letters of commitment or formal partnerships required for these tasks and whether or not they have been obtained. For letters you have obtained, provide them as attachments in <a href="#">Section 4.4.2.5</a>. For letters not yet obtained, include when they will be obtained as milestones.</p> <p>11. Include an annual estimate of operations and maintenance (O&amp;M) costs and staffing needs for the life of the project.</p>	

12. Using the Integrated Schedule and key project milestones provided in the last section, propose payment milestones. Payment milestones are dollar values associated with the achievement of one or several workplan milestones.	
<b>d) Community Benefits Plan</b>	<b>4 pages</b>
<ol style="list-style-type: none"> <li>1. Project Benefits <ol style="list-style-type: none"> <li>a. Describe how the project will benefit the community, including the ways in which the proposed project location and related infrastructure, skilled workforce, etc. will contribute to the success of the overall project. Describe any actions the project team will take to ensure benefits are realized. Note that the description of benefits provided in the Pre-Application, question 10, may be used as a starting point for this question. Ensure actions are presented as milestones and incorporated in the Integrated Schedule provided under question 8 above.</li> </ol> </li> <li>2. Community, Labor, and Tribal Engagement <ol style="list-style-type: none"> <li>a. Describe how the project will incorporate input from community and labor stakeholders and any impacted Tribal entities on project decisions on an ongoing basis and how the project team will support transparency and accountability.</li> <li>b. Describe community, workforce, and/or Tribal partnerships that have been formed and attach letters of support in <a href="#">Section 4.4.2.3</a>.</li> <li>c. Describe additional community, workforce, and/or Tribal partnerships that will be formed throughout the project and provide milestones for each. Ensure these milestones are incorporated in the Integrated Schedule provided in question 8 above.</li> </ol> </li> <li>3. Job Quality and Workforce Continuity <ol style="list-style-type: none"> <li>a. Describe how the plan to staff operations and maintenance, as discussed in question 6 above, aligns with the economic and workforce priorities of the community. This may include plans to attract, train, and retain local workers.</li> <li>b. Describe the project team's plans to ensure that jobs created to construct, operate, and maintain the project are high-paying quality jobs that will support project stability, continuity, and success.</li> </ol> </li> <li>4. Diversity, Equity, Inclusion, and Accessibility <ol style="list-style-type: none"> <li>a. Describe goals, outcomes, strategies, and milestones that will be completed as part of this project to ensure jobs are accessible to underrepresented groups, especially workers facing systematic barriers to employment. Ensure these milestones are incorporated in the Integrated Schedule provided in question 8 above.</li> <li>b. Describe any other DEIA policies, including measurable and actionable goals, of the project team, and describe how these policies and goals will be incorporated into the Integrated Schedule and workplan.</li> </ol> </li> <li>5. Justice40 Initiative <ol style="list-style-type: none"> <li>a. Identify potential benefits and negative impacts of the project, and describe how they may accrue differently throughout the community, especially for vulnerable populations within the community, such as children, the elderly, and those experiencing homelessness. Applicants are encouraged to consider cumulative burdens.</li> <li>b. Describe how the project team will maximize project benefits and minimize project negative impacts. Describe how the project will ensure benefits are equitably realized, and vulnerable groups are not disproportionately harmed or burdened by the project. Present actions as milestones in the Integrated Schedule provided in question 8 above.</li> </ol> </li> </ol>	
<b>Total Project and Community Benefit Plan Maximum Page Limit</b>	<b>18 pages</b>

#### 4.4.2.3 Community Partnership Documentation

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In support of the Community Benefits Plan, applicants may submit letters, Memoranda of Understanding, or other similar agreements from partnering Tribes, labor unions, and/or community entities specifically describing the nature of existing or planned partnerships. If the applicant intends to enter into a Workforce and Community Agreement, please include letters from proposed partners.

#### 4.4.2.4 Resumes

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A resume must be provided for all senior and key personnel. A resume provides information that can be used by reviewers to evaluate the individual's relevant skills and experience of the personnel. Resumes may be up to two pages in length.

#### 4.4.2.5 Letters of Commitment

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Submit letters of commitment from all subrecipients and other formal project partners.

For Energy Partnerships and Offtake Arrangements: Provide any letters of commitment for the project partners. If letters of commitment are not signed at the time of application, the milestone described in the Workplan must clearly identify the intended partners and outline clear and concise steps to engage with and secure the intended partnerships and identify when (what project phase) commitments must be finalized. If there is an intention to sell power, identify the general terms of the power purchase agreement, and when these agreements must be finalized. The applicant must also provide letters of commitment or similar from the rural or remote area(s) identified. The letters of commitment should be submitted as a separate attachment through OCED eXCHANGE.

#### 4.4.2.6 Budget

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At a minimum, the budget must list each payment milestone described in the Integrated Schedule (Question 8 in the application template), including a title, description of the activities included in the payment milestone, and an estimate of the payment. Payment estimates should be broken down into Direct Labor, Direct Materials and Equipment, Contracted Work, Other Direct Costs, Indirect Costs, and Other.

Applicant should provide additional details about how Direct Materials and Equipment costs were calculated, including costs of major equipment, site preparation, engineering, permitting, installation, interconnection, and management and operations.

Applicants should include costs associated with implementing the various BIL-specific requirements (e.g., Buy America requirements for infrastructure projects, Davis Bacon compliance, Community Benefits Plan implementation, including supportive services such as childcare or transportation to support local workforce, reporting, oversight, etc.) and with required annual audits and incurred cost proposals in their proposed budget documents. Such costs may be reimbursed as a direct or indirect cost.

The budget may be provided in any format, but a template is available on OCED eXCHANGE.

#### 4.4.2.7 Engineering

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Provide any engineering material completed to date, such as options (alternative technology) analyses, feasibility studies, energy assessments or audits, or results from previously completed technical assistance or previously completed engineering evaluations and designs. Include copies of any hardware performance specifications, warranties, engineering drawings, and or any other design files that support your proposal.

#### 4.4.2.8 Maps and Graphics

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Attach a map of the proposed site showing the location of the proposed project and any additional supporting graphics.

#### 4.4.2.9 Transparency of Foreign Connections, If Applicable

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Applicants must identify the following as they relate to the proposed recipient and subrecipients:

1. The identity of all owners, Lead Project Manager, and senior/key personnel, at the recipient and subrecipient level, who are a party to any *Foreign Government-Sponsored Talent Recruitment Program* of a foreign country of risk (i.e., China, Iran, North Korea, and Russia).
2. The existence of any joint venture or subsidiary that is based in, funded by, or has a foreign affiliation with any foreign country of risk.

3. Any current or pending contractual or financial obligation or other agreement specific to a business arrangement, or joint venture-like arrangement with an enterprise owned by a foreign state or any foreign entity.
4. Percentage, if any, that the proposed recipient or subrecipient has foreign ownership or control.
5. Percentage, if any, that the proposed recipient or subrecipient is wholly or partially owned by an entity in a foreign country of risk.
6. The percentage, if any, of venture capital or institutional investment by an entity that has a general partner or individual holding a leadership role in such entity who has a foreign affiliation with any foreign country of risk.
7. Any technology licensing or intellectual property sales to a foreign country of risk, during the 5-year period preceding submission of the proposal.
8. Any foreign business entity, offshore entity, or entity outside the United States related to the proposed recipient or subrecipient.

DOE reserves the right to request additional or clarifying information based on the information submitted.

#### 4.4.2.10 Potentially Duplicative Federal Funding, If Applicable

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If the applicant or project team member has other active awards of federal funds, the applicant must determine whether the activities of those awards potentially overlap with the activities set forth in its application to this FOA. If there is a potential overlap, the applicant must notify DOE in writing of the potential overlap and state how it will ensure any project funds (i.e., recipient cost share and federal funds) will not be used for identical cost items under multiple awards.

Likewise, for projects that receive funding under this FOA, if a recipient or project team member receives any other award of federal funds for activities that potentially overlap with the activities funded under the DOE award, the recipient must promptly notify DOE in writing of the potential overlap and state whether project funds from any of those other federal awards have been, are being, or are to be used (in whole or in part) for one or more of the identical cost items under the DOE award. If there are identical cost items, the recipient must promptly notify the DOE Contracting Officer in writing of the potential duplication and eliminate any inappropriate duplication of funding.

If a recipient or project team member receives any other award of federal funds for activities that potentially overlap with the activities funded under the DOE award, the recipient must promptly notify DOE in writing of the potential overlap and state whether project funds from any of those other federal awards have been, are being, or are to be used (in whole or in part) for one or more of the identical cost items under the DOE award. If there are identical cost items, the recipient must promptly notify the DOE Contracting Officer in writing of the potential duplication and eliminate any inappropriate duplication of funding.

## 5.0 Application Review Information

### 5.0 Technical Review Criteria

#### 5.0.1 Pre-Applications

Information in the pre-application will also be used to determine eligibility and responsiveness. To be eligible, the applicant must demonstrate clearly defined activities to improve energy in rural or remote areas of the United States. The applicant must generally identify the types of activities and the remote or rural area that will benefit from these activities, using 2020 U.S. Census Bureau data. [Section 3.0](#) has provided more detail on these definitions and should be reviewed. To be considered responsive to the goals of this FOA, the technology used in the proposed project must be commercially available.

All other information in the pre-application will be evaluated against the review criteria shown below:

#### **Criterion 1: Project Benefits (45%)**

This criterion involves consideration of the following factors:

- The degree to which the community experiences significant energy challenges.
- The degree to which the project team has engaged and understands community priorities.
- The degree to which the project benefits the community, including the local workforce
- The degree to which the project team has taken action to ensure vulnerable populations within the community are not disproportionately impacted by the proposed project.

#### **Criterion 2: Technical Approach (55%)**

- The likelihood that the proposed project will function as designed in the specific community.
- The likelihood that the project will be operational within three years.
- The likelihood that the project will be able to obtain any permits or agreements needed for construction and operation.
- The likelihood that the project can be effectively operated and maintained without support from the federal government.
- Extent to which the applicant demonstrates understanding of costs associated with the proposed project.



## 5.0.2 Full Applications

Applications will be evaluated against the technical review criteria shown below, specific to this FOA that supports projects costing less than \$5 million.:

### **Criterion 1: Community Benefits Plan (30%)**

This criterion involves consideration of the following equally weighted factors:

#### Project Benefits

- The likelihood that the project will bring meaningful benefits to the rural or remote community.

#### Community and Labor Engagement

- Extent to which the project demonstrates a clear plan to meaningfully engage local stakeholders and impacted groups, including labor unions, community-based organizations, and Tribes, in a manner that influences project decisions.
- Extent to which the project addresses priorities identified by the community, labor, and Tribes impacted by the project.

#### Job Quality and Workforce Continuity

- Extent to which the Community Benefits Plan demonstrates that the jobs supported by the proposed project will be high quality (good paying, safe, opportunities for advancement, opportunity to join a union, and accessible to local workers) jobs.
- Extent to which the plan to attract, train, and retain local workers is aligned with the community's economic and workforce development priorities.

#### Diversity, Equity, Inclusion, and Accessibility

- Extent to which the project team has integrated DEIA policies and goals throughout their Integrated Schedule and project workplan.
- Quality of plan to facilitate participation in the project's construction and operations from underrepresented groups, especially workers facing systematic barriers to employment (e.g., women, disadvantage community residents, formerly incarcerated workers, Veterans, individuals with disabilities, etc.).

#### Justice40 Initiative

- Extent to which the Community Benefits Plan describes how project benefits and negative impacts will accrue within the community and outlines plans to maximize benefits and minimize negative impacts, especially for vulnerable groups within the community.
- Extent to which the project would contribute to meeting the Justice40 Initiative objective that 40% of the overall benefits of Federal climate and clean energy investments flow to disadvantaged communities.

## **Criterion 2: Workplan (30%)**

This criterion involves consideration of the following factors:

- The likelihood that the proposed workplan will lead to construction and operation of a project within three years.
- The overall reasonableness of the proposed milestones and associated payments.
- The degree to which the proposed workplan has been clearly and thoroughly described and thoughtfully considered.
- The capability of the prime recipient, the proposed team, and key personnel to manage and address all aspects of the proposed work with a high probability of success.

## **Criterion 3: Technical Merit (20%)**

This criterion involves consideration of the following factors:

- Extent to which the proposed technology or technologies are suited to the needs of the community and are likely to function as designed.
- Extent to which the applicant demonstrates understanding of the key technical, construction, regulatory, permitting, safety and occupational health, and infrastructure integration risks involved in the proposed work, and the quality of the mitigation strategies to address them.
- Extent to which the applicant demonstrates understanding of the permitting and regulatory needs to the project and presents a reasonable plan to overcome them.

## **Criterion 4: Financial Viability (20%)**

This criterion involves consideration of the following factors:

- The degree to which the application justifies the proposed project's economic viability and sustainability beyond DOE funding.
- The adequacy and justification of the proposed budget and spend plan.

## **5.1 Other Selection Factors**

### **5.1.1 Program Policy Factors**

In addition to the above criteria, the Selection Official may consider the following program policy factors in determining which Applications to select for award negotiations:

The degree to which the proposed project supports disadvantaged communities, communities with a high energy burden, or communities with an urgent energy challenge.

- The degree in which the communities are reasonably determined to be rural or remote.
- The degree to which the proposed project optimizes the use of available DOE funding to achieve programmatic objectives.
- The degree to which the proposed project is likely to lead to increased high-quality employment in rural and remote communities.

- The degree to which the proposed project, or group of projects, represent a desired geographic distribution (considering past awards and current applications).
- The degree to which the proposed project incorporates applicant or team members from Minority Serving Institutions (e.g., Historically Black Colleges and Universities (HBCUs)/Other Minority Serving Institutions); and partnerships with Minority Business Enterprises, Minority Owned Businesses, Woman Owned Businesses, Veteran Owned Businesses, or Tribal nations.
- The degree to which the proposed project incorporates community partnership and ownership as evidenced through, but not limited to, community groups or governments as prime applicants, community ownership or offtake agreement with the prime applicant, an equity model, or other indicators of community approval, engagement, and involvement in the application and which will result, upon award, in a measurable economic growth in the community.
- The degree to which the proposed project collectively represents diverse types and sizes of applicant organizations.

## 5.2 Evaluation and Selection Process

### 5.2.1 Overview

The evaluation process consists of multiple phases; each includes an initial eligibility review and a thorough technical review. Rigorous technical reviews of eligible submissions are conducted by reviewers that are experts in the subject matter of the FOA. Ultimately, the Selection Official considers the recommendations of the reviewers, along with other considerations such as the program policy factors, in determining which applications to select.

### 5.2.2 Pre-Selection Interviews

As part of the evaluation and selection process, DOE may invite one or more applicants to participate in pre-selection interviews or pre-selection site visits. Pre-selection interviews are distinct from and more formal than pre-selection clarifications (See [Section 5.2.3](#)). The invited applicant(s) will meet with DOE representatives to provide clarification on the contents of the applications and to provide DOE an opportunity to ask questions regarding the proposed project. The information provided by applicants to DOE through pre-selection interviews contributes to DOE's selection decisions. DOE will not reimburse applicants for travel and other expenses relating to the pre-selection interviews or site visits, nor will these costs be eligible for reimbursement as pre-award costs.

Pre-selection interviews may be conducted virtually.

Any pre-selection interviews and site visits may also include discussions with affected stakeholders or communities potentially impacted.

### **5.2.3 Pre-Selection Clarification**

DOE may determine that pre-selection clarifications are necessary from one or more applicants. Pre-selection clarifications are distinct from and less formal than pre-selection interviews. These pre-selection clarifications will solely be for the purposes of clarifying the Application.

The pre-selection clarifications may occur before, during or after the merit review evaluation process. Information provided by an applicant that is not necessary to address the pre-selection clarification question will not be reviewed or considered. Typically, a pre-selection clarification will be carried out through either written response to DOE's written clarification questions or video or conference calls with DOE representatives.

The information provided by applicants to DOE through pre-selection clarifications is incorporated in their applications and contributes to the merit review evaluation and DOE's selection decisions. If DOE contacts an applicant for pre-selection clarification purposes, it does not signify that the applicant has been selected for negotiation of award or that the applicant is among the top-ranked Applications.

DOE will not reimburse applicants for expenses relating to the pre-selection clarifications, nor will these costs be eligible for reimbursement as pre-award costs.

### **5.2.4 Recipient Integrity and Performance Matters**

DOE, prior to making a federal award with a total amount of federal share greater than the simplified acquisition threshold, is required to review and consider any information about the applicant that is in the designated integrity and performance system accessible through SAM (see [41 U.S.C. § 2313](#)).

### **5.2.5 Selection**

The Selection Official may consider the technical merit, the Federal Consensus Board's recommendations, program policy factors, and the amount of funds available in arriving at selections for this FOA.

## **5.3 Notice of Selection and Award Negotiation Dates**

OCED will notify applicants that are selected for award negotiation, and selected applicants will be notified of their award negotiation dates.

## **6.0 Award Administration Information**

### **6.0 Notifications**

#### **6.0.1 Pre-Application Notifications**

DOE will notify applicants of its determination via a notification letter by email to the technical and administrative points of contact designated by the applicant in OCED eXCHANGE. The notification letter will inform the applicant whether or not it is invited to submit a Full Application. DOE may include general comments provided from reviewers on an applicant's Pre-Application.

#### **6.0.2 Full Application Notifications**

DOE will notify applicants of its determination via a notification letter by email to the technical and administrative points of contact designated by the applicant in OCED eXCHANGE. The notification letter will inform the applicant whether or not its application was selected for award negotiations. Alternatively, DOE may notify one or more applicants that a final selection determination on particular applications will be made at a later date, subject to the availability of funds or other factors.

#### **6.0.3 Successful Applicants**

Receipt of a notification letter selecting a Full Application for award negotiations does not authorize the applicant to commence performance of the project. If an application is selected for award negotiations, it is not a commitment by DOE to issue an award. Applicants do not receive an award until award negotiations are complete and the Grants and Agreements Officer executes the funding agreement, accessible by the prime recipient in FedConnect.

The award negotiation process will take approximately 60 days. Applicants must designate a primary and a backup point-of-contact in OCED eXCHANGE with whom DOE will communicate to conduct award negotiations. The applicant must be responsive during award negotiations by providing requested documentation, including Just-In-Time documentation (see [Appendix Section A.3.1](#)) and meet the negotiation deadlines. If the applicant fails to do so or if award negotiations are otherwise unsuccessful, DOE will cancel the award negotiations and rescind the selection. DOE reserves the right to terminate award negotiations at any time for any reason.

#### **6.0.4 Alternate Selection Determinations**

In some instances, an applicant may receive a notification that its Full Application was not selected for award and DOE designated the Application to be an alternate. As an alternate, DOE may consider the Application for federal funding in the future. A notification letter stating the Application is designated as an alternate does not authorize the applicant to commence performance of the project. DOE may ultimately determine to select or not select the Application for award negotiations.

### 6.0.5 Unsuccessful Applicants

DOE shall promptly notify in writing each applicant whose Application has not been selected for award or whose Application cannot be funded because of the unavailability of appropriated funds.

## 6.1 Award Conditions and Reporting

Recipients of an award made under this FOA must comply with requirements of all applicable federal, state, and local laws, regulations, DOE policy and guidance, instructions in this FOA, and the award terms and conditions. Recipients must require subrecipients' compliance with all applicable requirements. Reporting requirements are identified on the Federal Assistance Reporting Checklist, attached to the award agreement.

## 7.0 Questions/Agency Contacts

Upon the issuance of a FOA, DOE personnel are prohibited from communicating (in writing or otherwise) with applicants regarding the FOA except through the established question and answer (Q&A) process as described below. Specifically, questions regarding this FOA must be submitted to: [ERAGrant@hq.doe.gov](mailto:ERAGrant@hq.doe.gov). Questions must be submitted not later than 3 business days prior to the application due date and time. Please note, feedback on individual concepts will not be provided through Q&A.

All questions and answers related to this FOA will be posted on OCED eXCHANGE at: <https://OCED-exchange.energy.gov>. **You must first select this specific FOA Number to view the questions and answers specific to this FOA.** OCED will attempt to respond to a question within 3 business days, unless a similar question and answer has already been posted on the website.

Questions related to the registration process and use of the OCED eXCHANGE website should be submitted to: [OCED-ExchangeSupport@hq.doe.gov](mailto:OCED-ExchangeSupport@hq.doe.gov). Include FOA name and number in subject line.

## APPENDIX A – ADDITIONAL INFORMATION

### A.1 Guidance Document

Refer to the Guidance Document for this FOA available on OCED eXCHANGE under this FOA's posting for the definition of used terms and additional information related to the requirements in this appendix, and additional post-application submission information.

### A.2 Funding Restrictions

#### A.2.1 Allowable Costs

All expenditures must be allowable, allocable, and reasonable in accordance with the applicable federal cost principles. Pursuant to [2 CFR 910.352](#), the cost principles in the Federal Acquisition Regulations ([48 CFR 31.2](#)) apply to for-profit entities. The cost principles contained in [2 CFR Part 200 Subpart E](#) apply to all entities other than for-profits.

#### A.2.2 Pre-Award Costs

Applicants selected for award negotiations (selectees) must request prior written approval to charge pre-award costs. Pre-award costs cannot be incurred prior to the Selection Official signing the Selection Statement and Analysis.

Pre-award expenditures are made at the applicant's risk. OCED is not obligated to reimburse costs as outlined in the Guidance Document.

#### A.2.3 Buy America Requirements for Infrastructure Projects

Pursuant to the Build America, Buy America Act (referred to here as "Buy America") in Title IX of Division G of the BIL, federally assisted projects that involve infrastructure work, undertaken by applicable recipient types, require that:

- All iron, steel, and manufactured products used in the infrastructure work are produced in the United States; and
- All construction materials used in the infrastructure work are manufactured in the United States.

Whether a given project must apply this requirement is project-specific and dependent on several factors, such as the recipient's entity type, whether the work involves "infrastructure" as that term is defined in Section 70912 of the BIL, and whether the infrastructure in question is publicly owned or serves a public function.

Applicants are strongly encouraged to assess whether their project may have to apply this requirement, both to make an early determination as to the need of a waiver, as well as to determine what impact, if any, this requirement may have on the proposed project's budget.

For additional information on Buy America requirements, visit DOE's [Build America, Buy America](#) webpage.

#### **A.2.4 Davis-Bacon Act Requirements**

Projects awarded under this FOA will be funded under Division D of the BIL. Accordingly, per Section 41101 of the BIL, all laborers and mechanics employed by the recipient, subrecipients, contractors or subcontractors in the performance of construction, alteration, or repair work funded in whole or in part under this FOA shall be paid wages at rates not less than those prevailing on similar projects in the locality, as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code commonly referred to as the "Davis-Bacon Act" (DBA). There are weekly reporting requirements.

Recipients of funding under this FOA will also be required to undergo DBA compliance training and to maintain competency in DBA compliance. The Contracting Officer will notify the recipient of any DOE sponsored DBA compliance trainings. The Department of Labor offers free Prevailing Wage Seminars several times a year that meet this requirement, at <https://www.dol.gov/agencies/whd/government-contracts/construction/seminars/events>.

For additional guidance on how to comply with the DBA provisions and clauses, see <https://www.dol.gov/agencies/whd/government-contracts/construction> and <https://www.dol.gov/agencies/whd/government-contracts/protections-for-workers-in-construction>.

#### **A.2.5 Risk Assessment**

Pursuant to [2 CFR 200.206](#), DOE will conduct an additional review of the risk posed by applications submitted under this FOA.

Such risk assessment will consider:

1. Financial stability;
2. Quality of management systems and ability to meet the management standards prescribed in [2 CFR Part 200](#) as amended and adopted by [2 CFR Part 910](#);
3. History of performance;
4. Audit reports and findings; and
5. The applicant's ability to effectively implement statutory, regulatory, or other requirements imposed on non-federal entities.

DOE may make use of other publicly available information and the history of an applicant's performance under DOE or other federal agency awards. Depending on the severity of the findings and whether the findings were resolved, DOE may elect not to fund the applicant.



In addition to this review, DOE must comply with the guidelines on government-wide suspension and debarment in [2 CFR Part 180](#) and must require non-federal entities to comply with these provisions. These provisions restrict federal awards, subawards and contracts with certain parties that are debarred, suspended or otherwise excluded from or ineligible for participation in federal programs or activities.

The Community Benefits Plan is DOE's approach to identify and mitigate social risks associated with project implementation. Risk assessment should include assessment of community opposition, potential labor disputes, availability of a skilled workforce, public and worker health and safety considerations, etc.

The applicant should consider that for large construction projects, DOE may require a Project Labor Agreement (PLA), an agreement between a private entity (or entities) and a labor organization (or organizations) representing individuals who will be working on a construction project. Assessment of applicability will be conducted on a case-by-case basis.

Further, as DOE invests in critical infrastructure and funds critical and emerging technology areas, DOE also considers possible vectors of undue foreign influence in evaluating risk. If high risks are identified and cannot be sufficiently mitigated, DOE may elect to not fund the award.

#### **A.2.6 Human Subjects**

No funding will be provided under this FOA for any activities involving human subjects.

#### **A.2.7 Performance of Work in the United States (Foreign Work Waiver)**

##### **1. Requirement**

All work performed under awards issued under this FOA must be performed in the United States. The recipient must flow down this requirement to its subrecipients.

##### **2. Failure to Comply**

If the recipient fails to comply with the Performance of Work in the United States requirement, DOE may deny reimbursement for the work conducted outside the United States and such costs may not be recognized as allowable recipient cost share.

The recipient is responsible should any work be performed outside the United States, absent a waiver, regardless of whether the work is performed by the recipient, subrecipients, contractors or other project partners.

##### **3. Waiver**

To seek a foreign work waiver, the applicant must submit a written waiver request to DOE. [Appendix B](#) lists the information that must be included in a request for a foreign work waiver.

## A.2.8 Prohibition related to Foreign Government-Sponsored Talent Recruitment Programs

### a. Prohibition

Persons participating in a *Foreign Government-Sponsored Talent Recruitment Program of a Foreign Country of Risk* are prohibited from participating in projects selected for federal funding under this FOA. Should an award result from this FOA, the recipient must exercise ongoing due diligence to reasonably ensure that no individuals participating on the DOE-funded project are participating in a *Foreign Government-Sponsored Talent Recruitment Program of a Foreign Country of Risk*. Consequences for violations of this prohibition will be determined according to applicable law, regulations, and policy.

Further, the recipient must notify DOE within five (5) business days upon learning that an individual on the project team is or is believed to be participating in a foreign government-sponsored talent recruitment program of a foreign country of risk. DOE may modify and add requirements related to this prohibition to the extent required by law.

### b. Definitions:

**Foreign Government-Sponsored Talent Recruitment Program.** An effort directly or indirectly organized, managed, or funded by a foreign government, or a foreign government instrumentality or entity, to recruit science and technology professionals or students (regardless of citizenship or national origin, or whether having a full-time or part-time position). Some foreign government-sponsored talent recruitment programs operate with the intent to import or otherwise acquire from abroad, sometimes through illicit means, proprietary technology or software, unpublished data and methods, and intellectual property to further the military modernization goals and/or economic goals of a foreign government.

Many, but not all, programs aim to incentivize the targeted individual to relocate physically to the foreign state for the above purpose. Some programs allow for or encourage continued employment at United States research facilities or receipt of federal research funds while concurrently working at and/or receiving compensation from a foreign institution, and some direct participants not to disclose their participation to U.S. entities. Compensation could take many forms including cash, research funding, complimentary foreign travel, honorific titles, career advancement opportunities, promised future compensation, or other types of remuneration or consideration, including in-kind compensation.

**Foreign Country of Risk.** DOE has designated the following countries as foreign countries of risk: Iran, North Korea, Russia, and China. This list is subject to change.

## **A.2.9 Affirmative Action and Pay Transparency Requirements**

All federally assisted construction contracts exceeding \$10,000 annually will be subject to the requirements of [Executive Order 11246](#), as amended, Equal Employment Opportunity:

1. Recipients are prohibited from discriminating in employment decisions on the basis of race, color, religion, sex, sexual orientation, gender identity or national origin.
2. Recipients must take affirmative action to ensure that equal opportunity is provided in all aspects of their employment. This includes flowing down the appropriate language to all subrecipients and contractors.
3. Recipients are prohibited from taking adverse employment actions against applicants and employees for asking about, discussing, or sharing information about their pay or, under certain circumstances, the pay of their co-workers.

The Department of Labor's (DOL) Office of Federal Contractor Compliance Programs (OFCCP) uses a neutral process to schedule contractors for compliance evaluations. OFCCP's [Technical Assistance Guide](#) should be consulted to gain an understanding of the requirements and possible actions the recipients, subrecipients, contractors and subcontractors must take. Additional guidance may also be found in the National Policy Assurances, produced by DOE.

## **A.3 Other Submission Requirements**

### **A.3.1 Post Submission Materials and Just-In-Time Documents**

Some materials will be required as post submission materials that are due after the merit review is complete. The applicant will be notified on what documents and materials to submit, the format required and where and when to submit.

#### **A.3.1.1 Applicant Disclosure of Existing Work or Relationship with National Labs**

Applicant shall disclose pre-existing work or relationship with national lab(s) that is prior to this FOA's application and that is or may be relevant to the FOA application.

### **A.3.2 Administrative and National Policy Requirements**

To receive a federal award under this FOA, all applicants must follow applicable cross-cutting administrative and national policy requirements. The policies are requirements based on social, economic, or other objectives or considerations that may be attached to the expenditure of federal funds by award recipients, consortium participants, and contractors, in general, or may relate to the expenditure of federal funds for other specified activities.

- Clean Air Act
- Clean Water Act
- National Flood Insurance Act of 1968 and Flood Disaster Prevention Act of 1973 and EO 13690
- Title VI of the Civil Rights Act of 1964

- Section 504 of the Rehabilitation Act of 1973
- Age Discrimination Act of 1975 .

#### **A.3.2.1 Requirement to Report Potentially Duplicative Funding**

If a recipient or project team member receives any other award of federal funds for activities that potentially overlap with the activities funded under the DOE award, the recipient must promptly notify DOE in writing of the potential overlap and state whether project funds from any of those other federal awards have been, are being, or are to be used (in whole or in part) for one or more of the identical cost items under the DOE award. If there are identical cost items, the recipient must promptly notify the DOE Contracting Officer in writing of the potential duplication and eliminate any inappropriate duplication of funding.

### **A.4 Standards for Application Evaluation**

Applications that are determined to be eligible will be evaluated in accordance with this FOA, by the standards set forth in the Notice of Objective Merit Review Procedure (76 Fed. Reg. 17846, March 31, 2011) and the guidance provided in the “DOE Merit Review Guide for Financial Assistance,” effective October 2021, which is available at: [Department of Energy Guide to Financial Assistance October 2021](#).

### **A.5 Evaluation and Administration by Non-Federal Personnel**

In conducting the merit review evaluation, the Go/No-Go Reviews and Peer Reviews, the government may seek the advice of qualified non-federal personnel as reviewers. The government may also use non-federal personnel to conduct routine, nondiscretionary administrative activities, including DOE contractors. The applicant, by submitting its Application, consents to the use of non-federal reviewers/administrators. Non-federal reviewers must sign conflict of interest and non-disclosure acknowledgements (NDA) prior to reviewing an application. Non-federal personnel conducting administrative activities must sign an NDA.

#### **A.5.1 Treatment of Application Information**

The Department of Energy takes very seriously the confidentiality of all applicants and will treat information submitted in applications, as well as the identity of applicants, as confidential to the fullest extent permissible under Federal law. In order for DOE to protect confidential information, the applicant must also treat the information as confidential and properly mark it as described below. DOE will not be able to protect information that the applicant has released publicly or is in the public domain. For additional information on DOE’s Freedom of Information Act (FOIA) regulations, see 10 CFR Part 1004.

Applicants should not include business sensitive (e.g., commercial or financial information that is privileged or confidential), trade secrets, proprietary, or otherwise confidential information in their application unless such information is necessary to convey an understanding of the proposed project or to comply with a requirement in the FOA. Applicants are advised to not include any critically sensitive proprietary detail.

If an application includes business sensitive, trade secrets, proprietary, or otherwise confidential information, it is furnished to the federal government in confidence with the understanding that the information shall be used or disclosed only for evaluation of the application. Such information will be withheld from public disclosure to the extent permitted by law, including the Freedom of Information Act. Without assuming any liability for inadvertent disclosure, DOE will seek to limit disclosure of such information to its employees and to outside reviewers when necessary for merit review of the application or as otherwise authorized by law. This restriction does not limit the government's right to use the information if it is obtained from another source.

Applications, and other submissions containing confidential, proprietary, or privileged information must be marked as described below. Failure to comply with these marking requirements may result in the disclosure of the unmarked information under the Freedom of Information Act or otherwise. The U.S. Government is not liable for the disclosure or use of unmarked information and may use or disclose such information for any purpose.

The cover sheet of the Application, and other submissions must be marked as follows and identify the specific pages containing trade secrets, confidential, proprietary, or privileged information:

**Notice of Restriction on Disclosure and Use of Data:**

Pages [list applicable pages] of this document may contain trade secrets, confidential, proprietary, or privileged information that is exempt from public disclosure. Such information shall be used or disclosed only for evaluation purposes or in accordance with a financial assistance or loan agreement between the submitter and the Government. The Government may use or disclose any information that is not appropriately marked or otherwise restricted, regardless of source. [End of Notice]

The header and footer of every page that contains confidential, proprietary, or privileged information must be marked as follows: "Contains Trade Secrets, Confidential, Proprietary, or Privileged Information Exempt from Public Disclosure." In addition, each line or paragraph containing proprietary, privileged, or trade secret information must be clearly marked with double brackets or highlighting.

If DOE receives a Freedom of Information Act (FOIA) request, the following general steps will be taken. First, DOE will review the request to determine whether your company's information is subject to the request. DOE will then review the information and decide whether it can make a determination whether the information is legally exempt.

If DOE determines that your information is fully exempt from release, DOE may not contact you. If DOE is unable to determine whether your information is exempt from release or is planning on releasing some or all of your information, DOE will first contact you to give you the opportunity to respond and provide additional justification as to why it may be exempt. If contacted, it is critical that you reply in a timely manner as DOE is under strict deadlines when processing FOIA requests.

## A.6 Retention of Submissions

DOE expects to retain copies of all applications and other submissions. No submissions will be returned. By applying to DOE for funding, applicants consent to DOE's retention of their submissions.

## A.7 Personally Identifiable Information

All information provided by the applicant must to the greatest extent possible exclude Personally Identifiable Information (PII), which is information which can be used to distinguish or trace an individual's identity, such as their name, social security number, biometric records, alone, or when combined with other personal or identifying information which is linked or linkable to a specific individual, such as date and place of birth, or mother's maiden name. See OMB Memorandum M-07-16 dated May 22, 2007, found at: [https://www.whitehouse.gov/wp-content/uploads/legacy\\_drupal\\_files/omb/memoranda/2007/m07-16.pdf](https://www.whitehouse.gov/wp-content/uploads/legacy_drupal_files/omb/memoranda/2007/m07-16.pdf).

By way of example, applicants must screen resumes to ensure that they do not contain PII such as personal addresses, personal landline/cell phone numbers, and personal emails. **Under no circumstances should Social Security Numbers (SSNs) be included in the application.** Federal agencies are prohibited from collecting, using, and displaying unnecessary SSNs. See, the Federal Information Security Modernization Act of 2014 (Pub. L. No. 113-283, Dec 18, 2014; 44 U.S.C. § 3551).

## A.8 Informational Webinar

DOE will conduct one or more informational webinars during the FOA process. It will be held after the initial FOA release but before the due date for Concept Papers.

Attendance is not mandatory and will not positively or negatively impact the overall review of any applicant submissions. As the webinar will be open to all applicants who wish to participate, applicants should refrain from asking questions or communicating information that would reveal confidential and/or proprietary information specific to their project. Specific dates for the webinar can be found on the cover page of the FOA.

## A.9 Teaming Partner List

DOE is compiling a “Teaming Partner List” to facilitate the formation of new project teams for this FOA. The Teaming Partner List allows individuals and organizations who may wish to participate on an application to express their interest to other applicants and to explore potential partnerships.

Updates to the Teaming Partner List will be available in the OCED eXCHANGE website. The Teaming Partner List will be regularly updated to reflect new teaming partners who provide their organization’s information.

SUBMISSION INSTRUCTIONS: Any individual or organization that would like to be included on this list should submit the following required information (unless noted as optional): Organization’s Name (if an organization), Organization Type (if an organization), Organization or Individual’s Webpage (required to provide if one exists), Contact Name, Contact Address (include country; street number and name, and unit or suite number are optional), Contact Email, Contact Phone (include country and area code), Area(s) of Technical Expertise, Brief Description of Capability(ies), Description of Need in a Partner(s). Interested parties should email the information to [ERAGrant@hq.doe.gov](mailto:ERAGrant@hq.doe.gov) with the subject line “Teaming Partner Information.”

DISCLAIMER: By submitting a request to be included on the Teaming Partner List, the requesting individual or organization (if an organization) consents to the publication of the above-referenced information. By facilitating the Teaming Partner List, DOE is not endorsing, sponsoring, or otherwise evaluating the qualifications of the individuals and organizations that are self-identifying themselves for placement on this Teaming Partner List. DOE will not pay for the provision of any information, nor will it compensate any applicants or requesting organizations for the development of such information.

## A.10 Uniform Commercial Code Financing Statements

Per [2 CFR 910.360](#) (Real Property and Equipment) when a piece of equipment is purchased by a for-profit recipient or subrecipient with federal funds, and when the federal share of the financial assistance agreement is more than \$1,000,000, the recipient or subrecipient must:

Properly record, and consent to the Department's ability to properly record if the recipient fails to do so, Uniform Commercial Code (UCC) financing statement(s) for all equipment in excess of \$5,000 purchased with project funds. These financing statement(s) must be approved in writing by the Grants and Agreements Officer prior to the recording, and they shall provide notice that the recipient's title to all equipment (not real property) purchased with federal funds under the financial assistance agreement is conditional pursuant to the terms of this section, and that the government retains an undivided reversionary interest in the equipment.

The UCC financing statement(s) must be filed before the Grants and Agreements Officer may reimburse the recipient for the federal share of the equipment unless otherwise provided for in the relevant financial assistance agreement. The recipient shall further make any amendments to the financing statements or additional recordings, including appropriate continuation statements, as necessary or as the Grants and Agreements Officer may direct.

### **A.11 Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment**

As set forth in [2 CFR 200.216](#), recipients and subrecipients are prohibited from obligating or expending project funds (federal funds and recipient cost share) to procure or obtain; extend or renew a contract to procure or obtain; or enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

As described in [Section 889 of Public Law 115-232](#), covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

See [Public Law 115-232 Section 889](#), [2 CFR 200.216](#), and [2 CFR 200.471](#) for additional information.

### **A.12 Subject Invention Utilization Reporting**

To ensure that prime recipients and subrecipients holding title to subject inventions are taking the appropriate steps to commercialize subject inventions, DOE may require that each prime recipient holding title to a subject invention submit annual reports for ten (10) years from the date the subject invention was disclosed to DOE on the utilization of the subject invention and efforts made by prime recipient or their licensees or assignees to stimulate such utilization. The reports must include information regarding the status of development, date of first commercial sale or use, gross royalties received by the prime recipient, and such other data and information as DOE may specify.

### **A.13 Rights in Technical Data**

Data rights differ based on whether data is first produced under an award or instead was developed at private expense outside the award.

“Limited Rights Data”: The United States government will not normally require delivery of confidential or trade secret-type technical data developed solely at private expense prior to issuance of an award, except as necessary to monitor technical progress and evaluate the potential of proposed technologies to reach specific technical and cost metrics.



Government Rights in Technical Data Produced Under Awards: The United States government normally retains unlimited rights in technical data produced under government financial assistance awards, including the right to distribute to the public. However, pursuant to special statutory authority, certain categories of data generated under DOE awards may be protected from public disclosure for up to five years after the data is generated (“Protected Data”). For awards permitting Protected Data, the protected data must be marked as set forth in the award’s intellectual property terms and conditions and a listing of unlimited rights data (i.e., non-protected data) must be inserted into the data clause in the award. In addition, invention disclosures may be protected from public disclosure for a reasonable time in order to allow for filing a patent application.

## **A.14 Copyright**

The prime recipient and subrecipients may assert copyright in copyrightable works, such as software, first produced under the award without DOE approval. When copyright is asserted, the government retains a paid-up nonexclusive, irrevocable worldwide license to reproduce, prepare derivative works, distribute copies to the public, and to perform publicly and display publicly the copyrighted work. This license extends to contractors and others doing work on behalf of the government.

## **A.15 Fraud, Waste, and Abuse**

The DOE Office of Inspector General (OIG) maintains a Hotline for reporting allegations of fraud, waste, abuse, or mismanagement. To report such allegations, please visit <https://www.energy.gov/ig/ig-hotline>.

Recipients of DOE awards must be cognizant of the requirements of [2 CFR 200.113 Mandatory disclosures](#). See the Guidance Document for additional information.

## **A.16 Participants and Collaborating Organizations**

If selected for award negotiations, the selected applicant must submit a list of personnel who are proposed to work on the project, both at the recipient and subrecipient level and a list of proposed collaborating organizations prior to award. Recipients will have an ongoing responsibility to notify DOE of changes to the personnel and collaborating organizations and submit updated information during the life of the award.

## **A.17 U.S. Manufacturing Commitments**

The applicant must agree to a U.S. Competitiveness provision requiring that any products embodying any subject invention or produced through the use of any subject invention will be manufactured substantially in the United States unless the recipient can show to the satisfaction of DOE that it is not commercially feasible.

See the Guidance Document for award terms, modification request or waiver, title to subject inventions, government rights in subject inventions, Determination of Exceptional Circumstances (DEC) and DOE Patent Waivers, and additional information.

### **A.18 Interim Conflicts of Interest Policy for Financial Assistance**

The recipient is subject to the requirements of the DOE interim Conflict of Interest Policy for Financial Assistance (COI Policy), and the recipient must certify that it is compliant with all the requirements in the DOE interim COI Policy. The recipient must flow down the requirements of the DOE interim COI Policy to any subrecipient non-federal entities. The DOE interim COI Policy can be found [here](#). See the Guidance Document for additional information.

### **A.19 Disclosure of Lobbying Activities**

Recipients and subrecipients may not use any federal funds to influence or attempt to influence, directly or indirectly, any officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress, in connection with any Federal contract, grant, loan, or cooperative agreement. In addition, if any registrants under the Lobbying Disclosure Act of 1995 have made a lobbying contact on behalf of the applicant (including with non-federal funds) with respect to this funding opportunity, the applicant must complete and submit SF-LLL, “Disclosure of Lobbying Activities” (<https://www.grants.gov/web/grants/forms/sf-424-individual-family.html>).

## APPENDIX B – WAIVER REQUESTS FOR FOREIGN ENTITY PARTICIPATION AND FOREIGN WORK

### Waiver for Foreign Entity Participation as Subrecipient

In limited circumstances, DOE may approve a waiver to allow a foreign entity to participate as a prime recipient or subrecipient. A foreign entity may submit an application to this FOA, but the Application must be accompanied by an explicit written waiver request. Likewise, if the applicant seeks to include a foreign entity as a subrecipient, the applicant must submit a separate explicit written waiver request in the application for each proposed foreign subrecipient.

Many of the technology areas DOE funds fall in the category of critical and emerging technologies (CETs). CETs are a subset of advanced technologies that are potentially significant to United States national and economic security.<sup>6</sup> For projects selected under this FOA, all recipients and subrecipients must be organized, chartered or incorporated (or otherwise formed) under the laws of a state or territory of the United States; have majority domestic ownership and control; and have a physical location for business operations in the United States. To request a waiver of this requirement, an applicant must submit an explicit waiver request in the Application.

### Waiver Criteria

Foreign entities seeking to participate in a project under this FOA must demonstrate to the satisfaction of DOE that:

- a. Its participation is in the best interest of the United States industry and United States economic development;
- b. The project team has appropriate measures in place to control sensitive information and protect against unauthorized transfer of scientific and technical information;
- c. Adequate protocols exist between the United States subsidiary and its foreign parent organization to comply with export control laws and any obligations to protect proprietary information from the foreign parent organization;
- d. The work is conducted within the United States and the entity acknowledges and demonstrates that it has the intent and ability to comply with the U.S. Competitiveness Provisions (see [Appendix Section A.17](#), and the Guidance Document for this FOA available on OCED eXCHANGE under this FOA's posting for additional information); and
- e. The foreign entity will satisfy other conditions that may be deemed necessary by DOE to protect United States government interests.

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<sup>6</sup> See [Critical and Emerging Technologies List Update \(whitehouse.gov\)](#).

## **Content for Waiver Request**

A foreign entity waiver request must include the following:

- a. Information about the entity: name, point of contact, and proposed type of involvement in the project;
- b. Country of incorporation, the extent of the ownership/level of control by foreign entities, whether the entity is state owned or controlled, a summary of the ownership breakdown of the foreign entity and the percentage of ownership/control by foreign entities, foreign shareholders, foreign state(s) or foreign individual(s);
- c. The rationale for proposing that a foreign entity participate (must address the criteria above);
- d. A description of the project's anticipated contributions to the United States economy;
- e. A description of how the foreign entity's participation is essential to the project, including;
  - How the project will benefit the United States, including manufacturing, contributions to employment in the United States and growth in new markets and jobs in the United States;
  - How the project will promote manufacturing of products and/or services in the United States;
- f. A description of the likelihood of Intellectual Property (IP) being created from the work and the treatment of any such IP; and
- g. Countries where the work will be performed (Note: if any work is proposed to be conducted outside the United States, the applicant must also complete a separate foreign work waiver request).

DOE may also require:

- A risk assessment with respect to IP and data protection protocols that includes the export control risk based on the data protection protocols, the technology being developed and the foreign entity and country. These submissions could be prepared by the project lead (if not the prime recipient), but the prime recipient must make a representation to DOE as to whether it believes the data protection protocols are adequate and make a representation of the risk assessment – high, medium, or low risk of data leakage to a foreign entity.
- Additional language may be added to any agreement or subagreement to protect IP, mitigate risk, or other related purposes.
- DOE may require additional information before considering a waiver request.

DOE's decision concerning a waiver request is not appealable.

### **Waiver for Performance of Work in the United States (Foreign Work Waiver)**

As set forth in [Appendix Section A.2.7](#), all work funded under this FOA must be performed in the United States. To seek a waiver of the Performance of Work in the United States requirement, the applicant must submit an explicit waiver request in the application. A separate waiver request must be submitted for each entity proposing performance of work outside of the United States.

Overall, a waiver request must demonstrate to the satisfaction of DOE that it would further the purposes of this FOA and is otherwise in the economic interests of the United States to perform work outside of the United States. A request for a foreign work waiver must include the following:

1. The rationale for performing the work outside of the United States (“foreign work”);
2. A description of the work proposed to be performed outside the United States;
3. An explanation of how the foreign work is essential to the project;
4. A description of the anticipated benefits to be realized by the proposed foreign work and the anticipated contributions to the United States economy;
5. The associated benefits to be realized and the contribution to the project from the foreign work;
6. How the foreign work will benefit the United States, including manufacturing, contributions, to employment in the United States and growth in new markets and jobs in the United States;
7. How the foreign work will promote manufacturing of products and/or services in the United States;
8. A description of the likelihood of Intellectual Property (IP) being created from the foreign work and the treatment of any such IP;
9. The total estimated cost (DOE and recipient cost share) of the proposed foreign work;
10. The country(ies) in which the foreign work is proposed to be performed; and
11. The name of the entity that would perform the foreign work. Information about the entity(ies) involved in the work proposed to be conducted outside the United States (e.g., the entity seeking a waiver and the entity(ies) that will conduct the foreign work).

DOE may require additional information before considering a waiver request.

DOE’s decision concerning a waiver request is not appealable.