



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

Guidance Document for Bipartisan Infrastructure Law Energy Improvement in Rural or Remote Areas Fixed Award Grant Program Funding Opportunity Announcement No. DE-FOA-0003045

Issue Date: May 11, 2023

Modification Date: October 6, 2023

Modification No. 000001

This Energy Improvement in Rural or Remote Areas guidance document is for informational purposes only. If there are inconsistencies between the Bipartisan Infrastructure Law Energy (BIL) Improvement in Rural or Remote Areas (ERA) Fixed Award Grant Program Funding Opportunity Announcement (FOA) ~~issued on May 11, 2023 (FOA No. DE-FOA-0003045)~~ and the statements in this document, the FOA is the controlling document and applicants should rely on the FOA language. See [OCED Exchange](#) for the currently approved FOA.



Modifications

All modifications to this document are **HIGHLIGHTED IN YELLOW**; **STRUCK THROUGH AND HIGHLIGHTED IN YELLOW** text in this document has been removed.

Mod. No.	Date	Description of Modification
000001	10/6/23	<ul style="list-style-type: none">• Removed “issued on May 11, 2023 (FOA No. DE-FOA-0003045)” throughout the document.• Revised Sections 1.0, 2.0, 2.2.8, 2.4, 2.4.1.1, 2.7, 3.1, 3.5, 3.9, 3.13, 3.19, 3.20.1, 4.2, 4.8, 5.0, 5.1, 5.2, 5.3.1, 5.3.2,• Added Section 2.6 “What is a Census County Division?”



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1.0 Disclaimer

This document contains general guidance information that may be referenced for the Energy Improvement in Rural or Remote Areas (ERA) Fixed Award Grant Program Funding Opportunity Announcement (FOA) ~~issued on May 11, 2023 (FOA No. DE-FOA-0003045)~~, referred to as “the FOA”, “the ERA FOA” or “the ERA Fixed Award Grant Program FOA” throughout this document. This document is general in nature and specific subsections may not be applicable, ~~or relevant~~ or may not apply to a particular situation based upon the individual facts and circumstances. ~~In addition, some sections of this document may provide guidance regarding post-selection requirements.~~ FOA applicants are not required to read this document in its entirety to submit proposals in response to the ERA FOA ~~issued on May 11, 2023 (FOA No. DE-FOA-0003045)~~. If there are inconsistencies between the ERA FOA ~~issued on May 11, 2023 (FOA No. DE-FOA-0003045)~~ and the statements in this document, the FOA is the controlling document and applicants should rely on the ERA Fixed Award Grant Program FOA language. ~~The current FOA is available on [OCED Exchange](#).~~

2.0 Applicant Eligibility Guidance

This guidance provides information about applicant eligibility to the ~~U.S.~~ Department of Energy (DOE) Office of Clean Energy Demonstrations (OCED) Energy Improvement in Rural or Remote Areas (ERA) Fixed Award Grant Program Funding Opportunity Announcement (FOA) ~~issued on May 11, 2023 (FOA No. DE-FOA-0003045)~~, ~~specifically how eligibility is determined entities that are generally eligible to apply.~~

2.1 How will DOE determine eligibility?

Upon receipt of applications for the ERA Fixed Award Grant Program FOA ~~issued on May 11, 2023 (FOA No. DE-FOA-0003045)~~, the OCED Grants and Agreements Officer (~~GAO~~) will perform an initial review to determine that:

1. The applicant meets the eligibility requirements and is eligible for an award;
2. The information and documentation required by the FOA has been submitted;
3. All mandatory submittal and eligibility requirements are satisfied; and
4. The proposed project is responsive to the objectives of the FOA.

Applications not meeting all the eligibility requirements of the FOA will not be evaluated further.

2.2 What types of entities are generally eligible to apply to the Energy Improvement in Rural or Remote Areas, Funding Opportunity Announcement issued on May 11, 2023 (FOA No. DE-FOA-0003045)?

The following entities are generally eligible to apply to the ERA Fixed Award Grant Program FOA issued on May 11, 2023 (FOA No. DE-FOA-0003045). Please refer to specific eligibility requirements in the 'Eligibility' section of the FOA for specific eligibility information.

1. Institutions of Higher Education
2. Non-Profit Organizations
3. For-Profit Entities
4. State entities
5. Local governmental entities
6. Tribal Nations
7. Incorporated Consortia
8. Unincorporated Consortia

2.2.1 What is an Institution of Higher Education?

Institution of Higher Education means a college, university, or similar institution, including a technical or business school, offering postsecondary level academic instruction that leads to an associate or higher degree if the school is empowered by the appropriate State education authority under State law to grant an associate or higher degree. When there is no State law to authorize the granting of a degree, the school may be recognized as an institution of higher learning if it is accredited for degree programs by a recognized accrediting agency. This includes hospital educational programs at the postsecondary level without regard to whether the hospital grants a postsecondary degree.

2.2.2 What is a Non-Profit Organization?

A non-profit organization is defined in [2 CFR. § 200.1](#) as any corporation, trust, association, cooperative, or other organization, not including Institutions of Higher Education, that:

1. Is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;
2. Is not organized primarily for profit; and
3. Uses net proceeds to maintain, improve, or expand the operations of the organization.

However, non-profit organizations described in [Section 501\(c\)\(4\)](#) of the Internal Revenue Code of 1986 (26 U.S.C. § 501(c)(4)) that engaged in lobbying activities after December 31, 1995, are not eligible for Federal funding constituting an award, grant, or loan. See [2 U.S.C. § 1611](#).

2.2.3 What is a For-Profit Entity?

A For-profit entity is an organization, institution, corporation, or other legal entity that is organized or operated for the profit or financial benefit of its shareholders or other owners.

2.2.4 What is a State?

A State is defined in [2 CFR. § 200.1](#) to mean any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any agency or instrumentality thereof exclusive of local governments.

2.2.5 What is a Local Government?

A Local Government is defined in [2 CFR. § 200.1](#) as any unit of government within a state, including a:

1. County
2. Borough
3. Municipality
4. City
5. Town
6. Township
7. Parish
8. Local public authority, including any public housing agency under the United States Housing Act of 1937
9. Special district
10. School district
11. Intrastate district
12. Council of governments, whether or not incorporated as a nonprofit corporation under state law
13. Any other agency or instrumentality of a multi-, regional, or intra-state or local government.

2.2.5.1 What is an Incorporated Municipality?

An incorporated municipality is legally incorporated under state law, has a legally defined boundary, and has an active functioning governmental structure. Examples of incorporated municipalities include cities, towns, and villages. A single location cannot be part of both an incorporated place and a CDP¹.

¹ This definition is adapted from the [U.S. Census Bureau definition for Incorporated Place](#)

2.2.6 What is a Tribal Nation?

A Tribal Nation is an extant or historical clan, tribe, band, nation, or other group or community of Native Americans in the United States. An Indian tribe is any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act ([43 U.S.C. Chapter 33](#)), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status ([25 U.S.C. 450b\(e\)](#)).

For the purposes of the ERA Fixed Award Grant Program FOA issued on ~~May 11, 2023 (FOA No. DE-FOA-0003045)~~, an eligible Indian tribe, band, nation or other organized group or community (including Alaska Native villages), must be federally recognized. Refer to the Bureau of Indian Affairs list of [Federally Recognized Tribes](#).

2.2.7 What are Incorporated Consortia?

An Incorporated Consortium is a group made up of two or more individuals, companies, or governments that work together to achieve a common objective. Consortium participants may bring together manufacturers, small and medium businesses, researchers, and state and local governments to coordinate in high-priority technology areas. Those who participate in a consortium pool their resources but are otherwise only responsible for the obligations that are set out in the consortium's agreement.

Domestic incorporated consortia are eligible to participate as a prime recipient or subrecipient. 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. For consortia incorporated (or otherwise formed) in a foreign country, please refer to the requirements in “Foreign Entities” section.

Each consortium must have an internal governance structure and a written set of internal rules. Upon request, the consortium must provide a written description of its internal governance structure and its internal rules to the OCED Grants and Agreements Officer.

If the consortium includes foreign members, the applicant must submit a separate explicit written waiver request for each foreign member. Refer to the [Foreign Entity Participation and Performance of Work in the United States Guidance](#) (Foreign Work) section for additional information and instructions on submitting a Foreign Work Waiver request.

2.2.8 What are Unincorporated Consortia?

An unincorporated ~~Consortia~~ consortium is a consortium that is not organized as a separate legal entity. Instead, the unincorporated consortia are created by contract. The unincorporated consortia have no predetermined rules established by law or any preexisting paradigm between shareholders or owners, management, and the board. Consequently, any rules that govern issues

concerning conflict of interests, shareholder governance or management of the unincorporated consortia must be spelled out in an agreement.

Unincorporated Consortia must designate one member of the consortium to serve as the prime recipient/consortium representative. The prime recipient/consortium representative must qualify as a domestic entity.

Upon request, unincorporated consortia must provide the OCED Grants and Agreements Officer with a collaboration agreement, commonly referred to as the articles of collaboration, which sets out the rights and responsibilities of each consortium member. This agreement binds the individual consortium members together and should include the consortium's:

- Management structure;
- Method of making payments to consortium members;
- Means of ensuring and overseeing members' efforts on the project;
- Provisions for members' cost sharing contributions; and
- Provisions for ownership and rights in intellectual property developed previously or under the agreement.

If the consortium includes foreign members, the applicant must submit a separate explicit written waiver request in the Full Application for each foreign member. Refer to the [Foreign Entity Participation and Performance of Work in the United States Guidance](#) (Foreign Work) section for additional information and instructions on submitting a Foreign Work Waiver request.

2.3 What is an Unincorporated Area?

For the purposes of the ERA FOA ~~issued on May 11, 2023 (FOA No. DE-FOA-0003045)~~, "unincorporated area" refers to a Census Designated Place or similarly discreet and identifiable community that is not located within an incorporated municipality.

2.4 Organizations Generally Not Eligible to Apply for the Energy Improvement in Rural or Remote Areas Funding Opportunity Announcement ~~issued on May 11, 2023 (FOA No. DE-FOA-0003045)~~

The following types of organizations or persons are generally not eligible to apply for ~~OCED the FOAs~~ but may be able to participate as ~~a prime recipient or~~ subrecipient:

1. Foreign Entities
- ~~1. Entities banned from doing business with the U.S. Government~~
- ~~2. Persons participating in a Foreign Government Sponsored Talent Recruitment Program of a Foreign Country of Risk~~

The following types of organizations or persons are not eligible to participate in projects funded under the FOA under any capacity:

1. Entities banned from doing business with the U.S. Government
2. Persons participating in a Foreign Government-Sponsored Talent Recruitment Program of a Foreign Country of Risk

2.4.1 What are Federally Funded Research and Development Centers?

Federally funded research and development centers (FFRDCs) are public-private partnerships that conduct research and development for the United States Government. FFRDCs are operated by universities, nonprofit organizations, or an industrial firm to fulfill certain long-term needs of the government that cannot be met as effectively by existing in-house or contractor resources. See [48 CFR. § 35.017](#). A listing of FFRDCs can be found at <http://www.nsf.gov/statistics/ffrdclist/>.

2.4.1.1 Can Federally Funded Research and Development Centers participate in the FOA and in what capacity?

FFRDCs cannot participate as the prime or as subrecipients under the FOA by providing but can provide Technical Assistance (TA) to potential applicants and awardees with prior written approval from OCED. FFRDCs interested in potentially participating in this FOA providing TA to potential applicants and awardees, shall submit their inquiry on how to participate in this FOA via email to the FOA's email (the email noted on the cover page of this document and on the FOA cover page). The decision either regarding whether an FFRDC can participate provide TA or not under this FOA solely lies on DOE and DOE's decision concerning an FFRDC's participation request is not appealable.

2.4.2 Are Federal Agencies, Instrumentalities, and Corporations; and FFRDCs eligible to apply to the Funding Opportunity Announcement?

Federal agencies, instrumentalities and corporations (other than DOE), and FFRDCs are not eligible to apply as a prime recipient or participate as a subrecipient for the FOA.

2.4.3 Are Foreign entities eligible to apply to the Funding Opportunity Announcement?

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 a Full Application to the FOA, but the Full Application must be accompanied by an explicit written waiver request. Likewise, if a foreign entity seeks to be a subrecipient, the selectee must submit a separate explicit written waiver request for each proposed foreign subrecipient in the application.

Refer to the [Foreign Entity Participation and Performance of Work in the United States Guidance](#) (Foreign Work) section for instructions on submitting a Foreign Work Waiver request. DOE's decision concerning a Foreign Work Waiver request is not appealable.

2.4.4 Are entities banned from doing business with the United States Government eligible to apply to the Funding Opportunity Announcement?

Entities banned from doing business with the United States government such as entities debarred, suspended, or otherwise excluded from or ineligible for participating in Federal programs are not eligible. See [2 CFR. § 200.214](#) and [2 CFR. Part 180](#). This includes as a prime recipient and as a subrecipient.

2.4.5 What is a Foreign Government-Sponsored Talent Recruitment Program?

A Foreign Government-Sponsored Talent Recruitment Program is 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.

2.4.5.1 Which countries does DOE designate as a Foreign Country of Risk?

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

2.5 What is a Census Designated Place?

The U.S. Census Bureau defines a Census Designated Place (CDP) as a statistical geography representing closely settled, unincorporated communities that are locally recognized and identified by name. CDPs are statistical equivalents of incorporated places and represent unincorporated communities that do not have a legally defined boundary or an active, functioning governmental structure. Examples of CDPs include unincorporated communities, planned

communities, military installments, university towns, and resort towns. A single location cannot be part of both an incorporated place and a CDP.

2.6 What is a Census County Division?

The U.S. Census Bureau defines a Census County Division (CCD) as an area delineated by the Census Bureau in cooperation with state, tribal, and local officials for statistical purposes. CCDs have no legal function and are not governmental units. CCD boundaries usually follow visible features and usually coincide with census tract boundaries. The name of each CCD is based on a place, country, or well-known local name that identify its location. The Census Bureau's criteria for CCDs are that they should (1) have community orientation, (2) have visible and/or stable boundaries, (3) maintain relationships with census tract boundaries, and (4) have recognizable names.

2.7 Using U.S. Census Bureau Data to Determine Community Population for the Energy Improvement in Rural or Remote Areas Funding Opportunity Announcement issued on May 11, 2023 (FOA No. DE-FOA-0003045)

The U.S. Census Bureau records the population of incorporated and unincorporated communities. This information can be found on different locations within the U.S. Census Bureau website depending on the location of the community. The tips below may help you verify the population of the rural or remote community that will benefit from the proposed clean energy project based on the name of that community.

- For incorporated communities located in the continental U.S., Hawai'i, Puerto Rico, or Alaska:
 - Go to <https://data.census.gov/>
 - In the search bar, enter the name of the city, town, or similar incorporated municipality and hit enter to look up the total population
- For unincorporated communities located in the continental U.S., Hawai'i, Puerto Rico, or Alaska: check to see if your community is listed as a Census Designated Place (CDP), Census County Division (CCD), or similarly discreet and identifiable community using commonly known names.
 - Go to <https://data.census.gov/>
 - In the search bar, enter the commonly known names of the unincorporated community
 - If a drop-down list appears, look for the name of the unincorporated community followed by "CDP", "CCD", or similar designation and the state. Click on this to look up the total population.

- For incorporated and unincorporated communities located on an island territory, please use the following island-specific pages to locate the appropriate data for incorporated or unincorporated places:
 - [American Samoa](#)
 - [Commonwealth of the Northern Mariana Islands \(CNMI\)](#)
 - [Guam](#)
 - [U.S. Virgin Islands](#)

Note that the above methods required entry of the name of the incorporated or unincorporated place. If you do know this information, it may be possible to search for it on [U.S. Census Bureau Data](#) by searching for a five-digit zip code or county name. This may pull up the name of a CDP or CCD directly, or it may link to a map on which you can look for relevant incorporated or unincorporated places.

Please note that, while the zip code tabulation area (five-digit) (ZCTA5) and county may be useful for identifying the name of a relevant city, town, or unincorporated area, it may not be used to verify the 10,000 inhabitant's requirement. In addition, census tracts may not be used for verification.

3.0 Other Award Information and Other Information

3.1 Budget Information

Applicants are required to submit the **Standard Form (SF-424)** and a **budget** in OCED eXCHANGE. See Sections 4.5.2.1 and 4.5.2.6 of the FOA for more information. The budget may be provided in any format, but an optional budget template is available on [OCED eXCHANGE](#) under the FOA's posting.

The Budget Information for Construction Programs (SF-424A) form and the OCED Budget Justification Template which is required at the time of application submission is used as the final approved cost expenditure plan, which includes both the OCED contribution and the recipient cost share. The SF-424C displays the total project costs (TPCs) broken down by cost category (e.g., administrative and legal expenses, land, architectural and engineering fees, demolition and construction costs which include personnel, supplies, equipment, etc., permit and inspection fees, contingency, etc.). Form SF-424C and its form instructions are available at [GRANTS.GOV's SF-424 Family](#) webpage.

The OCED Budget Justification Template, which is required at the time of application submission provides the budget details and the narrative which justifies the costs. More detailed budget documents may be required in the form of a Work Breakdown Structure. The OCED Budget Justification Template is available on [OCED eXCHANGE](#) under the FOA's posting.

3.2 Who in the Federal Government can make a commitment of public funds?

The OCED Grants and Agreements Officer is the only individual who can make awards or commit the government to the expenditure of public funds. A commitment by anyone other than the Grants and Agreements Officer, either express or implied, is invalid.

3.3 Does the Government have a right to reject or negotiate applications received in response to Funding Opportunity Announcement?

DOE reserves the right, without qualification, to reject any or all applications received in response to the Energy Improvement in Rural or Remote Areas Funding Opportunity Announcement ~~issued on May 11, 2023 (FOA No. DE-FOA-0003045)~~ and to select any application, in whole or in part, as a basis for negotiation and/or award.

3.4 What are the regulations and requirements I need to follow once I have an award?

DOE awards fall under the purview of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards [2 CFR Part 200](#) and DOE regulations in [2 CFR Part 910](#). If an award is made, the recipient must adhere to these Federal requirements, as well as the Grant's Terms and Conditions.

3.5 What is the Affirmative Action and Pay Transparency Requirements?

These requirements prohibit federally assisted construction contractors and subcontractors, who do over \$10,000 in Government business in one year from discriminating in employment decisions based on race, color, religion, sex, sexual orientation, gender identity or national origin. 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. Furthermore, recipients are prohibited from taking adverse employment actions against applicants, recipients, and employees for asking about, discussing, or sharing information about their pay or, under certain circumstances, the pay of their co-workers. Refer to the Department of Labor, Office of Federal Contract Compliance Programs to gain an understanding of the requirements and possible required actions at

<https://www.dol.gov/sites/dolgov/files/ofccp/Construction/files/ConstructionTAG.pdf?msclkid=9e397d68c4b111ec9d8e6fecb6c710ec>

3.6 What are the requirements for the Annual Single Audit?

The Annual Single Audit is required if an educational institution, non-profit organization, or state/local government is a prime recipient or subrecipient and has expended \$750,000 or more of federal awards during the non-federal entity's fiscal year. For additional information, please refer to [2 CFR 200.501](#) and [2 CFR 200 Subpart F](#).

If a for-profit entity has one or more DOE awards with expenditures of \$750,000 or more during the for-profit entity's fiscal year, an independent compliance audit is required. See [2 CFR 910.501](#) and [2 CFR 900 Subpart F](#).

3.7 What is the Bipartisan Infrastructure Law-Specific Requirements?

Be advised that special terms and conditions apply to projects funded by the **Bipartisan Infrastructure Law (BIL)** relating to:

- Reporting, tracking and segregation of incurred costs;
- Reporting on job creation and preservation;
- Publication of information on the Internet;
- Access to records by Inspectors General and the Government Accountability Office;
- Requiring all of the iron, steel, manufactured goods, and construction materials used in the infrastructure activities of applicable projects are produced in the United States;
- Ensuring laborers and mechanics employed by contractors or subcontractors on BIL-funded projects are paid wages equivalent to prevailing wages on similar projects in the area;
- Protecting whistleblowers and requiring prompt referral of evidence of a false claim to an appropriate inspector general; and
- Certification and Registration.

Recipients of funding appropriated by the BIL must comply with requirements of all applicable federal, state, and local laws, regulations, DOE policy and guidance, and instructions in the published Funding Opportunity Announcement. Recipients must flow down the requirements to subrecipients to ensure the recipient's compliance with the requirements.

3.8 What is the Davis-Bacon Act?

The Davis-Bacon Act (40 USC §§ 276a et seq.), or DBA, and related acts requires that 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 the Energy Improvement in Rural or Remote Areas Funding Opportunity Announcement **issued on May 11, 2023 (FOA No. DE-FOA-0003045)** shall be paid wages at rates not less than those prevailing on similar projects in the locality, as determined by the Secretary of Labor.

Recipients of funding under the Energy Improvement in Rural or Remote Areas Funding Opportunity Announcement **issued on May 11, 2023 (FOA No. DE-FOA-0003045)** will be required

to undergo Davis-Bacon Act compliance training and to maintain competency in Davis-Bacon Act compliance. The Grants and Agreements Officer will notify the recipient of any DOE sponsored Davis-Bacon Act compliance trainings. The DOL 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 Davis-Bacon provisions and clauses, see <https://www.dol.gov/agencies/whd/government-contracts/construction>.

3.9 What is an Environmental Considerations Summary Information Volume?

DOE is responsible for analyzing the potential environmental impacts associated with its actions, including funding a project, consistent with the National Environmental Policy Act (NEPA). The information provided to DOE by an award recipient in the Environmental Considerations Summary (ECS) Volume will inform DOE's independent NEPA analysis. An ECS Environmental Information Volume is a document that describes the proposed project, alternatives to the proposed project, the existing environment at the project location(s), and the potential environmental impacts from the project. DOE will likely require additional information, in addition to the Environmental Information Volume, to complete the NEPA review process.

The award recipient will be required to complete an ECS Environmental Information Volume during Milestone 1 of the project the award negotiation.

3.10 What are Export Controls, and should I report violations?

The United States government regulates the transfer of information, commodities, technology, and software considered to be strategically important to the United States to protect national security, foreign policy, and economic interests without imposing undue regulatory burdens on legitimate international trade. There is a network of federal agencies and regulations that govern exports that are collectively referred to as "Export Controls". All recipients and subrecipients are responsible for ensuring compliance with all applicable United States Export Control laws and regulations relating to any work performed under a resulting award.

The recipient must immediately report to DOE any export control violations related to the project funded under the DOE award, at the recipient or subrecipient level, and provide the corrective action(s) to prevent future violations.

3.11 What is the Fraud, Waste and Abuse requirements?

The mission of the DOE Office of Inspector General (OIG) is to strengthen the integrity, economy and efficiency of the Department's programs and operations including deterring and detecting fraud, waste, abuse, and mismanagement. The OIG accomplishes this mission primarily through

investigations, audits, and inspections of DOE activities to include grants, grant agreements, loans, and contracts.

The 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>.

Additionally, recipients of DOE awards must be cognizant of the requirements of [2 CFR 200.113 Mandatory disclosures](#), which states:

The non-Federal entity or applicant for a Federal award must disclose, in a timely manner, in writing to the Federal awarding agency or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Non-Federal entities that have received a Federal award including the term and condition outlined in [appendix XII of 2 CFR Part 200](#) are required to report certain civil, criminal, or administrative proceedings to SAM (currently FAPIIS). Failure to make required disclosures can result in any of the remedies described in [2 CFR 200.339](#). (See also [2 CFR part 180](#), [31 U.S.C. § 3321](#), and [41 U.S.C. § 2313](#).) [[85 FR 49539](#), Aug. 13, 2020].

Recipients and subrecipients are encouraged to allocate sufficient costs in the project budget to cover the costs associated for personnel and data infrastructure needs to support performance management and program evaluation needs including but not limited to independent program and project audits to mitigate risks for fraud, waste, and abuse.

3.12 What are the Intellectual Property Requirements?

Intellectual property provisions govern the treatment, rights and requirements of inventions, patents and data made and used under the award including patent and data rights. The intellectual property provisions of awards selected under the Energy Improvement in Rural or Remote Areas (ERA) Fixed Award Grant Program Funding Opportunity Announcement (FOA) [issued on May 11, 2023 \(FOA No. DE-FOA-0003045\)](#) are based on the project and recipient type (e.g., small business, large business, or non-profit, etc.). The standard DOE financial assistance intellectual property provisions applicable to the various types of recipients are located at <http://energy.gov/gc/standard-intellectual-property-ip-provisions-financial-assistance-awards>.

3.13 What is the Interim Conflict of Interest Policy for Financial Assistance?

The DOE [Interim](#) Conflict of Interest Policy for Financial Assistance (COI Policy)² is applicable to all non-Federal entities applying for, or that receive, DOE funding by means of a financial assistance award (e.g., a grant, technology investment agreement, etc.) and, through the implementation of this policy by the entity, to each Investigator who is planning to participate in, or is participating in, the project funded wholly or in part under the DOE financial assistance award.

² DOE's interim COI Policy can be found at [PF 2022-17 FAL 2022-02 Department of Energy Interim Conflict of Interest Policy Requirements for Financial Assistance](#).

The term “Investigator” means the Principal Investigator (PI) and any other person, regardless of title or position, who is responsible for the purpose, design, conduct, or reporting of a project funded by DOE or proposed for funding by DOE. The interim COI Policy establishes standards that provide a reasonable expectation that the design, conduct, and reporting of projects funded wholly or in part under DOE financial assistance awards will be free from bias resulting from financial conflicts of interest or organizational conflicts of interest. The recipient is subject to the requirements of the interim COI Policy, and the recipient must certify that it is compliant with all the requirements in the interim COI Policy.

Recipients must flow down the requirements of the interim COI Policy to any subrecipient non-federal entities. Further, for DOE funded projects, the recipient must include all financial conflicts of interest (FCOI) (i.e., managed, and unmanaged/ unmanageable) in their initial and ongoing FCOI reports.

3.14 How does Executive Order 13798, Promoting Free Speech and Religious Liberty affect my award?

States, local governments, or other public entities may not condition any sub-awards or subrecipients in a manner that would discriminate, or disadvantage organizations to exercise religion and participate fully in civic life without undue interference.

3.15 What are the U.S. Manufacturing Commitment requirements?

A primary objective of DOE’s multi-billion-dollar research, development, and demonstration investments is to cultivate new research and development ecosystems, manufacturing capabilities, and supply chains for and by United States industry and labor.

Therefore, in exchange for receiving taxpayer dollars to support the recipient’s project, the recipient 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. Award terms, including the specific U.S. Competitiveness Provision applicable to the various types of recipients and projects, are available at <https://www.energy.gov/gc/standard-intellectual-property-ip-provisions-financial-assistance-awards>.

As noted in the U.S. Competitiveness Provision, if an entity cannot meet the requirements of the U.S. Competitiveness Provision, the entity may request a modification or waiver of the U.S. Competitiveness Provision. For example, the entity may propose modifying the language of the U.S. Competitiveness Provision in order to change the scope of the requirements or to provide more specifics on the application of the requirements for a particular technology. As another example, the entity may request that the U.S. Competitiveness Provision be waived in lieu of a net benefits statement or United States manufacturing plan. The statement or plan would contain specific and enforceable commitments that would be beneficial to the United

States economy and competitiveness. Examples of such commitments could include manufacturing specific products in the United States, making a specific investment in a new or existing United States manufacturing facility, keeping certain activities based in the United States or supporting a certain number of jobs in the United States related to the technology.

DOE may, in its sole discretion, determine that the proposed modification or waiver promotes commercialization and provides substantial United States economic benefits, and grant the request. If granted, DOE will modify the award terms and conditions for the requesting entity accordingly.

More information and guidance on the waiver and modification request process can be found in the DOE Financial Assistance Letter on this topic, available at [DOE Financial Assistance Letter](#). Additional information on DOE's Commitment to Domestic Manufacturing for DOE-funded R&D is available at <https://www.energy.gov/gc/us-manufacturing>.

The U.S. Competitiveness Provision is implemented by DOE pursuant to a Determination of Exceptional Circumstances (DEC) under the Bayh-Dole Act and DOE Patent Waivers.

3.16 Additional Recipient Integrity and Performance System Information

The recipient, at its option, may review information in the designated integrity and performance systems accessible through System for Award Management (SAM) and comment on any information about itself that a federal awarding agency previously entered and is currently in the designated integrity and performance system accessible through [SAM.gov](#).

DOE will consider any written comments by the recipient, in addition to the other information in the designated integrity and performance system, in making a judgment about the recipient's integrity, business ethics, and record of performance under federal awards when completing the review of risk posed by recipients as described in [2 CFR 200.206](#).

3.17 Does DOE conduct reviews of financial capability?

DOE reserves the right to conduct an independent third-party review of financial capability for applicants that are selected for negotiation of award (including personal credit information of principal(s) of a small business if there is insufficient information to determine financial capability of the organization).

3.18 What are eligible activities under the Funding Opportunity Announcement?

Eligible activities under the Funding Opportunity Announcement (FOA) include those which promote energy improvement in rural or remote areas, but not those which encourage or support

political activities such as the collection and dissemination of information related to potential, planned, or pending legislation.

3.19 What is an allowable cost?

An allowable cost is an expenditure compliant with federal principles dictating what types of project costs incurred by the recipient are eligible to be paid with project funds. All **estimated** expenditures, **including Federal funds and recipient cost share**, 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.

3.20 What is a pre-award cost, and can I incur pre-award costs?

A pre-award cost is an authorized cost incurred prior to the effective date of the Federal award directly pursuant to the negotiation and in anticipation of the Federal award, where such costs are necessary for efficient and timely performance of the scope of work. Such costs are allowable only to the extent that they would have been allowable if incurred after the date of the Federal award and **only** with the written approval of the Federal awarding agency, through the OCED Grants and Agreements Officer assigned to the award.

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 selectee's risk. DOE is not obligated to reimburse costs: (1) in the absence of appropriations; (2) if an award is not made; or (3) if an award is made for a lesser amount than the selectee anticipated. This includes any action related to the proposed project that would have an adverse effect on the environment or limit the choice of reasonable alternatives prior to DOE completing the National Environmental Policy Act (NEPA) review process. See the following subsection for additional information on NEPA requirements related to pre-award costs.

3.20.1 Additional Information on NEPA Requirements related to pre-award costs

DOE's decision whether and how to distribute federal funds under the Energy Improvement in Rural or Remote Areas Funding Opportunity Announcement issued on **May 11, 2023 (FOA No. DE-FOA-0003045)** is subject to the National Environmental Policy Act (NEPA). Recipients should carefully consider and should seek legal counsel or other expert advice before taking any action related to the proposed project that would have an adverse effect on the environment or limit the choice of reasonable alternatives prior to DOE completing the NEPA review process.

DOE does not guarantee or assume any obligation to reimburse pre-award costs incurred prior to receiving written authorization from the Grants and Agreements Officer. If the recipient elects to undertake activities that DOE determines may have an adverse effect on the environment or limit the choice of reasonable alternatives prior to receiving such written authorization from the Grants and Agreements Officer, the recipient is doing so at risk of not receiving federal funding for their project ~~and such costs may not be recognized as allowable cost share.~~

Nothing contained in the pre-award cost reimbursement regulations or any pre-award costs approval letter from the OCED Grants and Agreements Officer override the requirement to obtain the written authorization from the Grants and Agreements Officer prior to taking any action that may have an adverse effect on the environment or limit the choice of reasonable alternatives.

If the prime recipient elects to undertake activities that are not authorized for federal funding by the Grants and Agreements Officer in advance of DOE completing a NEPA review, the prime recipient is doing so at risk of not receiving federal funding ~~and such costs may not be recognized as allowable cost share.~~

3.21 Can I incur construction costs?

For the purpose of budgeting, construction is defined as all types of work done on a particular building, including erecting, altering, or remodeling. Recipients are required to obtain written authorization from the cognizant OCED Grants and Agreements Officer before incurring any major construction costs.

3.22 Is foreign travel allowable?

Foreign travel costs are allowable only with the written prior approval of the cognizant OCED Grants and Agreements Officer assigned to the award. If international travel is proposed for your project, please note that your organization must comply with the International Air Transportation Fair Competitive Practices Act of 1974 ([49 U.S.C. § 40118](#)), commonly referred to as the “Fly America Act,” and implementing regulations at [41 CFR 301-10.131 through 301-10.143](#). The law and regulations require air transport of people or property to, from, between, or within a country other than the United States, the cost of which is supported under this award, to be performed by or under a cost-sharing arrangement with a United States flag carrier, if service is available.

3.23 Can I expend funds for conferences?

The recipient shall not expend any funds on a conference not directly and programmatically related to the purpose for which the grant was awarded that would defray the cost to the United States government of a conference held by any Executive branch department, agency, board, commission, or office for which the cost to the United States government would otherwise exceed \$20,000, thereby circumventing the required notification by the head of any such Executive Branch department, agency, board, commission, or office to the Inspector General (or senior ethics official for any entity without an Inspector General), of the date, location, and number of employees attending such conference.

3.24 What is considered equipment vs. supplies and is property disposition required?

Equipment means tangible property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the non-Federal entity for financial statement purposes, or \$5,000.

Supplies are generally defined as an item with an acquisition cost of \$5,000 or less and a useful life expectancy of less than one year. Supplies are generally consumed during the project performance. Please refer to the applicable Federal regulations in [2 CFR 200](#) for specific equipment and supplies definitions and treatment.

Property disposition may be required at the end of a project if the current fair market value of property exceeds \$5,000. For-profit entity disposition requirements are set forth at [2 CFR 910.360](#). Property disposition requirements for other non-federal entities are set forth in [2 CFR 200.310 – 200.316](#).

3.25 What is Program Income?

Program Income means gross income earned by the non-Federal entity that is directly generated by a supported activity or earned as a result of the Federal award during the period of performance except as provided in [§ 200.307\(f\)](#). Program income includes, but is not limited to, income from fees for services performed, the use or rental of real or personal property acquired under Federal awards, the sale of commodities or items fabricated under a Federal award, license fees and royalties on patents and copyrights, and principal and interest on loans made with Federal award funds.

Interest earned on advances of Federal funds is not program income. Except as otherwise provided in Federal statutes, regulations, or the terms and conditions of the Federal award, program income does not include rebates, credits, discounts, and interest earned on any of them. See also [§ 200.407](#). See also [35 U.S.C. 200-212](#) “Disposition of Rights in Educational Awards” applies to inventions made under Federal awards.

Recipients are encouraged to review the regulations regarding Program Income and be aware of the ways in which program income can be treated during the award. The default use of program income is ‘Addition’ for the Energy Improvement in Rural or Remote Areas Funding Opportunity Announcement ~~issued on May 11, 2023 (FOA No. DE-FOA-0003045)~~. Any other treatment of Program Income must be negotiated and approved by DOE.

3.26 Can I collaborate with Foreign Organizations and Governments on my award?

Consideration of new collaborations with foreign organizations and governments. The recipient will be required to provide DOE with advanced written notification of any potential collaboration with foreign organizations or governments in connection with its DOE-funded award scope. The recipient will then be required to await further guidance from DOE prior to contacting the proposed foreign organization or government regarding the potential collaboration or negotiating the terms of any potential agreement.

Existing collaborations with foreign organizations and governments. The recipient will be required to provide DOE with a written list of all existing foreign collaborations in which it has entered in connection with its DOE-funded award scope.

Description of collaborations that should be reported: In general, a collaboration will involve some provision of a thing of value to, or from, the recipient. A thing of value includes but may not be limited to all resources made available to, or from, the recipient in support of and/or related to the DOE award, regardless of whether or not they have monetary value. Things of value also may include in-kind contributions (such as office/laboratory space, data, equipment, supplies, employees, students). In-kind contributions not intended for direct use on the DOE award but resulting in provision of a thing of value from or to the DOE award must also be reported. Collaborations do not include routine workshops, conferences, use of the recipient’s services and facilities by foreign investigators resulting from its standard published process for evaluating requests for access, or the routine use of foreign facilities by awardee staff in accordance with the recipient’s standard policies and procedures.

3.27 What are Technology Readiness Levels?

A technology readiness level (TRL) is a metric used for describing technology maturity. It is a measure used by government agencies to assess maturity of evolving technologies prior to incorporating that technology into a system or subsystem. Below are the definitions for each TRL (1-9):

TRL 1:	Basic principles observed and reported
TRL 2:	Technology concept and/or application formulated
TRL 3:	Analytical and experimental critical function and/or characteristic proof of concept
TRL 4:	Component and/or breadboard validation in a laboratory environment
TRL 5:	Component and/or breadboard validation in a relevant environment
TRL 6:	System/subsystem model or prototype demonstration in a relevant environment
TRL 7:	System prototype demonstration in an operational environment

TRL 8:	Actual system completed and qualified through test and demonstrated
TRL 9:	Actual system proven through successful mission operations

Please refer to [DOE’s Technology Readiness Assessment Guide](#) for additional information about technology readiness levels.

3.28 What is Federal Stewardship and how is it exercised by DOE?

The Federal Government has a fundamental responsibility to be effective stewards of taxpayer’s money. DOE will exercise normal federal stewardship in overseeing the project activities performed under DOE awards.

Stewardship Activities include, but are not limited to, conducting site visits; accounting system review; organizational business reviews; incurred cost audit; independent cost estimate; reviewing performance and financial reports; providing assistance and/or temporary intervention in unusual circumstances to correct deficiencies that develop during the project; assuring compliance with terms and conditions; and reviewing technical performance after project completion to ensure that the project objectives have been accomplished.

4.0 Foreign Entity Participation and Performance of Foreign Work in the United States Guidance

If foreign entity participation or foreign work is anticipated for a selected project under a DOE OCED FOA, the selectee must submit a Foreign Entity Participation Waiver request(s) as part of its application. The following guidance is provided to assist selectees in preparing the applicable waiver(s).

4.1 What is considered a Foreign Entity?

A foreign entity is any corporation, business association, partnership, trust, society or any other entity or group that is not incorporated or organized to do business in the United States, as well as international organizations, foreign governments and any agency or subdivision of foreign governments. Refer to [2 CFR 200.1](#) “Foreign organization” and [2 CFR 200.1](#) “Foreign public entity” for definition.

4.2 Are foreign entities eligible to submit applications for funding?

For projects selected by DOE, all award 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, the applicant must submit an explicit waiver request in the application. [Can I seek a Foreign Entity Participation waiver?](#)

A foreign entity seeking to participate in a project funded under a DOE Funding Opportunity Announcement must demonstrate that its participation is in the best interest of the United States. To request a waiver of the U.S. entity requirement, the foreign entity must submit a Foreign Entity Participation Waiver request to the Department. If a U.S. domestic entity seeks to include a foreign entity as a subrecipient, the entity must submit a separate explicit written waiver request for each proposed foreign subrecipient.

4.3 What are the criteria for a Foreign Entity Participation waiver?

Foreign entities seeking to participate in a project funded under DOE 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;
- a) The project team has appropriate measures in place to control sensitive information and protect against unauthorized transfer of scientific and technical information;
- b) 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;
- c) 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 Provision; and
- d) The foreign entity will satisfy other conditions that may be deemed necessary by DOE to protect United States government interests.

4.4 What do I need to include in a Foreign Entity Participation Waiver request?

A Foreign Entity Participation 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 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 or foreign individuals;
- c) The rationale for proposing a foreign entity to participate in the project (must address criteria above);
- d) A description of the project's anticipated contributions to the United States's economy; 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; and How the project will promote manufacturing of products and/or services in the United States;
- e) A description of how the foreign entity's participation is essential to the project;
- 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 request foreign work waiver).

DOE may also require:

- a) 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.
- b) Additional language be added to any agreement or subagreement to protect IP, mitigate risk or other related purposes.

DOE may require additional information before considering the waiver request.

4.5 Does the Department of Energy require that all work funded under its Funding Opportunity Announcements be performed in the United States?

All work for DOE projects selected must be performed in the United States.

4.6 Can I seek a waiver of the Performance of Work in the United States requirement?

To seek a Foreign Work Waiver of the performance of work in the United States requirement, the selectee must submit an explicit Foreign Work Waiver request. A separate Foreign Work Waiver request must be submitted for each entity proposing performance of work outside of the United States.

4.7 What are the criteria for the Performance of Work outside United States?

Overall, a Foreign Work Waiver request must demonstrate to the satisfaction of DOE that it would further the purposes of the Energy Improvement in Rural or Remote Areas Funding Opportunity Announcement ~~issued on May 11, 2023 (FOA No. DE-FOA-0003045)~~ and is otherwise in the economic interests of the United States.

4.8 What do I need to include in a Foreign Work Waiver request?

A request for a Foreign Work Waiver must include the following:

- a) The rationale for performing the work outside the United States;
- b) A description of the work proposed to be performed outside the United States;
- c) An explanation as to how the foreign work is essential to the project;
- d) A description of the anticipated benefits to be realized by the proposed foreign work and the anticipated contributions to the United States economy;
- e) The associated benefits to be realized and the contribution to the project from the foreign work;
- f) 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;
- g) How the foreign work will promote manufacturing of products and/or services in the United States;
- h) A description of the likelihood of Intellectual Property (IP) being created from the foreign work and the treatment of any such IP;
- i) The total estimated cost (DOE and recipient cost share) of the proposed foreign work;
- j) The countries in which the foreign work is proposed to be performed; and
- k) 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. (i.e., entity seek a waiver and the entity(ies) that will conduct the work).

DOE may require additional information before considering the waiver request.

4.9 Can I appeal the Department of Energy’s decision concerning my Foreign Entity Participation Waiver or Foreign Work Waiver requests?

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

5.0 Safety, Security, and Regulatory Requirements Guidance

This section provides additional information and guidance on the post-selection requirements related to the Safety, Security, and Regulatory Requirements of the Energy Improvement in Rural or Remote Areas (ERA) Funding Opportunity Announcement issued on May 11, 2023 (FOA No. DE-FOA-0003045). Refer to the FOA for specific to OCED’s ERA Fixed Award Grant Program projects, for the project milestone for the requirements on this section. This section is intended to help selectees and recipients understand expectations and plan next steps for compliance with requirements related to safety, security, permitting, and the National Environmental Policy Act (NEPA). All project activities must comply with applicable local, state, and federal laws and regulations.

5.1 What are the Safety Requirements?

DOE expects recipients to foster and implement a strong safety culture for the entire scope of a project. Each recipient must develop a comprehensive Safety Program that encompasses all sites, technologies, and end-uses.

Recipients must identify a lead (individual or team) for their Safety Program. The Safety Program Lead will coordinate the development of comprehensive Safety and Occupational Health Plans (SOHPs) for all relevant sites to be reviewed by OCED. These plans should address appropriate Occupational Safety and Health Administration (OSHA) requirements as well as local safety requirements for each site. SOHPs must be updated regularly throughout the life of the project. ~~The initial SOHPs should be submitted in Milestone 1 of the project, in conjunction with the 30% design for each site. Updated SOHPs must be submitted by the end of Milestone 2 of the project, in conjunction with the 90% design.~~

Recipients should document their operational safety procedures for each site and are encouraged to obtain an audit of those procedures by an appropriately credentialed body. The operational safety procedures should include plans for staff safety, maintenance, and operation training. Recipients are encouraged to provide or direct local first responders and authorities having jurisdiction (AHJs) to relevant training materials, including those for the safe handling of any industrial activities at each site. Recipients are encouraged to provide relevant training to local first responders, ~~which should take place prior to the end of Milestone 3 of the project.~~

Recipients will be required to collect and submit safety related data (e.g., component failure) during the period of OCED project funding. In addition, recipients will be encouraged to voluntarily provide safety-related data for a period of five (5) years beyond the end date of the OCED project funding. This data requirement contributes to a future safety culture by encouraging open communication about safety and lessons learned. It will also enable advancements in risk assessment and codes and standards development.

5.2 What are the Security Requirements?

If requested by the Grants and Agreements Officer as a Just-In-Time document or post-selection requirements, selectees must submit an initial cybersecurity plan during award negotiations. ~~Otherwise, recipients of an award will be required to provide initial cybersecurity plans as early milestone activities. Please refer to the Energy Improvement in Rural or Remote Areas Funding Opportunity Announcement issued on May 11, 2023 (FOA No. DE-FOA-0003045) – specific information and requirements.~~

Selectees should develop cybersecurity plans that are tailored to the unique needs of the project and its associated technologies. In addition to cybersecurity, recipients will need to address physical and information security of the project. If the Grants and Agreements Officer requested an initial cybersecurity plan to be submitted during the award negotiations as mentioned above,

the recipient of an award will be required to provide updated cybersecurity plans as part of its milestone activities. All recipients must provide a final cybersecurity plan. Milestone 1 activities. Otherwise, the recipients of an award will be required to provide initial cybersecurity plans as part of Milestone 1 activities. Recipients must deliver a final cybersecurity plan to OCED by the end of Milestone 2 for review.

5.3 What are the Regulatory Requirements?

5.3.1 Permitting

OCED recognizes that there are regional differences in local and state permitting processes and that siting, permitting, and approval processes can pose schedule risks. OCED encourages early consideration of potential cost and schedule impacts of permitting processes and other regulatory requirements as well as early coordination with permitting authorities. Additionally, OCED recommends frequent communication with authorities having jurisdiction (AHJs) throughout the life of the project.

OCED encourages recipients to conduct outreach to AHJs. Frequent communication with AHJs throughout the life of the project is encouraged to minimize potential delays associated with permitting. OCED requires all applicants to submit a permitting workflow overview. Recipients of an award will be required to update the permitting workflow overview during each of the first 3 as appropriate throughout the milestones.

5.3.2 National Environmental Policy Act

DOE’s decision whether and how to distribute federal funds is subject to review in accordance with the National Environmental Policy Act (NEPA); 42 U.S.C. 4321, et seq., which requires federal agencies to integrate environmental values into their decision-making processes by considering the potential environmental impacts of their proposed actions. For additional background and guidance refer to the DOE NEPA Website at <https://www.energy.gov/nepa>.

Recipients may will be required to complete an Environmental Considerations Summary (ECS) Information Volume document during negotiation Milestone 1 of the project. See [Section 3.9](#) for the description of an ECS Environmental Information Volume.

The ECS Environmental Information Volume will support OCED’s determination of what level of NEPA review is required (e.g., categorical exclusion, environmental assessment, or environmental impact statement) and inform the completion of DOE’s NEPA review. Engagement with the DOE’s NEPA team to develop environmental plans and analyses will be a significant component of the first two early milestones of the awards. Completion of all NEPA-related activities is a required component of all project milestones Milestone 2 to 3 review metrics.

While NEPA compliance is a federal agency responsibility and the ultimate decisions remain with the federal agency, recipients will be required to assist in the timely and effective completion of the NEPA process. If OCED determines certain records or studies must be prepared to complete

DOE's NEPA review process (e.g., a biological assessment or other environmental baseline studies), recipients may be required to prepare the records and studies; costs required to prepare the necessary records and studies may be included as part of the project costs. Proposed projects that include new construction or significant modification of existing facilities and/or infrastructure will likely require preparation of an Environmental Assessment or Environmental Impact Statement.

To facilitate the NEPA review, recipients will be requested to submit a wide array of information about the proposed project, options under consideration for the proposed project, reasonable alternatives to the proposed project for achieving similar objectives, the affected environment (to include both the natural environment and the human environment), the socio-economic setting of the proposed project and affected area surrounding the site, trends regarding changes in the surrounding environment (natural, socio-economic, human) and the potential impacts (both positive and negative) for the proposed project, its options and its reasonable alternatives.

NEPA compliance activities should be accounted for in the project scope, schedule, and budget. Recipients will be expected to cooperate fully with those who prepare the NEPA documents and implement the NEPA process.

5.3.3 Other Permitting and NEPA Considerations

Recipients are encouraged to consider the following items to help consultation and permitting processes run as efficiently as possible:

- To minimize environmental impacts, recipients are encouraged to leverage existing facilities, infrastructure, and rights-of-way to the maximum extent practical. Where possible, teams are also encouraged to coordinate and co-locate project development with other existing or planned energy/infrastructure development projects to help minimize potential environmental and community impacts (i.e., "Dig once" concept).
- OCED strongly encourages early and frequent communication with all applicable Federal, Tribal, State, and Local AHJs. OCED further encourages applicants to seek out and propose improvements to advance the project review process, in coordination with other efforts such as Federal-State partnerships that may already be underway.
- Several publicly available sources of data related to multiple use, environmental, and permitting considerations exist that will be of benefit to applicants as they evaluate potential sites. Where possible, applicants are encouraged to work with relevant agencies to explore access to information that has already been collected. Such sources include Federal, State, and regional data resources.