U.S. Department of Energy (DOE)
Office of Manufacturing and Energy Supply Chains (MESC)

Inflation Reduction Act (IRA)
Domestic Manufacturing Conversion Grants

Funding Opportunity Announcement (FOA) Number: DE-FOA-0003106
FOA Type: Amendment 000002
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FOA Amendment 000001 Issue Date:	09/28/2023
Submission Deadline for Concept Papers:	11/1/2023 @ 5:00 p.m. ET
Informational Webinar	10/05/2023 @ 2:00 p.m. ET
Timeframe for Concept Paper Encourage/Discourage Notifications:	Dec-2023
Submission Deadline for Full Applications:	1/9/2024 @ 5:00 p.m. ET
Expected Date for DOE Selection Notifications:	Spring 2024
Expected Timeframe for Award Negotiations:	June-October 2024

- Applicants must submit a Concept Paper by 5 p.m. ET on the due date listed above to be eligible to submit a Full Application.

- See Section VIII.R for more information on webinars.

- To apply to this FOA, applicants must register with and submit application materials through the Clean Energy Infrastructure (S3) eXCHANGE at https://infrastructure-exchange.energy.gov, MESC's online application portal.

- Applicants must designate primary and backup points-of-contact in S3 eXCHANGE with whom DOE will communicate to conduct award negotiations. If an application is selected for award negotiations, it is not a commitment to issue an award. It is imperative that the applicant/selectee be responsive during award negotiations and meet negotiation deadlines. Failure to do so may result in cancelation of further award negotiations and rescission of the selection.

- **Unique Entity Identifier (UEI) and System for Award Management (SAM)** - Each applicant (unless the applicant is excepted from those requirements under 2 CFR

25.110) is required to: (1) register in the SAM at https://www.sam.gov before submitting an application; (2) provide a valid UEI number in the application; and (3) maintain an active SAM registration with current information when the applicant 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 and, if an applicant has not fully complied with the requirements by the time DOE is ready to make a federal award, DOE will determine that the applicant is not qualified to receive a federal award and use that determination as a basis for making a federal award to another applicant.

NOTE: Due to the high number of UEI requests and SAM registrations, entity legal business name and address validations are taking longer than expected to process. 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 use the HELP feature on SAM.gov. SAM.gov will address service tickets in the order in which they are received and asks that entities not create multiple service tickets for the same request or technical issue. Additional entity validation resources can be found here: GSAFSD Tier 0 Knowledge Base - Validating your Entity.

Amendments

Amend. No.	Date	Description of Amendment
000001	09/21/2023	This Amendment is to make a correction to Section IV.C table relative to the Quality Jobs and Just Transition Plan section. Changes are highlighted in Yellow text.
000002	9/28/2023	This Amendment is to made adjustments to submission deadline for concept paper; add an informational webinar (see section VIII); address deadline for concept paper notifications; extend application deadline and expected timeframe for negotiations. Changes are highlighted in Yellow text.

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I. Funding Opportunity Description

A. Background and Context

The Office of Manufacturing and Energy Supply Chains (MESC) is issuing this Funding Opportunity Announcement (FOA). Awards made under this FOA will be funded, in whole or in part, with funds appropriated by the Inflation Reduction Act of 2022 (IRA).

On August 16, 2022, President Joseph R. Biden signed the landmark Inflation Reduction Act of 2022 (IRA) into law. The law includes $369 billion to support the Administration's energy and climate goals by deploying clean energy, strengthening domestic manufacturing, and investing in workers and communities.

The transportation sector is the largest source of greenhouse gas emissions in the United States, accounting for 28 percent of all emissions in 2021.[1] Transportation also is a major source of smog-forming nitrogen oxides and particulate matter, which can trigger asthma attacks and other health problems for the most vulnerable among us.[2] President Biden set a goal that at least 50 percent of all new passenger cars and light trucks sold in 2030 be zero-emission vehicles, including battery electric, plug-in hybrid electric, or fuel cell electric vehicles (collectively referred to as electric vehicles or EVs). The IRA tackles these priorities comprehensively, by combining incentives for consumers and businesses to purchase clean vehicles with programs to expand manufacturing and sourcing of vehicle components and critical minerals in the United States. The intention of this grant program is to support workers and businesses who have long been engaged in internal combustion engine (ICE) vehicle manufacturing in transitioning to and taking advantage of new job and economic opportunities in, the electrified vehicle supply chain and retaining high-paying motor vehicle production jobs as the industry transitions to EVs.

The investments in the IRA build on the $7.5 billion provided by the Bipartisan Infrastructure Law to deploy a national network of 500,000 electric vehicle chargers; more than $7 billion to ensure domestic manufacturers have the critical minerals and other components necessary to make EV batteries; and $10 billion for clean transit and school buses at the Department of Transportation and Environmental Protection Agency. The CHIPS and Science Act invests in expanding America's manufacturing capacity for the semiconductors used in electric vehicles and chargers. Together, this package of legislation will create good-paying, high-quality

[1] https://www.epa.gov/ghgemissions/sources-greenhouse-gas-emissions
[2] https://www.whitehouse.gov/wp-content/uploads/2022/12/Inflation-Reduction-Act-Guidebook.pdf

jobs along the full supply chain for the automotive sector, from components to assembly.

IRA section 50143 appropriated $2 billion to provide grants for domestic production of efficient hybrid, plug-in electric hybrid, plug-in electric drive, and hydrogen fuel cell electric vehicles, in accordance with section 712 of the Energy Policy Act of 2005.[3] That section established the domestic manufacturing conversion grant program to provide grants and loan guarantees to clean vehicle manufacturers and suppliers, including component manufacturers.

Section 712 states that "priority shall be given to the refurbishment and retooling of manufacturing facilities that have recently ceased operation or will cease operation in the near future."[4] DOE will prioritize entities that will convert, expand, or retool facilities while remaining in the same area as an existing production facility or a facility that has recently ceased operations. This could include projects, such as:

- Projects involving conversion, of a whole facility or partial facility (such as one production line), to either vehicle manufacturing facilities or component manufacturing facilities supporting the domestic production of efficient hybrid, plug-in electric hybrid, plug-in electric drive, and hydrogen fuel cell electric vehicles are eligible.
- Facility conversions involving new facility greenfield construction if the project remains in the same site or the same area as the existing production facility to be converted, e.g. within reasonable commuting distance of the existing facility

Applicants will have the opportunity to provide evidence that the proposed facility producing or supporting internal combustion engine vehicles for retooling and/or refurbishment has recently ceased operation or faces risk that it will cease operation in the near future. Applicants will also have the opportunity to provide details of their commitment to retaining the current workforce and/or rehiring workers recently laid off.

Higher scores will be given to projects that are likely to retain collective bargaining agreements and/or an existing high-quality, high-wage hourly production workforce, such as applicants that currently pay top quartile wages in their industry. [5] Additional compensation benefits, such as health insurance, retirement contributions, and

[3] Energy Policy Act of 2005 § 712, 42 U.S.C. § 16062.
[4] 42 U.S.C. § 16062(a)(3).
[5] This wage data is available at OES Home: U.S. Bureau of Labor Statistics (bls.gov); applicants should use data for either Motor Vehicle Manufacturing or Motor Vehicle Parts manufacturing, as is most appropriate for their faciliity . Applicants may use data for May 2022, the latest available at the time of release of this FOA.

profit sharing should also be noted and can be taken into account in the evaluation of applicant compensation.

Building on Section 712, IRA Section 50143 makes funding for such grants available through September 30, 2031, and provides that, "…the Secretary of Energy shall require a recipient of a grant to provide not less than 50 percent of the cost of the project carried out using the grant".

It is anticipated that this FOA will strengthen domestic manufacturing of electrified vehicles of the types listed above—including light, medium, and heavy-duty on-road vehicles—as well as of electric vehicle components. It is also anticipated that this FOA will create, retain, and/or expand high-paying jobs in the automotive industry with the free and fair chance to join a union. The overall scope of this FOA concerns commercial facilities, including those for vehicle assembly, component assembly, and manufacturing of related parts, with particular attention to communities with facilities that have a long history of supporting automotive vehicles and components, for instance 42 USC 17013 highlights facilities that have been in existence for at least 20 years. Applicants should consider and identify domestic sources of equipment, feedstock, and materials as well as potential downstream domestic customers of their parts or product.

i. Program Purpose

This FOA supports the administration goals laid out above by accelerating the growth of domestic production capability of electric vehicles and components to meet anticipated increased demand for clean energy technologies as the economy transitions to net-zero emissions. The program will also aim to:

- Retain and/or return good-quality, high-paying jobs in facilities that have long served ICE vehicle manufacturing.
- Retain, strengthen, and expand collective bargaining agreements in automotive facilities.
- Support a just transition for workers and communities in the transition to electrified transportation, with particular attention to communities supporting facilities with longer histories in automotive manufacturing.
- Expand United States electric vehicle and component manufacturing to meet the goal of having at least 50 percent of all new passenger cars and light trucks sold in 2030 be zero-emission vehicles, including battery electric, plug-in hybrid electric, or fuel cell electric vehicles.
- Strengthen domestic supply chains for electrified vehicles as well as related components and materials.

NOTE: Only applications submitted by facilities that are internal combustion engine related commercial-scale vehicle assembly or component manufacturing facility(s) that intend to support the domestic production of efficient hybrid, plug-in electric hybrid, plug-in electric drive, or hydrogen fuel cell electric vehicles or components will be considered responsive to the FOA, in accordance with Section I.C.

Applicants to this FOA will be required to submit a Job Quality and Just Transition Plan and a Labor and Community Benefits Plan as part of their application. The Job Quality and Just Transition Plan will account for 10 percent of the technical merit review of proposals. The Labor and Community Benefits plan will account for 15 percent of the technical merit review of proposals. This 15 percent is assessed based on three themes that together will ensure project success, efficient and effective use of taxpayer funds, timely project implementation, and the acceleration of private sector uptake in projects: (1) engaging communities and labor; (2) advancing diversity, equity, inclusion, and accessibility pertaining to economic opportunity; and (3) implementing the President's Justice40 Initiative.

As part of the whole-of-government approach to advance equity and encourage worker organizing and collective bargaining[6,7,8] this FOA and any related activities will seek to affirmatively support workers' ability to organize and collectively bargain as well as to engage and partner with labor unions, underserved communities, and underrepresented groups, including Indian Tribes.[9] This FOA will advance the Biden-Harris Administration's Justice40 Initiative[10] and help meet the goal that 40% of the overall benefits of the Administration's investments in certain federal investments in climate, clean energy, and other areas flow to disadvantaged communities identified by the

[6] EO 13985, "Advancing Racial Equity and Support for Underserved Communities Through the Federal Government," January 20, 2021. EO 14091, Further Advancing Racial Equity and Support for Underserved Communities Through the Federal Government," February 16, 2023.
[7] EO 14025, "Worker Organizing and Empowerment," April 26, 2021.
[8] EO 14052, "Implementation of the Infrastructure Investment and Jobs Act," November 18, 2021.
[9] EO 13175, November 6, 2000, "Consultation and Coordination with Indian Tribal Governments," charges all executive departments and agencies with engaging in regular, meaningful, and robust consultation with tribal officials in the development of federal policies that have tribal implications. Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships | The White House
[10] Established by EO 14008, the Justice40 Initiative has made it a goal that 40 percent of the overall benefits of certain federal investments in climate, clean energy, and other areas flow to disadvantaged communities that are marginalized and overburdened by pollution and underinvestment.

Climate and Economic Justice Screening Tool,[11] and drive creation of accessible, good-paying jobs with the free and fair choice for workers to join a union. [12]

ii. Technology Space and Strategic Goals

This FOA seeks applications to convert manufacturing facilities in ways that expand domestic production capability of electrified vehicles, as well as related components and materials, in the United States. Detailed technical descriptions of the specific Topic Areas are provided in the sections that follow.

iii. Teaming Partner List

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

The Teaming Partner List will be available on S3 eXCHANGE and will be regularly updated to reflect new teaming partners who provide their organization's information.

SUBMISSION INSTRUCTIONS: View the Teaming Partner List by visiting the S3 eXCHANGE homepage and clicking on "Teaming Partners" within the left-hand navigation pane. This page allows users to view published Teaming Partner Lists. To join the Teaming Partner List, submit a request within eXCHANGE. Select the appropriate Teaming Partner List from the drop-down menu, and fill in the following information: Investigator Name, Organization Name, Organization Type, Topic Area, Background and Capabilities, Website, Contact Address, Contact Email, and Contact Phone.

DISCLAIMER: By submitting a request to be included on the Teaming Partner List, the requesting 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

[11] DOE uses the Climate and Economic Justice Screening Tool to identify geographically defined disadvantaged communities. For more information, see Justice40 Initiative, https://www.whitehouse.gov/environmentaljustice/justice40/; OMB, CEQ, & CPO, M-23-09, Addendum to the Interim Implementation Guidance for the Justice40 Initiative, M-21-28, on using the Climate and Economic Justice Screening Tool (CEJST) (Jan. 27, 2023), https://www.whitehouse.gov/wp-content/uploads/2023/01/M-23-09_Signed_CEQ_CPO.pdf.

[12] For more information, *see* E.O. 14008, Tackling the Climate Crisis at Home and Abroad (Jan. 27, 2023), https://www.federalregister.gov/documents/2021/02/01/2021-02177/tackling-the-climate-crisis-at-home-and-abroad

organizations that are 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.

B. Topic Areas

All work for projects selected under this FOA must be performed in the United States. See Section IV.I.iii. and Appendix C.

All Topic Areas:

Topic Area 1: Commercial-scale Assembly or Component Manufacturing Facilities for Electrified Vehicles (Large ($): Federal Share between $250,000,000 - $500,000,000): The objective of this area of interest is to convert commercial-scale assembly or component manufacturing facilities from internal combustion engine (ICE) to electrified vehicles.

Topic Area 2: Commercial-scale Assembly or Component Manufacturing Facilities for Electrified Vehicles (Medium ($): Federal Share between $100,000,000 - $249,999,999): The objective of this area of interest is to convert commercial-scale assembly or component manufacturing facilities from internal combustion engine (ICE) to electrified vehicles.

Topic Area 3: Commercial-scale Assembly or Component Manufacturing Facilities for Electrified Vehicles (Small ($): Federal Share between $25,000,000 - $99,999,999): The objective of this area of interest is to convert commercial-scale assembly or component manufacturing facilities from internal combustion engine (ICE) to electrified vehicles.

C. Applications Specifically Not of Interest

The following types of applications will be deemed nonresponsive and will not be reviewed or considered (See Section III.D. of the FOA):

- Applications that fall outside the technical parameters specified in Sections I.A. and I.B. of the FOA.
- Applications for proposed technologies that are not based on sound scientific principles (e.g., violates the laws of thermodynamics).
- Applications that are based on research, development, or pilot-scale activities.
- Applications submitted by an entity that is not proposing the conversion of an internal combustion engine (ICE) or ICE-related (e.g., transmission, engine or powertrain controls, fuel system, exhaust system) commercial-scale

assembly or component manufacturing facility(ies) to support the domestic production of efficient hybrid, plug-in electric hybrid, plug-in electric drive, or hydrogen fuel cell electric vehicles.

D. Job Quality and Just Transition Plan

To support the goal of supporting a just transition in the motor vehicle industry and build a clean and equitable energy economy, projects are expected to (1) engage and invest in a skilled workforce in both construction and ongoing production activities; (2) demonstrate the retention or expansion of high-paying production jobs in the motor vehicle manufacturing industry; (3) prioritize opportunities for displaced or at-risk workers in motor vehicles or motor vehicle parts manufacturing. To ensure these goals are met, applicants must develop and submit a Job Quality and Just Transition Plan and how the applicant will respond to the 3 objectives stated above.

E. Labor and Community Benefits Plan

To support the goal of building a clean and equitable energy economy, projects are expected to (1) support meaningful community and labor engagement; (2) advance diversity, equity, inclusion, and accessibility (DEIA), including equitable access to good jobs and contracting opportunities; and (3) contribute to the President's goal that 40% of the overall benefits of certain federal investments flow to disadvantaged communities (the Justice40 Initiative).[13] To ensure these goals are met, applications must include a Labor and Community Benefits Plan that describes how the proposed project would incorporate the 3 objectives stated above.

Applicants are encouraged to submit Community and Labor Partnership Documentation from established labor unions and community-based organizations that demonstrate the applicant's ability to achieve the above goals as outlined in the Job Quality and Just Transition Plan and the Labor and Community Benefits Plan. Within both Plans, the applicant is encouraged to provide details on how it will ensure the delivery of measurable community and

[13] The Justice40 initiative, established by E.O. 14008, sets a goal that 40% of the overall benefits of certain federal investments flow to disadvantaged communities and Addendum Pursuant to E.O. 14008 and whitehouse.gov/wp-content/uploads/2023/01/M-23-09_Signed_CEQ_CPO.pdf; https://www.whitehouse.gov/wp-content/uploads/2021/07/M-21-28.pdf that uses the Office of Management and Budget's Interim Justice40 Implementation Guidance M-21-28 and M-23-09 (whitehouse.gov), DOE recognizes disadvantaged CEJST to identify such communities as that are geographically defined and identified by the White House Council on Environmental Quality's Climate and Economic Justice Screening Tool (CEJST), 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.
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jobs benefits, ideally using negotiated agreements (referred to collectively here as "Workforce and Community Agreements") between the applicant and the community, and/or between the applicant and labor unions. These agreements include good neighbor agreements, community benefits agreements, community workforce agreements, project labor agreements, and other collective bargaining agreements. See Section IV.D.xv and IV.D.xviii for the Plan content requirements.

DOE recognizes there may be overlap between the required workforce analysis and information required as a component of the Topic Areas (see Section I.B) and the Job Quality and Just Transition Plan. Applicants may use some or all of their workforce investment as a component of the Topic Areas to support the objectives of these Plans. Applicants should: (i) clearly explain how the proposed workforce investment is consistent with the characteristics and limitations described in the Topic Areas; and (ii) identify any overlap between the Topic Areas and the Job Quality and Just Transition and/or Labor and Community Benefits Plans.

F. Authorizing Statutes

The programmatic authorizing statute is Section 50143 of the Inflation Reduction Act of 2022 (Pub. L. 117-169) which modifies section 712 of the Energy Policy Act of 2005 (42 U.S.C. 16062).

Awards made under this announcement will fall under the purview of 2 CFR Part 200 as amended by 2 CFR Part 910.

II. Award Information

A. Award Overview

i. Estimated Funding

DOE expects to make a total of approximately $2,000,000,000 of federal funding available for new awards under this FOA, subject to the availability of appropriated funds. DOE anticipates making approximately 9-15 awards under this FOA. DOE may issue one, multiple, or no awards. Individual awards may vary between $25,000,000 and $500,000,000.

DOE may issue awards in one, multiple, or none of the following topic areas:

Topic Area Number	Topic Area Title	Anticipated Number of Awards	Anticipated Minimum Award Size for Any One Individual Award (Fed Share)	Anticipated Maximum Award Size for Any One Individual Award (Fed Share)	Approximate Total Federal Funding Available for All Awards	Anticipated Period of Performance (months)
1	Commercial-scale Assembly or Component Manufacturing Facilities for Electrified Vehicles (Large ($))	2–4	$250,000,000	$500,000,000	$2,000,000,000	24–60 months
2	Commercial-scale Assembly or Component Manufacturing Facilities for Electrified Vehicles (Medium ($))	3–5	$100,000,000	$249,999,999	$2,000,000,000	24–60 months
3	Commercial-scale Assembly or Component Manufacturing Facilities for Electrified Vehicles (Small ($))	4–6	$25,000,000	$99,999,999	$2,000,000,000	24–60 months

DOE may establish more than one budget period for each award and fund only the initial budget period(s). Funding for all budget periods, including the initial budget period, is not guaranteed.

ii. Period of Performance

DOE anticipates making awards that will run from 24 up to 60 months, comprised of one or more budget periods. Project continuation will be contingent upon several elements, including satisfactory performance and DOE's Go/No-Go decision. For a complete list and more information on the Go/No-Go review, see Section VI.B.xiii.

iii. New Applications Only

DOE will accept only new applications under this FOA. DOE will not consider applications for renewals of existing DOE-funded awards through this FOA.

B. DOE Funding Agreements

DOE has the authority to provide financial support to prime recipients through grants. DOE anticipates funding projects selected under this FOA through grants.

i. Funding Agreements with Federally Funded Research and Development Center (FFRDCs)[14]

In most cases, FFRDCs are funded independently of the remainder of the project team. The FFRDC then executes an agreement with any non-FFRDC project team members to arrange work structure, project execution, and any other matters. Regardless of these arrangements, the entity that applied as the prime recipient for the project will remain the prime recipient for the project. See Section III.E.i.

III. Eligibility Information

To be considered for substantive evaluation, an applicant's submission must meet the criteria set forth below. If the application does not meet these eligibility requirements, it will be considered ineligible and removed from further evaluation.

A. Eligible Applicants

i. Domestic Entities

The proposed prime recipient and subrecipient(s) must be domestic entities. The following types of domestic entities are eligible to participate as a prime recipient or subrecipient of this FOA:

1. Institutions of higher education;
2. For-profit entities;
3. Nonprofit entities; and
4. State and local governmental entities and Indian tribes.

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.

DOE/NNSA FFRDCs are eligible to participate as a subrecipient but are not eligible to apply as a prime recipient. **NETL is not eligible for awards under this**

[14] FFRDCs are public-private partnerships that conduct research for the U.S. government. A listing of FFRDCs can be found at http://www.nsf.gov/statistics/ffrdclist/.

announcement and may not be proposed as a subrecipient on another entity's application. An application that includes NETL as a prime recipient or subrecipient will be considered non-responsive.

Non-DOE/NNSA FFRDCs are eligible to participate as a subrecipient but are not eligible to apply as a prime recipient.

Federal agencies and instrumentalities (other than DOE) are eligible to participate as a subrecipient but are not eligible to apply as a prime recipient.

Entities banned from doing business with the U.S. government, such as entities debarred, suspended, or otherwise excluded from or ineligible for participating in federal programs, are not eligible.

Nonprofit organizations described in Section 501(c)(4) of the Internal Revenue Code of 1986 that engaged in lobbying activities after December 31, 1995, are not eligible.

ii. Foreign Entities

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 this FOA, but the Full 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 Full Application for each proposed foreign subrecipient.

Appendix C lists the information that must be included in a foreign entity waiver request. The applicant does not have the right to appeal DOE's decision concerning a waiver request.

B. Cost Sharing

Applicants are bound by the cost share proposed in their Full Applications if selected for award negotiations.

For all demonstration or commercial application projects[15] the cost share must be at least 50% of the total project costs[16]. The cost share must come from non-federal sources unless otherwise allowed by law.

To help applicants calculate proper cost share amounts, DOE has included a cost share information sheet and sample cost share calculation as Appendices A and B to this FOA.

i. Legal Responsibility

Although the cost share requirement applies to the entire project, including work performed by members of the project team other than the prime recipient, the prime recipient is legally responsible for paying the entire cost share. If the funding agreement is terminated prior to the end of the project period, the prime recipient is required to contribute at least the cost share percentage of total expenditures incurred through the date of termination.

The prime recipient is solely responsible for managing cost share contributions by the project team and enforcing cost share obligation assumed by project team members in subawards or related agreements.

ii. Cost Share Allocation

Each project team is free to determine how best to allocate the cost share requirement among the team members. The amount contributed by individual project team members may vary, as long as the cost share requirement for the entire project is met.

iii. Cost Share Types and Allowability

An applicant selected under this FOA cannot use, designate, or provide leverage federal financing, such as DOE Loan Guarantees, to provide the required cost share or to otherwise support the same scope that is proposed in response to this FOA. Additionally, the achievement of MESC project objectives must not rely upon a current or future DOE Loan Guarantee for another project.

An applicant selected under this FOA cannot subordinate DOE's interest in property or equipment for any purpose.

[15] Energy Policy Act of 2005, Public Law 109-58, sec. 988. Also see 2 CFR 200.306 and 2 CFR 910.130 for additional cost sharing requirements.

[16] Total project costs are the sum of the government share, including FFRDC costs if applicable, and the recipient share of project costs.

Also, in general, deferred or avoided costs such as tax credits cannot be counted towards the cost share requirements.

An applicant selected under this FOA cannot propose the value of previously acquired equipment, buildings, or land as cost share.

Every cost share contribution must be allowable under the applicable federal cost principles, as described in Section IV.I.i of the FOA. In addition, cost share must be verifiable upon submission of the Full Application.

Cost share may be provided in the form of cash or cash equivalents, or in-kind contributions. Cost share must come from non-federal sources (unless otherwise allowed by law), such as project participants, state or local governments, or other third-party financing.

Cost share may be provided by the prime recipient, subrecipients, or third parties (entities that do not have a role in performing the scope of work). Vendors/contractors may not provide cost share. Any partial donation of goods or services is considered a discount and is not allowable.

Cash contributions include but are not limited to personnel costs, fringe costs, supply and equipment costs, indirect costs, and other direct costs.

In-kind contributions are those where a value of the contribution can be readily determined, verified, and justified but where no actual cash is transacted in securing the good or service comprising the contribution. Allowable in-kind contributions include but are not limited to the donation of volunteer time or the donation of space or use of equipment.

Project teams may use funding or property received from state or local governments to meet the cost share requirement, so long as the federal government did not provide the funding to the state or local government.

The recipient may not use any of the following sources to meet cost share obligations:

- Revenues or royalties from the prospective operation of an activity beyond the project period;
- Proceeds from the prospective sale of an asset of an activity;
- Federal funding or property (e.g., federal grants, equipment owned by the federal government); or
- Expenditures that were reimbursed under a separate federal program.

Project teams may not use the same cash or in-kind contributions to meet cost share requirements for more than one project or program.

Cost share contributions must be specified in the project budget, verifiable from the prime recipient's records, and necessary and reasonable for proper and efficient accomplishment of the project. As all sources of cost share are considered part of total project cost, the cost share dollars will be scrutinized under the same federal regulations as federal dollars to the project. Every cost share contribution must be reviewed and approved in advance by the Contracting Officer and incorporated into the project budget before the expenditures are incurred.

Applicants are encouraged to refer to 2 CFR 200.306 and 2 CFR 910.130 for additional cost sharing requirements.

iv. Cost Share Contributions by FFRDCs

Because FFRDCs are funded by the federal government, costs incurred by FFRDCs generally may not be used to meet the cost share requirement. FFRDCs may contribute cost share only if the contributions are paid directly from the contractor's Management Fee or another non-federal source.

v. Cost Share Verification

Applicants are required to provide written assurance of their proposed cost share contributions in their Full Applications.

Upon selection for award negotiations, applicants are required to provide additional information and documentation regarding their cost share contributions. Please refer to Appendix A of the FOA.

vi. Cost Share Payment

DOE requires prime recipients to contribute the cost share amount incrementally over the life of the award. Specifically, the prime recipient's cost share for each billing period must always reflect the overall cost share ratio negotiated by the parties (i.e., the total amount of cost sharing on each invoice when considered cumulatively with previous invoices must reflect, at a minimum, the cost sharing percentage negotiated).

In limited circumstances, and where it is in the government's interest, the DOE Contracting Officer may approve a request by the prime recipient to meet its cost share requirements on a less frequent basis, such as monthly or quarterly. Regardless of the interval requested, the prime recipient must be up to date on

cost share at each interval. Such requests must be sent to the Contracting Officer during award negotiations and include the following information: (1) a detailed justification for the request; (2) a proposed schedule of payments, including amounts and dates; (3) a written commitment to meet that schedule; and (4) such evidence as necessary to demonstrate that the prime recipient has complied with its cost share obligations to date. The Contracting Officer must approve all such requests before they go into effect.

C. Compliance Criteria

All applicant submissions must:

- Comply with the applicable content and form requirements listed in Section IV of the FOA;
- Include all required documents;
- Be uploaded and submitted to S3 eXCHANGE https://infrastructure-exchange.energy.gov; and
- Be submitted by the deadline stated in the FOA.

DOE will not review or consider submissions submitted through means other than S3 eXCHANGE, submissions submitted after the applicable deadline, or incomplete submissions.

Under normal conditions (i.e., at least 48 hours before the submission deadline), applicants should allow at least one hour to submit a Concept Paper or Full Application. Once the Concept Paper or Full Application is submitted in S3 eXCHANGE, applicants may revise or update that submission until the expiration of the applicable deadline. If changes are made to any of these documents, the applicant must resubmit the Concept Paper or Full Application before the applicable deadline. DOE will not extend the submission deadline for applicants that fail to submit required information by the applicable deadline due to server/connection congestion.

D. Responsiveness Criteria

All Applications Specifically Not of Interest, as described in Section I.C. of the FOA, are deemed nonresponsive and are not reviewed or considered.

E. Other Eligibility Requirements

i. Requirements for DOE/NNSA and Non-DOE/NNSA FFRDCs Included as a Subrecipient

DOE/NNSA and non-DOE/NNSA FFRDCs may be proposed as a subrecipient on another entity's application subject to the following guidelines:

a. Authorization for non-DOE/NNSA FFRDCs
The federal agency sponsoring the FFRDC must authorize in writing the use of the FFRDC on the proposed project and this authorization must be submitted with the application. The use of a FFRDC must be consistent with its authority under its award.

b. Authorization for DOE/NNSA FFRDCs
The cognizant Contracting Officer for the FFRDC must authorize in writing the use of the FFRDC on the proposed project and this authorization must be submitted with the application. The following wording is acceptable for this authorization:

> Authorization is granted for the Laboratory to participate in the proposed project. The work proposed for the Laboratory is consistent with or complementary to the missions of the Laboratory and will not adversely impact execution of the DOE assigned programs at the Laboratory.

c. Funding, Cost Share, and Subaward with FFRDCs

The value of and funding for the FFRDC portion of the work will not normally be included in the award. DOE/NNSA FFRDCs participating as a subrecipient on a project will be funded directly through the DOE field work proposal (WP) process. Non-DOE/NNSA FFRDCs participating as a subrecipient will be funded through an interagency agreement with the sponsoring agency.

Although the FFRDC portion of the work is excluded from the award, the applicant's cost share requirement will be based on the total cost of the project, including the applicant's, the subrecipient's, and the FFRDC's portions of the project.

Unless instructed otherwise by the DOE Contracting Officer for the DOE award, all FFRDCs are required to enter into a Cooperative Research and Development Agreement[1] (CRADA) or, if the role of the DOE/NNSA FFRDC is limited to technical assistance and intellectual property is not anticipated to be generated from the DOE/NNSA FFRDC's work, a Technical Assistance Agreement (TAA), with at least the prime recipient before any project work begins. Any questions regarding the use of a CRADA or TAA should be directed to the cognizant DOE field intellectual property (IP) counsel.

The CRADA or TAA is used to ensure accountability for project work and provide the appropriate management of IP, e.g., data protection and background IP. The CRADA or TAA must be agreed upon by all parties and submitted to DOE or other sponsoring agency, when applicable, for approval, or submitted to DOE for notice under the Master Scope of Work process, when applicable, using any DOE or other sponsoring agency approved CRADA or TAA template without substantive changes by the time the award is made to the prime recipient.

The applicant should prepare the budgets using rates appropriate for funding the FFRDCs through subawards. The applicant's cost share requirement will be based on the total cost of the project, including the applicant's, the subrecipient's, and the FFRDC's portions of the project.

d. Responsibility
The prime recipient will be the responsible authority regarding the settlement and satisfaction of all contractual and administrative issues, including but not limited to disputes and claims arising out of any agreement between the prime recipient and the FFRDC.

e. Limit on FFRDC effort.
The scope of work to be performed by the FFRDC may not be more significant than the scope of work to be performed by the applicant.

F. Limitation on Number of Concept Papers and Full Applications Eligible for Review

An entity may submit more than one Concept Paper and Full Application to this FOA, provided that each application describes a unique, scientifically distinct project and an eligible Concept Paper was submitted for each Full Application.

G. Questions Regarding Eligibility

DOE will not make eligibility determinations for potential applicants prior to the date on which applications to this FOA must be submitted. The decision whether to apply in response to this FOA lies solely with the applicant.

IV. Application and Submission Information

A. Application Process

The application process includes multiple submission phases: a Concept Paper phase, and a Full Application phase. **Only applicants who have submitted an eligible Concept Paper will be eligible to submit a Full Application**.

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

- Each must be submitted in Adobe PDF format unless stated otherwise;
- Each must be written in English;
- All pages must be formatted to fit on 8.5" x 11" 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). A symbol font may be used to insert Greek letters or special characters, but the font size requirement still applies. 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 S3 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_Full 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.

i. Additional Information on S3 eXCHANGE

S3 eXCHANGE is designed to enforce the deadlines specified in this FOA. The "Apply" and "Submit" buttons will automatically disable at the defined submission deadlines.

Applicants who experience technical difficulties with submission PRIOR to the FOA deadline should contact the S3 eXCHANGE helpdesk for assistance (InfrastructureExchangeSupport@hq.doe.gov). The Exchange helpdesk and/or the Exchange system administrators will assist applicants in resolving issues.

B. Application Forms

To access application forms and instructions available on S3 eXCHANGE, go to https://infrastructure-exchange.energy.gov and select the appropriate funding opportunity number.

Note: The maximum file size that can be uploaded to the S3 eXCHANGE website is 50MB. Files larger than 50MB cannot be uploaded and hence cannot be submitted for review. If a file is larger than 50MB but is still within the maximum page limit specified in the FOA, it must be broken into parts and denoted to that effect. For example:

TechnicalVolume_Part_1
TechnicalVolume_Part_2

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

C. Content and Form of the Concept Paper

Each Concept Paper must be limited to a single concept or technology. The Concept Paper must conform to the requirements listed below, including the stated page limits.

Section	Page Limit	Description
Cover Page	1 page maximum	The cover page should include: • Project Title, • Topic Area being addressed, • Technical and business points of contact, • Names of all team member organizations, • Project location, and • Any statements regarding confidentiality.
Technology Impact	2 pages maximum	Applicants are required to describe succinctly: • The project location, including the address of the proposed facility to be converted. Discuss the

		facility's current manufacturing status and output versus the proposed manufacturing output and volume. Include current workforce size and estimate workforce retention and additional jobs related to the facility conversion. Summarize the wages, benefits, and any existing collective bargaining agreements for the site. • The proposed electrified vehicle assembly, component assembly, or related part manufacturing. Include a description of vehicle classification, if applicable (such as: hybrid, plug-in hybrid electric, electric, or fuel cell hybrid electric vehicles); and vehicle size, if applicable (small, medium, large, or vehicle class). • The status of the proposed electrified vehicle, component, or assembly and where it is currently manufactured (domestically, abroad, or both). • The applicant should describe how the project will contribute to increased vehicle electrification and reduced energy use, cost, and greenhouse gas emissions.
Business Viability/Commercial Market	2 page maximum	Applicants are required to succinctly describe their current market and customers, then describe projected target market for manufactured product(s). For the target market, discuss the sufficiency of the existing target market(s); the stability of the target market (i.e., projection that the product(s) will be competitive based on a data-based market assessment, including with respect to average selling prices), strength of current and potential competitors; forward-looking market trends; the market entry strategy (e.g., product differentiation, barriers to entry, intellectual property rights, first mover advantage, etc.); and the plan for marketing the product(s). Additionally, applicants must describe the strength of the project's economic viability, sustainability, and potential growth beyond DOE funding, including the ability to achieve follow-on investments beyond the award performance period. Applicants are encouraged to submit a description of planned or current off-take agreement(s) with state, local, and/or private companies/organizations (contractors, utilities, retail, and/or otherwise).
Financing Plan, Cost Share, and Cost Share Sources	1 page maximum	• Applicants are required to succinctly describe the financial plan to include proposed budget and spend plan covering both DOE funding and non-federal cost share. It should include:

		• (i) the amount of cost share proposed in proportion to the Federal award requested and the cost share sources; • (ii) the proposed cost share and initial capital stack, including the availability, credibility, and risk/terms of non-federal cost share sources; • (iii) the plan and schedule to achieve long-term financial viability, beyond federal funding; • (iv) the ability to provide contingency funding to meet unexpected project cost overruns, including the source of such funding; • (v) an analysis of the cost and revenue impacts of paying high wages taking into account the benefits of higher wages for lower recruitment costs, higher quality and uptime, and other impacts from capitalizing on higher levels of worker skill; and • (vi) the amount of funding allocated to implementation of the proposed Labor and Community Benefits Plan.
Project Team and Approach	1 page maximum	Applicants are required to succinctly describe the unique capabilities and expertise of the applicant and any major project partners or subrecipients, debt or equity sponsors, contractors/vendors (if known), and any other counterparty that the applicant believes will enable the project to be successful. The applicant should also summarize the prior experience of the applicant and any major project partners in similar undertakings to the proposed project. Additionally, applicants should describe the specific qualifications, experience, capabilities, and other resources necessary to complete the proposed project including: • Skill and expertise of the Lead Project Manager (LPM) and Project Team in relation to the project plan; • Describe prior experience performing tasks of similar risk and complexity; • Describe how the applicant has worked together with its teaming partners on prior projects or programs; • Describe the equipment and facilities necessary to accomplish the effort, and the plan to obtain access to them; • Any Labor unions with whom the applicant has signed or is negotiating a collective bargaining agreement.
Quality Jobs and Just Transition Plan	1 page maximum	Applicants are required to succinctly describe their approach to the Quality Jobs and Just Transition Plan, addressing the core elements:

		• investments in job quality to support workforce stability and continuity in construction; • investments in job quality to support workforce stability and continuity in ongoing production activities; • retention, creation, or expansion of high-paying hourly production jobs in the motor vehicle and parts manufacturing industries; and • Prioritization of opportunities for displaced or at-risk workers in motor vehicles or motor vehicle parts manufacturing Applicants must develop and submit a Job Quality and Just Transition Plan and how the applicant will respond to the 4 objectives stated above.
Labor and Community Benefits Plan	1 page maximum	Applicants are required to succinctly describe their approach to the Labor and Community Benefits Plan, addressing the three core elements: • Community and labor engagement leading to negotiated agreements; • Advancing diversity, equity, inclusion, and access to economic opportunity, including good jobs; and • Contributing to the Justice40 Initiative goal that 40% of the overall benefits of certain federal investments in climate, clean energy, and other areas flow to disadvantaged communities.

DOE makes an independent assessment of each Concept Paper based on the criteria in Section V. of the FOA. DOE will encourage a subset of applicants to submit Full Applications. Other applicants will be discouraged from submitting a Full Application. See Section VI.A.

D. Content and Form of the Full Application

Applicants must complete the following application forms found on the S3 eXCHANGE website at https://infrastructure-exchange.energy.gov/.

Applicants will have approximately 30 days from receipt of the Concept Paper Encourage/Discourage notification on S3 eXCHANGE to prepare and submit a Full Application. Regardless of the date the applicant receives the Encourage/Discourage notification, the submission deadline for the Full Application remains the date and time stated on the FOA cover page.

All Full Application documents must be marked with the control number issued to the applicant.

i. Full Application Content Requirements

Each Full Application must be limited to a single concept. Full Applications must conform to the following requirements and must not exceed the stated page limits.

Component	File Format	Page Limit	File Name
Technical Volume	PDF	30 pages	ControlNumber_LeadOrganization_TechnicalVolume
Resumes	PDF	3 pages each	ControlNumber_LeadOrganization_Resumes
Letters of Commitment	PDF	1 page each	ControlNumber_LeadOrganization_LOCs
Offtake Agreement Letters of Commitment	PDF	1 page each	ControlNumber_LeadOrganization_Offtake
Community and Labor Partnership Documentation	PDF	10 pages	ControlNumber_LeadOrganization_PartnerDocs
Statement of Project Objectives	MS Word	8 pages	ControlNumber_LeadOrganization_SOPO
SF-424: Application for Federal Assistance	PDF	n/a	ControlNumber_LeadOrganization_App424
Budget Justification Workbook	MS Excel	n/a	ControlNumber_LeadOrganization_Budget_Justification
Summary/Abstract for Public Release	PDF	1 page	ControlNumber_LeadOrganization_Summary
Summary Slide	MS PowerPoint	1	ControlNumber_LeadOrganization_Slide
Subrecipient Budget Justification	MS Excel	n/a	ControlNumber_LeadOrganization_Subrecipient_Budget_Justification
SF-LLL Disclosure of Lobbying Activities	PDF	n/a	ControlNumber_LeadOrganization_SF-LLL
Foreign Entity Waiver Requests and Foreign Work Waiver Requests	PDF	n/a	ControlNumber_LeadOrganization_Waiver
Job Quality and Just Transition Plan	PDF	6 pages	ControlNumber_LeadOrganization_JQP
Letters of Support from Labor Unions	PDF	1 page each	ontrolNumber_LeadOrganization_LOSs
Labor and Community Benefits Plan	PDF	6 pages	ControlNumber_LeadOrganization_CBP
Labor and Community Benefits Plan Budget Justification	MS Excel	n/a	ControlNumber_CBP_Budget_Justification
Current and Pending Support	PDF	n/a	ControlNumber_LeadOrganization_CPS
Location(s) of Work	Excel	n/a	ControlNumber_LeadOrganization_LOW

Environmental Information Volume (Applicants must use the template in Exchange)	PDF	n/a	ControlNumber_LeadOrganization_EnvSum
Environmental Questionnaire (Applicants must use the template in Exchange	PDF	n/a	ControlNumber_LeadOrganization_EQ
Transparency of Foreign Connections	PDF	n/a	BusinessSensitive_ControlNumber_LeadOrganization_TFC
Potentially Duplicative Funding Notice	PDF	n/a	ControlNumber_LeadOrganization_PDFN
At Risk Facility Justification	PDF	5 pages	ControlNumber_LeadOrganization_ARFJ

Note: The maximum file size that can be uploaded to the S3 eXCHANGE website is 50MB. See Section IV.B.

DOE provides detailed guidance on the content and form of each component below.

ii. Technical Volume

The Technical Volume must conform to the following content and form requirements. This volume must address the technical review criteria as discussed in Section V. of the FOA. Save the Technical Volume in a single PDF file using the following convention for the title: "ControlNumber_LeadOrganization_TechnicalVolume".

Applicants must provide sufficient citations and references to the primary research literature to justify the claims and approaches made in the Technical Volume. However, DOE and reviewers are under no obligation to review cited sources.

The Technical Volume to the Full Application may not be more than 30 pages, including the cover page, table of contents, and all citations, charts, graphs, maps, photos, or other graphics, and must include all information in the table below. The applicant should consider the weighting of each of the technical review criteria (see Section V. of the FOA) when preparing the Technical Volume.

The Technical Volume should clearly describe and expand upon information provided in the Concept Paper.

Technical Volume Content Requirements

SECTION/PAGE LIMIT	DESCRIPTION
Cover Page	The cover page should include the project title, the specific FOA Topic Area being addressed, both the technical and business points of contact, names of all team member organizations, names of project managers, senior/key personnel and their organizations, the project location(s), and any statements regarding confidentiality.
Project Overview (Approximately 10% [3 pages or less] of the Technical Volume)	The Project Overview should include the information set forth below, as well as clear, unambiguous, and quantified data and measures to support any included analysis and projected impacts. Information provided in the Project Overview should be consistent with and supported by other sections of the application. • **Scope and Objectives:** The overall scope and objectives of the proposed project. • **Project Location:** The project location, including the address of the project location. • **Production Capacity:** The product(s) to be produced, the targeted annual manufacturing capacity, and information or data to support the targeted annual manufacturing capacity. • **Market Overview:** The market segment(s) the project will fulfill, the stability of the market segment(s), the growth potential of the market segment(s), and the competitiveness of the project in the market segment(s). • **Domestic Supply Chain Impact:** The impact that the project will have in bolstering the relevant domestic supply chain, including analysis of how the project will impact or improve the current baseline by increasing domestic capacity to meet current or projected demand and/or by onshoring capacity to enhance national security, resilience, and economic competitiveness. Applicants should include impact on the local workforce and manufacturing ecosystem, such as impact on helping other nearby employers to convert from ICE- related goods and services. • **Project Impacts:** The applicant should clearly describe the substantial impact the proposed project is anticipated to have in creating, retaining, and/or returning high-paying automotive jobs; meeting anticipated demand; supporting the local economy; and reducing greenhouse gas emissions. The applicant should also clearly describe how the project will meet the workforce requirements described in section I.B., quantifying where possible • **Impact of DOE Funding:** The applicant should clearly describe how the proposed work, if successfully accomplished, would meet the objectives of the FOA. • **Background:** The applicant should discuss previous manufacturing experience in supporting the domestic automotive industry, the

	background of their organization, including the history, successes, and current development status (i.e., the technical baseline) relevant to the technical topic being addressed in the Full Application. • **Project Goal:** The applicant should explicitly identify the facility to be converted and the targeted electrified vehicle final product as well as any targeted improvements to the baseline technology and the critical success factors in achieving that goal. It is desired to retain current or rehire former employees, at or above the wages they were previously offered at sites with a history of supporting the automotive industry. Also include the ways in which the proposed project location and related infrastructure, skilled workforce, community benefits, etc. will contribute to the success of the project. • **DOE Impact:** The applicant should discuss the impact that DOE funding would have on the proposed project. Applicants should specifically explain how DOE funding, relative to prior, current, or anticipated funding from other public and private sources, is necessary to achieve the project objectives. • **Constraints on Resources:** The applicant should identify any potential long-term constraints the project will have on the community's access to natural resources (e.g., water) and Tribal cultural resources. If applicable, describe a long-term cleanup strategy that ensures communities and neighborhoods remain healthy, safe, and not burdened with cleanup costs and waste. • **Climate Strategy:** The applicant should outline a climate resilience strategy that accounts for climate impacts and extreme weather patterns, such as high winds (tornadoes and hurricanes), heat and freezing temperatures, drought, wildfire, and floods.
Technical Description, Innovation, and Impact (Approximately 25% [7.5 pages or less] of the Technical Volume)	The Technical Description should contain the following information: • **Relevance and Outcomes:** The applicant should provide a detailed description of the electrified vehicle technology to be manufactured, including the scientific and other principles and objectives that will be pursued during the project. This section should describe the relevance of the proposed project to the goals and objectives of the FOA, including the potential to meet specific DOE technical targets, to use and support existing automotive supply chain assets, such as a skilled workforce, in the transition to a domestic EV supply chain with high economic and jobs benefits, or other relevant performance targets. The applicant should clearly specify the expected outcomes of the project. • **Feasibility:** The applicant should demonstrate the technical feasibility of the proposed facility conversion and technology. The applicant should also demonstrate their capacity to achieve the anticipated performance targets, including through a description of any related previous work done and prior results. This section should address the project's access to necessary infrastructure (e.g., transportation, water, electricity

	transmission), including any use of existing infrastructure. This section should also address how the project will secure and/or retain trained and qualified workers to meet the performance targets.
	• **Supply Chain Impacts:** The applicant should describe how the project will address domestic supply chain issues, such as the following:
	  ○ Current or projected gaps in secure, resilient domestic supply chains of electrified vehicles, including ratio of capacity added relative to federal funding requested
	  ○ Ability of the supply chain to support production of the projected market share as indicated through supply chain analysis and supporting mitigation strategies for supply chain vulnerabilities, risks, or issues revealed
	  ○ Ability to produce products for multiple electrified vehicle applications (e.g., hybrid electric, plug-in electric hybrid, plug-in electric, and hydrogen fuel cell electric) and sizes (e.g., light, medium, and heavy-duty), if applicable.
	  ○ Quantitative measure of the manufactured product domestic content and Impact(s) on local ecosystem, such as impact on helping other local employers to convert from ICE- related goods and services.
	• **Technology Impact:** The applicant should describe how the project will contribute to increased vehicle electrification and reduced energy use, cost, and greenhouse gas emissions.

Business Development & Management Plan (Approximately 25% [7.5 pages or less] of the Technical Volume)	• The Business Development & Management Plan should address the items listed below, as well as any other pertinent information. Information provided in the Business Development & Management Plan should be consistent with and supported by other sections of the application. BUSINESS PLAN • **Site Selection:** If application is building a new facility, the plan should include (i) the rationale for selection of the project site; (ii) evidence of control over the site or the plan to establish control over the site; (iii) specific information about how the project will leverage existing facilities and regional assets, including regional economic development plans, infrastructure, workforce, and workforce training assets, to foster commercial viability, sustainability, and future growth of the project; (iv) discussion of the benefits and impacts to disadvantaged communities/populations; and (v) discussion of climate impacts and extreme weather patterns (such as tornadoes, hurricanes, heat and freezing temperatures, drought, wildfire, and floods) that may impact the resilience/sustainability of the project. • **Engineering, Procurement, Construction, and Operations:** Applications should include initial versions of Engineering, Procurement, Construction and Operations (EPC&O) project documents. The EPC&O

	project documents should provide detailed technical data and/or information to show how the targeted annual manufacturing capacity of the proposed project could be met.
	• **Supply Arrangements:** The plan should provide analysis of the relevant markets for and plans to ensure an adequate supply of essential input needed for successful operation of the project. This analysis should include the strategy to leverage existing U.S. supply chains and support growth of domestic capabilities in keeping with U.S. job creation and/or retention goals.
	• **Workforce Plan**: The plan should detail hiring and training plans on a quarterly basis, detailing occupation composition through ramp up and full production. Provide a training schedule with related instructional and one-the-job training schedules, including any registered apprenticeship or certificates planned. Detail recruitment strategies (including retention of workers from ICE manufacturing facilities), diversity plan and goals, turnover and retention goals and strategies. Evaluate the provision of family care and transportation services, if applicable. Include a job task analysis that details the worker knowledge and skills required for the top 5 occupations and detail any planned investments or partnerships for workforce development and upskilling needed to support that corresponding production capability.
	• **Operational plan:** The project should provide details about its use of practices that have been shown to increase worker well-being and operational effectiveness (productivity, uptime, quality, speed of ramp-up and changeover). These practices include:
	  ○ Hiring and maintaining an experienced workforce
	  ○ Providing training in fundamental skills, such as through registered apprenticeship
	  ○ Offering top quintile or union pattern wages and benefits
	  ○ Meaningfully involving frontline workers in problem-solving
	  ○ Providing supportive services such as family care and transportation
	  ○ Providing mechanisms for worker voice
	• **Market Analysis:** The plan should include an analysis of the current and projected target market for manufactured product(s), including the sufficiency of the existing target market(s); the stability of the target market (i.e., that the product(s) will be competitive based on a data-based market assessment, including with respect to average selling prices), strength of current and potential competitors, forward-looking market trends; the market entry strategy (e.g. product differentiation, barriers to entry, intellectual property rights, first mover advantage, etc.); and the plan for marketing the product(s).
	• **Growth Plan:** The plan should describe the strength of the project's economic viability, sustainability, and potential growth beyond DOE funding, including the ability to achieve follow-on investments beyond the award performance period. Applicants are encouraged to submit a description (potentially including letter(s) of commitment) of an off-take

agreement(s) with state, local, and/or private companies/organizations (contractors, utilities, retail, and/or otherwise).

- **Risk Analysis and Mitigation:** The applicant should provide a comprehensive Risk Management Plan (RMP) accompanied by a corresponding risk register that can be used for ongoing risk management. DOE expects award recipients to understand and actively manage risks.

MANAGEMENT PLAN

- **Organizational Structure:** The plan should include an organizational chart of key entities and senior/key personnel for the project. The organizational chart and related description should show the prime recipient and any major project partners, subsidiaries, affiliates, parent organizations, or joint ventures associated with the project as well as an explanation of the legal structure (e.g., corporation, partnership, LLC) and the roles and responsibilities held by each organization. The level of participation by project participants should be supported by letter(s) of commitment and integrated into the Workplan. The application should also identify any foreign owned entities involved in the project, if applicable, and how the applicant will request a waiver (see Section III.A.ii).
- **Management:** The plan should describe management and operations strategies for the project, including the names, positions or titles, and percentage of time that will be dedicated to the project by senior/key personnel. If any key management and staff are not expected to spend 100 percent of their time executing on the project, the plan should provide a brief description of their other responsibilities or other activities outside of the project.
- **Labor Relations:** The plan should describe current collective bargaining agreements, and/or plans to negotiate in good faith collective bargaining agreements if workers decide to form or join a union.
- **Experience:** The plan should detail the unique capabilities and expertise of the applicant and any major project partners or subrecipients, debt or equity sponsors, contractors/vendors (if known), and any other counterparty that the applicant believes will enable the project to be successful. In addition, the plan should summarize the prior experience of the applicant and any major project partners in similar undertakings to the proposed project.
- **Pending Investigations:** The plan should provide a summary of any pending or threatened (in writing) action, suit, proceeding, or investigation, including any action or proceeding by or before any governmental authority, that relates to the senior/key personnel, and the status of any appeals.

FINANCIAL PLAN

- The financial plan should include the proposed budget and spend plan covering both DOE funding and non-federal cost share. It may reference the Budget Justification Workbook. It should include: (i) the amount of

	cost share proposed in proportion to the Federal award requested; (ii) the proposed cost share and initial capital stack, including the availability, credibility, and risk/terms of non-federal cost share sources; (iii) the plan and schedule to achieve long-term financial viability, beyond federal funding; and (iv) the ability to provide contingency funding to meet unexpected project cost overruns, including the source of such funding • **Total Project Cost:** Applications should include a current Total Project Cost (TPC) estimate that covers the entirety of the project, including construction, capital, labor, and finance costs associated with the Labor and Community Benefits Plan, and other cost categories as appropriate for individual project plans. Cost estimates should meet industry standards for the size and complexity of the proposed project and should explain what assumptions were used and why they were deemed appropriate. DOE may require use of standard cost estimating assumptions, including escalation assumptions in future project activities. An overview of the project's current TPC estimate should be included in the Financial Plan. Supporting itemized data can be provided as part of the "Budget Justification Workbook." During award negotiations, DOE may conduct a third-party review of the project TPC. The rationale for all estimates and the approach for arriving at the estimates must be discussed. • **Wages**: Provide an analysis of the provision of high wages relative to the federal funding or incentives that will support the project and ongoing production. Project the benefits of higher wages with clear assumptions around productivity, higher retention, lower recruitment costs, and capitalizing on higher levels of worker skill. • **Applicant and Project Partners:** In line with the Management Plan section, the application should describe the financial relationship of the prime recipient to major project partners, including any Foreign Owned Entities, who are contributing cost share and/or performing work. It should include a table that identifies the name of the organization or entity that is expected to contribute debt or equity financing and any person, organization, or entity who owns or will own five percent (5%) or more of the facility funded by the project. The plan should indicate the applicant, project partners, and other debt or equity contributors by listing the organization or entity name, website address, mailing address, city and state, and postal code. The applicant must also identify whether they are applying as a small business and the planned use of small businesses for the award. • **Financial Strength:** The plan should describe the financial strength of the applicant and major project partners, as well as the project's financial significance to the prime recipient and major project partner involved. • **Other Federal Support:** Federal financing, such as grants, investment tax credits, or loan guarantees from federal agencies, cannot be leveraged by applicants to provide the required project cost share or to otherwise support the same scope of the project. However, an award

	under this FOA does not preclude the prime recipient or subrecipients from obtaining other forms of federal support for projects with separate scope. • **Non-Federal Support:** The plan should identify other non-federal governmental (including state or local) incentives or other assistance on which the proposed project relies to support the financing, construction, and operation of the project. It should indicate the terms of such support which could result in termination or reduction of anticipated/actual non-Federal support, and whether any such incentives or assistance are subject to clawback and the circumstances under which a clawback could occur.
Workplan (Approximately 20% [6 pages or less] of the Technical Volume)	The Workplan should include a summary of the Project Objectives, Technical Scope, Work Breakdown Structure (WBS), Milestones, Go/No-Go decision points, and Project Schedule. A detailed SOPO is separately requested. The Workplan should contain the following information: • **Project Objectives:** The applicant should provide a clear and concise (high-level) statement of the goals and objectives of the project as well as the expected outcomes. • **Technical Scope Summary:** The applicant should provide a summary description of the overall work scope and approach to achieve the objective(s). The overall work scope is to be divided by performance periods that are separated by discrete, approximately annual decision points (see below for more information on Go/No-Go decision points). The applicant should describe the specific expected end result of each performance period, including milestones in the Labor and Community Benefits Plan. • **WBS and Task Description Summary:** The Workplan should describe the work to be accomplished and how the applicant will achieve the milestones, will accomplish the final project goal(s), and will produce all deliverables. The Workplan is to be structured with a hierarchy of performance period (approximately annual), task and subtasks, which is typical of a standard WBS for any project. The Workplan shall contain a concise description of the specific activities to be conducted over the life of the project. The description shall be a full explanation and disclosure of the project being proposed (i.e., a statement such as "we will then complete a proprietary process" is unacceptable). It is the applicant's responsibility to prepare an adequately detailed task plan to describe the proposed project and the plan for addressing the objectives of this FOA. The summary provided should be consistent with the SOPO. The SOPO will contain a more detailed description of the WBS and tasks. • **Key Contracts, Permits, and Agreements:** The Workplan should provide a top-level description, schedule, and status, of critical path contracts and agreements relevant to the project, encompassing permits, National Environmental Policy Act (NEPA), design,

	engineering, technology licensing, financing, construction, startup, commissioning, shakedown, operation, and maintenance. The Workplan should also include detail about the workforce currently and/or historically employed, the percentage of workers covered by a collective bargaining agreement as well as continuity of that agreement, how many workers were and will be employed on the site, and historic and future wages and benefits for these jobs. • **Milestone Summary:** The applicant should provide a summary of appropriate milestones throughout the project to demonstrate success. A milestone may be either a progress measure (which can be activity based) or a Specific, Measurable, Attainable, Realistic, and Timely (SMART) technical milestone. SMART milestones should be Specific, Measurable, Achievable, Relevant, and Timely, and must demonstrate a technical achievement rather than simply completing a task. Unless otherwise specified in the FOA, the minimum requirement is that each project must have at least one milestone per quarter for the duration of the project with at least one SMART technical milestone per year (depending on the project, more milestones may be necessary to comprehensively demonstrate progress). The applicant should also provide the means by which the milestone will be verified. The summary provided should be consistent with the Milestone Summary Table in the SOPO. • **Go/No-Go Decision Points** (See Section VI.B.xiii. for more information on the Go/No-Go Review): The applicant should provide a summary of project-wide Go/No-Go decision points at appropriate points in the Workplan. At a minimum, each project must have at least one project-wide Go/No-Go decision point for each budget period (12 to 18-month period) of the project. See Section VI.B.xiii. The applicant should also provide the specific technical and Labor and Community Benefits Plan criteria to be used to evaluate the project at the Go/No-Go decision point. The summary provided should be consistent with the SOPO. Go/No-Go decision points are considered "SMART" and can fulfill the requirement for an annual SMART milestone. • **End of Project Goal:** The applicant should provide a summary of the end of project goal(s). At a minimum, each project must have one SMART end of project goal. The summary provided should be consistent with the SOPO. • **Integrated Project Schedule (IPS):** The applicant should provide a schedule for the entire project, including task and subtask durations, milestones, and Go/No-Go decision points. The initial IPS should include all major project activities and milestones (consistent with the overall Workplan), including engineering, design, procurement construction, and Community Benefits Plan activities. The applicant should also include the sufficiency of the

	Earned Value Management Plan to use total project costs and schedule to enable timely and accurate project performance monitoring and prediction as a means to make project adjustments. This IPS will be revised, expanded, and updated in future project activities. By the end of award negotiation, it is expected that the IPS will be execution ready and reflect comprehensive schedule risk and uncertainty analyses. During each budget period, projects will report actual progress against their execution schedule or schedules as part of regular project management reporting requirements.
	• **Project Management:** The applicant should discuss the team's proposed management plan, including the following:
	  ○ The overall approach to and organization for managing the work;
	  ○ The roles of each project team member;
	  ○ Any critical handoffs/interdependencies among project team members;
	  ○ The technical and management aspects of the management plan, including systems and practices, such as financial and project management practices;
	  ○ The approach to project risk management, including a plan for securing a qualified workforce and mitigating risks to project performance including but not limited to community or labor disputes;
	  ○ A description of how project changes will be handled;
	  ○ If applicable, the approach to Quality Assurance/Control;
	  ○ How communications will be maintained among project team members.

Technical Qualifications and Resources (Approximately 20% [6 pages or less] of the Technical Volume)	The Technical Qualifications and Resources should contain the following information: • A description of the project team's unique qualifications and expertise, including those of key subrecipients; • A description of the project team's existing equipment and facilities, or equipment or facilities already in place on the proposed project site, that will facilitate the successful completion of the proposed project; include a justification of any new equipment or facilities requested as part of the project; • A description of the ongoing operations workforce and their expertise, skills, certifications, and qualifications; • Relevant, previous work efforts, demonstrated innovations, and how these enable the applicant to achieve the project objectives;

	• The time commitment of the key team members to support the project;
	• A description of the technical services to be provided by DOE/NNSA FFRDCs, if applicable;
	• The skills, certifications, or other credentials of the construction workforce;
	• For multi-organizational projects, describe succinctly:
	  ○ The roles and the work to be performed by the project manager and Senior/Key Personnel at the prime and sub levels;
	  ○ Business agreements between the applicant and sub;
	  ○ How the various efforts will be integrated and managed;
	  ○ Process for making decisions on technical direction;
	  ○ Publication arrangements;
	  ○ Intellectual property issues; and
	  ○ Communication plans.

iii. Resumes

A resume provides information reviewers can use to evaluate an individual's relevant skills and the experience of the key project personnel. Applicants must submit a resume (limited to three pages) for each project manager and Senior/Key Personnel that includes the following:

1. Contact information;
2. Education: All academic institutions attended, major/area, degree;
3. Training: For instance, certification or credential from a Registered Apprenticeship or Labor Management Partnership
4. Professional experience: Beginning with the current position, list professional/academic positions in chronological order with a brief description;
5. List all current academic, professional, or institutional appointments, foreign or domestic, at the applicant institution or elsewhere, whether or not remuneration is received, and whether full-time, part-time, or voluntary; and
6. There should be no lapses in time over the past 10 years or since age 18, whichever period is shorter.

As an alternative to a resume, it is acceptable to use the biographical sketch format approved by the National Science Foundation (NSF). The biographical sketch format may be generated by the Science Experts Network Curriculum Vitae (SciENcv), a cooperative venture maintained at https://www.ncbi.nlm.nih.gov/sciencv/, also available at

https://nsf.gov/bfa/dias/policy/nsfapprovedformats/biosketch.pdf. The use of a format required by another agency is intended to reduce the administrative burden to researchers by promoting the use of common formats.

Save the resumes in a single PDF file using the following convention for the title: "ControlNumber_LeadOrganization_Resumes".

iv. Letters of Commitment

Submit letters of commitment from all subrecipient and third-party cost share providers. If applicable, the letter must state that the third party is committed to providing a specific minimum dollar amount or value of in-kind contributions allocated to cost sharing. The following information for each third party contributing to cost sharing should be identified: (1) the name of the organization; (2) the proposed dollar amount to be provided; and (3) the proposed cost sharing type (cash-or in-kind contributions). Each letter must not exceed one page. Save the letters of commitment in a single PDF file using the following convention for the title: "ControlNumber_LeadOrganization_LOCs".

Letters of support or endorsement for the project from entities that do not have a substantive role in the project will not be accepted.

v. Off-Take Agreement Letters of Commitment

Submit Offtake Agreement Letters of Commitment from state, local, and/or private companies/organizations (contractors, utilities, retail, and/or otherwise) (one-page maximum per letter). Save the Offtake Agreement Letters of Commitment in a single PDF file using the following convention for the title "ControlNumber_LeadOrganization_OffTake".

vi. Community Partnership Documentation

In support of the Labor and Community Benefits Plan, applicants are encouraged to submit documentation to demonstrate existing or planned partnerships with labor and community entities, such as organizations that work with local stakeholders most vulnerable to or affected by the project. Examples of such entities include organizations that carry out workforce development programs, labor unions, Tribal organizations, and community-based organizations that work with disadvantaged communities. The partnership documentation can be a letter on a partner's letterhead outlining the planned partnership and signed by an officer of the entity, a Memorandum of Understanding, or another similar agreement. Such letters must state the specific nature of the partnership and must not be general letters of support. If the applicant intends to enter into Workforce and Community Agreements as part of the Labor and Community Benefits Plan, they should include letters from proposed partners. Each letter

must not exceed one page. In total, the partnership documentation must not exceed 10 pages. Save the partnership documentation in a single PDF file using the following convention for the title: "ControlNumber_LeadOrganization_PartnerDoc".

vii. Statement of Project Objectives (SOPO)

Applicants must complete a SOPO. A SOPO template is available on S3 eXCHANGE at https://infrastructure-exchange.energy.gov/. The SOPO, including the Milestone Table, must not exceed 8 pages when printed using standard 8.5" x 11" paper with 1" margins (top, bottom, left, and right) with font not smaller than 12-point (except in figures or tables, which may be 10-point font). Save the SOPO in a single Microsoft Word file using the following convention for the title: "ControlNumber_LeadOrganization_SOPO".

viii. SF-424: Application for Federal Assistance

Applicants must complete the SF-424: Application for Federal Assistance, which is available on S3 eXCHANGE at https://infrastructure-exchange.energy.gov/. The list of certifications and assurances in Field 21 can be found at http://energy.gov/management/office-management/operational-management/financial-assistance/financial-assistance-forms, under Certifications and Assurances. Note: The dates and dollar amounts on the SF-424 are for the complete project period and not just the first project year, first phase, or other subset of the project period. Save the SF-424 in a single PDF file using the following convention for the title: "ControlNumber_LeadOrganization_424".

ix. Budget Justification Workbook

Applicants must complete the Budget Justification Workbook, available on S3 eXCHANGE at https://infrastructure-exchange.energy.gov/. Applicants must complete each tab of the Budget Justification Workbook for the project, including all work to be performed by the prime recipient and its subrecipients and contractors. Applicants should include costs associated with implementing the various IRA-specific requirements (e.g.,Davis-Bacon, Labor and Community Benefits Plan, reporting, oversight) 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 "Instructions and Summary" included with the Budget Justification Workbook will auto-populate as the applicant enters information into the Workbook. Applicants must carefully read the "Instructions and Summary" tab provided within the Budget Justification Workbook. Save the Budget Justification Workbook in a single Microsoft Excel file using the following convention for the title: "ControlNumber_LeadOrganization_Budget_Justification".

x. Summary for Public Release

Applicants must submit a one-page summary of their project that is suitable for dissemination to the public. It should be a self-contained document that identifies the name of the applicant, the lead project manager/principal investigator(s), the project title, the objectives of the project, a description of the project, including methods to be employed, the potential impact of the project (e.g., benefits, outcomes), major participants (for collaborative projects), and the project's commitments and goals described in the Labor and Community Benefits Plan. This document must not include any proprietary or business-sensitive information, as DOE may make it available to the public after selections are made. The summary must not exceed one page when printed, using standard 8.5" x 11" paper with 1" margins (top, bottom, left, and right) with font not smaller than 12-point. Save the Summary for Public Release in a single PDF file using the following naming convention: "ControlNumber_LeadOrganization_Summary".

xi. Summary Slides

Applicants must provide slides summarizing the proposed project. The Summary Slides template is available on Exchange at https://infrastructure-exchange.energy.gov/. Save the Summary Slides in a single Microsoft PowerPoint file using the following convention for the title "ControlNumber _LeadOrganization _Slides".

xii. Subrecipient Budget Justification (if applicable)

Applicants must provide a separate budget justification for each subrecipient that is expected to perform work estimated to be more than $250,000 or 25% of the total work effort, whichever is less. The budget justification must include the same justification information described in the "Budget Justification" section above. Save each subrecipient budget justification in a Microsoft Excel file using the following convention for the title: "ControlNumber_LeadOrganization_Subrecipient_Budget_Justification".

xiii. SF-LLL: Disclosure of Lobbying Activities (required)

Recipients and subrecipients may not use any federal funds to influence or attempt to influence, directly or indirectly, congressional action on any legislative or appropriation matters.

Recipients and subrecipients are required to complete and submit SF-LLL, "Disclosure of Lobbying Activities" (https://www.grants.gov/web/grants/forms/sf-424-individual-family.html) to ensure that non-federal funds have not been paid and will not be paid to any

person for influencing or attempting to influence any of the following in connection with the application:

- An officer or employee of any federal agency;
- A member of Congress;
- An officer or employee of Congress; or
- An employee of a member of Congress.

Save the SF-LLL in a single PDF file using the following convention for the title: "ControlNumber_LeadOrganization_SF-LLL".

xiv. Foreign Entity Waiver Requests and Foreign Work Waiver Requests (if applicable)

Foreign Entity Participation
For projects selected under this FOA, all recipients and subrecipients must qualify as domestic entities. See Section III. To request a waiver of this requirement, the applicant must submit an explicit waiver request in the Full Application. Appendix C lists the information that must be included in a waiver request.

Foreign Work Waiver Request
As set forth in Section IV.I.iii., all prime recipient and subrecipient work for projects selected under this FOA must be performed in the United States. To request a waiver of this requirement, the applicant must submit an explicit waiver request in the Full Application. Appendix C lists the information that must be included in a foreign work waiver request.

Save the Waivers in a single PDF file using the following convention for the title: "ControlNumber_LeadOrganization_Waiver".

xv. Job Quality and Just Transition Plan

High quality jobs are critical to attracting and retaining well-qualified, skilled, and trained workforce necessary to ensure project stability, continuity, and success, and to meet program goals.

The Plan must describe the applicant's approach to investing in workforce education and training of both new and incumbent workers and ensuring jobs are of sufficient quality to attract and retain skilled workers in the industry.

As the 1935 National Labor Relations Act states, employees' ability to organize, bargain collectively, and participate, through labor organizations of their choosing, in decisions that affect them contributes to the effective conduct of business and facilitates amicable settlements of any potential disputes between employees and employers, providing assurances of project efficiency, continuity, and multiple public benefits.

The Plan may also include:

1) Job Quality and Just Transition Commitments:
A summary of commitments on job quality that demonstrate ability to attract, train, and retain a skilled and well-qualified workforce for both construction and ongoing production activities. A collective bargaining agreement, labor-management partnership, or other similar agreement could provide evidence of such a plan.

Alternatively, applicants may describe:

Commitments to create high-paying jobs.

2) Commitment to sign a project labor agreement, with specific goals to invest in workforce education and training, including goals for utilizing registered apprentices and creating opportunities for local workers on the construction project.

3) Given workers' legal rights to organize and the Federal Government's policy to support worker organizing and collective bargaining, applicants should provide a description of how and if they plan to affirmatively support worker organizing and collective bargaining. This could include a pledge to remain neutral during any union organizing campaigns, intention or willingness to permit union recognition through card check (as opposed to requiring union elections), intention or willingness to enter into binding arbitration to settle first contracts, a pledge to allow union organizers access to appropriate onsite non-work places (e.g., lunch rooms), a pledge to refrain from holding captive audience meetings, and other supportive commitments or pledges.

4) Commitments to prioritize work opportunities for displaced or at-risk workers in motor vehicles or motor vehicle parts manufacturing, including the number of workers previously displaced or at-risk and the number of workers to be rehired.

xvi. Letters of Support from Labor Unions

If applicable, the letter(s) must state that the labor union is committed to specific terms that support the hiring and/or retention of workers in the motor vehicle or parts manufacturing industries, support workforce continuity, and reduce workforce risks. The following information for each third party contributing a letter should be identified: (1) the name of the organization; (2) the understanding and relationship between the applicant and the labor union. Each letter must not exceed one page. Save the letters of support in a single PDF file using the following convention for the title: "ControlNumber_LeadOrganization_LOSs".

xvii. Labor and Community Benefits Plan

The Labor and Community Benefits Plan (Labor and Community Benefits Plan or Plan) must set forth the applicant's approach to ensuring that federal investments advance three goals: 1) community and labor engagement; 2) advancing DEIA; and 3) contributing to the Justice40 Initiative. The below sections include descriptions for each goal. The Labor and Community Benefits Plan should indicate the applicant's intention to engage meaningfully with labor and community stakeholders on these goals, including the potential of entering into formal Workforce and Community Agreements. Given project complexity and sensitivities, applicants should consider pursuing multiple agreements.

For your convenience, a Community Benefits Plan template is available at: About Community Benefits Plans. Applicants are strongly encouraged to use the template to complete their specific Plan. If the template is not used, the Plan must address all of the elements described below, and as outlined in the template.

The applicant's Labor and Community Benefits Plan must include at least one Specific, Measurable, Attainable, Realistic and Timely (SMART) milestone per budget period to measure progress on the proposed actions. The Plan will be evaluated as part of the technical review process. If DOE selects a project, DOE will incorporate the Labor and Community Benefits Plan into the award and the recipient must implement its Labor and Community Benefits Plan when carrying out its project. Public transparency around the plan and SMART commitments ensure accountability. In addition, DOE will evaluate the recipient's progress during the award period of performance, including as part of the Go/No-Go review process.

The Labor and Community Benefits Plan must not exceed 12 pages. It must be submitted in PDF format using the following convention name for the title: "Control Number_LeadOrganization_CBP." This Plan must address the technical

review criterion titled "Labor and Community Benefits Plan." See Section V. of the FOA.

For additional information, see About Community Benefits Plans.

The Labor and Community Benefits Plan must address the following:

1. Community and Labor Engagement: The Labor and Community Benefits Plan must describe the applicant's actions to date and plans to engage with community partners, such as local and/or Tribal governments, labor unions, and community-based organizations that support or work with underserved communities, including disadvantaged communities as defined for purposes of the Justice40 Initiative [17].. By facilitating community input, social buy-in, and accountability, such engagement can substantially reduce or eliminate stalls or slowdowns, litigation, and other risks associated with project implementation.

Community and labor engagement should lay the groundwork for the negotiation of Workforce and Community Agreements, which could take the form of one or more kinds of negotiated agreements with communities, labor unions, or, ideally, both. Registered apprenticeship programs, labor-management training partnerships, quality pre-apprenticeship programs, a card check provision, and local and targeted hiring goals are all examples of provisions that Workforce and Community Agreements could cover that would increase the success of receiving DOE funding.

Applicants should also provide Community and Labor Partnership Documentation from representative organizations reflecting substantive engagement and feedback on the applicant's approach to community benefits, including job quality and workforce continuity; diversity, equity, inclusion, and accessibility; and the Justice40 Initiative detailed below.

2. DEIA: The Labor and Community Benefits Plan must include a section describing how DEIA objectives will be incorporated into the project. The section should detail how the applicant will partner with underrepresented businesses,

[17] For more information, *see* Justice40 Initiative, https://www.whitehouse.gov/environmentaljustice/justice40/; OMB, CEQ, & CPO, M-23-09, Addendum to the Interim Implementation Guidance for the Justice40 Initiative, M-21-28, on using the Climate and Economic Justice Screening Tool (CEJST) (Jan. 27, 2023), https://www.whitehouse.gov/wp-content/uploads/2023/01/M-23-09_Signed_CEQ_CPO.pdf; OMB, CEQ, & CPO, M-21-28, Interim Implementation Guidance for the Justice40 Initiative (July 20, 2021), https://www.whitehouse.gov/wp-content/uploads/2021/07/M-21-28.pdf. DOE's Justice40 Implementation Guidance is located at https://www.energy.gov/sites/default/files/2022-07/Final%20DOE%20Justice40%20General%20Guidance%20072522.pdf.

educational institutions, and training organizations that serve workers who face barriers to accessing quality jobs, and/or other project partners to help address DEIA.

The following is a list of potential DEIA actions that could be included in a Plan. This list is offered to provide guidance to applicants and is not intended to be comprehensive:

A) Commit to partnering with Minority Business Enterprises, minority-owned businesses, women-owned businesses, and veteran-owned businesses for contractor support needs;

B) To fill open positions for the DOE-funded project, partner with workforce training organizations serving underrepresented communities and those facing systemic barriers to quality employment, such as those with disabilities, women, returning citizens, opportunity youth, and veterans;

C) Commit to provide workers with comprehensive support services, such as childcare and transportation, to increase representation and access in project's construction and operations jobs.

3. Justice40 Initiative: Applicants must provide an overview of benefits to disadvantaged communities that the project can deliver, supported by measurable milestones. Applicants should use the Climate and Economic Justice Screening Tool (CEJST), a geospatial mapping tool by the White House Council on Environmental Quality, as the primary tool to identify disadvantaged communities. Applicants are encouraged to use the information available through tools such as the Environmental Protection Agency's EJSCREEN to assist in assessing how the benefits of a project will reverse or mitigate the burdens of disadvantaged communities. The Justice40 Initiative section must include:

A. Identification of applicable disadvantaged communities to which the anticipated project benefits will flow. Geographically defined disadvantaged communities should be identified using the Climate and

Economic Justice Screening Tool (CEJST) at https://screeningtool.geoplatform.gov/.

B. Identification of applicable benefits that are quantifiable, measurable, and trackable, including, at a minimum, a discussion of the relevance of each of the eight DOE Justice40 Initiative benefits outlined below.

   Benefits include (but are not limited to) measurable direct or indirect investments or positive project outcomes that achieve or contribute to the following in disadvantaged communities: (1) a decrease in energy burden; (2) a decrease in environmental exposure and burdens; (3) an increase in access to low-cost capital; (4) an increase in high-quality job creation, the clean energy job pipeline, and job training for individuals; (5) increases in clean energy enterprise creation and contracting (e.g., minority-owned or disadvantaged business enterprises); (6) increases in energy democracy, including community ownership; (7) increased parity in clean energy technology access and adoption; and (8) an increase in energy resilience. Applicants should also discuss how the project will maximize all the benefits listed in number 4 above.

C. A description of how and when anticipated benefits are expected to flow to disadvantaged communities. For example, whether the benefits will be provided directly within the disadvantaged community identified in the Justice40 Initiative section or be provided in another way; whether the benefits will flow during project development or after project completion; and how the applicant will track benefits delivered.

D. A discussion of anticipated negative and cumulative environmental impacts on disadvantaged communities. Applicants should discuss any anticipated negative or positive environmental impacts associated with the project, and how they will mitigate any negative impacts. Within the context of cumulative impacts created by the project, applicants should use Environmental Protection Agency's EJSCREEN tool to quantitatively discuss existing environmental impacts in the project area. See EJScreen: Environmental Justice Screening and Mapping Tool.

For projects funded under this FOA, DOE will provide specific reporting guidance for the benefits described above.

xviii. Labor and Community Benefits Plan Budget Justification

Applicants must provide a separate budget justification identifying the Labor and Community Benefit Plan costs included in the "Budget Justification Workbook."

This Labor and Community Benefits Plan Budget Justification must include the same justification information described in the "Budget Justification Workbook" section above but should only include Labor and Community Benefits Plan costs. Save the Labor and Community Benefits Plan Budget Justification in a Microsoft Excel file using the following convention for the title: "ControlNumber_CBP_Budget_Justification".

xix. Current and Pending Support

Current and pending support is intended to allow the identification of potential duplication, overcommitment, potential conflicts of interest or commitment, and all other sources of support. As part of the application, the Principal Investigator or Lead Project Manager and all senior/key personnel at the applicant and subrecipient level must provide a list of all sponsored activities, awards, and appointments, whether paid or unpaid; provided as a gift with terms or conditions or provided as a gift without terms or conditions; full-time, part-time, or voluntary; faculty, visiting, adjunct, or honorary; cash or in-kind; foreign or domestic; governmental or private-sector; directly supporting the individual's research or indirectly supporting the individual by supporting students, research staff, space, equipment, or other research expenses. All connections with foreign government-sponsored talent recruitment programs must be identified in current and pending support.

For every activity, list the following items:

- The sponsor of the activity or the source of funding;
- The award or other identifying number;
- The title of the award or activity. If the title of the award or activity is not descriptive, add a brief description of the research being performed that would identify any overlaps or synergies with the proposed research;
- The total cost or value of the award or activity, including direct and indirect costs and cost share. For pending proposals, provide the total amount of requested funding;
- The award period (start date through end date); and
- The person-months of effort per year dedicated to the award or activity.

To identify overlap, duplication of effort, or synergistic efforts, append a description of the other award or activity to the current and pending support.

Details of any obligations, contractual or otherwise, to any program, entity, or organization sponsored by a foreign government must be provided on request to either the applicant institution or DOE. Supporting documents of any identified

source of support must be provided to DOE on request, including certified translations of any document.

PIs and senior/key personnel must provide a separate disclosure statement listing the required information above regarding current and pending support. Each individual must sign and date their respective disclosure statement and include the following certification statement:

> I, [Full Name and Title], certify to the best of my knowledge and belief that the information contained in this Current and Pending Support Disclosure Statement is true, complete, and accurate. I understand that any false, fictitious, or fraudulent information, misrepresentations, half-truths, or omissions of any material fact, may subject me to criminal, civil, or administrative penalties for fraud, false statements, false claims, or otherwise. (18 U.S.C. §§ 1001 and 287, and 31 U.S.C. §§ 3729-3733 and 3801-3812). I further understand and agree that (1) the statements and representations made herein are material to DOE's funding decision, and (2) I have a responsibility to update the disclosures during the period of performance of the award should circumstances change which impact the responses provided above.

The information may be provided in the format approved by the NSF, which may be generated by the Science Experts Network Curriculum Vita (SciENcv), a cooperative venture maintained at https://www.ncbi.nlm.nih.gov/sciencv/ and also available at: https://www.nsf.gov/bfa/dias/policy/nsfapprovedformats/cps.pdf. The use of a format required by another agency is intended to reduce the administrative burden to researchers by promoting the use of common formats. If the NSF format is used, the individual must still include a signature, date, and a certification statement using the language included in the paragraph above.

Save the Current and Pending Support in a single PDF file using the following convention for the title: "ControlNumber_LeadOrganization_CPS".

Definitions:

Current and pending support – (a) All resources made available, or expected to be made available, to an individual in support of the individual's RD&D efforts, regardless of (i) whether the source is foreign or domestic; (ii) whether the resource is made available through the entity applying for an award or directly to

the individual; or (iii) whether the resource has monetary value; and (b) includes in-kind contributions requiring a commitment of time and directly supporting the individual's RD&D efforts, such as the provision of office or laboratory space, equipment, supplies, employees, or students. This term has the same meaning as the term Other Support as applied to researchers in NSPM-33: For researchers, Other Support includes all resources made available to a researcher in support of and/or related to all of their professional RD&D efforts, including resources provided directly to the individual or through the organization, and regardless of whether or not they have monetary value (e.g., even if the support received is only in-kind, such as office/laboratory space, equipment, supplies, or employees). This includes resource and/or financial support from all foreign and domestic entities, including but not limited to gifts provided with terms or conditions, financial support for laboratory personnel, and participation of student and visiting researchers supported by other sources of funding.

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 physically relocate 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 United States 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.

Senior/key personnel – An individual who contributes in a substantive, meaningful way to the development or execution of a project proposed to be carried out with a DOE award.[18]

[18] Typically, these individuals have doctoral or other professional degrees, although individuals at the masters or baccalaureate level may be considered Senior/Key Personnel if their involvement meets this definition. Consultants, graduate students, and those with a postdoctoral role also may be considered Senior/Key Personnel if they meet this definition.

xx. Locations of Work

Applicants must complete the Locations of Work Documentation, available on S3 eXCHANGE at https://infrastructure-exchange.energy.gov/. The applicant must complete the supplied template by listing the city, state, and zip code + 4 digits for each location where project work will be performed by the prime recipient or subrecipient(s). Save the completed template as a Microsoft Excel file using the following convention for the title: "Control Number_LeadOrganization_LOW."

xxi. Environmental Information Volume (EIV)

You must complete the Environmental Information Volume. This form is available on Exchange at https:// infrastructure-exchange.energy.gov. Save the Environmental Information Volume in a single PDF file using the following convention for the title "Control Number_LeadOrganization_EIV."

xxii. Environmental Questionnaire (EQ)

You must complete the Environmental Questionnaire. This form is available on Exchange at https://infrastructure-exchange.energy.gov. Save the Environmental Questionnaire in a single PDF file using the following convention for the title "Control Number_LeadOrganization_EQ."

xxiii. Transparency of Foreign Connections

Applicants must provide the following for the proposed recipient and each subrecipient. Include a separate disclosure for the applicant and each proposed subrecipient. U.S. National Laboratories, domestic government entities, and institutions of higher education are only required to respond to items 1, 2 and 9, and if applying as to serve as the prime recipient, must provide complete responses for project team members that are not U.S. National Laboratories, domestic government entities, or institutions of higher education.

1. **Entity name, website address, and physical address;**
2. **Board Membership**
    a. Provide a current and complete list of all directors (and board observers), including full name, citizenship and shareholder affiliation (if applicable), date of appointment, duration of term, as well as a description of observer rights as applicable.

3. **Ownership Structure of Entity**
    a. Provide a complete and current capitalization table of the entity, including all equity interests (including LLC and partnership interests, as well as derivative securities). Include both the number of shares issued to each equity holder, as well as the percentage of that series and of all equity on a fully diluted basis. For each equity holder, identify the place of incorporation and principal place of business (for entities) or the citizenship and current country of residence (for natural persons). If the entity is a publicly traded corporation, provide the place of incorporation and principal place of business (for entities) or the citizenship and current country of residence (for natural persons) for equity holders with an interest greater than five percent. For each equity holder not incorporated or having its principal place of business in the United States (for entities), identify whether the equity holder is a foreign government-owned or controlled entity (if known, after due inquiry).

    b. Provide a summary table identifying all rounds of financing, the purchase dates, the investors for each round, and all of the associated governance and information rights obtained by investors during each round of financing, if applicable.

4. **Organization Chart**
    a. Attach a complete and current organization chart depicting the relationship between the entity and its immediate parent, ultimate parent, and any intermediate parent, as well as any subsidiaries or affiliates (including joint ventures). For each legal entity identified on the chart include the place of incorporation and principal place of business; for any individual identified on the chart include the nationality. For any legal entity or individual identified on the chart include ownership percentage (expressed in terms of both voting and economic interest, if different) between and among the various entities.

5. **Investment Funds**
    a. Does the entity have any equity holders that are investment funds (e.g., venture capital, private equity, or institutional investment)?
    ☐ Yes ☐ No
    b. If yes, does the investment fund have a general partner, managing member, or an equivalent individual who has an affiliation with

any foreign country? ☐ Yes ☐ No. If yes, please populate the table below.

General Partner or Equivalent of Investment Fund	Foreign Country	Type of Affiliation

c. Does the investment fund have limited partners with a place of incorporation or principal place of business in any foreign country? ☐ Yes ☐ No. If yes, do any limited partners have agreements or side letters granting access to non-public technical information of the Entity, including but not limited to intellectual property, trade secrets, R&D methods or results? ☐ Yes ☐ No. If yes, please provide the name(s) of the limited partner (s) and a summary of rights in the table below.

Name of Limited Partner	Name of Investment Fund	Foreign Country	Type of Agreement	Summary of side letter or agreement rights

6. Licensing

a. During the previous 5-year period, did the entity have any intellectual property licensing or intellectual property sales (or any other transfer of technology or intellectual property) **to** a foreign country of risk? ☐ Yes ☐ No. If yes, please disclose the name and address of the entity or individual that licensed or purchased the intellectual property.

b. During the previous 5-year period, did the entity license any technology or intellectual property **from** a foreign country of risk? ☐ Yes ☐ No. If yes, please disclose the name and address of the entity or individual in the foreign country of risk that licensed the intellectual property to the Entity.

Licensee/Licensor or Buyer/Seller Name	Foreign Country of Risk	Description of Intellectual Property	City	State	Zip	Country
☐ Check box if this table contains trade secrets or commercial or financial information that is privileged or confidential and exempt from public disclosure.						

7. **Revenue**
   a. Is a majority of the entity's total revenue derived from any foreign country of risk? ☐ Yes ☐ No. If yes, please disclose the country of risk and the percentage of total revenue represented by that country.

Name of foreign country of risk	Percentage of total revenue
☐ Check box if this table contains trade secrets or commercial or financial information that is privileged or confidential and exempt from public disclosure.	☐ Check box if this table contains trade secrets or commercial or financial information that is privileged or confidential and exempt from public disclosure.

8. **Obligations**
   a. Does the entity have any current or pending debt obligations (including without limitation, loans, lines of credit, convertible notes, or other debts) with an entity owned by a foreign state or with its place of incorporation or principal place of business in a country of risk, or with nationals of any foreign country of risk? ☐ Yes ☐ No If yes, please disclose the name and address of the enterprise and the nature of the business relationship.

Name of Entity or Individual	Obligation Type (loans, lines of credit, convertible notes, etc.)	Place of incorporation or other legal organization, principal place of business (for entities), or nationality	Entity Owned by a Foreign State (Y/N)	General terms of the debt obligation
☐ Check box if this table contains trade secrets or commercial or financial information that is privileged or confidential and exempt from public disclosure.				

9. **Foreign Government-sponsored Talent Recruitment Programs**
    a. Is any beneficial owner, officer, director or senior/key personnel of the entity a party to or have any current or past involvement in the last ten years with any foreign government-sponsored talent recruitment program (FGTRP) of any foreign country of risk? ☐ Yes ☐ No If yes, please disclose the name of each owner, officer, director or senior/key personnel and the FGTRP.

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

Save the Transparency of Foreign Connections information in a single PDF file using the following convention for the title: "ControlNumber_LeadOrganization_TFC."

xxiv. Potentially Duplicative Funding Notice

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.

Save the Potentially Duplicative Funding Notice in a single PDF file using the following convention for the title: "ControlNumber_LeadOrganization_PDFN."

xxv. At Risk Facility Justification

An applicant should submit this attachment for consideration if the applicant would like the proposed project existing facility to be considered as a facility that has recently ceased operation or will cease operation in the near future. This attachment should provide justification for why the proposed facility meets the definition of recently ceased operation or will cease operation in the near future,

and provide supporting data or evidence for this justification. The At Risk Facility Justification must not exceed 5 pages.

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

Save the At Risk Facility Justification in a single PDF file using the following convention for the title: "ControlNumber_LeadOrganization_ARFJ."

E. Post Selection Information Requests

If selected for award negotiations, DOE reserves the right to require that selected applicants provide additional or clarifying information regarding the application submissions, the project, the project team, the award requirements, and any other matters related to anticipated award. The following is a list of examples of information that may be required:

- Personnel proposed to work on the project and collaborating organizations (See Section VI.B.xix. Participants and Collaborating Organizations);
- Current and Pending Support (See Sections IV.D.xix. and VI.B.xx. Current and Pending Support);
- Indirect cost information;
- Other budget information;
- Letters of Commitment from third parties contributing to cost share, if applicable;
- Name and phone number of the Designated Responsible Employee for complying with national policies prohibiting discrimination (See 10 CFR 1040.5);
- Information for the DOE Office of Civil Rights to process assurance reviews under 10 CFR 1040;
- Representation of Limited Rights Data and Restricted Software, if applicable;
- Information related to Davis-Bacon Act requirements, if applicable;
- Information related to any proposed Workforce and Community Agreement, as defined above in "Community Benefits Plan: Job Quality and Equity," that applicants may have made with the relevant community;
- Any proposed or required Project Labor Agreements; and
- Environmental Questionnaire.

F. Unique Entity Identifier (UEI) and System for Award Management (SAM)

Each applicant (unless the applicant is an individual or federal awarding agency that is excepted from those requirements under 2 CFR 25.110(b) or (c), or has an

exception approved by the federal awarding agency under 2 CFR 25.110(d)) is required to: (1) Register in the SAM at https://www.sam.gov before submitting an application; (2) provide a valid UEI in the application; and (3) maintain an active SAM registration with current information when the applicant 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. If an applicant has not fully complied with the requirements by the time DOE is ready to make a federal award, DOE will determine that the applicant is not qualified to receive a federal award and use that determination as a basis for making a federal award to another applicant.

NOTE: Due to the high demand of UEI requests and SAM registrations, entity legal business name and address validations are taking longer than expected to process. 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 use the HELP feature on SAM.gov. SAM.gov will work entity service tickets in the order in which they are received and asks that entities not create multiple service tickets for the same request or technical issue. Additional entity validation resources can be found here: GSAFSD Tier 0 Knowledge Base - Validating your Entity.

G. Submission Dates and Times

All required submissions must be submitted in S3 eXCHANGE no later than 5 p.m. ET on the dates provided on the cover page of this FOA.

H. Intergovernmental Review

This FOA is not subject to Executive Order 12372 – Intergovernmental Review of Federal Programs.

I. Funding Restrictions

i. 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.

ii. Pre-Award Costs

Applicants selected for award negotiations (selectee) must request prior written approval to charge pre-award costs. Pre-award costs are those 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 DOE Contracting Officer.

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.

1. **National Environmental Policy Act (NEPA) Requirements Related to Pre-Award Costs**
   DOE's decision whether and how to distribute federal funds under this FOA is subject to NEPA. Applicants 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 Contracting Officer. If the applicant 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 Contracting Officer, the applicant is doing so at risk of not receiving federal funding for its 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 Contracting Officer overrides the requirement to obtain the written authorization from the Contracting Officer prior to taking any action that may have an adverse effect on the environment or limit the choice of reasonable alternatives. Likewise, if an application is selected for negotiation of award, and the prime recipient elects to undertake activities that are not authorized for federal funding by the Contracting 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.

iii. 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 prime recipient must flow down this requirement to its subrecipients.

2. **Failure to Comply**
   If the prime 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 prime recipient is responsible should any work under this award be performed outside the United States, absent a waiver, regardless of whether the work is performed by the prime recipient, subrecipients, or other project partners.

3. **Waiver**
   To seek a foreign work waiver, the applicant must submit a written waiver request to DOE. Appendix C lists the information that must be included in a request for a foreign work waiver.

   Save the waiver request(s) in a single PDF file. The applicant does not have the right to appeal DOE's decision concerning a waiver request.

iv. Construction

Recipients are required to obtain written authorization from the Contracting Officer before incurring any major construction costs.

DOE strongly encourages the use of project labor agreements (PLAs) in connection with construction projects. A PLA is a pre-hire agreement between a private entity (or entities) and a labor organization (or organizations) representing individuals who will be working on the construction project. Applicants that commit to using best-practice project labor agreements will generally be likely to produce a construction workforce plan that meets the criteria in this FOA. By contrast, applicants that do not commit to using a PLA will be required to submit workforce continuity plans and show that they have taken other measures to reduce the risk of delays in project delivery.

For large construction projects, DOE may require a PLA. Assessment of applicability will be conducted on a case-by-case basis.

v. Foreign Travel

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. Foreign travel costs are allowable only with the written prior approval of the Contracting Officer assigned to the award.

vi. Equipment and Supplies

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.

vii. Lobbying

Recipients and subrecipients may not use any federal funds to influence or attempt to influence, directly or indirectly, congressional action on any legislative or appropriation matters.

Recipients and subrecipients are required to complete and submit SF-LLL, "Disclosure of Lobbying Activities" (https://www.grants.gov/web/grants/forms/sf-424-individual-family.html) to ensure that non-federal funds have not been paid and will not be paid to any person for influencing or attempting to influence any of the following in connection with the application:

- An officer or employee of any federal agency;
- A Member of Congress;
- An officer or employee of Congress; or
- An employee of a Member of Congress.

viii. 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 200 as amended and adopted by 2 CFR 910;
3. History of performance;
4. Audit reports and findings;
5. The applicant's ability to effectively implement statutory, regulatory, or other requirements imposed on non-federal entities; and

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 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.

Further, as DOE invests in critical infrastructure and funds critical and emerging technology areas, DOE also considers possible threats to United States research, technology, and economic security from undue foreign government influence when evaluating risk. If high risks are identified and cannot be sufficiently mitigated, DOE may elect to not fund the applicant.

ix. Invoice Review and Approval

DOE employs a risk-based approach to determine the level of supporting documentation required for approving invoice payments. Recipients may be required to provide some or all of the following items with their requests for reimbursement:

- Summary of costs by cost categories;
- Timesheets or personnel hours report;
- Proof of compliance with the Davis-Bacon Act and electronic submittals of certified payroll reports;
- Invoices/receipts for all travel, equipment, supplies, contractual, and other costs;
- UCC filing proof for equipment acquired with project funds by for-profit recipients and subrecipients;

- Explanation of cost share for invoicing period;
- Analogous information for some subrecipients; and
- Other items as required by DOE.

x. 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 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

1. **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.

2. **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.

xi. Affirmative Action and Pay Transparency Requirements

All applicants must comply with all applicable federal labor and employment laws, including but not limited to Title VII of the Civil Rights Act of 1964, the Fair Labor Standards Act, the Occupational Safety and Health Act, and the National Labor Relations Act, which protects employees' right to bargain collectively and engage in concerted activities for the purpose of workers' mutual aid or protection.

All federally assisted construction contracts exceeding $10,000 annually will be subject to the requirements of Executive Order 11246 Equal Employment Opportunity:

(1) Recipients, subrecipients, contractors, and subcontractors are prohibited from discriminating in employment decisions on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin.

(2) Recipients and contractors are required to 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, contractors, and subcontractors.

(3) Recipients, subrecipients, contractors, and subcontractors 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.

DOL's Office of Federal Contractor Compliance Programs (OFCCP) uses a neutral process to schedule compliance evaluations. Consult OFCCP's Technical Assistance Guide[19] to gain an understanding of the requirements and possible actions the recipients, subrecipients, contractors, and subcontractors must take.

[19] See OFCCP's Technical Assistance Guide at: https://www.dol.gov/sites/dolgov/files/ofccp/Construction/files/ConstructionTAG.pdf?msclkid=9e397d68c4b111ec9d8e6fecb6c710ec Also see the National Policy Assurances http://www.nsf.gov/awards/managing/rtc.jsp

Additional guidance may also be found in the National Policy Assurances, produced by DOE.

Additionally, for construction projects valued at $35 million or more and lasting more than one year, the recipients, subrecipients, contractors, and subcontractors may be selected by the OFCCP to participate in the *Mega Construction Project Program*. DOE, under relevant legal authorities including Sections 205 and 303(a) of Executive Order 11246, will require participation as a condition of the award. This program offers extensive compliance assistance with EO 11246. For more information regarding this program, see https://www.dol.gov/agencies/ofccp/construction/mega-program.

xii. Foreign Collaboration Considerations

a. Consideration of new collaborations with foreign entities and governments. The recipient will be required to provide DOE with advanced written notification of any potential collaboration with foreign entities 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 entity or government regarding the potential collaboration or negotiating the terms of any potential agreement.

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

c. 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.

V. Application Review Information

A. Technical Review Criteria

i. Concept Papers

Concept Papers are evaluated based on consideration the following factors. All sub-criteria are of equal weight.

Concept Paper Criterion: Overall FOA Responsiveness and Viability of the Project (Weight: 100%)

This criterion involves consideration of the following factors:

- The applicant clearly describes the following:
  - the proposed facility to be converted;
  - the proposed final product (electrified vehicle assembly, component assembly, or manufacturing of related parts);
  - how the proposed electrified vehicle technology is relevant to the domestic electrified vehicle manufacturing market; and
  - the impact of the proposed facility conversion on current workforce.

- **Technology impact:** Extent to which project will contribute to reduction in energy use, cost, and greenhouse gas emissions, including projected manufactured equipment performance. Extent to which project adopts workforce practices shown to increase technological viability, such as compensation that attracts and retains experienced workforce, training in fundamental principles (such as registered apprenticeship), frontline worker involvement in problem-solving, and supportive services that allow workers to fully focus on their work (e.g., family care and transportation)

- **Supply chain impacts:** Including impact on supply chain resilience impact on other local employers, such as their ability to convert from ICE- related goods and services.

- **Business viability:** The degree to which the application justifies the proposed project's economic viability, sustainability, and potential growth, to include replicability, beyond DOE funding.

- **Financial availability:** The ability to leverage state and local incentives and private financing in addition to DOE funding, including the availability, credibility, capability, strength, and risk/terms of non-federal cost share sources to meet ongoing need.

- **Strength of Cost Share Sources:** Extent and strength of cost share commitments including extent of use of cash as cost share, extent of the amount of cost share in proportion to the Federal funds requested, extent of leverage measured in terms of annual production capacity per government dollar invested for the entire project.

- **Qualifications and Resources:** The extent of evidence of the project team's and key personnel's experience and success in industry and/or in similar projects. The project team has the qualifications, experience, capabilities, and other resources (such as facilities, infrastructure, and workforce) necessary to complete the proposed project.

- **Job Quality and Just Transition Plan:** The applicant clearly describes the approach on job quality and worker retention.

- **Labor and Community Benefits Plan Approach:** The applicant clearly describes the approach planned for the three core elements.

ii. Full Applications

Applications will be evaluated against the technical review criteria shown below. All sub-criteria are of equal weight.

Criterion 1: Technology Merit, Innovation, and Supply Chain Impact (25%)

This criterion involves consideration of the following factors:

- **Supply chain security and coverage:** The extent to which the project resolves current or projected gaps in secure, resilient domestic supply chains, extent of end product domestic content. Strength of supply chain analysis and supporting mitigation strategies for supply chain vulnerabilities, risks, or issues revealed. Ability to satisfy multiple critical supply chain segments – components, or whole systems. Projected economic impacts of the facility conversion relative to the existing facility, considering factors such as contribution to the local economy, employment history, anticipated employment, duration of its existence, and any other local impacts of this conversion.

- **Feasibility:** Extent to which the project can achieve commercial production within the proposed timeframe.

- **Technology impact:** Extent to which project will contribute to reduction in energy use, cost, and greenhouse gas emissions, including projected manufactured equipment performance.

- **Workforce and operational impact**: Effectiveness of strategies that can contribute to providing good jobs that enable workforce transition, retention, and increased productivity, such as training (especially registered apprenticeship), and frontline worker problem-solving.

- **Retention of skilled workforce:** Effectiveness of strategies that can contribute to providing good, high-quality jobs that enable workforce transition, retention, and increased productivity. Projected economic impacts of the facility conversion relative to the existing facility, considering factors such as contribution to the local economy, employment history, anticipated employment, duration of its existence (degree to which the proposed project impacts a facility located in a community with a long history of supporting vehicle manufacturing, for example communities with a 20+ year history of producing vehicles or supplying parts for vehicles), and any other local impacts of this conversion.

Criterion 2: Financial and Commercial Market Viability (25%)

This criterion involves consideration of the following factors:

- **Business viability:** The degree to which the application justifies the proposed project's economic viability, sustainability, and potential growth, to include current customers and replicability beyond DOE funding.

- **Market viability:** The extent to which the applicant demonstrates potential market for manufactured product including that the end product will be competitive based on a data-based market assessment, including with respect to average selling prices, competition, off-take agreement(s), and forward-looking market trend.

- **Additional Factors Affecting Viability include:** Applications will be reviewed considering factors that minimize risks to project success, including implementing effective strategies to avoid labor strife and otherwise ensure adequate labor supply.

- **Regional impacts:** The extent to which the proposed project utilizes and leverages available regional resources to meet the FOA objectives.

- **Financial availability:** The ability to leverage state and local incentives and private financing in addition to DOE funding, including the availability, credibility, capability, strength, and risk/terms of non-federal cost share sources to meet ongoing need.

- **Budget reasonableness:** The reasonableness of the proposed project budget and spend plan for the proposed project and objectives, including the level of contingency proposed to address risk.

In assessing each item above, the following will be considered: (a) the comprehensiveness, specificity, and accuracy of the information and plans provided; (b) the reasonableness of assumptions used in making estimations and projections and (c) the extent to which the applicant demonstrates an understanding of relevant risks (e.g., technical, siting, market, and/or project management risks) and the quality of the strategies put forward to mitigate and manage those risks.

Criterion 3: Project Workplan, Management Team, and Partners (15%)

This criterion involves consideration of the following factors:

- The degree to which the task descriptions are clear, detailed, timely, and reasonable, resulting in a high likelihood that the proposed Workplan will succeed in meeting the project goals.

- The adequacy, reasonableness, and soundness of the project metrics, project schedule, milestones, and track process.

- The soundness of the plan to address environmental, siting, and other regulatory requirements for the project in a timely manner.

- The extent to which the Labor and Community Benefits Plan is integrated into the project management schedule and provides mechanisms with measurable actions.

- The extent to which the proposed site and facilities are suited for the proposed project.

- The capability of the project team to address all aspects of the proposed work with a high probability of success, including the qualifications, relevant experience and expertise, and time commitment of the individuals on the team. The extent of evidence of the project team's and key personnel's experience and success in industry and/or in similar projects.

- The level of participation by project participants as evidenced by letter(s) of commitment and how well they are integrated into the Workplan, including labor partners.

- The degree to which the application defines a project management structure and plan, including clear and appropriate roles for team members, that gives confidence in a high likelihood of success.

- The extent to which frontline workers are able to participate in handling contingencies that are likely to arise in a complex project, due to their experience, training, ability to participate in problem-solving, and existence of mechanisms for worker voice.

Criterion 4: Cost Share (10%)

This criterion involves consideration of the following factors:

- Soundness of proposed cost share, including extent of use of cash as cost share.

- The extent of the amount of cost share in proportion to the Federal funds requested.

- The extent of leverage measured in terms of annual production capacity per government dollar invested for the entire project.

Criterion 5: Job Quality and Just Transition Plan (10%)

This criterion involves consideration of the following factors:

- Degree to which the proposed project will retain and/or create high wage jobs for production workers (e.g. applicants that currently pay top quartile wages in their industry). [20] Additional compensation benefits, such as health insurance, retirement contributions, and profit sharing should also be noted and can be taken into account in the evaluation of applicant compensation.

- Commitment(s) to negotiate agreements such as a project labor agreement and extent to which project will utilize registered apprentices for construction or retrofit activity.

- Extent to which the project maintains strong labor-management relations, including but not exclusive to: collective bargaining agreements, joint labor-management training programs, workers with voting rights on boards, and employee ownership and/or affirmative commitments to facilitate employees access and ability to

[20]This wage data is available at OES Home: U.S. Bureau of Labor Statistics (bls.gov); applicants should use data for either Motor Vehicle Manufacturing or Motor Vehicle Parts manufacturing, as is most appropriate for their faciliity . Applicants may use data for May 2022, the latest available at the time of release of this FOA.

organize, bargain collectively, and participate, through labor organizations of their choosing, in decisions that affect them.

- Extent to which conversion, expansion, or retooled facility would:

    - Remain in the same site or the same area as the existing production facility (including a facility that has recently ceased operations or closed) to be converted, such as applicants investing in a greenfield facility within a reasonable commuting distance of the existing facility
    - Commit to offering employment to the existing workforce at the facility to be converted or closed.

Criterion 6: Labor and Community Benefits Plan (15%)

This criterion involves consideration of the following factors:

<u>Community and Labor Engagement</u>

- Extent to which the applicant demonstrates, through letters of support, community and labor engagement to date that results in support for the proposed project;

- Extent to which the applicant has a clear and appropriately robust plan to engage—ideally through a clear commitment to negotiate enforceable Collective Bargaining Agreements—with labor unions;

- Extent to which the applicant has a clear and robust plan to engage—ideally through a clear commitment to negotiate enforceable community benefits agreements with tribal entities, and community-based organizations that support or work with disadvantaged communities and other affected stakeholders;

- Extent to which the applicant has considered accountability to affected workers and community stakeholders, including those most vulnerable to project activities, with a plan to publicly share SMART Community Benefits Plan commitments; and

- Extent to which the applicant demonstrates that community and labor engagement will lead to the delivery of high-quality jobs, minimal environmental impact, and allocation of project benefits to disadvantaged communities.

<u>Diversity, Equity, Inclusion, and Accessibility</u>

- Extent to which the Labor and Community Benefits Plan includes specific and high-quality actions to meet DEIA goals, which may include DEIA recruitment procedures, supplier diversity plans, and other DEIA initiatives; and

- Quality of any partnerships and agreements with apprenticeship readiness programs, or community-based workforce training and support organizations serving workers facing systematic barriers to employment to facilitate participation in the project's construction and operations.

Justice40 Initiative

- Extent to which the Labor and Community Benefits Plan identifies: specific, measurable benefits for disadvantaged communities, how the benefits will flow to disadvantaged communities, and how negative environmental impacts affecting disadvantaged communities would be mitigated; and

- Extent to which the project would contribute to meeting the objective that 40% of the overall benefits of climate and clean energy investments will flow to disadvantaged communities.

iii. Criteria for Replies to Reviewer Comments

DOE has not established separate criteria to evaluate Replies to Reviewer Comments. Instead, Replies to Reviewer Comments are attached to the original applications and evaluated as an extension of the Full Application.

B. 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 "DOE Merit Review Guide for Financial Assistance," effective September 2020, which is available at: https://energy.gov/management/downloads/merit-review-guide-financial-assistance-and-unsolicited-proposals-current.

C. Other Selection Factors

i. Program Policy Factors

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

- The degree to which the proposed project exhibits technological diversity when compared to the existing DOE project portfolio and other projects selected from the subject FOA;
- The degree to which the proposed project, including proposed cost share, optimizes the use of available DOE funding to achieve programmatic objectives;
- The degree to which the proposed project is likely to retain or lead to increased high-quality manufacturing employment in the United States;

- The degree to which the proposed project is likely to retain high-quality, high-wage jobs and collective bargaining agreements in the automotive sector;
- 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 Institutions); and partnerships with Minority Business Enterprises, minority-owned businesses, woman-owned businesses, veteran-owned businesses, or Indian tribes;
- The degree to which the proposed project, when compared to the existing DOE project portfolio and other projects to be selected from the subject FOA, contributes to the total portfolio meeting the goals reflected in the Community Benefits Plan criteria;
- The degree to which the proposed project will employ procurement of U.S. iron, steel, manufactured products, and construction materials.
- The degree to which the proposed project collectively represents a diversity of applicant types and sizes of applicant organizations;
- The degree to which the proposed project has broad public support from the communities most directly impacted by the project;
- The degree to which the proposed project avoids duplication/overlap with other publicly or privately funded work;
- The degree to which the proposed project enables new and expanding market segments;
- The degree to which the project's solution or strategy will maximize deployment or replication; and
- The degree to which the proposed project impacts communities who have experienced the recent closure of the facility or the potential for the facility to cease operation in the near future.

ii. Strengthening Secure, Domestic, Clean Energy Supply Chains

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

• DOE may consider whether proposed projects address specific gaps, vulnerabilities, or risks in the domestic production of clean energy products.
• DOE may consider whether an applicant has a connection with a foreign country of risk or foreign entity of concern that could frustrate the achievement of these goals to build domestic manufacturing capabilities.

• DOE may consider additional application information such as board membership, ownership structure, and foreign relationships, as well as sources of funding, and any plans to export.

D. Evaluation and Selection Process

i. 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 program policy factors, in determining which applications to select.

ii. Pre-Selection Interviews

As part of the evaluation and selection process, DOE may invite one or more applicants to participate in pre-selection interviews. Pre-selection interviews are distinct from and more formal than pre-selection clarifications (See Section V.D.iii. of the FOA). The invited applicant(s) will meet with DOE representatives to provide clarification on the contents of the Full 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 arrange to meet with the invited applicants in person at DOE's offices or a mutually agreed upon location. DOE may also arrange site visits at certain applicants' facilities. In the alternative, DOE may invite certain applicants to participate in a one-on-one conference with DOE via webinar, videoconference, or conference call.

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

Participation in pre-selection interviews with DOE does not signify that applicants have been selected for award negotiations.

iii. 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 responses 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.

iv. Recipient Responsibility and Qualifications

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 responsibility and qualification information about the applicant that is in the entity information domain in SAM.gov (see 41 U.S.C. § 2313).

The applicant, at its option, may review information in the entity information domain in SAM.gov and comment on any information about itself that a federal awarding agency previously entered and is currently in the entity information domain in SAM.gov.

DOE will consider any written comments by the applicant, in addition to the other information in the entity information domain in SAM.gov, in making a judgment about the applicant's integrity, business ethics, and record of performance under federal awards when completing the review of risk posed by applicants as described in 2 CFR 200.206.

v. 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.

E. Anticipated Notice of Selection and Award Negotiation Dates

MESC anticipates notifying applicants selected for negotiation of award and negotiating awards by the dates provided on the cover page of this FOA.

VI. Award Administration Information

A. Award Notices

i. Ineligible Submissions

Ineligible Concept Papers and Full Applications will not be further reviewed or considered for award. The Contracting Officer will send a notification letter by email to the technical and administrative points of contact designated by the applicant in S3 eXCHANGE. The notification letter will state the basis upon which the Concept Paper or the Full Application is ineligible and not considered for further review.

ii. Concept Paper Notifications

DOE will notify applicants of its determination to encourage or discourage the submission of a Full Application. DOE will post these notifications to S3 eXCHANGE. DOE may include general comments provided from reviewers on an applicant's Concept Paper in the encourage/discourage notifications.

Applicants may submit a Full Application even if they receive a notification discouraging them from doing so. By discouraging the submission of a Full Application, DOE intends to convey its lack of programmatic interest in the proposed project. Such assessments do not necessarily reflect judgments on the merits of the proposed project. The purpose of the Concept Paper phase is to save applicants the considerable time and expense of preparing a Full Application that is unlikely to be selected for award negotiations.

iii. 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 S3 eXCHANGE. The notification letter will inform the applicant whether or not its Full Application was selected for award negotiations. Alternatively, DOE may notify one or more applicants that a final selection determination on particular Full Applications will be made at a later date, subject to the availability of funds or other factors.

iv. Applicants Selected for Award Negotiations

Successful applicants will receive written notification that they have been selected for award negotiations. 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 nor is it a guarantee of federal government funding. Applicants do not receive an award unless and until award negotiations are complete and the Contracting Officer executes the funding agreement, accessible by the prime recipient in FedConnect.

The award negotiation process takes approximately 60 days. Applicants must designate a primary and a backup point-of-contact in S3 eXCHANGE with whom DOE will communicate to conduct award negotiations. The applicant must be responsive during award negotiations (i.e., provide requested documentation) 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.

Please refer to Section IV.I.ii. of the FOA for guidance on pre-award costs.

v. Alternate Selection Determinations

In some instances, an applicant may receive a notification that its application was not selected for award and DOE designated the application to be an alternate, which means DOE may consider the Full Application for federal funding in the future. A notification letter stating the Full 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 Full Application for award negotiations.

vi. 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.

B. Administrative and National Policy Requirements

i. Registration Requirements

There are several required one-time actions applicants must take before applying to this FOA. Some of these actions may take several weeks, so it is vital

applicants build in enough time to complete them. Failure to complete these actions could interfere with application or negotiation deadlines or the ability to receive an award if selected. These requirements are as follows:

1. **S3 Funding Opportunity Exchange (eXCHANGE)**
   Register and create an account on S3 eXCHANGE at https://infrastructure-exchange.energy.gov. This account will allow the user to apply to any open MESC FOAs in S3 eXCHANGE.

   To access S3 eXCHANGE, potential applicants must have a Login.gov account. As part of the eXCHANGE registration process, new users will be directed to create an account in Login.gov. Please note that the email address associated with Login.gov must match the email address associated with the eXCHANGE account. For more information, refer to the eXCHANGE Multi-Factor Authentication (MFA) Quick Guide in the Manuals section of eXCHANGE.

   Each organization or business unit, whether acting as a team or a single entity, should use only one account as the contact point for each submission. Applicants must also designate backup points of contact. **This step is required to apply to this FOA.** The eXCHANGE registration does not have a delay; however, **the remaining registration requirements below could take several weeks to process and are necessary for a potential applicant to receive an award under this FOA.**

2. **System for Award Management**
   Register in SAM (https://www.sam.gov). Designating an Electronic Business Point of Contact (EBiz POC) and obtaining a special password called a Marketing Partner ID Number (MPIN) are important steps in SAM registration. Please update your SAM registration annually.

3. **FedConnect**
   Register in FedConnect (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.

4. **Grants.gov**
   Register in Grants.gov (http://www.grants.gov) to receive automatic updates when Amendments to this FOA are posted. Please note that Letters of Intent,

Concept Papers, and Full Applications will **not** be accepted through Grants.gov.

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 S3 eXCHANGE and FedConnect, constitutes the authorized representative's approval and electronic signature.

ii. Award Administrative Requirements

The administrative requirements for DOE grants and cooperative agreements are contained in 2 CFR Part 200 as amended by 2 CFR Part 910.

iii. Foreign National Participation

All applicants selected for an award under this FOA and project participants (including subrecipients and contractors) who anticipate involving foreign nationals in the performance of an award may be required to provide DOE with specific information about each foreign national to satisfy requirements for foreign national participation and access approvals. The volume and type of information collected may depend on various factors associated with the award. DOE concurrence may be required before a foreign national can participate in the performance of any work under an award.

Approval for foreign nationals in Principal Investigator/Co-Investigator roles, from countries or risk (i.e., China, Iran, North Korea and Russia), or from countries identified on the U.S. Department of State's list of State Sponsors of Terrorism (https://www.state.gov/state-sponsors-of-terrorism/) may require written authorization from DOE before they can participate in the performance of any work under an award.

A "foreign national" is defined as any person who is not a United States citizen by birth or naturalization. DOE may elect to deny a foreign national's participation in the award. Likewise, DOE may elect to deny a foreign national's access to a DOE site, information, technologies, equipment, programs or personnel.

Applicants selected for award negotiations must include this requirement in subawards.

iv. Subaward and Executive Reporting

Additional administrative requirements necessary for DOE grants and cooperative agreements to comply with the Federal Funding and Transparency

Act of 2006 (FFATA) are contained in 2 CFR Part 170. Prime recipients must register with the new FFATA Subaward Reporting System database and report the required data on their first tier subrecipients. Prime recipients must report the executive compensation for their own executives as part of their registration profile in SAM.

v. National Policy Requirements

The National Policy Assurances that are incorporated as a term and condition of award are located at: http://www.nsf.gov/awards/managing/rtc.jsp.

vi. Environmental Review in Accordance with National Environmental Policy Act (NEPA)

DOE's decision whether and how to distribute federal funds under this FOA is subject to NEPA (42 U.S.C. § 4321, *et seq.*). NEPA 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 on NEPA, please see DOE's NEPA website at https://www.energy.gov/nepa.

While NEPA compliance is a federal agency responsibility and the ultimate decisions remain with the federal agency, all recipients selected for an award will be required to assist in the timely and effective completion of the NEPA process in the manner most pertinent to their proposed project. If DOE determines certain records must be prepared to complete the NEPA review process (e.g., biological evaluations or environmental assessments), the recipient may be required to prepare the records and the costs to prepare the necessary records may be included as part of the project costs.

vii. Flood Resilience

Applications should indicate whether the proposed project location(s) is within a floodplain, how the floodplain was defined, and how flooding will factor into the project's design. The base floodplain long used for planning has been the 100-year floodplain, which has a 1% chance of flooding in any given year. As directed by Executive Order 13690, Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input (2015), federal agencies, including DOE, must continue to avoid development in a floodplain to the extent possible. When doing so is not possible, federal agencies are directed to "expand management from the current base flood level to a higher vertical elevation and corresponding horizontal floodplain to address current and future flood risk and ensure that projects funded with taxpayer dollars last as long as intended." The higher flood elevation is based on one of

three approaches: climate-informed science (preferred), freeboard value, or 0.2% annual flood change (500-year floodplain). EO 13690 and related information is available at https://www.energy.gov/nepa/articles/eo-13690-establishing-federal-flood-risk-management-standard-and-process-further.

viii. Applicant Representations and Certifications

1. **Lobbying Restrictions**
   By accepting funds under this award, the prime recipient agrees that none of the funds obligated on the award shall be expended, directly or indirectly, to influence Congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C. § 1913. This restriction is in addition to those prescribed elsewhere in statute and regulation.

2. **Corporate Felony Conviction and Federal Tax Liability Representations**
   In submitting an application to this FOA, the applicant represents that:

   a. It is **not** a corporation that has been convicted of a felony criminal violation under any federal law within the preceding 24 months; and

   b. It is **not** a corporation that has any unpaid federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

   For purposes of these representations, a corporation is any for-profit or nonprofit entity that has filed articles of incorporation in any of the 50 states, the District of Columbia, or the various territories of the United States [but not foreign corporations].

3. **Nondisclosure and Confidentiality Agreements Representations**
   In submitting an application to this FOA the applicant represents that:

   a. It **does not and will not** require its employees or contractors to sign internal nondisclosure or confidentiality agreements or statements prohibiting or otherwise restricting its employees or contactors from lawfully reporting waste, fraud, or abuse to a designated investigative or law enforcement representative of a federal department or agency authorized to receive such information.

b. It **does not and will not** use any federal funds to implement or enforce any nondisclosure and/or confidentiality policy, form, or agreement it uses unless it contains the following provisions:

"These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive Order relating to (1) classified information, (2) communications to Congress, (3) the reporting to an Inspector General of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling Executive Orders and statutory provisions are incorporated into this agreement and are controlling."

(1) The limitation above shall not contravene requirements applicable to Standard Form 312 Classified Information Nondisclosure Agreement (https://fas.org/sgp/othergov/sf312.pdf), Form 4414 Sensitive Compartmented Information Disclosure Agreement (https://fas.org/sgp/othergov/intel/sf4414.pdf), or any other form issued by a federal department or agency governing the nondisclosure of classified information.

(2) Notwithstanding the provision listed in paragraph (a), a nondisclosure or confidentiality policy form or agreement that is to be executed by a person connected with the conduct of an intelligence or intelligence-related activity, other than an employee or officer of the U.S. government, may contain provisions appropriate to the activity for which such document is to be used. Such form or agreement shall, at a minimum, require that the person will not disclose any classified information received during such activity unless specifically authorized to do so by the U.S. government. Such nondisclosure or confidentiality forms shall also make it clear that they do not bar disclosures to Congress, or to an authorized official of an executive agency or the U.S. Department of Justice, that are essential to reporting a substantial violation of law.

ix. Statement of Federal Stewardship

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; 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.

x. 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 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 its 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.

xi. Intellectual Property Provisions

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.

xii. Reporting

Reporting requirements are identified on the Federal Assistance Reporting Checklist, attached to the award agreement.

Additional reporting requirements apply to IRA-funded projects. DOE may require specific data collection to track progress toward key departmental goals: ensuring justice and equity, investing in the American workforce, boosting domestic manufacturing, reducing greenhouse gas emissions, and advancing a pathway to private sector deployment. Examples of data that may be collected include:

- Workforce Continuity Reporting
- New manufacturing production or recycling capacity
- Jobs data, including:
    - Number and types of jobs provided, wages and benefits paid
    - Number of employees affiliated with the project (for both construction and operation) who are part of a union
    - Workforce demographics, including local hires

    - Contributions to training; employee certificates and training credentials; ratio of apprentice- to journey-level workers employed
    - Number of trainings completed, trainees placed in full-time employment; increase in wages resulting from training, and number of trainings with workforce partnerships involving employers, community-based organizations, or labor unions
- Justice and Equity data, including:
    - Minority Business Enterprises, minority-owned businesses, woman-owned businesses, and veteran-owned businesses acting as vendors and subcontractors for bids on supplies, services, and equipment
    - Value, number, and type of partnerships with MSIs
    - Stakeholder engagement events, consent-based siting activities
    - Other relevant indicators from the Community Benefits Plan
- Environmental impact data, including:
    - Number and type of energy efficient and clean energy equipment installed
    - Estimated GHG reductions from the project facility relative to baseline
    - Estimated GHG reductions from the electrified vehicle or component technology conversion, relative to baseline
- Funding leveraged, follow-on-funding, intellectual property generation and utilization

xiii. Go/No-Go Review

Each project selected under this FOA will be subject to a periodic project evaluation referred to as a Go/No-Go Review. A Go/No-Go Review is a risk management tool and a project management best practice to ensure that, for the current phase or period of performance, technical success is definitively achieved and potential for success in future phases or periods of performance is evaluated, prior to beginning the execution of future phases. At the Go/No-Go decision points, DOE will evaluate project performance, project schedule adherence, the extent milestone objectives are met, compliance with reporting requirements, and overall contribution to the program goals and objectives. Federal funding beyond the Go/No-Go decision point (continuation funding) is contingent upon (1) availability of federal funds appropriated by Congress for the purpose of this program; (2) the availability of future-year budget authority; (3) recipient's technical progress compared to the Milestone Summary Table stated in Attachment 1 of the award; (4) recipient's submittal of required reports; (5) recipient's compliance with the terms and conditions of the award; (6) DOE's Go/No-Go decision; (7) the recipient's submission of a continuation

application;[21] and (8) written approval of the continuation application by the Contracting Officer.

As a result of the Go/No-Go Review, DOE may, at its discretion, authorize the following actions: (1) continue to fund the project, contingent upon the availability of funds appropriated by Congress for the purpose of this program and the availability of future-year budget authority; (2) recommend redirection of work under the project; (3) place a hold on federal funding for the project, pending further supporting data or funding; or (4) discontinue funding the project because of insufficient progress, change in strategic direction, or lack of funding.

The Go/No-Go decision is distinct from a non-compliance determination. In the event a recipient fails to comply with the requirements of an award, DOE may take appropriate action, including but not limited to, redirecting, suspending or terminating the award.

xiv. Conference Spending

The recipient shall not expend any funds on a conference not directly and programmatically related to the purpose for which the grant or cooperative agreement was awarded that would defray the cost to the U.S. government of a conference held by any Executive branch department, agency, board, commission, or office for which the cost to the U.S. 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

[21] A continuation application is a non-competitive application for an additional budget period within a previously approved project period. At least ninety (90) days before the end of each budget period, the recipient must submit its continuation application, which includes the following information:

i. A progress report on the project objectives, including significant findings, conclusions, or developments, and an estimate of any unobligated balances remaining at the end of the budget period. If the remaining unobligated balance is estimated to exceed 20 percent of the funds available for the budget period, explain why the excess funds have not been obligated and how they will be used in the next budget period.
ii. A detailed budget and supporting justification if there are changes to the negotiated budget, or a budget for the upcoming budget period was not approved at the time of award.
iii. A description of any planned changes from the SOPO and/or Milestone Summary Table.

General), of the date, location, and number of employees attending such conference.

xv. Indemnity

Awards resulting from this FOA will contain the following provision reminding Recipients of DOE's right of indemnification.

The Recipient shall indemnify the Government and its officers, agents, or employees for any and all liability, including litigation expenses and attorney's fees, arising from suits, actions, or claims of any character for death, bodily injury, or loss of damage to property or to the environment, resulting from the project, except to the extent that such liability results from the direct fault.
Awards resulting from this FOA will contain the following provision reminding Recipients of DOE's right of indemnification.

The Recipient shall indemnify the Government and its officers, agents, or employees for any and all liability, including litigation expenses and attorney's fees, arising from suits, actions, or claims of any character for death, bodily injury, or loss of damage to property or to the environment, resulting from the project, except to the extent that such liability results from the direct fault or negligence of Government officers, agents or employees, or to the extent such liability may not be covered by applicable allowable costs provisions.

xvi. Uniform Commercial Code (UCC) 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 million the recipient or subrecipient must:

Properly record, and consent to the Department's ability to properly record if the recipient fails to do so, 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 Contracting 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 Contracting 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 Contracting Officer may direct.

xvii. Real Property and Equipment

Real property and equipment purchased with project funds (federal share and recipient cost share) are subject to the requirements at 2 CFR 200.310, 200.311, 200.313, and 200.316 (non-federal entities, except for-profit entities) and 2 CFR 910.360 (for-profit entities). For projects selected for awards under this FOA, the recipients may (1) take disposition action on the real property and equipment; or (2) continue to use the real property and equipment after the conclusion of the award period of performance with Contracting Officer approval. The recipient's written request for Continued Use must identify the property and include: a summary of how the property will be used (must align with the authorized project purposes); a proposed use period, (e.g., perpetuity, until fully depreciated, or a calendar date when the recipient expects to submit disposition instructions); acknowledgement that the recipient shall not sell or encumber the property or permit any encumbrance without prior written DOE approval; current fair market value of the property; and an estimated useful life or depreciation schedule for equipment.

When the property is no longer needed for authorized project purposes, the recipient must request disposition instructions from DOE. For-profit entity disposition requirements are set forth in 2 CFR 910.360. Property disposition requirements for other non-federal entities are set forth in 2 CFR 200.310 – 200.316.

xviii. Implementation of Executive Order 13798, Promoting Free Speech and Religious Liberty

States, local governments, and other public entities may not condition subawards in a manner that would discriminate against or otherwise disadvantage subrecipients based on their religious character.

xix. 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.

xx. Current and Pending Support

If selected for award negotiations, within 30 days of the selection notice the selectee must submit: 1) current and pending support disclosures and resumes for any new PIs or senior/key personnel, and 2) updated disclosures if there have been any changes to the current and pending support submitted with the application. Throughout the life of the award, the recipient has an ongoing responsibility to submit: 1) current and pending support disclosure statements and resumes for any new PI and senior/key personnel, and 2) updated disclosures if there are changes to the current and pending support previously submitted to DOE. Also see Section IV.D.xix.

xxi. U.S. Manufacturing Commitments

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 an applicant's project, 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. 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.

Please note that a subject invention is any invention conceived or first actually reduced to practice in performance of work under an award. An invention is any invention or discovery which is or may be patentable. The recipient includes any awardee, recipient, sub-awardee, or sub-recipient.

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 https://www.energy.gov/management/pf-2022-09-fal-2022-01-implementation-doe-determination-exceptional-circumstances-under. 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. See Section VIII.J. Title to Subject Inventions of this FOA for more information on the DEC and DOE Patent Waivers.

xxii. Interim Conflict of Interest Policy for Financial Assistance

The DOE interim Conflict of Interest Policy for Financial Assistance (COI Policy)[22] 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, cooperative agreement, or technology investment agreement) 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. The term "Investigator" means the 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. 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 its initial and ongoing FCOI reports.

It is understood that non-federal entities and individuals receiving DOE financial assistance awards will need sufficient time to come into full compliance with DOE's interim COI Policy. To provide some flexibility, DOE allows for a staggered implementation. Specifically, prior to award, applicants selected for award

[22] 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.

negotiations must: ensure all Investigators complete their significant financial disclosures; review the disclosures; determine whether a FCOI exists; develop and implement a management plan for FCOIs; and provide DOE with an initial FCOI report that includes all FCOIs (i.e., managed and unmanaged/unmanageable). Recipients will have 180 days from the date of the award to come into full compliance with the other requirements set forth in DOE's interim COI Policy. Prior to award, the applicant must certify that it is, or will be within 180 days of the award, compliant with all requirements in the COI Policy.

xxiii. Fraud, Waste, and Abuse

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, cooperative 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.gov. 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]

Applicants and subrecipients (if applicable) 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.

xxiv. Material Supply Plan

If selected for award negotiations, the selectee must submit a Material Supply Plan to DOE within 60 days of notice of selection for award negotiations. The Material Supply Plan must set out the selectee's strategy and approach for materials supply, including a new supply chain for North American and European suppliers, in form and substance satisfactory to DOE. During the life of the award, the recipient must meet the stated objectives set forth in its Material Supply Plan. The recipient must notify the Department of any revisions to the Material Supply Plan. A report on the recipient's progress towards meeting the objectives and milestones set forth in the Material Supply Plan must be included in any continuation application. The Material Supply Plan and any revisions to the plan and all related deliverables must be emailed securely to the point of contact designated by DOE.

xxv. Technology Protection Plan

If selected for award negotiations, the selectee must submit a Technology Protection Plan within 60 days of award setting out the selectee's policies and procedures for identifying, accessing, handling, controlling, and releasing the following under the proposed award: (1) the selectee's proprietary information, including non-public technical information, trade secrets and other confidential business information, including but not limited to information, know-how, methods or processes that give the selectee a competitive advantage in the marketplace; (2) information that is subject to U.S. export control laws or regulations; (3) information that has been designated as classified or controlled unclassified information (CUI) by DOE; (4) any other information designated by DOE as sensitive throughout the period of performance. The recipient must meet the stated objectives set forth in its Technology Protection Plan. The recipient must notify the Department of any revisions to the Technology Protection Plan or the proposed security approach. A report on the recipient's progress toward meeting the objectives and milestones set forth in the Technology Protection Plan must be included in any continuation application. The Technology Protection Plan and any revisions to the plan and all related deliverables must be emailed securely to the point of contact designated by DOE.

Any DOE and/or National Laboratory review comments or feedback provided to the recipient does not constitute an endorsement or approval of any specific elements within the Technology Protection Plan or the proposed security

approach. Therefore, such feedback should not be referenced or used in marketing or promotional materials.

xxvi. Threat Briefing

Selectees may be required to participate in threat briefing to discuss, at an unclassified level, the current threat environment related to economic espionage, intellectual property theft, insider threats, and other relevant topics.

xxvii. Research Technology and Economic Security Officer

Selectees may be required to appoint an employee as a Security Officer who will be responsible for ensuring compliance the terms and conditions related to research, technology, and economic security (RTES)[23].

xxviii. Human Subjects Research

Research involving human subjects, biospecimens, or identifiable private information conducted with DOE funding is subject to the requirements of DOE Order 443.1C, Protection of Human Research Subjects, 45 CFR Part 46, Protection of Human Subjects (subpart A which is referred to as the "Common Rule"), and 10 CFR Part 745, Protection of Human Subjects. Additional information on the DOE Human Subjects Research Program can be found at: HUMAN SUBJECTS Human Subjects Pr... | U.S. DOE Office of Science (SC) (osti.gov).

VII. 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 process described below. Questions regarding this FOA must be submitted to DE-FOA-0003106@netl.doe.gov no later than three (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 S3 eXCHANGE at https://infrastructure-exchange.energy.gov. **You must first select the FOA Number to view the questions and answers specific to this FOA**. MESC will attempt to respond to a

[23] Examples of the terms and conditions related to research, technology and economic security include: Foreign Collaboration Considerations, Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment, Prohibition Related to Foreign Government-Sponsored Talent Recruitment Programs, Export Control, Foreign National Participation, Potentially Duplicative Funding, Technology Protection Plan, Material Supply Plan, Performance of Work in United States, Threat Briefing, Post Award Due Diligence Reviews, Participants and Other Collaborating Organizations, Transparency of Foreign Connections.

question within three (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 S3 eXCHANGE website should be submitted to InfrastructureExchangeSupport@hq.doe.gov.

VIII. Other Information

A. FOA Modifications

Amendments to this FOA will be posted on S3 eXCHANGE and the Grants.gov system. However, you will only receive an email when an amendment or a FOA is posted on these sites if you register for email notifications for this FOA in Grants.gov. MESC 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.

B. Government Right to Reject or Negotiate

DOE reserves the right, without qualification, to reject any or all applications received in response to this FOA and to select any application, in whole or in part, as a basis for negotiation and/or award.

C. Commitment of Public Funds

The Contracting 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 Contracting Officer, either express or implied, is invalid.

D. Treatment of Application Information

Applicants should not include trade secrets or business-sensitive, 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 trade secrets or business-sensitive, 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 federal government's right to use the information if it is obtained from another source.

If an applicant chooses to submit trade secrets or business-sensitive, proprietary, or otherwise confidential information, the applicant must provide **two copies** of the submission (e.g., Concept Paper, Full Application). The first copy should be marked "non-confidential," with the information believed to be confidential deleted. The second copy should be marked "confidential" and must clearly and conspicuously identify the trade secrets or business-sensitive, proprietary, or otherwise confidential information and 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 federal government is not liable for the disclosure or use of unmarked information and may use or disclose such information for any purpose as authorized by law.

The cover sheet of the Full Application, and other applicant submission must be marked as follows and identify the specific pages containing trade secrets or business-sensitive, proprietary, or otherwise confidential information:

> **Notice of Restriction on Disclosure and Use of Data:**
> Pages [list applicable pages] of this document may contain trade secrets or business-sensitive, proprietary, or otherwise confidential 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 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]

In addition, (1) the header and footer of every page that contains trade secrets or business-sensitive, proprietary, or otherwise confidential information must be marked as follows: "Contains Business Sensitive Information, Trade Secrets, or Proprietary or Otherwise Confidential Information Exempt from Public Disclosure," and (2) every line or paragraph containing such information must be clearly marked with double brackets or highlighting. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

E. 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 (COI) and non-disclosure acknowledgements (NDA) prior to reviewing an application. Non-federal personnel conducting administrative activities must sign an NDA.

F. Notice Regarding Eligible/Ineligible Activities

Eligible activities under this FOA include those that describe and promote the understanding of scientific and technical aspects of specific energy technologies, but not those which encourage or support political activities such as the collection and dissemination of information related to potential, planned or pending legislation.

G. Notice of Right to Conduct a Review 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).

H. 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 cancellation of award negotiations;
- The modification, suspension, and/or cancellation 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.

I. Retention of Submissions

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

J. Title to Subject Inventions

Ownership of subject inventions is governed pursuant to the authorities listed below:

- Domestic Small Businesses, Educational Institutions, and Nonprofits: Under the Bayh-Dole Act (35 U.S.C. § 200 et seq.), domestic small businesses, educational institutions, and nonprofits may elect to retain title to their subject inventions;
- All other parties: The Federal Non-Nuclear Energy Act of 1974, 42. U.S.C. § 5908, provides that the government obtains title to new inventions unless a waiver is granted (see below);
- Class Patent Waiver:

DOE has issued a class waiver that applies to this FOA. Under this class waiver, domestic large businesses may elect title to their subject inventions similar to the right provided to the domestic small businesses, educational institutions, and nonprofits by law. To avail itself of the class waiver, a domestic large business must agree that any products embodying or produced through the use of a subject invention first conceived or first actually reduced to practice under this program will be substantially manufactured in the United States.

K. Government Rights in Subject Inventions

Where prime recipients and subrecipients retain title to subject inventions, the U.S. government retains certain rights.

Government Use License

The U.S. government retains a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States any subject invention throughout the world. This license extends to contractors doing work on behalf of the government.

March-In Rights

The U.S. government retains march-in rights with respect to all subject inventions. Through “march-in rights,” the government may require a prime recipient or subrecipient who has elected to retain title to a subject invention (or their assignees or exclusive licensees), to grant a license for use of the invention to a third party. In addition, the government may grant licenses for use of the subject invention when a prime recipient, subrecipient, or their assignees and exclusive licensees refuse to do so.

DOE may exercise its march-in rights only if it determines that such action is necessary under any of the four following conditions:

- The owner or licensee has not taken or is not expected to take effective steps to achieve practical application of the invention within a reasonable time;

- The owner or licensee has not taken action to alleviate health or safety needs in a reasonably satisfied manner;
- The owner has not met public use requirements specified by federal statutes in a reasonably satisfied manner; or
- The United States manufacturing requirement has not been met.

Any determination that march-in rights are warranted must follow a fact-finding process in which the recipient has certain rights to present evidence and witnesses, confront witnesses and appear with counsel and appeal any adverse decision. To date, DOE has never exercised its march-in rights to any subject inventions.

L. 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 U.S. 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 U.S. 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.

For this FOA, selectees and recipients may request an extended period of protection (more than 5 years and not to exceed 30 years) if reasonably required for commercialization for specific categories of data for all Topic Areas first produced under the resulting awards in accordance with 15 U.S.C. § 3710a(c)(7)(B)(ii) and the Energy Policy Acts of 1992 and 2005, or 42 U.S.C. § 7256(g)(5) for OTAs, if applicable. Further direction will be provided during the negotiation process upon request.

M. 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.

N. Export Control

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.

O. 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 use *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.

P. Personally Identifiable Information (PII)

All information provided by the applicant must to the greatest extent possible exclude PII. "PII" refers to information that can be used to distinguish or trace an individual's identity, such as their name, Social Security number, or biometric records, alone or combined with other personal or identifying information linked or linkable to a specific individual, such as date and place of birth or mother's maiden name. (See OMB Memorandum M-17-12 dated January 3, 2017.)

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 the 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).

Q. Annual Independent Audits

If a for-profit entity is a prime recipient and has expended $750,000 or more of DOE awards during the entity's fiscal year, an annual compliance audit performed by an independent auditor is required. For additional information, please refer to 2 CFR 910.501 and Subpart F.

If an educational institution, nonprofit 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, a Single or Program-Specific Audit is required. For additional information, please refer to 2 CFR 200.501 and Subpart F.

Applicants and subrecipients (if applicable) should propose sufficient costs in the project budget to cover the costs associated with the audit. DOE will share in the cost of the audit at its applicable cost share ratio.

R. Informational Webinar

DOE will conduct an informational webinar at the date and time listed in the table on the FOA cover page prior to concept paper submission due dates. The purpose of this webinar is to give applicants a chance to ask questions about the FOA process generally. 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.
Attendance is not mandatory for the webinars and will not positively or negatively impact the overall review of any applicant submissions.

APPENDIX A – COST SHARE INFORMATION

Cost Sharing or Cost Matching

The terms "cost sharing" and "cost matching" are often used synonymously. Even the DOE Financial Assistance Regulations, 2 CFR 200.306, use both terms in the titles specific to regulations applicable to cost sharing. DOE almost always uses "cost sharing," as it conveys the concept that non-federal share is calculated as a percentage of the Total Project Cost. An exception is the State Energy Program Regulation, 10 CFR 420.12, State Matching Contribution. Here "cost matching" for the non-federal share is calculated as a percentage of the federal funds only, rather than the Total Project Cost.

How Cost Sharing Is Calculated

As stated above, cost sharing is calculated as a percentage of the Total Project Cost. FFRDC costs must be included in Total Project Costs. The following is an example of how to calculate cost sharing amounts for a project with $1 million in federal funds with a minimum 50% non-federal cost sharing requirement:

- Formula: Federal share ($) divided by federal share (%) = Total Project Cost
  Example: $1,000,000 divided by 50% = $2,000,000

- Formula: Total Project Cost ($) minus federal share ($) = Non-federal share ($)
  Example: $2,000,000 minus $1,000,000 = $1,000,000

- Formula: Non-federal share ($) divided by Total Project Cost ($) = Non-federal share (%)
  Example: $1,000,000 divided by $2,000,000 = 50%

What Qualifies for Cost Sharing

While it is not possible to explain what specifically qualifies for cost sharing in one or two sentences, in general, if a cost is allowable under the cost principles applicable to the organization incurring the cost and is eligible for reimbursement under a DOE grant or cooperative agreement, it is allowable as cost share. Conversely, if the cost is not allowable under the cost principles and not eligible for reimbursement, it is not allowable as cost share. In addition, costs may not be counted as cost share if they are paid by the federal government under another award unless authorized by federal statute to be used for cost sharing.

The rules associated with what is allowable as cost share are specific to the type of organization that is receiving funds under the grant or cooperative agreement, though they are generally the same for all types of entities. The specific rules applicable to:

- FAR Part 31 for For-Profit entities, (48 CFR Part 31); and
- 2 CFR Part 200 Subpart E - Cost Principles for all other non-federal entities.

In addition to the above regulations, other factors may come into play, such as timing of donations and length of the project period. For example, the value of 10 years of donated maintenance on a project that has a project period of five years would not be fully allowable as cost share. Only the value for the five years of donated maintenance that corresponds to the project period is allowable and may be counted as cost share.

Additionally, DOE generally does not allow pre-award costs for either cost share or reimbursement when these costs precede the signing of the appropriation bill that funds the award. In the case of a competitive award, DOE generally does not allow pre-award costs prior to the signing of the Selection Statement by the DOE Selection Official.

General Cost Sharing Rules on a DOE Award

1. **Cash Cost Share** encompasses all contributions to the project made by the recipient or subrecipient(s) for costs incurred and paid for during the project. This includes when an organization pays for personnel, supplies, or equipment for their company with organizational resources. If the cost of the item or service is reimbursed, it is cash cost share. All cost share items must be necessary to the performance of the project.

2. **In-Kind Cost Share** encompasses all contributions to the project made by the recipient or subrecipient(s) that do not involve a payment or reimbursement and represent donated items or services. In-Kind cost share items include volunteer personnel hours, donated existing equipment, and donated existing supplies. The cash value and calculations thereof for all In-Kind cost share items must be justified and explained in the Cost Share section of the project Budget Justification. All cost share items must be necessary to the performance of the project. Consult your DOE contact if you have questions before filling out the In-Kind cost share section of the Budget Justification.

3. **Funds from other federal sources** may **not** be counted as cost share. This prohibition includes FFRDC subrecipients. Non-federal sources include any source not originally derived from federal funds. Cost sharing commitment letters from subrecipients must be provided with the original application.

4. **Fee or profit**, including foregone fee or profit, are not allowable as project costs (including cost share) under any resulting award. The project may incur only those costs that are allowable and allocable to the project (including cost share) as determined in accordance with the applicable cost principles prescribed in FAR Part 31 for For-Profit entities and 2 CFR Part 200 Subpart E - Cost Principles for all other non-federal entities.

DOE Financial Assistance Rules 2 CFR Part 200 as amended by 2 CFR Part 910

As stated above, the rules associated with what is allowable cost share are generally the same for all types of organizations. Following are the rules found to be common, but again, the specifics are contained in the regulations and cost principles specific to the type of entity:

(A) Acceptable contributions. All contributions, including cash contributions and third-party in-kind contributions, must be accepted as part of the prime recipient's cost sharing if such contributions meet all of the following criteria:

(1) They are verifiable from the recipient's records.

(2) They are not included as contributions for any other federally assisted project or program.

(3) They are necessary and reasonable for the proper and efficient accomplishment of project or program objectives.

(4) They are allowable under the cost principles applicable to the type of entity incurring the cost as follows:

a. For-profit organizations. Allowability of costs incurred by for-profit organizations and those nonprofit organizations listed in Attachment C to OMB Circular A–122 is determined in accordance with the for-profit cost principles in 48 CFR Part 31 in the FAR, except that patent prosecution costs are not allowable unless specifically authorized in the award document. (v) Commercial Organizations. FAR Subpart 31.2—Contracts with Commercial Organizations; and

b. Other types of organizations. For all other non-federal entities, allowability of costs is determined in accordance with 2 CFR Part 200 Subpart E.

(5) They are not paid by the federal government under another award unless authorized by federal statute to be used for cost sharing or matching.

(6) They are provided for in the approved budget.

(B) Valuing and documenting contributions

(1) Valuing recipient’s property or services of recipient’s employees. Values are established in accordance with the applicable cost principles, which mean that amounts chargeable to the project are determined on the basis of costs incurred. For real property or

equipment used on the project, the cost principles authorize depreciation or use charges. The full value of the item may be applied when the item will be consumed in the performance of the award or fully depreciated by the end of the award. In cases where the full value of a donated capital asset is to be applied as cost sharing or matching, that full value must be the lesser or the following:

a. The certified value of the remaining life of the property recorded in the recipient's accounting records at the time of donation; or

b. The current fair market value. If there is sufficient justification, the Contracting Officer may approve the use of the current fair market value of the donated property, even if it exceeds the certified value at the time of donation to the project. The Contracting Officer may accept the use of any reasonable basis for determining the fair market value of the property.

(2) Valuing services of others' employees. If an employer other than the recipient furnishes the services of an employee, those services are valued at the employee's regular rate of pay, provided these services are for the same skill level for which the employee is normally paid.

(3) Valuing volunteer services. Volunteer services furnished by professional and technical personnel, consultants, and other skilled and unskilled labor may be counted as cost sharing or matching if the service is an integral and necessary part of an approved project or program. Rates for volunteer services must be consistent with those paid for similar work in the recipient's organization. In those markets in which the required skills are not found in the recipient organization, rates must be consistent with those paid for similar work in the labor market in which the recipient competes for the kind of services involved. In either case, paid fringe benefits that are reasonable, allowable, and allocable may be included in the valuation.

(4) Valuing property donated by third parties.

a. Donated supplies may include such items as office supplies or laboratory supplies. Value assessed to donated supplies included in the cost sharing or matching share must be reasonable and must not exceed the fair market value of the property at the time of the donation.

b. Normally only depreciation or use charges for equipment and buildings may be applied. However, the fair rental charges for land and the full value of equipment or other capital assets may be allowed, when they will be consumed in the performance of the award or fully depreciated by the end of the award, provided that the Contracting Officer has approved the charges. When use charges are

applied, values must be determined in accordance with the usual accounting policies of the recipient, with the following qualifications:

i. The value of donated space must not exceed the fair rental value of comparable space as established by an independent appraisal of comparable space and facilities in a privately owned building in the same locality.

ii. The value of loaned equipment must not exceed its fair rental value.

(5) Documentation. The following requirements pertain to the recipient's supporting records for in-kind contributions from third parties:

a. Volunteer services must be documented and, to the extent feasible, supported by the same methods used by the recipient for its own employees.

b. The basis for determining the valuation for personal services and property must be documented.

APPENDIX B – SAMPLE COST SHARE CALCULATION FOR BLENDED COST SHARE PERCENTAGE

The following example shows the math for calculating required cost share for a project with $2 million in federal funds, with four tasks requiring different non-federal cost share percentages:

Task	Proposed Federal Share	Federal Share %	Recipient Share %
Task 1 (R&D)	$1,000,000	80%	20%
Task 2 (R&D)	$500,000	80%	20%
Task 3 (Demonstration)	$400,000	50%	50%
Task 4 (Outreach)	$100,000	100%	0%

Federal share ($) divided by federal share (%) = Task Cost

Each task must be calculated individually as follows:

Task 1
$1,000,000 divided by 80% = $1,250,000 (Task 1 Cost)
Task 1 Cost minus federal share = non-federal share
$1,250,000 - $1,000,000 = $250,000 (non-federal share)

Task 2
$500,000 divided 80% = $625,000 (Task 2 Cost)
Task 2 Cost minus federal share = non-federal share
$625,000 - $500,000 = $125,000 (non-federal share)

Task 3
$400,000 / 50% = $800,000 (Task 3 Cost)
Task 3 Cost minus federal share = non-federal share
$800,000 - $400,000 = $400,000 (non-federal share)

Task 4
Federal share = $100,000
Non-federal cost share is not mandated for outreach = $0 (non-federal share)

The calculation may then be completed as follows:

Tasks	$ Federal Share	% Federal Share	$ Non-Federal Share	% Non-Federal Share	Total Project Cost
Task 1	$1,000,000	80%	$250,000	20%	$1,250,000
Task 2	$500,000	80%	$125,000	20%	$625,000
Task 3	$400,000	50%	$400,000	50%	$800,000
Task 4	$100,000	100%	$0	0%	$100,000
Totals	$2,000,000		$775,000		$2,775,000

Blended Cost Share %
Non-federal share ($775,000) divided by Total Project Cost ($2,775,000) = 27.9% (non-federal)
Federal share ($2,000,000) divided by Total Project Cost ($2,775,000) = 72.1% (federal)

APPENDIX C – WAIVER REQUESTS FOR: 1. FOREIGN ENTITY PARTICIPATION; AND 2. FOREIGN WORK

1. Waiver for Foreign Entity Participation

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.[24] 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 Full Application.

Waiver Criteria

Foreign entities seeking to participate in a project funded 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 United States Competitiveness Provision (see Section VI.B.xxi.); and
e. The foreign entity will satisfy other conditions that may be deemed necessary by DOE to protect United States government interests.

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 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

[24] See Critical and Emerging Technologies List Update (whitehouse.gov).

ownership/control by foreign entities, foreign shareholders, foreign state, or foreign individuals;

c. The rationale for proposing a foreign entity participate (must address criteria above);
d. A description of the project's anticipated contributions to the United States 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;
    - 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 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 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.

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

2. Waiver for Performance of Work in the United States (Foreign Work Waiver)

As set forth in Section IV.I.iii., 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 Full Application. A separate waiver request must be submitted for each entity (Recipient and Subrecipient) 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 the United States ("foreign work");
2. A description of the work proposed to be performed outside the United States;
3. An explanation as to 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 U.S. 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 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 countries in which the foreign work is proposed to be performed; and
11. The name of the entity that would perform the foreign work.

DOE may require additional information before considering the waiver request.

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