DEPARTMENT OF ENERGY (DOE)
OFFICE OF INDIAN ENERGY POLICY AND PROGRAMS

CLEAN ENERGY TECHNOLOGY DEPLOYMENT ON TRIBAL LANDS - 2024

Funding Opportunity Announcement (FOA)
Number: DE-FOA-0003298
FOA Type: 0000
CFDA Number: 81.087

FOA Issue Date:	February 27, 2024
Informational Webinar:	March 14, 2024 at 3:00 pm Eastern Time
Submission Deadline for Applications:	May 30, 2024 at 5:00 pm Eastern Time
Expected Date for DOE Selection Notifications:	Fall 2024
Expected Timeframe for Award Negotiations	90 days after receipt of any requested supplemental information

- In order to apply to this FOA, you must register in the systems identified under Registration Requirements (Section VI.B.1.) prior to submitting an application and **certify that these registrations are complete** as part of the application (see Application Registration Certifications under Section IV.C.13.).

- **Questions:** Questions regarding the content of this FOA must be submitted to: TribalGrants@hq.doe.gov no later than three (3) business days prior to the application due date. *All* questions and answers related to this FOA will be posted on IE-Exchange at: https://ie-exchange.energy.gov. In order to view questions specific to this FOA you must first select this specific FOA Number and then "Frequently Asked Questions (FAQs)". DOE will attempt to respond to a question within three (3) business days, unless a similar question and answer has already been posted on IE-Exchange.

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EXECUTIVE SUMMARY

The following Funding Opportunity Overview (Table 1) provides a general description of this Funding Opportunity Announcement's (FOA's) intent and requirements. It does not reflect *all* evaluation factors and requirements for the FOA and cannot be relied upon as *all* inclusive. **Applicants must read the entire FOA to determine the complete set of requirements and application elements required under this FOA.**

Table 1: Funding Opportunity Overview

Funding Opportunity Overview	
FOA Summary	The DOE Office of Indian Energy is soliciting applications from Indian Tribes, which include Alaska Native Regional Corporations and Village Corporations (hereafter referred collectively as "Indian Tribes"), Intertribal Organizations, and Tribal Energy Development Organizations to: (1) install clean energy generating system(s) and energy efficiency measure(s) for Tribal Building(s) (Topic Area 1); or, (2) deploy community-scale clean energy generating system(s) or community energy storage on Tribal Lands (Topic Area 2); or, (3) install integrated energy system(s) for autonomous operation (independent of the traditional centralized electric power grid) to power a single or multiple Essential Tribal Buildings during emergency situations or for tribal community resilience (Topic Area 3); or, (4) provide electric power to unelectrified Tribal Buildings (Topic Area 4). (See Section III.A. for eligibility information and Appendix A for the definitions).
Total Amount to be Awarded	Approximately $25 million in federal funds. DOE anticipates making approximately 5 to 10 awards under this FOA. DOE may issue awards in one, multiple, or none of the Topic Areas.
Award Amount (Minimum and Maximum)	DOE funding per individual award will range from: (1) no less than $100,000 to a maximum of $2,500,000 for each Subtopic Area under Topic Area 1, (2) no less than $250,000 to a maximum of $5,000,000 for each Subtopic Area under Topic Area 2, (3) no less than $100,000 to a maximum of $2,500,000 for Subtopic Area 3.a., (4) no less than $250,000 to a maximum of $5,000,000 for Subtopic Area 3.b., and (5) no less than $250,000 to a maximum of $5,000,000 for each Subtopic Area under Topic Area 4.
Types of Funding Agreements	Grants
Period of Performance	DOE anticipates making awards with a period of performance of approximately two (2) to four (4) years, which must include a mandatory 12-month verification period.

Funding Opportunity Overview	
Eligible Applicants	Pursuant to its authorizing statute, DOE's Office of Indian Energy will only consider applications from: (1) an Indian Tribe; (2) Intertribal Organization, or (3) Tribal Energy Development Organization; and (4) on whose Tribal Lands the project(s) will be located (see Section III.A., Eligibility Information, and Appendix A for further definition). Applications from a consortium of Indian Tribes (Tribal Consortium) will be accepted but must be submitted by a single Indian Tribe acting as the Applicant representing the Consortium. Applications may also be submitted on behalf of Indian Tribe(s) by an authorized Tribal Organization, provided evidence of that authority is supplied as part of the application. See Section III.A. for eligibility requirements and definitions. **DOE will not make eligibility determinations for potential Applicants prior to the date on which applications to this FOA must be submitted. The decision of whether to submit an application in response to this FOA lies *solely* with the Applicant. *All* Applicants are required to submit eligibility statements that document and provide evidence of Applicant and land status eligibility to support DOE's eligibility determination.**
Cost Share Requirement	A 20% cost share of the total allowable costs of the project (i.e., the sum of the federal share, and the non-federal Recipient cost share of allowable costs equals the total allowable cost of the project) is required, unless the 20% cost share requirement is reduced to 10% as described in the FOA. *All* cost share must come from non-federal sources unless otherwise allowed by law (see Section III.B. for instances where additional federal funds can be used against the total project costs or as non-federal cost share, as allowed to by law). If requested by the Applicant as part of its application, a cost share reduction to 10% may be considered, based on poverty rate and median household income of the tribal community relative to the statewide median household income (see Section III.B.2. and 'Application Forms and Templates' for this FOA on IE-Exchange).
Additional Considerations in the Selection for Funding	In addition to the ability to consider geographic distribution, technology diversity and the optimum use of available DOE funding to achieve programmatic objectives, the Selection Official may, through the application of program policy factors (see Section V.C.), give additional consideration in the selection of applications for funding to: (1) whether the proposed project serves tribal communities with high energy costs; (2) whether the proposed project serves tribal communities not connected to the traditional centralized electrical power grid; (3) the degree to which the proposed project will employ procurement of U.S. iron, steel, manufactured products, and construction materials; and/or (4) Applicants who have not previously received a grant from the Office of Indian Energy.
Technical Assistance	Within scope and budget, the DOE Office of Indian Energy may, upon request, provide technical assistance to *all* eligible Applicants who apply under this FOA and whose applications are comprehensively reviewed, but not selected for negotiation. Such technical assistance will be provided on a priority basis over those who request technical assistance but do not apply to this FOA.
Submission of Multiple Applications	Applicants may submit more than one application to this FOA (including more than one application under a particular Topic Area or Subtopic Area), provided each application is for a distinctively different project and each application addresses only one Subtopic Area. Each application must have a distinct title, unique Control Number as assigned by IE-Exchange

Funding Opportunity Overview	
	during the registration process, and be readily distinguishable. Each application must be limited to a single unique and distinct project; unrelated projects cannot be consolidated in a single application.
Means of Submission	Applications must be submitted through IE-Exchange at https://ie-exchange.energy.gov, DOE's online application portal. DOE will not review or consider applications submitted through other means. The IE-Exchange User Guide for Applicants is found at https://ie-exchange.energy.gov/Manuals.aspx.
Application Forms	Required forms and templates are available under 'Application Forms and Templates' for this FOA on IE-Exchange at https://ie-exchange.energy.gov.
Applicant Notification	DOE will notify *all* Applicants of its eligibility and selection determinations. The selection notification letter will inform the Applicant if its application was selected for award negotiations, or not. Alternatively, DOE may notify one or more Applicants that a final selection determination on a particular application(s) may be made at a later date, subject to congressional appropriations or other programmatic factors. Written feedback on *all* eligible applications will also be provided at the time of notification. Ineligible applications will not be reviewed or considered for award negotiations. If determined ineligible, the Contracting Officer will send a notification letter by email to the technical and administrative points of contact designated by the Applicant in IE-Exchange. The notification letter will state the basis upon which the application is ineligible and not considered for further review.

DOE OFFICE OF INDIAN ENERGY REQUIREMENTS

The requirements below are not *all* inclusive and cannot exclusively be relied upon as they do not reflect *all* evaluation factors and requirements for this FOA. Applicants must read the entire FOA to determine the complete set of requirements under this FOA.

- **Please read each Topic Area and Subtopic Area carefully for requirements specific to that Topic Area (see Section I.B.).**

- **Pre-award Costs**: **Only cost share contributions made during the period of performance of the grant, if awarded, can be considered.** Any costs incurred prior to award selection cannot be considered as cost share or for reimbursement by DOE (see Section IV.H.).

- **Eligibility Statements and Evidence:** To support the DOE Office of Indian Energy's eligibility determination, *all* Applicants are required to submit eligibility statements that document and provide evidence of Applicant and Tribal Land eligibility as part of their application (see Section IV.C.5.).

- **Statements of Commitment and Cost Sharing:** As prescribed below, *all* Applicants are required to submit an Applicant Tribal Council Resolution or Declaration of Commitment and Cost Sharing File, which must include a statement of commitment and cost sharing by the Applicant (see Section IV.C.6.).

  Tribal Council Resolution: For **Indian Tribes**, the statement of commitment and cost sharing must be in the form of an executed Tribal Council Resolution, unless an Indian Tribe provides a commitment in a format other than a Tribal Council Resolution and evidence of the statutory or other legal authority authorizing that form of commitment in lieu of a Tribal Council Resolution accompanies that commitment. Such evidence must establish that the commitment submitted carries the same level of Tribal leadership commitment as a Tribal Council Resolution (see Section IV.C.6.).

  Declaration or Resolution: For **Alaska Native Regional Corporations or Village Corporations, Intertribal Organizations, and Tribal Energy Development Organizations**, the statement of commitment and cost sharing may be in the form of a declaration or resolution signed by an authorized representative able to commit the entity (see Section IV.C.6.).

  Letters of Commitment: *All* other **project participants** (except Vendors) must submit letters of commitment and cost sharing under the Participant Letters of Commitment and Cost Sharing File (see Section IV.C.7.).

  Tribal Organization Authority: If an application is being submitted on behalf of Indian Tribe(s) by an **authorized Tribal Organization**, evidence of that authority is required as part of the

application, along with a declaration (or resolution) from the Tribal Organization, and a letter of commitment from *all* other project participants. Evidence may include, but is not limited to, a constitution, resolution, ordinance, executive order, charter, or other legal documentation (see Section IV.C.5., Eligibility Statements and Evidence).

- **Letters of Support:** Letters of support by anyone not participating in the proposed project are not required or desired, and should not be provided as part of the application (see Sections IV.C.6. and Section IV.C.7.).

- **Post Award Payment:** Payment will be made electronically on a reimbursement basis through the Automated Clearing House (ACH) system for electronic funds transfer. Provided the requisite support is submitted, reimbursement of costs will normally be made within seven to ten days; however, reimbursement may take up to 30 days (see Section IV.H.12.).

  Reimbursement of actual costs will only include those costs that are reasonable, allowable and allocable to the project as determined in accordance with the applicable cost principles prescribed in FAR Part 31.2 for for-profit entities; and 2 CFR Part 200 Subpart E - Cost Principles for *all* other non-federal entities. For more on invoice review and approval see Section IV.H.12.

  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 funding for the project. For more on cost sharing see Section III.B.

  Documentation for *all* costs (evidence of expenditures) associated with the project will be **required** with each and every request for reimbursement from DOE for DOE's portion of those costs (see Section IV.H.12.).

- **Post Award Reporting Requirements:** Selected Applicants will be required to document progress in quarterly reports and project outcomes in a comprehensive final report, as well as present at an annual Program Review to be held each fall in Colorado.

  For planning purposes, Applicants should plan to attend and present grant activities each year during the period of performance of the grant. **Travel costs for this annual review (one-week in duration plus travel days) must be included, for each year of the grant, in the proposed budget, including the year the initial award is anticipated.**

- **Equipment Title and Vested Interest:** Subject to the conditions provided in 2 CFR § 200.313 - Equipment, title to equipment acquired under a Federal award will conditionally vest upon acquisition with the non-Federal entity. The non-Federal entity cannot encumber this equipment and must follow the requirements of 2 CFR § 200.313 before disposing of the equipment.

For-Profit Entities: Pursuant to the requirements of 2 CFR § 910.360(b)(4), if the Federal share of the financial assistance agreement is more than $1,000,000, for-profit Recipients must properly record Uniform Commercial Code (UCC) financing statement(s) for *all* equipment with a per-unit acquisition cost of $5,000 or more purchased in whole or in part with Federal funds.

Also see Section IV.H.8., Equipment and Supplies.

- **Cost Share:** Every cost share contribution must be allowable under the applicable federal cost principles, as described in Section III.B. of the FOA.

  In addition, cost share must be available or accessible at the time of submission of the application, as described below. A written assurance (e.g., commitment) must be provided at the time of application submission (see Section IV.C.6., Applicant Tribal Council Resolution or Declaration of Commitment and Cost Sharing File). The written assurance (e.g., commitment) is a binding guarantee that funds are available or, with respect to the use of equipment, contributed labor hours, or unrecovered indirect costs, accessible.

  Cost share commitments cannot be dependent on some future event, such as receiving a grant, obtaining a loan, monetizing tax incentives, or securing an investor. Furthermore, although the cost share requirement applies to the project as a whole (including work performed by members of the *Project Team* other than the Recipient) **the Applicant is *ultimately* and legally responsible for providing the entire amount of cost share required, if an award is made, even if the cost share is being provided by a Subrecipient(s).** In addition, if an award is made, cost share will be verified, once invoiced.

CLEAN ENERGY TECHNOLOGY DEPLOYMENT ON TRIBAL LANDS - 2024

I. FUNDING OPPORTUNITY DESCRIPTION

A. DESCRIPTION

The Department of Energy (DOE) Office of Indian Energy Policy and Programs (hereafter referred to as the DOE Office of Indian Energy) assists *Indian tribes*[1] in addressing barriers to developing their vast energy resources and accelerating the deployment of energy technology on *Tribal Lands*. Specifically, the DOE Office of Indian Energy is charged by Congress under the Indian Tribal Energy Development and Self Determination Act of 2005 (Energy Policy Act of 2005 (EPAct 2005), Title V, § 502, codified at 42 U.S.C. § 7144e and 25 U.S.C. § 3501, et seq.), to "provide, direct, foster, coordinate, and implement energy planning, education, management, conservation, and delivery programs that –

(1) Promote Indian tribal energy development, efficiency, and use;
(2) Reduce or stabilize energy costs;
(3) Enhance and strengthen Indian tribal energy and economic infrastructure relating to natural resource development and electrification; and
(4) Bring electric power and service to Indian land and homes for tribal members located on Indian lands or acquired, constructed, or improved (in whole or in part) with Federal funds." 42 U.S.C. § 7144e(b)

For more information on the DOE Office of Indian Energy, see its website.

This FOA builds on efforts by the DOE Office of Indian Energy and the authorities granted to the DOE Office of Indian Energy under EPAct 2005, to accelerate the deployment of clean energy technology on Tribal Lands. In addition to the $75 million committed to tribal energy projects selected in 2023, between 2010 and 2022, the DOE Office of Indian Energy invested over $120 million in more than 210 tribal energy projects implemented across the contiguous 48 states and Alaska. These projects, valued at more than $215 million, are leveraged by over $93 million in Recipient cost share. See the DOE's Office of Indian Energy website for a map and summaries of these competitively funded projects.

Through this FOA, the DOE Office of Indian Energy will continue its efforts to maximize the deployment of clean energy solutions for the benefit of American Indian and Alaska Native communities and to help build the knowledge, skills, and resources needed to implement those

[1] Terms defined specifically for this FOA are italicized on first use.

clean energy solutions. In support of these objectives, the DOE Office of Indian Energy is soliciting applications to deploy clean energy technology on Tribal Lands.

Through grants, the DOE Office of Indian Energy intends to provide financial support under the provisions of the Title V of EPAct 2005. Specifically, DOE's Office of Indian Energy is soliciting applications from *Indian Tribes,* which include *Alaska Native Regional Corporations* and *Village Corporations* (hereafter referred collectively as "Indian Tribes"), *Intertribal Organizations*, and *Tribal Energy Development Organizations* to:

1) Install *clean energy generating system(s)* and/or *energy efficiency measure(s)* for *Tribal Building(s)* (Topic Area 1); or,
2) Deploy *community-scale* clean energy generating system(s) or community *energy storage* on Tribal Lands (Topic Area 2); or,
3) Install *integrated energy system(s)* for autonomous operation (independent of the *traditional centralized electric power grid*) to power a single or multiple *Essential Tribal Building(s)* during emergency situations or for tribal community resilience (Topic Area 3); or,
4) Provide electric power to Tribal Building(s), which otherwise would be *unelectrified* (Topic Area 4).

See definitions below and in Appendix A.

Projects selected under this FOA are intended to reduce or stabilize energy costs, increase energy security and resiliency, and provide electric power to unelectrified tribal buildings. The potential energy savings or energy generation, level of commitment, and capabilities of the Applicant and project participants to accomplish the project objectives will be major factors in selecting projects for funding. Applications must also demonstrate the potential for economic and environmental benefits to the Applicant and tribal community. The Indian Tribe, Intertribal Organization, or Tribal Energy Development Organization must also demonstrate the organizational and technical readiness and commitment to deploy clean energy generating system(s), energy efficiency measure(s), energy storage system(s), integrated energy system(s), or energy infrastructure.

This FOA is intended to promote energy independence and economic development, with the ancillary benefit of providing employment on Tribal Lands through the use of commercially proven warrantied clean energy technology or infrastructure that eligible Applicants believe are best suited to meet their needs, their location, and their available clean energy resources.

In addition to specific technical evaluation criteria to be identified in the planned FOA, the *Selection Official* may also have the ability to consider the following program policy factors in making selections under the FOA: geographic distribution; technology diversity; the optimum use of available DOE funding to achieve programmatic objectives; whether the proposed project serves tribal communities with high energy costs; whether the proposed project serves tribal

communities not connected to the traditional centralized electrical power grid; the degree to which the proposed project will employ procurement of U.S. iron, steel, manufactured products, and construction materials; and/or Applicants who have not previously received a grant from the Office of Indian Energy.

Within scope and budget, the DOE Office of Indian Energy may, upon request, provide technical assistance to *all* eligible Applicants who apply under this FOA and whose applications are comprehensively reviewed, but not selected for negotiation. Such technical assistance will be provided on a priority basis over those who request technical assistance but do not apply to this FOA.

B. TOPIC AREAS

The FOA is soliciting applications under the following Topic Areas:

1) Clean Energy Generating System(s) and/or Energy Efficiency Measure(s) for Tribal Building(s) (Topic Area 1)
    a. Clean Energy Generating System(s) (Subtopic Area 1.a.)
    b. Energy Efficiency Measure(s) (Subtopic Area 1.b.)
    c. Clean Energy Generating System(s) and Energy Efficiency Measure(s) (Subtopic Area 1.c.)

    Or,
2) Community-Scale Clean Energy Generating System(s) or Community Energy Storage Deployment (Topic Area 2)
    a. Community-Scale Clean Energy Generating System(s) (Subtopic Area 2.a.)
    b. Community-Scale Energy Storage (Subtopic Area 2.b.)

    Or,
3) Integrated Energy System(s) for Autonomous Operation (Topic Area 3)
    a. Powering Essential Tribal Building(s) (Subtopic Area 3.a.)
    b. Tribal Community *Resilience* (Subtopic Area 3.b.)

    Or,
4) Powering Unelectrified Tribal Buildings (Topic Area 4)
    a. Integrated Energy System(s) for *Electrification* (Subtopic Area 4.a.)
    b. *Energy Infrastructure* for Electrification (Subtopic Area 4.b.)

See Table 2: Summary of Topic Area Requirements, for an overview of each Subtopic Area. See Appendix A for definitions.

Except for projects proposing energy efficiency measures (Subtopic Area 1.b.), projects proposed under Topic Area 1, Topic Area 2, and Topic Area 3 are intended for Tribal Building(s) that are either (1) *grid-connected (*which, for the purposes of this FOA, means the Tribal Building(s) are connected to the *traditional centralized electric power grid)*, **or** (2) connected to a *stand-alone*

(isolated) microgrid that operates autonomously from the traditional centralized electric power grid.

Projects proposing energy efficiency measures (Subtopic Area 1.b.), may be for Tribal Building(s) that are (1) grid-connected (which for the purposes of this FOA, means the Tribal Building(s) are connected to the traditional centralized electric power grid), **or** (2) connected to a stand-alone (isolated) microgrid that operates autonomously from the traditional centralized electric power grid, **or** (3) unelectrified, where "**unelectrified**" means Tribal Building(s) that are (1) not connected to the traditional centralized electric power grid **and** (2) not connected to a stand-alone (isolated) microgrid that operates autonomously from the traditional centralized electric power grid.

Projects proposed under Topic Area 4 are intended for unelectrified Tribal Building(s), where "**unelectrified**" means Tribal Building(s) that are (1) not connected to the traditional centralized electric power grid **and** (2) not connected to a stand-alone (isolated) microgrid that operates autonomously from the traditional centralized electric power grid.

Applications **exclusively** proposing clean energy generating system(s) will only be accepted under Subtopic Area 1.a. and Subtopic Area 2.a. Applications **exclusively** proposing energy efficiency measure(s) will only be accepted under Subtopic Area 1.b. Applications proposing a combination of clean energy generating system(s) and energy efficiency measure(s) will only be accepted under Subtopic Area 1.c. Applications **exclusively** proposing energy storage will only be considered under Subtopic Area 2.b. and applications proposing integrated energy system(s) will only be considered under Topic Area 3 and Subtopic Area 4.a. For Topic Area 3 and Subtopic Area 4.a., applications proposing energy storage will only be considered if integrated into an integrated energy system(s) as that term is defined herein. Projects proposing energy infrastructure will only be accepted under Subtopic Area 4.b. See definitions below and under Appendix A.

To be eligible, *all* proposed projects must have:

(1) Completed energy studies and analyses (comprehensive feasibility study and/or energy audit(s) or industrial energy assessment(s)), and

(2) Completed development (pre-construction) activities, and design and engineering (except *final* design and engineering).

Only *final* design and engineering activities directly resulting in the installation of clean energy technology or infrastructure, or verification of the actual energy generated, displaced, or saved (amount, cost, and percentage), are allowable activities under this FOA (see Section I.C., Applications Specifically Not of Interest).

"**Clean Energy Generating System(s)**" for the purposes of this FOA include: (1) *renewable energy system(s)*, or (2) *combined heat and power system(s)* using renewable fuels such as biomass, biogas, renewable natural gas, or renewable hydrogen. See definitions under Appendix A.

"**Energy Efficiency Measure(s)**," for the purposes of this FOA, means the implementation of a (1) *building efficiency measure(s)*, or an (2) *industrial process efficiency measure(s)*. For the purposes of this FOA, "energy efficiency" is not the same as "*energy conservation*", which is not eligible under this FOA (see Section I.C., Applications Specifically Not of Interest). See definitions under Appendix A.

"**Integrated Energy System(s)**" under Topic Area 3 and Subtopic Area 4.a. must, as a minimum, provide power to Essential Tribal Building(s) or unelectrified Tribal Buildings, respectively, and include: (1) clean energy generating system(s); (2) controls and management system(s); and (3) energy storage system(s). Such systems may also include (4) conventional energy generation device(s); however, conventional energy generation device(s) are eligible only if used solely as a dispatchable stand-by power source. Note that some components of the proposed integrated energy system(s) may already exist and, therefore, not *all* of the components must be proposed for DOE funding; however, the integrated energy system(s) as a whole must meet the requirements under Topic Area 3. See definitions under Appendix A.

"Energy Infrastructure," for the purposes of this FOA, means electric power distribution technologies to transport electricity from the transmission system to individual consumers and may include, but is not limited to, distribution substations, circuits, circuit breakers, switchgear, busbars, distribution lines, distribution transformers, capacitors, voltage regulators, meters, and utility poles.

"**Tribal Building(s),**" for the purposes of this FOA, is a single **or** multiple buildings located on Tribal Lands, where the eligible tribal entity has or has been granted certain rights and duties, specifically the ability to exercise authority, direction, and control over the project. Note that ownership may be private, collective, or common and some of those rights and duties may be held by different parties. Tribal Building(s) are those where the eligible tribal entity has the authority to augment or modify the building and where the building is owned by the eligible tribal entity **or** tribal members **or** tribal organization, **or** the eligible tribal entity has a long-term lease (as a minimum, for the useful life of the proposed project). Tribal Buildings may include, but are not limited to, tribal member homes, schools, community buildings, clinics/hospitals, tribal government buildings, fire stations, police stations, radio stations, washaterias, utility facilities (such as water/wastewater systems), or tribal businesses.

Proposed installations may be for either:
(1) Existing "Tribal Building(s)"; **or**
(2) New "Tribal Building(s)" that are currently being constructed or planned to be constructed during the proposed grant period.

See Appendix A and above for definitions.

Verification of the actual energy generated, displaced, or saved (amount, cost, and percentage) will be required for a minimum of 12-months after installation of the proposed system(s) and a description of those verification methods must be included as part of the Technical Volume and the activity included as part of the Workplan (see Section IV.C., Content and Form of the Application).

For existing Tribal Building(s), the estimated amount of energy generated, displaced, or saved (amount, cost, and percentage) in the building(s) must be based on the actual annual energy consumed during a prior consecutive 12-month period.

For Tribal Building(s) that are currently being constructed or planned to be constructed during the grant period, the estimated amount of energy generated, displaced, or saved (amount, cost, and percentage) in the building(s) must be based on the projected annual energy use over a 12-month period and those projections supplied as part of the application. Only the incremental costs associated with the installation of the proposed clean energy generating system(s), energy efficiency measure(s), or integrated energy system(s), will be considered, not the cost of constructing the building.

For affected unelectrified Tribal Building(s), the estimated electricity needs of the affected building(s) must be based on the projected annual energy use over a 12-month period and those projections supplied as part of the application.

Costs associated with the construction of a building(s) or structure(s) such as carports (unless integral to the energy system(s) being proposed) will not be considered by DOE for reimbursement or as cost share; only the incremental costs associated with the installation of clean energy generating system(s), energy storage system(s), integrated energy system(s), or energy efficiency measure(s) will be considered allocable to the proposed DOE funded project.

Table 2: Summary of Topic Area Requirements

The requirements reflected in Topic Area Requirements may not be *all* inclusive and cannot be relied upon exclusively as they do not reflect *all* of the requirements for each Topic Area. **Applicants must read the entire FOA to determine the complete requirements for each Topic Area. See a more detailed description of each Topic Area below and definitions in Appendix A.**

Sub-topic Area	Title	Building-Scale	Community-Scale	Grid-Connected	Connected to Stand-Alone (isolated) Microgrid	Unelectrified	Comprehensive Feasibility Study	Energy Audits/Assessments	Energy Generating System(s)	Energy Efficiency Measure(s)	Energy Storage System(s)*	Integrated Energy System(s)	Energy Infrastructure	Tribal Building(s)	Essential Tribal Buildings(s)	Estimated Energy Displaced, Generated, or Saved	Verification Period (12-months)	Commercially Proven Warrantied**
1.a.	Energy Generating System(s)	X		X	X		X		X					X		X	X	X
1.b.	Energy Efficiency Measure(s)	X		X	X	X		X		X				X		X	X	X
1.c.	Energy Generating System(s) and Energy Efficiency Measure(s)	X		X	X		X	X	X					X		X	X	X
2.a.	Community-Scale Energy Generating System(s)		X	X	X		X		X							X	X	X
2.b.	Community-Scale Energy Storage		X	X	X		X				X					X	X	X
3.a.	Powering Essential Tribal Building(s)	X		X	X		X				X	X			X	X	X	X

Sub-topic Area	Title	Building-Scale	Community-Scale	Grid-Connected	Connected to Stand-Alone (isolated) Microgrid	Unelectrified	Comprehensive Feasibility Study	Energy Audits/Assessments	Energy Generating System(s)	Energy Efficiency Measure(s)	Energy Storage System(s)*	Integrated Energy System(s)	Energy Infrastructure	Tribal Building(s)	Essential Tribal Buildings(s)	Estimated Energy Displaced, Generated, or Saved	Verification Period (12-months)	Commercially Proven Warrantied**
3.b.	Tribal Community Resilience		X	X	X		X				X	X			X	X	X	X
4.a.	Integrated Energy System(s) for Electrification	X	X			X	X				X	X		X		X	X	X
4.b.	Energy Infrastructure for Electrification	X	X			X	X						X	X		X	X	X

* Because storage is a component of integrated energy system(s), "Energy Storage System(s)" is marked for those Subtopic Areas under which integrated energy system(s) are eligible.

** The "Commercially Proven Warrantied" requirement applies to *all* Topic Areas and proposed technologies.

1. *Topic Area 1: Clean Energy Generating System(s) and/or Energy Efficiency Measure(s) for Tribal Building(s)*

Under Topic Area 1, the DOE Office of Indian Energy is soliciting applications for the deployment of clean energy generating system(s) and energy efficiency measure(s) for Tribal Building(s), and may include:

(1) Clean Energy Generating System(s) (Subtopic Area 1.a.),
(2) Energy Efficiency Measure(s) (Subtopic Area 1.b.), or a combination of
(3) Clean Energy Generating System(s) and Energy Efficiency Measure(s) (Subtopic Area 1.c.).

Except for projects proposing only energy efficiency measures (Subtopic Area 1.b.), projects proposed under Topic Area 1 are intended for Tribal Building(s) that are either (1) grid-connected (which for the purposes of this FOA, means the Tribal Building(s) are connected to the traditional centralized electric power grid), **or** (2) connected to a stand-alone (isolated) microgrid that operates autonomously from the traditional centralized electric power grid.

Projects proposing only energy efficiency measures (Subtopic Area 1.b.), may be for Tribal Building(s) that are (1) grid-connected (which for the purposes of this FOA, means the Tribal Building(s) are connected to the traditional centralized electric power grid), **or** (2) connected to a stand-alone (isolated) microgrid that operates autonomously from the traditional centralized electric power grid, **or** (3) unelectrified, where "**unelectrified**" means Tribal Building(s) that are (1) not connected to the traditional centralized electric power grid **and** (2) not connected to a stand-alone (isolated) microgrid that operates autonomously from the traditional centralized electric power grid.

a. *Clean Energy Generating System(s) (Subtopic Area 1.a.)*

Under Subtopic Area 1.a., the DOE Office of Indian Energy is soliciting applications for clean energy generating system(s) for Tribal Building(s).

Under Subtopic Area 1.a., either a single clean energy generating system **or** multiple clean energy generating systems may be proposed and either a single Tribal Building **or** multiple Tribal Buildings may be proposed.

To be eligible under Subtopic Area 1.a., applications **must**:

(1) Be based on a comprehensive feasibility study that clearly identifies the need, demonstrates the rationale for selecting the proposed clean energy generating system(s) as opposed to other options, demonstrates the availability of the resource, demonstrates the technical and economic viability, including interconnection analyses

(if applicable) and financial sustainability, of the proposed clean energy generating system(s). This feasibility study **must** be provided as part of the application in the Studies and Analyses File;

(2) Be based on completed design and engineering (except *final* design and engineering) that may include, but is not limited to, detailed engineering drawings, interconnection studies and/or agreements (if applicable), detailed materials and equipment lists, hardware specifications, warranties, and any other design or engineering data to supplement the Technical Volume. These design and engineering documents **must** be provided as part of the application in the Design and Engineering File;

(3) Include an estimate of the energy generated annually (amount, cost, and percentage) by the proposed clean energy generating system(s) based on the actual energy used for existing building(s) and projected savings for building(s) currently being constructed or planned to be constructed during the proposed grant period; and

(4) Use commercially proven warrantied technology (see the definition of "commercially proven" and "warrantied" under Appendix A).

See Appendix A for definitions.

b. Energy Efficiency Measure(s) (Subtopic Area 1.b.)

Under Subtopic Area 1.b., the DOE Office of Indian Energy is soliciting applications proposing either a single **or** multiple energy efficiency measures to Tribal Building(s).

Under Subtopic Area 1.b., either a single energy efficiency measure **or** multiple energy efficiency measures may be proposed and either a single Tribal Building **or** multiple Tribal Buildings may be proposed.

To be eligible under Subtopic Area 1.b., applications **must**:

(1) Be based on energy audit(s) or industrial energy assessment(s) that clearly identifies the need, demonstrates the rationale for selecting the proposed energy efficiency measure(s) as opposed to other options, demonstrate the technical and economic viability, including interconnection analyses (if applicable) and financial sustainability, of the proposed energy efficiency measure(s). This energy audit(s) or industrial energy assessment(s) **must** be provided as part of the application in the Studies and Analyses File;

(2) Be based on a completed design and engineering (except *final* design and engineering) that may include, but is not limited to, detailed engineering drawings, interconnection studies and/or agreements (if applicable), detailed materials and equipment list(s), hardware specifications, warranties, and any other design or engineering data to supplement the Technical Volume. These design and engineering documents **must** be provided as part of the application in the Design and Engineering File;

(3) Include an estimate of the *energy saved* annually (amount, cost, and percentage) by the proposed energy efficiency measure(s) based on the actual energy used for existing buildings and projected savings for buildings currently being constructed or planned to be constructed during the proposed grant period; and
(4) Use commercially proven warrantied technology (see the definition of "commercially proven" and "warrantied" under Appendix A).

See Appendix A for definitions.

c. Clean Energy Generation System(s) and Energy Efficiency Measure(s) (Subtopic Area 1.c.)

Under Subtopic Area 1.c., a clean energy generating system(s) can be proposed in addition to a single **or** multiple energy efficiency measures, but must meet the requirements for both Subtopic Area 1.a. and Subtopic Area 1.b.

Specifically, to be eligible, under Subtopic Area 1.c. applications **must:**

(1) Be based on a comprehensive feasibility study that clearly identifies the need, demonstrates the rationale for selecting the proposed clean energy generating system(s) as opposed to other options, demonstrates the availability of the resource, demonstrates the technical and economic viability, including interconnection analyses (if applicable) financial sustainability, of the proposed clean energy generating system(s). This feasibility study **must** be provided as part of the application in the Studies and Analyses File;
(2) Be based on completed design and engineering (except *final* design and engineering) that may include, but is not limited to, detailed engineering drawings, interconnection studies and/or agreements (if applicable), detailed materials and equipment list(s), hardware specifications, warranties, and any other design or engineering data to supplement the Technical Volume. These design and engineering documents **must** be provided as part of the application in the Design and Engineering File;
(3) Include an estimate of the energy generated and saved annually (amount, cost, and percentage) by the proposed clean energy generating system(s) and energy efficiency measure(s) based on the actual energy used for existing buildings and projected savings for buildings currently being constructed or planned to be constructed during the proposed grant period; and
(4) Use commercially proven warrantied technology (see the definition of "commercially proven" and "warrantied" under Appendix A).

See Appendix A for definitions.

2. *Topic Area 2: Community-Scale Clean Energy Generating System(s) or Community Energy Storage Deployment*

Under Topic Area 2, the DOE Office of Indian Energy is seeking applications for the deployment of (1) community-scale clean energy generating system(s) (Subtopic Area 2.a.) or (2) community-scale energy storage on Tribal Lands (Subtopic Area 2.b.).

Projects proposed under Topic Area 2 are intended for Tribal Building(s) that are either (1) grid-connected (which, for the purposes of this FOA, means the Tribal Building(s) are connected to the traditional centralized electric power grid), **or** (2) connected to a stand-alone (isolated) microgrid that operates autonomously from the traditional centralized electric power grid.

For the purposes of Topic Area 2, "**community-scale**" means serving a "substantial" number of the total buildings within a community, **or** a "substantial" portion of the community's energy load, **or** an entire tribal community. For the purposes of this FOA, "substantial" means of "ample or considerable amount". See Appendix A for definition of "community."

An explanation as to how the proposed project meets the "community-scale" requirement is required as part of the Technical Volume and specifically must address the "substantial" aspect of the proposed project (see Section IV.C.3. and the Technical Volume template under 'Application Forms and Templates' on IE-Exchange).

All proposed projects (or buildings on which systems are proposed) must be on Tribal Lands, must be "owned or controlled" by the eligible entity, and must benefit the eligible Applicant (Indian tribe, Intertribal Organization, or Tribal Energy Development Organization) **and** the tribal community; however, the substantial number of buildings within a tribal community, where the energy is to be used, do not need to be "owned or controlled" by the eligible entity. See definitions under Appendix A.

Interconnection infrastructure such as distribution substations, circuits, circuit breakers, switchgear, busbars, distribution lines, distribution transformers, capacitors, voltage regulators, meters, and utility poles, may be proposed under both Subtopic Area 2.a. and Subtopic Area 2.b., provided the proposed interconnection infrastructure is essential to the proposed project. The justification as to why that infrastructure is essential to the proposed project must be addressed as part of the Technical Volume. Note that in order for the proposed interconnection infrastructure to be eligible, it must be essential, **and** the land on which that infrastructure is proposed must either be (1) on Tribal Land; **or** (2) the necessary site access such as right-of-way agreement(s) must have been obtained prior to submitting the application.

a. Community-Scale Clean Energy Generating System(s) (Subtopic Area 2.a.)

Under Subtopic Area 2.a., the DOE Office of Indian Energy is seeking applications exclusively for the deployment of community-scale clean energy generating system(s) to provide electricity and/or heating or cooling to a substantial number of the total buildings within a community, or a substantial portion of the total community's energy load, or an entire tribal community.

Under Subtopic Area 2.a., either a single energy generating system **or** multiple energy generating systems may be proposed. Applications under Subtopic Area 2.a. must demonstrate the availability of the renewable energy resource for the life of the project, and applications proposing geothermal, or biomass systems must also demonstrate the sustainability of the resource.

Applications for commercial or utility-scale projects intended *solely* for revenue generation through the export of electricity off Tribal Lands for commercial sale are **not** of interest under this FOA (see Section I.C.), **unless** (a) revenue from the sale of a *portion* of that electricity will benefit the eligible Applicant **and** the tribal community **or** (b) revenue from the exported electricity will be used to offset the eligible Applicant's **or** tribal members' electricity bills. More specifically:

(a) if a proposed energy generating system(s) meets the requirements under Subtopic Area 2.a., a *portion* of the electricity may be sold, provided revenue from the sale benefits the eligible entity **and** the tribal community; or

(b) if revenue from the export of electricity from the energy generation system(s) under Subtopic Area 2.a. is used to offset the eligible Applicant's **or** tribal members' electricity bills, 100% of the electricity may be sold.

If electricity is proposed for export under either (a) and (b) above, an explanation of how the revenue from the sale of that electricity will benefit the eligible Applicant **and** the tribal community, **or** how the revenue will be used to offset the eligible Applicant's or tribal members' electricity bills, whichever is applicable, is required as part of the Technical Volume.

Interconnection infrastructure such as distribution substations, circuits, circuit breakers, switchgear, busbars, distribution lines, distribution transformers, capacitors, voltage regulators, meters, and utility poles, may be proposed under Area 2.a., provided the proposed interconnection infrastructure is essential to the proposed project. The justification as to why that infrastructure is essential to the proposed project must be addressed as part of the Technical Volume. Note that in order for the proposed interconnection infrastructure to be eligible, it must be essential, **and** the land on which that infrastructure is proposed must either be (1) on Tribal Land; **or** (2) the necessary site access such as right-of-way agreement(s) must have been obtained prior to submitting the application.

To be eligible under Subtopic Area 2.a., applications **must**:

(1) Be based on a comprehensive feasibility study that clearly identifies the need, demonstrates the rationale for selecting the proposed clean energy generating system(s) as opposed to other options, demonstrates the availability of the resource, demonstrates the technical and economic viability, including interconnection analyses (if applicable) and financial sustainability, of the proposed clean energy generating system(s). This feasibility study **must** be provided as part of the application in the Studies and Analyses File;
(2) Be based on a completed design and engineering (except *final* design and engineering) that may include, but is not limited to, detailed engineering drawings, interconnection studies and/or agreements (if applicable), detailed materials and equipment list(s), hardware specifications, warranties, and any other design or engineering data to supplement the Technical Volume. These design and engineering documents **must** be provided as part of the application in the Design and Engineering File;
(3) Include an estimate of the energy generated annually (amount, cost, and percentage) by the proposed clean energy generating system(s);
(4) Affect a substantial number of buildings within a tribal community, including an explanation as to how the proposed project meets the "community-scale" requirement provided in the Technical Volume of the application; and
(5) Use commercially proven warrantied technology (see the definition of "commercially proven" and "warrantied" under Appendix A).

See Appendix A for definitions.

b. Community-Scale Energy Storage (Subtopic Area 2.b.)

Under Subtopic Area 2.b., the DOE Office of Indian Energy is seeking applications for the deployment of community-scale energy storage system(s) that affect a substantial number of the total buildings within a community, or a substantial portion of the community's energy load, or an entire tribal community.

For the purposes of this FOA, community-scale energy storage is intended to provide backup power during outages, increase electric distribution system reliability (e.g., reducing the frequency of both momentary and sustained outages, reducing the duration of outages, and reducing the operations and maintenance costs associated with outage management), or provide energy time shifting (e.g., storing power when it is least expensive and using the stored power during peak demand when prices are highest).

Under Subtopic Area 2.b. community storage systems are not intended to be combined with an energy generating system(s).

"**Energy storage system(s)**" for the purposes of this FOA, include, but are not limited to, batteries, pumped hydropower, flywheels, compressed air energy storage, or thermal energy storage systems. See definitions under Appendix A.

Under Subtopic Area 2.b., either a single individual energy storage system **or** the aggregate of multiple energy storage systems may be proposed.

Interconnection infrastructure such as distribution substations, circuits, circuit breakers, switchgear, busbars, distribution lines, distribution transformers, capacitors, voltage regulators, meters, and utility poles, may be proposed under Subtopic Area 2.b., provided the proposed interconnection infrastructure is essential to the proposed project. The justification as to why that infrastructure is essential to the proposed project must be addressed as part of the Technical Volume. Note that in order for the proposed interconnection infrastructure to be eligible, it must be essential, **and** the land on which that infrastructure is proposed must either be (1) on Tribal Land; **or** (2) the necessary site access such as right-of-way agreement(s) must have been obtained prior to submitting the application.

To be eligible under Subtopic Area 2.b., applications **must**:

(1) Be based on a comprehensive feasibility study that clearly identifies the need, demonstrates the rationale for selecting the proposed community-scale storage system(s) as opposed to other options, demonstrates the technical and economic viability, including interconnection analyses (if applicable) and financial sustainability, of the proposed community-scale energy storage system(s). This feasibility study **must** be provided as part of the application in the Studies and Analyses File;
(2) Be based on completed design and engineering (except *final* design and engineering) that may include, but is not limited to, detailed engineering drawings, interconnection studies and/or agreements (if applicable), energy storage dispatch modeling, detailed materials and equipment list(s), hardware specifications, warranties, and any other design or engineering data to supplement the Technical Volume. These design and engineering documents **must** be provided as part of the application in the Design and Engineering File
(3) Include an estimate of the number of power outages mitigated, improvement in electric distribution reliability indices, or energy time shifting cost savings by the proposed community-scale energy storage system(s);
(4) Affect a substantial number of buildings within a tribal community, including an explanation as to how the proposed project meets the "community-scale" requirement provided in the Technical Volume of the application; and
(5) Use commercially proven warrantied technology (see the definition of "commercially proven" and "warrantied" under Appendix A).

See Appendix A for definitions.

3. Topic Area 3: Integrated Energy System(s) for Autonomous Operation

Under Topic Area 3, the DOE Office of Indian Energy is soliciting applications to install integrated energy system(s) for autonomous operation (independent of the traditional centralized electric power grid) to power (1) either a single **or** multiple Essential Tribal Buildings during emergency situations (Subtopic Area 3.a.) or (2) a substantial number of Essential Tribal Buildings for tribal community resilience (Subtopic Area 3.b.).

Projects proposed under Topic Area 3 are intended for Tribal Building(s) that are either (1) grid-connected (which for the purposes of this FOA, means the Tribal Building(s) are connected to the traditional centralized electric power grid), **or** (2) connected to a stand-alone (isolated) microgrid that operates autonomously from the traditional centralized electric power grid.

"**Essential Tribal Building(s)**" for the purposes for this FOA, are those Tribal Building(s) necessary for providing *essential services*, where "**essential services**" for the purposes of this FOA means services that, if interrupted, would endanger the life, health, or personal safety of the whole or part of the tribal community. Such essential services include, but are not limited to, emergency facilities or shelters, hospitals or medical services, fire services, police services, water/wastewater, sewage, communications, electricity, natural gas, telecommunications (including telephone, radio or television broadcasting, internet connectivity, and broadband speeds), and transportation. See definitions under Appendix A.

"**Integrated Energy System(s)**" under Topic Area 3 must, as a minimum, provide power to Essential Tribal Building(s) and include: (1) clean energy generating system(s); (2) *controls and management system(s)*; and (3) energy storage system(s). Such systems may also include (4) *conventional energy generation device(s)*; however, conventional energy generation device(s) are eligible only if used *solely* as a dispatchable stand-by power source. Note that some components of the proposed integrated energy system(s) may already exist and, therefore, not *all* of the components must be proposed for DOE funding; however, the integrated energy system(s) as a whole must meet the requirements under Topic Area 3. See definitions under Appendix A.

Applications under Topic Area 3 must demonstrate the availability of the renewable energy resource for the life of the project, and applications proposing geothermal, or biomass systems must also demonstrate the sustainability of the resource.

a. ***Powering Essential Tribal Building(s) (Subtopic Area 3.a.)***

Under Subtopic Area 3.a., the DOE Office of Indian Energy is soliciting applications to install integrated energy system(s) for autonomous operation (independent of the traditional

centralized electric power grid) to power a single **or** multiple Essential Tribal Building(s) during emergency situations.

For the purposes of this FOA, "**emergency**" means a situation that poses an immediate risk to health, life, property, or environment and requires urgent intervention to prevent a worsening of the situation. See definitions under Appendix A.

To be eligible under Subtopic Area 3.a., applications **must**:

(1) Be based on a comprehensive feasibility study that clearly identifies the need, demonstrates the rationale for selecting the proposed integrated energy system(s) as opposed to other options, demonstrates the availability of the resource, demonstrates the technical and economic viability, including interconnection analyses (if applicable) and financial sustainability, of the proposed integrated energy system(s). This feasibility study **must** be provided as part of the application in the Studies and Analyses File;
(2) Be based on completed design and engineering (except *final* design and engineering) that may include, but is not limited to, detailed engineering drawings, interconnection studies and/or agreements (if applicable), energy storage dispatch modeling, detailed materials and equipment list(s), hardware specifications, warranties, and any other design or engineering data to supplement the Technical Volume. These design and engineering documents **must** be provided as part of the application in the Design and Engineering File;
(3) Include an estimate of the number, frequency, and duration of emergency situations to be addressed with the proposed integrated energy system(s);
(4) Demonstrate the ability of the proposed integrated energy system(s) to function autonomously (independent of the traditional centralized electric power grid) during emergency situations; and
(5) Use commercially proven warrantied technology (see the definition of "commercially proven" and "warrantied" under Appendix A).

See Appendix A for definitions.

b. Tribal Community Resilience (Subtopic Area 3.b.)

Under Subtopic Area 3.b., the DOE Office of Indian Energy is soliciting applications to install community-scale integrated energy system(s) for autonomous operation (independent of the traditional centralized electric power grid) to power a "substantial" number of Essential Tribal Buildings within a community, **or** a "substantial" portion of the community's energy load, **or** an entire tribal community for community resilience, where for the purposes of this FOA, "substantial" means of "ample or considerable amount".

An explanation as to how the proposed project meets the "community-scale" requirement is required as part of the Technical Volume and specifically must address the "substantial" aspect of the proposed project. See Section IV.C.3. and the Technical Volume template under 'Application Forms and Templates' on IE-Exchange.

"**Resilience**" for the purposes of this FOA, means the ability to anticipate, prepare for, and adapt to changing conditions and withstand, respond to, and recover rapidly from "electrical power disruptions" through adaptable and holistic planning and technical solutions, where for the purposes of this FOA, "electrical power disruption" means an unexpected or unannounced interruption in the electrical power supplied to Essential Tribal Buildings or an entire tribal community for community resilience. See definitions under Appendix A. Additionally, the proposed integrated energy system(s) should increase the reliability of the existing system and make that system more robust.

Interconnection infrastructure such as distribution substations, circuits, circuit breakers, switchgear, busbars, distribution lines, distribution transformers, capacitors, voltage regulators, meters, and utility poles, may be proposed under Subtopic Area 3.b., provided the proposed interconnection infrastructure is essential to the proposed project. The justification as to why that infrastructure is essential to the proposed project must be addressed as part of the Technical Volume. Note that in order for the proposed interconnection infrastructure to be eligible, it must be essential, **and** the land on which that infrastructure is proposed must either be (1) on Tribal Land; **or** (2) the necessary site access such as right-of-way agreement(s) must have been obtained prior to submitting the application.

To be eligible under Subtopic Area 3.b., applications **must**:

(1) Be based on a comprehensive feasibility study that clearly identifies the need, demonstrates the rationale for selecting the proposed integrated energy system(s) as opposed to other options, demonstrates the availability of the resource, demonstrates the technical and economic viability, including interconnection analyses (if applicable) and financial sustainability, of the proposed integrated energy system(s). This feasibility study **must** be provided as part of the application in the Studies and Analyses File;
(2) Be based on completed design and engineering (except final design and engineering) including, but not limited to, detailed engineering drawings, interconnection studies and/or agreements (if applicable), energy storage dispatch modeling, detailed materials and equipment list(s), hardware specifications, warranties, and any other design or engineering data to supplement the Technical Volume. These design and engineering documents **must** be provided as part of the application in the Design and Engineering File;
(3) Include an estimate of the number, frequency, and duration of energy disruptions and energy generated annually (amount, cost, and percentage) by the proposed integrated energy system(s);

(4) Affect a substantial number of Essential Tribal Buildings within a tribal community, including an explanation as to how the proposed project meets the "community-scale" and "essential tribal buildings" requirements provided in the Technical Volume of the application;
(5) Demonstrate the ability of the proposed integrated energy system(s) to function autonomously (independent of the traditional centralized electric power grid) for resiliency; and
(6) Use commercially proven warrantied technology (see the definition of "commercially proven" and "warrantied" under Appendix A).

See Appendix A for definitions.

4. Topic Area 4: Powering Unelectrified Tribal Buildings

Under Topic Area 4, the DOE Office of Indian Energy is seeking applications to provide electric power to Tribal Building(s), which otherwise would be unelectrified, by deploying (1) integrated energy system(s) (Subtopic Area 4.a.) or (2) energy infrastructure (Subtopic Area 4.b.).

Projects proposed under Topic Area 4 are intended for unelectrified Tribal Building(s), where "**unelectrified**" means Tribal Building(s) that are not connected to (1) the traditional centralized electric power grid, **and** not connected to (2) to a stand-alone (isolated) microgrid that operates autonomously from the traditional centralized electric power grid.

"**Electrification**" for the purposes of this FOA, means the process of providing electricity to unelectrified Tribal Buildings by (1) deploying integrated energy system(s) to operate independent of the traditional centralized electric power grid; or (2) deploying energy infrastructure to connect Tribal Buildings to the traditional centralized electric power grid.

"**Electrify**" for the purposes of this FOA, means the act of electrification.

Costs associated with making the Tribal Building ready to receive electricity are eligible costs, including, but not limited to electrical service panels, circuit breaker boxes, outlets, switches, switch plates, electric cable, conduit, lighting fixtures, and lights. *All* electrical work must be completed by a licensed or certified electrician, comply with Occupational Safety and Health Administration's (OSHA's) standards, and comply with National Electrical Code (NEC) requirements.

a. Integrated Energy System(s) for Electrification (Subtopic Area 4.a.)

Under Subtopic Area 4.a., DOE is seeking applications for the deployment of integrated energy system(s) to electrify Tribal Buildings, which otherwise would be unelectrified.

"**Integrated Energy System(s)**" under Subtopic 4.a. must, as a minimum, provide power to unelectrified Tribal Building(s) and include: (1) clean energy generating system(s); (2) controls and management system(s); and (3) energy storage system(s). Such systems may also include (4) conventional energy generation device(s); however, conventional energy generation device(s) are eligible only if used solely as a dispatchable stand-by power source. Note that some components of the proposed integrated energy system(s) may already exist and, therefore, not *all* of the components must be proposed for DOE funding; however, the integrated energy system(s) as a whole must meet the requirements under Subtopic Area 4.a. See definitions under Appendix A.

Applications under Subtopic Area 4.a. must demonstrate the availability of the renewable energy resource for the life of the project, and applications proposing geothermal, or biomass systems must also demonstrate the sustainability of the resource.

Under Subtopic Area 4.a., either a single integrated energy system **or** multiple integrated energy systems may be proposed, and a single **or** multiple Tribal Buildings may be proposed.

Interconnection infrastructure such as distribution substations, circuits, circuit breakers, switchgear, busbars, distribution lines, distribution transformers, capacitors, voltage regulators, meters, and utility poles, may be proposed under Subtopic Area 3.b., provided the proposed interconnection infrastructure is essential to the proposed project. The justification as to why that infrastructure is essential to the proposed project must be addressed as part of the Technical Volume. Note that in order for the proposed interconnection infrastructure to be eligible, it must be essential, **and** the land on which that infrastructure is proposed must either be (1) on Tribal Land; **or** (2) the necessary site access such as right-of-way agreement(s) must have been obtained prior to submitting the application.

All proposed integrated energy system(s) and Tribal Buildings being served must be on Tribal Lands.

To be eligible under Subtopic Area 4.a., applications **must**:

(1) Be based on a comprehensive feasibility study that clearly identifies the need, demonstrates the rationale for selecting the proposed integrated energy system(s) as opposed to other options, demonstrates the availability of the resource, demonstrates the technical and economic viability, including interconnection analyses (if applicable) and financial sustainability, of the proposed integrated energy system(s). This feasibility study **must** be provided as part of the application in the Studies and Analyses File;
(2) Be based on completed design and engineering (except *final* design and engineering) that may include, but is not limited to, detailed engineering drawings, interconnection studies and/or agreements (if applicable), energy storage dispatch modeling, detailed materials and equipment list(s), hardware specifications, warranties, and any other

design or engineering data to supplement the Technical Volume. These design and engineering documents **must** be provided as part of the application in the Design and Engineering File;

(3) Demonstrate the ability of the proposed integrated energy system(s) to meet the estimated electricity needs of the affected Tribal Building(s);
(4) Demonstrate the ability of the proposed integrated energy system(s) to continually operate autonomously (independent of the traditional centralized electric power grid);
(5) Demonstrate the benefits to the tribal members or families whose Tribal Building is being electrified;
(6) Include a plan to educate and provide technical assistance to tribal members or families whose Tribal Building is being electrified;
(7) Include a plan to operate and maintain the integrated energy system(s); and
(8) Use commercially proven warrantied technology (see the definition of "commercially proven" and "warrantied" under Appendix A).

See Appendix A for definitions.

b. Energy Infrastructure for Electrification (Subtopic Area 4.b.)

Under Subtopic Area 4.b., DOE is seeking applications for the deployment of energy infrastructure to electrify Tribal Buildings, which otherwise would be unelectrified. For purposes of this FOA, "**unelectrified**" means Tribal Building(s) that are (1) not connected to the traditional centralized electric power grid **and** (2) not connected to a stand-alone (isolated) microgrid that operates autonomously from the traditional centralized electric power grid.

"**Energy Infrastructure**" for purposes of this FOA, means electric power distribution technologies to transport electricity from the transmission system to individual consumers and may include, but is not limited to, distribution substations, circuits, circuit breakers, switchgear, busbars, distribution lines, distribution transformers, capacitors, voltage regulators, meters, and utility poles.

Applications under Subtopic Area 4.b. must demonstrate the availability of the energy source for the life of the project.

Under Subtopic Area 4.b., a single **or** multiple Tribal Buildings may be proposed.

All proposed energy infrastructure and Tribal Buildings being served must be on Tribal Lands.

To be eligible under Subtopic Area 4.b., applications **must**:

(1) Be based on a comprehensive feasibility study that clearly identifies the need, demonstrates the rationale for installing energy infrastructure as opposed to other

options, demonstrates the availability of the energy source, demonstrates the technical and economic viability, including interconnection analyses (if applicable) and financial sustainability, of the proposed energy infrastructure. This feasibility study **must** be provided as part of the application in the Studies and Analyses File;

(2) Be based on completed design and engineering (except *final* design and engineering) that may include, but is not limited to, detailed engineering drawings, interconnection studies and/or agreements (if applicable), detailed materials and equipment list(s), hardware specifications, warranties, and any other design or engineering data to supplement the Technical Volume. These design and engineering documents **must** be provided as part of the application in the Design and Engineering File;
(3) Include an estimate of the electricity needs of the affected unelectrified Tribal Building(s);
(4) Include an estimate of the cost of electricity to those tribal members or families whose Tribal Building(s) is being electrified;
(5) Demonstrate the benefits to the tribal members or families whose Tribal Building is being electrified;
(6) Include a plan to educate and provide technical assistance to tribal members or families whose Tribal Building is being electrified;
(7) Include a plan to operate and maintain the energy infrastructure; and
(8) Use commercially proven warrantied technology (see the definition of "commercially proven" and "warrantied" under Appendix A).

See Appendix A for definitions.

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 Section I.B. of the FOA.

- Applications proposing studies, design and engineering (except *final* design and engineering), development (pre-construction) activities; or any other activity which does not directly result in the installation of clean energy technology or infrastructure, or verification of the actual energy generated, displaced, or saved (amount, cost, and percentage).

- Applications proposing the evaluation of product marketing opportunities, assessment of manufacturing opportunities, research, design and engineering (except *final* design and engineering), product development, or the construction of manufacturing facilities or buildings.

- Applications proposing the cost of construction for a building(s) or structure(s) such as carports. Only the incremental costs associated with the installation of clean energy generating system(s), energy storage system(s), integrated energy system(s), or energy efficiency measures will be considered allocable to the proposed DOE funded project and not the cost of constructing the building(s) or structure(s), unless those structures are integral to the proposed project.

- Any application where the Applicant has already taken irreversible actions regarding the proposed DOE funded project, where the proposed DOE funded project consists of only the installation of clean energy generating system(s), integrated energy system(s), community energy storage, or energy efficiency measures, including irreversible actions related to the construction of a building(s) or structure(s) (such as a carport), if the building(s) or structure(s) are being built specifically to enable the DOE funded project. Irreversible actions relative to the proposed DOE funded project may include, but are not limited to, site clearing, groundbreaking, equipment or system purchase or installation, building renovation, and building retrofits.

- Applications proposing "energy conservation," where "energy conservation," for the purposes of this FOA, means decreasing energy consumption by using less energy or going without to save energy. Energy conservation typically involves a behavioral change and may include energy use monitors or other indicators to induce that behavioral change.

- Applications for commercial or utility-scale projects intended *solely* for revenue generation through the export of electricity off Tribal Lands for commercial sale, **unless** (a) revenue from the sale of a *portion* of that electricity will benefit the eligible entity **and** the tribal community, **or** (b) revenue from the exported electricity is used to offset the eligible Applicant's **or** tribal members' electricity bills, as specified under Subtopic Area 2.a.

- Applications proposing conventional energy generation device(s), unless used *solely* as a dispatchable stand-by power source. A conventional energy generation device(s) is only eligible as a dispatchable stand-by power source and only under Topic Area 3 and Subtopic Area 4.a.

- Applications proposing the use of materials, supplies, or equipment which are not commercially proven and warrantied.

- Applications proposing construction as a primary activity. For the purpose of this FOA, "construction" is defined as, but not limited to, building, erecting, altering, remodeling, or repairing a particular building or structure, as well as making major renovations or additions to existing buildings or structures. Construction does not include the installation of equipment, such as energy generating systems, energy efficiency measures, energy storage systems, integrated energy systems, energy infrastructure, or activities ancillary to those

installations. Projects that include construction as a primary activity will not be considered under this FOA unless such activity is integral to meeting the objectives of the FOA and only with prior written authorization from the Contracting Officer.

D. AUTHORIZING STATUTES

The programmatic authorizing statute is the Indian Tribal Energy Development and Self Determination Act of 2005 (Energy Policy Act of 2005 (EPAct 2005), Title V, § 502, codified at 42 U.S.C. § 7144e and 25 U.S.C. § 3501, et seq.).

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

II. AWARD INFORMATION

A. AWARD OVERVIEW

1. ESTIMATED FUNDING

DOE expects to make approximately $25 million of federal funding available for new awards under this FOA, subject to the availability of appropriated funds. The actual level of funding, if any, depends on Congressional appropriations.

DOE anticipates making approximately 5 to 10 awards under this FOA. DOE may issue awards in one, multiple, or none of the following Topic Areas.

Under Topic Area 1 (Clean Energy Generating System(s) and/or Energy Efficiency Measure(s)), DOE anticipates making one to three awards, with DOE funding per individual award varying from no less than $100,000 to a maximum of $2,500,000 for each Subtopic Area.

Under Topic Area 2 (Community-Scale Clean Energy Generating System(s) or Community Energy Storage Deployment), DOE anticipates making one to two awards, with DOE funding per individual award varying from no less than $250,000 to a maximum of $5,000,000 for each Subtopic Area.

Under Topic Area 3 (Integrated Energy System(s) for Autonomous Operation), DOE anticipates making two to three awards, with DOE funding per individual award under Subtopic Area 3.a. (Powering Essential Tribal Building(s) varying from no less than $100,000 to a maximum of $2,000,000 and DOE funding per individual award under Subtopic Area 3.b. (Tribal Community Resilience) varying from no less than $250,000 to a maximum of $5,000,000.

Under Topic Area 4 (Powering Unelectrified Tribal Buildings), DOE anticipates making one to two awards, with DOE funding per individual award varying from no less than $250,000 to a maximum of $5,000,000 for each Subtopic Area.

2. *PERIOD OF PERFORMANCE*

DOE anticipates making awards with a period of performance of approximately two (2) to four (4) years, which must include a mandatory 12-month verification period.

3. *NEW APPLICATIONS ONLY*

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

B. DOE FUNDING AGREEMENTS

Through grants, DOE provides financial and other support to projects that have the potential to realize the FOA objectives. DOE does not use such agreements to acquire property or services for the direct benefit or use of the United States government.

As specified under § 503 of EPAct 2005 (25 U.S.C. § 3502(b)(2)), DOE anticipates awarding grants under this FOA.

III. ELIGIBILITY INFORMATION

A. ELIGIBLE APPLICANTS

Only the following types of Applicants are eligible to apply to this FOA. *All* Applicants will be **required** to provide eligibility statements and evidence (see Section IV.C.5.) to support DOE's eligibility determination. **DOE will not make sufficiency determinations prior to an application being submitted**. Applicants who do not meet the requirements of this subsection will be deemed ineligible and their applications will not be reviewed or considered.

In accordance with EPAct 2005 authorities and consistent with 2 CFR § 910.126(b), eligibility for award under this FOA is restricted to: (1) an Indian Tribe; (2) Intertribal Organization; or (3) Tribal Energy Development Organization; and (4) on whose Tribal Lands the project(s) will be located.

More specifically,

1) "**Indian Tribe**," for the purposes of this FOA and as defined in in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. § 5304),[2] means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) [43 U.S.C. § 1601, et seq.], which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians. See below for further definition.

   For the purposes of this FOA, an eligible Indian tribe, band, nation or other organized group or community (including Alaska Native villages), must be federally recognized as listed in *Indian Entities Recognized and Eligible to Receive Services from the United States Bureau of Indian Affairs*, published by the Department of Interior's Bureau of Indian Affairs in the Federal Register on January 8, 2024, 89 FR 5.

   "**Alaska Native Regional Corporation**" for the purposes of this FOA, means one of the thirteen Alaska Native Regional Corporations, as defined in and established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. § 1602(g)).

   "**Alaska Native Village Corporation**" or "**Village Corporation**", for the purposes of this FOA, means an Alaska Native Village Corporation organized under the laws of the State of Alaska as a business for profit or nonprofit corporation to hold, invest, manage and/or distribute lands, property, funds, and other rights and assets for and on behalf of a Native village, as defined in and established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. § 1602(j)).

   "**Tribal Consortium**" (plural consortia), as defined for the purposes of this FOA, means a group of Indian Tribes (as defined above), that have chosen to submit a single application. Under this FOA, a Tribal Consortium is eligible to submit an application provided the application is submitted by a single Indian Tribe representing the Consortium.

   Applications may also be submitted on behalf of Indian Tribe(s) by an authorized "**Tribal Organization**", provided evidence of that authority is included as part of the application.

   > "**Tribal Organization**," per Public Law 115-245 has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. § 5304). Specifically, per 25 U.S.C. § 5304, "**Tribal Organization**" means the recognized governing body of any Indian tribe; any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body or which is democratically

[2] Referenced as 25 U.S.C. § 450b in Indian Tribal Energy Development and Self Determination Act of 2005 (Energy Policy Act of 2005 (EPAct 2005), Title V, § 502, codified at 42 U.SC. § 7144e and 25 U.SC. § 3501, et seq.). Section 450b was editorially reclassified as section 5304. See 25 U.S. Code § 5304.

elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in *all* phases of its activities: Provided, That in any case where a contract is let or grant made to an organization to perform services benefiting more than one Indian tribe, the approval of each such Indian tribe shall be a prerequisite to the letting or making of such contract or grant.

2) "**Intertribal Organization**," as defined for the purposes of this FOA, means any organization comprised of *two or more* Indian Tribes, established under Congressional, State, or Tribal law to act on behalf of the participating Indian Tribes. "**Intertribal Organizations**" may include, but are not limited to, intertribal councils, regional tribal organizations or associations, Alaska regional development organizations, and tribal federations.

3) "**Tribal Energy Development Organization**," for the purposes of this FOA, means:

(a) any enterprise, partnership, consortium, corporation, or other type of business organization that is engaged in the development of energy resources and is wholly owned by an Indian tribe (including an organization incorporated pursuant to section 17 of the Act of June 18, 1934 (25 U.S.C. § 5124) (commonly known as the ''Indian Reorganization Act'') or section 3 of the Act of June 26, 1936 (49 Stat. 1967, chapter 831, 25 U.S.C. § 5201, et seq.) (commonly known as the 'Oklahoma Indian Welfare Act'));

and

(b) any "**organization**" of two or more entities, at least one of which is an Indian tribe, that has the written consent of the governing bodies of *all* Indian tribes participating in the organization to apply for a grant, loan, or other assistance under 2602 of EPAct (25 U.S.C. § 3502) or to enter into a lease or business agreement with, or acquire a right-of-way from, an Indian tribe pursuant to subsection (a)(2)(A)(ii) or (b)(2)(B) of 2604 of EPAct (25 U.S.C. § 3504), where "**organization**" means a partnership, joint venture, Limited Liability Company (LLC) or other unincorporated association or entity that is established to develop Indian energy resources.

4) "**Tribal Lands**," for the purposes of this FOA, is defined as:

(a) "**Indian land**" (see definition below);

(b) lands held in fee simple (purchased or owned) by an Indian Tribe, Intertribal Organization, Tribal Energy Development Organization, or other eligible Applicant;

(c) lands held under a long-term land lease (as a minimum, for the useful life of the proposed project) by an Indian Tribe, Tribal Energy Development Organization, or other eligible Applicant; and

(d) land that was conveyed to a Native Corporation pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. § 1601, et seq.) and *subsequently* conveyed to another entity, provided that entity is either a Native village or Tribal governmental entity or the land is held, invested, managed for and on behalf of a Native village or Tribal governmental entity.

"**Indian land**," for the purposes of this FOA, means –

(a) any land which is located within the boundaries of an "**Indian reservation**" (see definition below), pueblo, or rancheria:

(b) any land not located within the boundaries of an Indian reservation, pueblo or rancheria, the title to which is held –

(i) in trust by the United States for the benefit of an Indian tribe or an individual Indian;

(ii) by an Indian tribe or an individual Indian, subject to restriction against alienation under laws of the United States; or

(iii) by a dependent Indian community;

(c) land that is owned by an Indian tribe and was conveyed by the United States to a Native Corporation pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. § 1601, et seq.), or that was conveyed by the United States to a Native Corporation in exchange for such land;

(d) any land located in a census tract in which the majority of residents are Natives (as defined in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. § 1602(b)); and

(e) any land located in a census tract in which the majority of residents are persons who are enrolled members of a federally recognized Tribe or village.[3]

For the purposes of this FOA and as defined under Part 503 of EPAct 2005, the term "**Indian reservation**" includes an Indian reservation in existence in any State or States as of the date of enactment of Title V of EPAct 2005; a public domain Indian allotment; and a dependent Indian community located within the borders of the United States, regardless of whether the community is located on original or acquired territory of the community; or within or outside the boundaries of any State or States.

See Appendix A for definitions.

[3] The Energy Act of 2020 (Pub. L. 116–260) added subpars. (D) any land located in a census tract in which the majority of residents are Natives (as defined in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b))); and (E) any land located in a census tract in which the majority of residents are persons who are enrolled members of a federally recognized Tribe or village.

B. COST SHARING

Unless DOE approves a requested cost share reduction from 20% to 10% (see Section III.B.2.), a 20% cost share of the total allowable costs of the project (i.e., the sum of the federal share, and the non-federal Recipient cost share of allowable costs equals the total allowable cost of the project) is required.

All Recipient cost share must come from non-federal sources and be clearly identified in the application, unless otherwise allowed by law (see note below). See 2 CFR § 200.306 and 2 CFR § 910.130 for the applicable cost sharing requirements. Failure to meet the requirements of this subsection may result in your application not being reviewed or considered.

Except for pre-award costs with prior approval by DOE, only cost share contributions made during the period of performance of the grant, if awarded, can be considered. Any costs incurred prior to award selection cannot be considered as cost share or for reimbursement by DOE.

If funds from a federal source are being proposed either as additional federal funds against the total project costs or as non-federal cost share, as allowed by law, the **Applicant must provide a commitment letter from the federal agency as part of the application that specifically commits those funds and identifies the statutory authority that allows those funds to be used for the project being proposed.** Additionally, if those funds are to be used as non-federal cost share, the commitment letter must also include the excerpt from the statutory authority that allows those funds to be used as non-federal cost share. These commitment letters will be reviewed to determine allowability, by DOE Legal Counsel and the Contracting Officer, prior to accepting funds as either additional federal project funds or non-federal cost share from other federal sources.

The following are some instances where federal funds **may** be permissible for use as cost share.

NOTE: Per the Indian Self-Determination Act (Public Law 93-638) as codified and amended at 25 U.S.C. § 5301, et seq., funding under the Indian Self-Determination Act may be used as non-federal cost share by Indian Tribes on federal grants.

For Tribal self-governance funding agreements, see 25 U.S.C. § 5363,[4] Funds, "*All* funds provided under funding agreements entered into pursuant to this subchapter, and *all* funds provided under contracts or grants made pursuant to this subchapter, shall be treated as non-Federal funds for the purposes of meeting matching requirements under any other Federal law."

[4] 25 U.S.C. § 458cc was editorially reclassified as section 5363 of this title.

For self-determination contract funding, see 25 U.S.C. § 5322,[5] Use as matching shares for other similar federal grant programs, "The provisions of any other Act notwithstanding, any funds made available to a tribal organization under grants pursuant to this section may be used as matching shares for any other Federal grant programs which contribute to the purposes for which grants under this section are made."

For compact funding, see 25 U.S.C. § 5324,[6] "Notwithstanding any other provision of law, a tribal organization may use funds provided under a self-determination contract to meet matching or cost participation requirements under other Federal and non-Federal programs."

Per the Native American Housing Assistance and Self-Determination Act (NAHASDA) of 1996 (Public Law 104–330 as codified at 25 U.S.C. § 4101, et seq.) and it's implementing regulation (24 CFR § 1000.122): "There is no prohibition in NAHASDA against using grant funds as matching funds."

To assist Applicants in calculating proper cost share amounts, DOE has included a cost share information sheet and sample cost share calculation as Appendix B to this FOA.

1. COST SHARE LEGAL RESPONSIBILITY

Although the cost share requirement applies to the project as a whole (including work performed by members of the Project Team other than the Recipient), **the Applicant is *ultimately* and legally responsible for providing the entire amount of cost share required, if an award is made, even if the cost share is being provided by a Subrecipient(s).** . The Recipient's cost share obligation is expressed in the Assistance agreement as a static amount in U.S. dollars (cost share amount) and as a percentage of the Total Project Cost (cost share percentage). **If the funding agreement is terminated prior to the end of the project period, the Recipient is required to contribute, as a minimum, the approved cost share percentage of total expenditures incurred through the date of termination.**

The Recipient is *solely* responsible for managing cost share contributions by the Project Team and enforcing cost share obligations assumed by Project Team members in subawards or related agreements.

2. COST SHARE REDUCTION REQUEST

Applicants may request a cost share reduction as part of their application, as set forth in this subsection. Unless DOE approves a requested cost share reduction from 20% to 10%, *all*

[5] 25 U.S.C. § 450h(c) was editorially reclassified as section 5322 of this title.
[6] 25 U.S.C. § 450j-1(j) was editorially reclassified as section 5324 of this title.

Applicants are required to provide non-federal cost share of at least 20% of the total allowable costs of the project (i.e., the sum of the federal share and the non-federal Recipient cost share of allowable costs equals the total allowable cost of the project). **Cost share reduction requests of less than 10% of the Total Project Costs will not be considered.**

Cost share reductions from 20% to 10% will be based on financial need, specifically (1) poverty rate, **or** (2) median household income of the tribal community as a percentage of statewide median household income.

To submit a Cost Share Reduction Request, see Section IV.C.12. and the Cost Share Reduction Request template under 'Application Forms and Templates' for this FOA on IE-Exchange at https://ie-exchange.energy.gov.

When requesting a cost share reduction, the Applicant must complete the Application, including the Application for Federal Assistance (SF-424), Summary Slide, Applicant Tribal Council Resolution or Declaration of Commitment and Cost Sharing, Budget Justification Workbook form (IE 540.132-01), and Budget Support, based on the requested cost share reduction amount and percentage. However, if DOE does not approve the request for reduced cost share, the Applicant will be required to meet the 20% cost share requirement.

If selected for negotiation of award, Applicants will be notified whether their request for reduced cost share is approved when notified that their application is selected for negotiation of award. However, if DOE does not approve the request for reduced cost share, the Applicant will be required to meet the 20% cost share requirement.

3. 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 project as a whole is met.

4. COST SHARE TYPES AND ALLOWABILITY

Every cost share contribution must be allowable under the applicable federal cost principles, as described in Section IV.H.1. of the FOA. In addition, **cost share must be verifiable at the time of submission of the application.**

Project Teams may provide cost share in the form of cash or in-kind contributions; however, **the Applicant is *ultimately* and legally responsible for providing the entire amount of cost share required, if an award is made, even if the cost share is being provided by a Subrecipient(s).** Note that Subrecipients who provide cost share, either as cash or as in-kind contributions, **or** an entity that is deemed a Subrecipient per 2 CFR § 200.1 and 2 CFR § 200.331(a), are subject to *all* terms and conditions of the grant.

Allowable contributions include, but are not limited to, contributed labor, unrecovered indirect costs, unrecovered facilities and administrative costs, rental value of buildings (not the purchase price), lease value of land or equipment (not the purchase value), and the value of a service, other resource, or in-kind contributions.

All cost share must come from non-federal sources unless otherwise allowed by law. Project Teams may use funding or property received from state or local governments to meet the cost share requirement, so long as the funding was not provided to the state or local government by the federal government.

The Recipient may not use the following sources[7] to meet its 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), unless allowed by law;
- Any form of cost sharing contributed after the DOE grant period **or** funds contributed prior to being selected for negotiation of award under this FOA; or
- The same cash or in-kind contributions to meet cost share requirements for more than one project or program; or
- Expenditures that were reimbursed under a separate federal program.

Cost share contributions must be specified in the project budget, verifiable from the 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 funding for 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 as amended by 2 CFR § 910.130, for additional guidance on cost sharing.

[7] Investment or production tax credits and direct payments in lieu of tax credits are not considered federal funding after receipt by a grantee and may be used as cost share. To be eligible as cost share, any investment or production tax credits received would need to be monetized, received, and contributed to the project during the grant period. Additionally, direct payments in lieu of tax credits may also be used as cost share, provided those funds are received and contributed to the project during the grant period.

5. *COST SHARE CONTRIBUTIONS BY FFRDCS*

Because Federally Funded Research and Development Centers (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 FFRDCs Management Fee or another non-federal source.

6. *COST SHARE VERIFICATION*

Applicants are required to provide written assurance (See Applicant Tribal Council Resolution or Declaration of Commitment and Cost Sharing File under Section IV.C.6.) of their proposed cost share contributions in their applications.

Upon selection for negotiation of award, Applicants may be required to provide additional information and documentation regarding their cost share contributions. Please refer to Appendix B of the FOA for guidance on the requisite cost share information and documentation.

7. *COST SHARE PAYMENT*

If an award is made, cost share will be verified, once invoiced. Documentation for *all* costs (evidence of expenditures) associated with the project will be required with each and every request for reimbursement from DOE for DOE's portion of those costs. Because *all* sources of cost share are considered part of the total project cost, *all* cost share dollars will be scrutinized under the same federal regulations as federal funding for the project.

DOE requires Recipients to contribute the cost share amount incrementally over the life of the award. Specifically, the Recipient's cost share for each billing period must always reflect the overall cost share ratio negotiated and documented in the grant agreement (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 and documented in the grant agreement).

In limited circumstances, and where it is in the government's interest, the DOE Contracting Officer may approve a request by the Applicant or Recipient (if an award has been made) to meet its cost share requirements on a less frequent basis, such as quarterly or annually and the Applicant or Recipient (if an award has been made) must meet as a minimum the cost share negotiated and documented in the grant agreement at each of those intervals. Such requests must be sent by email to DOE 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) if an award has been made, such evidence as necessary to demonstrate that the Recipient has complied with its cost share obligations to date. The Contracting Officer must approve *all* such requests before they may go into effect.

C. COMPLIANCE CRITERIA

Applications must meet *all* compliance criteria listed below or they will be considered noncompliant. DOE will not review or consider noncompliant submissions, including applications: submitted through means other than IE-Exchange; submitted after the applicable deadline; submitted incomplete; or those that do not comply with the content, format, and submission requirements in Section IV.A and Section IV.C. of the FOA.

Applications are deemed compliant if:

- The application complies with the content, format, and submission requirements in Section IV.A and Section IV.C. of the FOA;

  and,

- The Applicant successfully uploaded *all* required documents and clicked the "Submit" button in IE-Exchange by the deadline stated in the FOA. DOE will not extend the submission deadline for Applicants that fail to submit required information due to server/connection congestion.

D. RESPONSIVENESS CRITERIA

Any "Applications Specifically Not of Interest," as described in Section I.C. of the FOA, will be deemed nonresponsive and not reviewed or considered.

E. LIMITATION ON NUMBER OF APPLICATIONS ELIGIBLE FOR REVIEW

Applicants may submit more than one application to this FOA (including more than one application under a particular Topic Area or Subtopic Area), provided each application is for a distinctively different project and each application addresses only one Subtopic Area. Each application must have a distinct title, unique Control Number as assigned by IE-Exchange during the registration process, and be readily distinguishable. Each application must be limited to a single unique and distinct project; unrelated projects cannot be consolidated in a single application.

F. QUESTIONS REGARDING ELIGIBILITY

Any Applicant or application that does not meet the criteria under Section III.A. of the FOA will be deemed ineligible and not reviewed or considered. **DOE will not make eligibility determinations for potential Applicants prior to the date on which applications to this FOA must be submitted. The decision of whether to submit an application in response to this FOA lies *solely* with the Applicant.**

IV. APPLICATION AND SUBMISSION INFORMATION

To be considered compliant, *all* applications must comply with the content, format, and submission requirements below.

A. APPLICATION FORMAT AND SUBMISSION REQUIREMENTS

The application must conform to the following requirements:

- Each file 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-inch paper with margins not less than one inch on every side. Use Arial or Calibri typeface, a black font color, and a font size of 11-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.
- The Control Number assigned by IE-Exchange during the registration process must be prominently displayed on the upper right corner of the header of every page. Page numbers must be included in the footer of every page.
- Each file must not exceed the specified maximum page limit, including, charts, graphs, maps, and photographs when printed using the formatting requirements set forth above and single spaced. If applications exceed the maximum page limits specified below, **DOE will only review the authorized number of pages and disregard any additional pages.**
- **The maximum file size that can be uploaded to the IE-Exchange website is 50MB.** Files in excess of 50MB cannot be uploaded, and hence cannot be submitted for review. DOE will not accept late submissions that resulted from technical difficulties due to uploading files that exceed 50MB. Only in limited instances, including the Eligibility Statements and Evidence File, Participant Letters of Commitment and Cost Sharing File, and the Budget Support File, can a file in excess of 50MB be submitted as multiple files.

Applicants must submit their applications by the due date specified on the coversheet of this FOA to be considered for funding under this FOA. Applicants are strongly encouraged to submit their applications at least 48 hours in advance of the submission deadline. Under normal conditions (i.e., at least 48 hours in advance of the submission deadline), Applicants

should allow at least 1 hour to submit an application. Once the application is submitted in IE-Exchange, Applicants may revise or update their application until the applicable deadline. **DOE urges Applicants to carefully review their applications prior to submittal and to allow sufficient time for the submission of required information and documents.**

IE-Exchange is designed to enforce the deadlines specified in this FOA. The "Apply" and "Submit" buttons will be automatically disabled at the defined submission deadlines. Should Applicants experience problems with IE-Exchange, the following information may be helpful:

Applicants that experience issues with submission PRIOR to the FOA deadline (in the event that an Applicant experiences technical difficulties with a submission), the Applicant should contact the Exchange helpdesk for assistance (ExchangeHelp@hq.doe.gov). The Exchange helpdesk will assist Applicants in resolving issues. However, those Applicants who are unable to submit their applications because they are submitting them at the last minute, when network traffic is at its heaviest, will not be eligible for assistance from the Exchange helpdesk.

B. Application Forms and Templates

Application forms and templates are available under 'Application Forms and Templates' for this FOA on IE-Exchange. To access these materials, go to https://ie-exchange.energy.gov and select the appropriate funding opportunity number.

Note that the 'Application Forms and Templates' for this FOA on IE-Exchange represent only a portion of the documents required for a complete application. The remaining documents required for a complete application have no specific format and are to be generated by the Applicant. See Table 3 under Section IV.C. below for a complete listing of *all* documents required for a complete application.

C. Content and Form of the Application

Applicants must complete the following required application documents which are either provided on the IE-Exchange website at https://ie-exchange.energy.gov or Applicant generated, in accordance with the instructions below. *All* submissions must conform to the following form and content requirements, including maximum page limits and must be submitted via IE-Exchange at https://ie-exchange.energy.gov.

Applications must include *all* of the following documents to be considered complete.

Table 3: Required Application Documents

REQUIRED APPLICATION DOCUMENTS				
#	**DOCUMENT**	**FILE TYPE AND FORMAT**	**PAGE LIMIT**	**FILE NAME[8]**
1	Application for Federal Assistance SF-424 (Must be signed by an authorized representative)	Adobe PDF, mandatory form provided on IE-Exchange (see Section IV.C.1. and the form for instructions and content)	N/A	ControlNumber_LeadOrganization_App424
2	Summary Slide	Microsoft PowerPoint, template provided on IE-Exchange (see Section IV.C.2. and the template for instructions and content)	1 page	ControlNumber_LeadOrganization_Slide
3	Technical Volume	Adobe PDF, template provided on IE-Exchange (see Section IV.C.3. and the form for instructions and content)	15-page limit, excluding the Cover Page and Table of Contents	ControlNumber_LeadOrganization_TechnicalVolume
4	Workplan	Microsoft Word, template provided on IE-Exchange (see Section IV.C.4. and the template for instructions and content)	5-page limit, excluding the Milestone Table	ControlNumber_LeadOrganization_Workplan
5	Eligibility Statements and Evidence File (Must be signed by an authorized representative)	Adobe PDF, template provided on IE-Exchange (see Section IV.C.5. and the template for instructions and content)	N/A, multiple files allowed (no more than 3 files)	ControlNumber_LeadOrganization_Eligibility
6	Applicant Tribal Council Resolution or Declaration of Commitment and Cost	Adobe PDF, no specific format required (see Section IV.C.6. for required content)	N/A	ControlNumber_LeadOrganization_Resolution_Declaration

[8] The Lead Organization is the term used in IE-Exchange for the Applicant.

REQUIRED APPLICATION DOCUMENTS				
#	DOCUMENT	FILE TYPE AND FORMAT	PAGE LIMIT	FILE NAME[8]
	Sharing File (Must be executed)			
7	Participant Letters of Commitment and Cost Sharing File	Adobe PDF, no specific format required (see Section IV.C.7. for required content)	N/A, multiple files allowed (no more than 3 files)	ControlNumber_LeadOrganization_Commitment_Letters
8	Resumes File	Adobe PDF, no specific format required (see Section IV.C.8 for required content)	2 page maximum per resume	ControlNumber_LeadOrganization_Resumes
9	Budget Justification Workbook form (IE 540.132-01)	Microsoft Excel, mandatory form provided in IE-Exchange (see Section IV.C.9 and the form for instructions and content)	N/A	ControlNumber_LeadOrganization_Budget_Justification
10	Subrecipient Budget Justification Workbook form (IE 540.132-01)	Microsoft Excel, form provided on IE-Exchange (see Section IV.C.10. and the form for instructions and content)	N/A, multiple files allowed (no more than 3 files)	ControlNumber_LeadOrganization_SubrecipientName_Budget_Justification
11	Budget Support (Must be signed by an authorized representative)	Adobe PDF, template provided on IE-Exchange (see Section IV.C.11. and the template for instructions and content)	N/A, multiple files allowed (no more than 3 files)	ControlNumber_LeadOrganization_Budget_Support
12	Cost Share Reduction Request (Must be signed by an authorized representative)	Adobe PDF, template provided on IE-Exchange (see Section III.B.2., Section IV.C.12. and the template for instructions and content)	N/A	ControlNumber_LeadOrganization_Cost_Share_Reduction
13	Applicant Registration Certifications	Adobe PDF, template provided in IE-Exchange (see Section	N/A	ControlNumber_LeadOrganization_Registration_Certifications

REQUIRED APPLICATION DOCUMENTS				
#	DOCUMENT	FILE TYPE AND FORMAT	PAGE LIMIT	FILE NAME[8]
	(Must be signed by an authorized representative)	IV.C.13. and the template for instruction and content)		
14	SF-LLL Disclosure of Lobbying Activities (Must be signed by an authorized representative)	Adobe PDF, mandatory form provided in IE-Exchange (see Section IV.C.14 and the form for instructions and content)	N/A	ControlNumber_LeadOrganization_SF-LLL
15	Potentially Duplicative Funding Notice (PDFN) File (Must be signed by an authorized representative)	Adobe PDF, no specific format required (see Section IV.C.15 required content)	N/A	ControlNumber_LeadOrganization_PDFN
16	Site and Resource Maps and Graphics File	Adobe PDF, no specific format required (see Section IV.C.16 for instructions and content)	N/A	ControlNumber_LeadOrganization_MapsGraphics
17	Studies and Analyses File	Adobe PDF, no specific format required (see Section IV.C.17 for instructions and content)	N/A	ControlNumber_LeadOrganization_Studies_Analyses
18	Design and Engineering File	Adobe PDF, no specific format required (see Section IV.C.18 for instructions and content)	N/A	ControlNumber_LeadOrganization_Engineering
19	Economics File	Adobe PDF, no specific format required (see Section IV.C.19 for instructions and content)	N/A	ControlNumber_LeadOrganization_Economics

Detailed guidance on the content and form of each element of the application is included below.

1. *APPLICATION FOR FEDERAL ASSISTANCE SF-424*

Complete *all* required fields in accordance with the instructions on the form and have it signed by an authorized representative. The list of certifications and assurances in Field 21 of the SF-424 form 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 proposed project, must reflect total project costs (both the requested federal funds and proposed cost share) and include the entire period of performance of the grant, if one is awarded. This form is available under 'Application Forms and Templates' for this FOA on IE-Exchange at https://ie-exchange.energy.gov.

The SF-424 form must be signed by an authorized representative, either digitally or manually in ink and scanned. Typed signatures do not constitute a digital signature.

Save the completed and signed SF-424 form as a single PDF file using the following convention for the title "ControlNumber_LeadOrganization_App424" and submit with your application.

2. *SUMMARY SLIDE*

All Applicants are required to provide a single PowerPoint slide summarizing the proposed project. The slide must be submitted in Microsoft PowerPoint format. This slide is used during the evaluation process. The summary slide **must not exceed 1 slide** in landscape format when printed using standard 8.5 x 11 paper with font not smaller than 11-point.

A template is available under 'Application Forms and Templates' for this FOA on IE-Exchange at https://ie-exchange.energy.gov. The use of the PowerPoint slide template is not required; however, the information included within the template is required.

The single Summary Slide requires the following information:

- Project Title and Subtopic Area.
- Summary of the proposed project (e.g., project goals and objectives, technology type, system(s) size, project location, number of buildings affected, and how the project integrates into the long-term energy goals/vision of the Applicant);
- Identification of the Applicant and a list of key personnel and participating organizations (e.g., Vendors, Subrecipients, investors).
- Description of the project's impact (e.g., energy generated, displaced, or saved, jobs created, payback period, number of buildings affected, environmental and economic

benefits, or any other outcomes, such as replicability, environmental stewardship, helps meet specific energy goal, or step towards energy independence);
- Budget information, including the federal funds requested, cost share proposed, and total project costs; and
- A graphic or illustration (picture, chart, table).

Save the Summary Slide in a single Microsoft PowerPoint file using the following convention for the title "ControlNumber_LeadOrganization_Slide" and submit as part of your application.

3. TECHNICAL VOLUME

All Applicants are required to submit a Technical Volume. The Technical Volume **must not be more than 15 pages, excluding the cover pages and table of contents.** If the Technical Volume exceeds the maximum number of pages specified above, DOE will review only the authorized number of pages and disregard any additional pages. The Technical Volume must be submitted in Adobe PDF format.

The Technical Volume must conform to the content and form requirements in Section IV.C. and the Technical Volume template, including the maximum number of pages. The template is available under 'Application Forms and Templates' for this FOA on IE-Exchange at https://ie-exchange.energy.gov. The use of the template is not required; however, the information included within the template is required.

The Technical Volume must address the Technical Review Criteria included in Section V.A. of the FOA. Applicants should consider the weight of each of the evaluation criteria (see Section V.A. of the FOA) when preparing the Technical Volume.

Save the Technical Volume in a single PDF file using the following convention for the title: "ControlNumber_LeadOrganization_TechnicalVolume" and submit as part of your application.

4. WORKPLAN

All Applicants are required to submit a Workplan. The Workplan **must not be more than 5 pages, excluding the milestone table.** If the Workplan exceeds the maximum number of pages specified above, DOE will review only the authorized number of pages and disregard any additional pages. The Workplan must be submitted in Microsoft Word format.

The Workplan must conform to the content and form requirements in Section IV.C. and the Workplan template, including the maximum number of pages. The template is available under 'Application Forms and Templates' for this FOA on IE-Exchange at https://ie-

exchange.energy.gov. The use of the template is not required; however, the information included within the template is required.

The Workplan must address the Technical Review Criteria included in Section V.A. of the FOA. Applicants should consider the weight of each of the evaluation criteria (see Section V.A. of the FOA) when preparing the Workplan.

Save the Workplan in a single Microsoft Word file using the following convention for the title: "ControlNumber_LeadOrganization_Workplan" and submit as part of your application.

5. *Eligibility Statements and Evidence File*

All Applicants are required to submit eligibility statements that document and provide evidence of Applicant and land status eligibility to support DOE's eligibility determination. The template is available under 'Application Forms and Templates' for this FOA on IE-Exchange at https://ie-exchange.energy.gov. The use of the template is not required; however, the information included within the template is required.

The form must be signed by an authorized representative, either digitally or manually in ink and scanned. Typed signatures do not constitute a digital signature.

Save the completed Eligibility Statements and Evidence form and save any additional evidentiary information as a single or multiple PDF files (no more than 3 files including the form) and submit as part of your application. Note: The maximum file size that can be uploaded to the IE-Exchange website is 50MB. If multiple files are submitted, use the convention for the title designated below, denoted the subsequent files as "Part_1" and "Part_2" and submit as part of your application.

Save the Eligibility Statements and Evidence as a single of multiple PDF files using the following convention for the title: "ControlNumber_LeadOrganization_Eligibility" and submit as part of your application.

6. *Applicant Tribal Council Resolution or Declaration of Commitment and Cost Sharing File*

***All* Applicants are required to submit an executed Applicant Tribal Council Resolution or Declaration of Commitment and Cost Sharing File to include a statement of commitment and cost sharing by the Applicant**.

For Indian Tribes, that statement of commitment and cost sharing must be in the form of an executed Tribal Council Resolution, unless an Indian Tribe provides a commitment in a format

other than a Tribal Council Resolution and evidence of the statutory or other legal authority authorizing that form of commitment in lieu of a Tribal Council Resolution accompanies that commitment. Such evidence must establish that the commitment submitted carries the same level of Tribal leadership commitment as a Tribal Council Resolution.

For Alaska Native Regional Corporations or Village Corporations, Intertribal Organizations, and Tribal Energy Development Organizations, the statement of commitment and cost sharing may be in the form of a declaration or resolution signed by an authorized representative able to commit the entity.

All Tribal Council Resolution(s), declarations, or resolutions **must:**

1. Be executed;
2. Be specific to this FOA (Title and Number as shown on the cover page);
3. Authorize the submittal of the application;
4. Commit to the proposed project;
5. Identify a representative of the Applicant as the Business Contact and authorize that person to act on behalf of the Applicant;
6. Identify a representative of the Applicant as the Project Manager. It is strongly recommended that the Project Manager be a representative of the Applicant; however, if the Project Manager is not a representative of the Applicant, authorization must be provided that delegates that authority to the proposed Project Manager; such a non-Applicant designee will be considered a Subrecipient and *all* the terms and conditions of the agreement, if an award is made, will flow to that designee and that designee will not be able to receive fee or profit for services rendered;
7. Commit to the total amount of cost share (specific dollar amount or up to a maximum amount and percentage of total proposed project costs), regardless of the source of that cost share as **the Applicant is *ultimately* and legally responsible for providing the entire amount of cost share required, if an award is made, even if the cost share is being provided by a Subrecipient(s).**;
8. Identify the type of cost share being committed (donated time, equipment use, unrecovered fringe benefit costs or unrecoverable indirect costs, and cash or in-kind provided by a third party);
9. Affirm that the project is on Tribal Land as that term is defined in this FOA;
10. If applicable, that the building(s) is a Tribal Building(s) (Topic Area 1 and Topic Area 4) or an Essential Tribal Building(s) (Topic Area 3), as those terms are defined in this FOA;
11. Commit the use of the Tribal Land and/or Tribal Buildings for the proposed project; and
12. If the land or Tribal Buildings are not owned or controlled by the Applicant, a letter of commitment from the land or building holder must be submitted as part of the application under the Participant Letter of Commitment and Cost Sharing File.

Cost share must be available or accessible at the time of submission of the application, as described below. A written assurance (e.g., commitment) must be provided at the time of application submission. The written assurance (e.g., commitment) is a binding guarantee that funds are available or, with respect to the use of equipment, contributed labor hours, or unrecovered indirect costs, accessible. Cost share commitments cannot be dependent on some future event, such as receiving a grant, obtaining a loan, monetizing tax incentives, or securing an investor. Furthermore, although the cost share requirement applies to the project as a whole (including work performed by members of the Project Team other than the Recipient) **the Applicant is *ultimately* and legally responsible for providing the entire amount of cost share required, if an award is made, even if the cost share is being provided by a Subrecipient(s).**

Letters of support by anyone not participating in the proposed project are not required or desired and should not be provided as part of the application.

Failure to submit the appropriate executed Tribal Council Resolution(s), declaration(s), resolution(s), and letter(s) of commitment with your application may result in your application not being reviewed or considered.

If funds from a federal source are being proposed either as additional federal funds against the total project costs or as non-federal cost share, as allowed to by law, the **Applicant must provide a commitment letter from the federal agency as part of the application that specifically commits those funds and identifies the statutory authority that allows those funds to be used for the project being proposed.** Additionally, if those funds are to be used as non-federal cost share, the commitment letter must also include the excerpt from the statutory authority that allows those funds to be used as non-federal cost share. These commitment letters will be reviewed to determine allowability, by DOE Legal and the Contracting Officer, prior to accepting funds as either additional federal project funds or non-federal cost share from other federal sources.

Note that "Cost Sharing" is not limited to cash investment. Allowable contributions (e.g., contribution of time, unrecovered indirect costs, facilities and administrative costs, rental value of buildings (not the purchase value), lease value of land or equipment (not the purchase value), and the value of a service, other resource, or third-party in-kind contributions) incurred as part of the project may be considered as *all* or part of the cost share. **Only cost share contributions made during the period of performance of the grant can be considered.**

The "Cost Sharing" definition is contained in 2 CFR § 200.306 as amended by 2 CFR § 910.130, and OMB Circular A-110. Foregone fee or profit by the Applicant shall not be considered cost sharing under any resulting award.

Reimbursement of actual costs will only include those costs that are reasonable, allowable and *all*ocable to the project 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.

See Section III.B. and Appendix B for additional information on Cost Share.

Save this information in a single PDF file using the following convention for the title: "ControlNumber_LeadOrganization_Resolution_Declaration" and submit as part of your application.

7. PARTICIPANT LETTERS OF COMMITMENT AND COST SHARING FILE

Letters of commitment and cost sharing are required from *all* other project participants (excluding Vendors). The letters must be specific to this FOA and if cost share is being committed, include a statement of the total amount and type of cost share being committed and a detailed estimate of the cash value (basis of and the nature of) of *all* contributions to the project by the project participant.

Cost share must be available or accessible at the time of submission of the application, as described below. A written assurance (e.g., commitment) must be provided at the time of application submission. The written assurance (e.g., commitment) is a binding guarantee that funds are available or, with respect to the use of equipment, contributed labor hours, or unrecovered indirect costs, accessible. Cost share commitments cannot be dependent on some future event, such as receiving a grant, obtaining a loan, monetizing tax incentives, or securing an investor.

Letters of support by anyone not participating in the proposed project are not required or desired, and should not be provided as part of the application.

If funds from a federal source are being proposed either as additional federal funds against the total project costs or as non-federal cost share, as allowed to by law, the **Applicant must provide a commitment letter from the federal agency as part of the application that specifically commits those funds and identifies the statutory authority that allows those funds to be used for the project being proposed.** Additionally, if those funds are to be used as non-federal cost share, the commitment letter must also include the excerpt from the statutory authority that allows those funds to be used as non-federal cost share. These commitment letters will be reviewed to determine allowability, by DOE Legal and the Contracting Officer, prior to accepting funds as either additional federal project funds or non-federal cost share from other federal sources.

Note that "Cost Sharing" is not limited to cash investment. Allowable contributions (e.g., contribution of time, unrecovered indirect costs, facilities and administrative costs, rental value of buildings (not the purchase value), lease value of land or equipment (not the purchase value), and the value of a service, other resource, or third-party in-kind contributions) incurred as part of the project may be considered as *all* or part of the cost share. **Only cost share contributions made during the period of performance of the grant can be considered.**

The "Cost Sharing" definition is contained in 2 CFR § 200.306 as amended by 2 CFR § 910.130, and OMB Circular A-110. Foregone fee or profit by the Applicant shall not be considered cost sharing under any resulting award.

Reimbursement of actual costs will only include those costs that are reasonable, allowable and allocable to the project 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.

See Section III.B. and Appendix B for additional information on Cost Share.

Save this information in a single or multiple PDF files (no more than 3 files) and submit as part of your application. Note: The maximum file size that can be uploaded to the IE-Exchange website is 50MB. If multiple files are submitted, use the convention for the title designated below, denoted the subsequent files as “Part_1” and “Part_2” and submit as part of your application.

Save the participant letters of commitment and cost sharing as a single or multiple PDF files using the following convention for the title:
“ControlNumber_LeadOrganization_Commitment_Letters” and submit as part of your application.

8. RESUMES FILE

All Applicants are required to provide resumes for their Business Contact, Project Manager, and each key person proposed (including tribal staff) as part of the project. A key person is any individual who contributes in a substantive, measurable way to the execution of the project.

Each resume must not exceed 2 pages when printed on 8.5” by 11” paper with 1-inch margins (top, bottom, left, and right), single spaced, with font not smaller than 11.

The Resume File supplements the Technical Volume in addressing the Technical Review Criteria included in Section V.A. of the FOA.

Save *all* resumes in a single file PDF using the following convention for the title: "ControlNumber_LeadOrganization_Resume" and submit as part of your application.

9. BUDGET JUSTIFICATION WORKBOOK FORM (IE 540.132-01)

Applicants are required to complete the Microsoft Excel Budget Justification Workbook form (IE 540.132-01). This form is available under 'Application Forms and Templates' for this FOA on IE-Exchange at https://ie-exchange.energy.gov.

Recipients must complete the summary and each tab of the Budget Justification Workbook form (IE 540.132-01) for the project as a whole (***all* project costs regardless of whether requested from DOE or proposed as cost share and regardless of who plans to incur those costs**), including *all* work to be performed by the Recipient (if an award is made), its Subrecipients, and Vendors, and provide *all* requested documentation (e.g., a federally-approved forward pricing rate agreement, Defense Contract Audit Agency or Government Audits and Reports, if available) as part of the Budget Support File (see below). Applicants should include costs associated with required annual audits and incurred cost proposals as part of the proposed budget.

The "Instructions and Summary" and the "Budget Information – Non-Construction Programs" (Standard form SF-424A) included as part of the Budget Justification Workbook form will "auto-populate" as information is entered into the workbook. Applicants must complete the header information and carefully read the "Instructions and Summary" tab provided within the Budget Justification Workbook form.

Save the Budget Justification Workbook form (IE 540.132-01) as a single Microsoft Excel file using the following convention for the title: "ControlNumber_LeadOrganization_Budget_Justification" and submit as part of your application.

10. SUBRECIPIENT BUDGET JUSTIFICATION WORKBOOK FORM (IE 540.132-01)

Applicants must also provide a separate Microsoft Excel Budget Justification Workbook form (IE 540.132-01) for each Subrecipient (i.e., subawardee who is providing cost share **or** with a vested interest in the proposed project, beyond providing goods and services to the proposed project) that is expected to perform work estimated to be more than $250,000 or 25 percent of the total work effort (whichever is less).

The Subrecipient Budget Justification Workbook form must include the same justification information described in the "Budget Justification" section above; however, only include the

Subrecipient costs. This form is available under ‘‘Application Forms and Templates’ for this FOA on IE-Exchange at https://ie-exchange.energy.gov.

Budget information for any Vendor (i.e., entity contracted to provide goods and services within normal business operations, who provides similar goods or services to many different purchasers, and operates in a competitive environment **and** who is not providing cost share) should not be included as part of the Subrecipient Budget Justification Workbook form, but rather included as part of the Budget Support File below (Section IV.C.11.). See the Budget Support template for more instructions.

If none of the proposed Subrecipients meet the thresholds above, a Subrecipient Budget Justification Workbook form (IE 540.132-01) is not required and instead a file must be submitted stating, “*No Subrecipients being proposed meet the threshold requirements and therefore a Subrecipient Budget Justification Workbook form is not being provided here as an attachment.*”

Save each Subrecipient Budget Justification Workbook form (IE 540.132-01) in a separate Microsoft Excel file (no more than 3) or, if applicable as described above, provide a file stating no Subrecipient Budget Justification Workbook form is being provided, in a single PDF file using the following convention for the title:
“ControlNumber_LeadOrganization_SubrecipientName_Budget_Justification” and submit as part of your application.

11. BUDGET SUPPORT

All Applicants are required to submit support for their proposed budget to include Indirect Rate Agreements, breakdown of fringe costs, basis of cost estimate documentation, budget support for Vendors, official requests for DOE approval of Subawardees selected non-competitively, and other relevant supplemental information. A Microsoft Word template has been provided. The Budget Support template is available under ‘‘Application Forms and Templates’ for this FOA on IE-Exchange at https://ie-exchange.energy.gov. The use of the Budget Support template is not required, but the information included within the Budget Support template is required.

Save the completed Budget Support template and any necessary supplemental information as a single or multiple PDF files (no more than 3 files including the form) and submit as part of your application. Note: The maximum file size that can be uploaded to the IE-Exchange website is 50MB. If multiple files are submitted, use the convention for the title designated below, denoting the subsequent files as “Part_1” and “Part_2”,” and submit as part of your application.

The Budget Support document must be signed by an authorized representative, either digitally or manually in ink and scanned. Typed signatures do not constitute a digital signature.

Save this information in a single or multiple (no more than 3 files) PDF files using the following convention for the title: "ControlNumber_LeadOrganization_Budget_Support" and submit as part of your application.

12. Cost Share Reduction Request

Applicants requesting a cost share reduction must submit a Cost Share Reduction Request using the format and instructions included within the Cost Share Reduction Request template provided under 'Application Forms and Templates' for this FOA on IE-Exchange at https://ie-exchange.energy.gov.

A Microsoft Word template has been provided. The use of the Cost Share Reduction Request template is not required; however, the information included within the Cost Share Reduction Request template is required.

If a cost share reduction is not being requested, you must submit a signed statement (Statement) on the Applicant's letterhead certifying: "*The Applicant hereby represents and certifies that it is not requesting a cost share reduction and the individual signing this Statement is authorized to make this certification on behalf of the Applicant*."

The Cost Share Reduction Request or Statement must be signed by an authorized representative of the Applicant, either digitally or manually in ink and scanned. Typed signatures do not constitute a digital signature.

Save the Cost Share Reduction Request or Statement as a single PDF file using the following convention for the title: "ControlNumber_LeadOrganization_Cost_Share_Reduction" and submit as part of your application.

13. Applicant Registration Certifications

All Applicants must certify that all system registrations have been completed. Specifically, this certification must confirm that the Applicant has registered in IE-Exchange and obtained a control number that will be used as an identifier and will be required on *all* application documents; obtained a Unique Entity Identifier (UEI) number; has registered in SAM and will continue to maintain an active SAM registration with current information at *all* times during which it has an active federal award or an application or plan under consideration by a federal awarding agency; has registered in FedConnect.net in order to receive award documentation;

has registered in Grants.gov in order to receive automatic updates when Amendments to this FOA are posted, if any. Certification confirming *all* of these registrations have been completed must be submitted as part of the Applicant Registration Certification File.

A Microsoft Word template has been provided. The Applicant Registration Certifications template is available under 'Application Forms and Templates' for this FOA on IE-Exchange at https://ie-exchange.energy.gov. The use of the Applicant Registration Certifications template is not required, but the information included within the Applicant Registration Certifications template is required.

The Applicant Registration Certifications document must be signed by an authorized representative, either digitally or manually in ink and scanned. Typed signatures do not constitute a digital signature.

Save the completed and signed Applicant Registration Certifications template as a single PDF file using the following convention for the title: "ControlNumber_LeadOrganization_ Registration_Certifications" and submit as part of your application.

14. SF-LLL: DISCLOSURE OF LOBBYING ACTIVITIES

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.

All Applicants are required to complete and submit SF-LLL, "Disclosure of Lobbying Activities" (https://www.gsa.gov/Forms/TrackForm/33144) and disclose (by completing the form) if any non-federal funds have been paid or will be paid to any person for influencing or attempting to influence any of the following only in connection with your application to this FOA:

- 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.

For more on Disclosure of Lobbying Activities, see https://lobbyingdisclosure.house.gov/amended_lda_guide.html.

If no non-federal funds have been paid or will be paid to any person for influencing or attempting to influence any of the above in connection with your application, indicate "*none*" and sign and date the form.

This form is available under 'Application Forms and Templates' for this FOA on IE-Exchange at https://ie-exchange.energy.gov.

The SF-LLL form must be signed by an authorized representative, either digitally or manually in ink and scanned. Typed signatures do not constitute a digital signature.

Save the completed and signed SF-LLL form in a single PDF file using the following convention for the title "ControlNumber_LeadOrganization_SF-LLL" and submit as part of your application.

15. POTENTIALLY DUPLICATIVE FUNDING NOTICE (PDFN) FILE

If the Applicant or Project Team member has other active awards of federal funds, the Applicant must determine whether the activities of those awards potentially overlap with the activities set forth in its application to this FOA. If there is a potential overlap, the Applicant must notify DOE in writing of the potential overlap and state how it will ensure any project funds (i.e., recipient cost share and federal funds) will not be used for identical cost items under multiple awards. Likewise, for projects that receive funding under this FOA, if a Recipient or Project Team member receives any other award of federal funds for activities that potentially overlap with the activities funded under the DOE award, the Recipient must promptly notify DOE in writing of the potential overlap and state whether project funds from any of those other federal awards have been, are being, or are to be used (in whole or in part) for one or more of the identical cost items under the DOE award. If there are identical cost items, the Recipient must promptly notify the DOE Contracting Officer in writing of the potential duplication and eliminate any inappropriate duplication of funding.

If potentially duplicative funding does not apply, the Potentially Duplicative Funding Notice is not required and instead you must submit a signed statement (Statement) on the Applicant's letterhead certifying: "*The Applicant or Project Team member do not have other active awards that potentially overlap with activities proposed in this application and therefore a Potentially Duplicative Funding Notice is not being provided here as an attachment and the individual signing this Statement is authorized to make this certification on behalf of the Applicant*."

The Potentially Duplicative Funding Notice or Statement must be signed by an authorized representative, either digitally or manually in ink and scanned. Typed signatures do not constitute a digital signature.

Save the Potentially Duplicative Funding Notice or Statement in a single PDF file using the following convention for the title "ControlNumber_LeadOrganization_PDFN" and submit as part of your application.

16. Site and Resource Maps and Graphics File

All Applicants must provide a Site and Resource Maps and Graphics File and include any graphics to supplement the Technical Volume including maps, photographs, or other visuals of the project location or building(s) affected by the proposed project. Any other relevant background or supplemental data may be included here, except studies and analyses, design and engineering, and economic analyses information to be included in the relevant files below.

If you choose not to provide any graphics, relevant background, or supplemental data beyond that which may be in the Technical Volume, submit a file stating, "*No additional site, resource maps or graphics information is being provided as an attachment.*" Note that this information may actually be necessary to complete your application and to fully address the Technical Review Criteria (see Section V.A.).

Save this information in a single PDF file using the following convention for the title: "ControlNumber_LeadOrganization_MapsResources" and submit as part of your application.

17. Studies and Analyses File

All Applicants are required to submit a (1) comprehensive feasibility study and/or (2) energy audit(s) or industrial assessment(s), as specifically required for each Topic Area. See Section I.B. and Technical Volume template under 'Application Forms and Templates' for this FOA on IE-Exchange at https://ie-exchange.energy.gov for required content. These submissions must, as a minimum, include: energy audit(s) or energy assessment(s) for Subtopic Area 1.b. and Subtopic Area 1.c.; and a comprehensive feasibility study or studies for Subtopic Area 1.a., Subtopic Area 1.c., Topic Area 2, Topic Area 3, and Topic Area 4. Other supporting studies or analyses should also be included as part of this file. Any other relevant background data may be included under the Site and Resource Map and Graphics File.

The Studies and Analyses File supplements the Technical Volume in addressing the Technical Review Criteria included in Section V.A. of the FOA.

Save this information in a single PDF file using the following convention for the title: "ControlNumber_LeadOrganization_Studies_Analyses" and submit with your application.

18. Design and Engineering File

All Applicants must provide a Design and Engineering File consisting of completed design and engineering (except *final* design and engineering) documents that may include, but are not limited to, detailed engineering drawings, interconnection studies and/or agreements (if applicable), detailed materials and equipment lists, hardware specifications, warranties, and any other design or engineering data to supplement the Technical Volume.

The Design and Engineering File supplements the Technical Volume in addressing the Technical Review Criteria included in Section V.A. of the FOA.

Save this information in a single PDF file using the following convention for the title: "ControlNumber_LeadOrganization_Engineering" and submit as part of your application.

19. ECONOMICS FILE

All Applicants must provide an Economics File, including, as a minimum, a (1) pro forma income statement, (2) pro forma cash flow analysis and its findings (e.g., Internal Rate of Return, Net Present Value), and (3) payback period calculations, in years, against **both** (a) the total project investment (DOE share and recipient cost share) and (b) solely against the recipient cost share, **and** each input and *all* assumptions must be identified. See Section 2.4 (Economic Viability) of the Technical Volume template available under 'Application Forms and Templates' for this FOA on IE-Exchange at https://ie-exchange.energy.gov.

The Economics File supplements the Technical Volume in addressing the Technical Review Criteria included in Section V.A. of the FOA.

Save this information in a single file PDF using the following convention for the title: "ControlNumber_LeadOrganization_Economics" and submit as part of your application.

D. POST-SELECTION INFORMATION REQUESTS

If selected for award, DOE reserves the right to request additional or clarifying information for any reason deemed necessary including, but not limited to:

- Budget information;
- Name and phone number of the Designated Responsible Employee for complying with national policies prohibiting discrimination (See 10 CFR § 1040.5);
- Representation of Limited Rights Data and Restricted Software, if applicable;
- Waiver of Requirement to Perform *all* Work in the United States, if applicable;
- Waiver of the Buy America Requirements for Infrastructure Projects, if applicable;
- Accounting System and Financial Systems Information;
- Environmental Questionnaire; and
- Financial Audit.

E. 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) be registered in the SAM at https://www.sam.gov before submitting its application; (2) provide a valid UEI in its application; and (3) continue to maintain an active SAM registration with current information at *all* times during which it has an active federal award or an application or plan under consideration by a federal awarding agency. DOE may not make a federal award to an Applicant until the Applicant has complied with *all* applicable UEI and SAM requirements and, if an Applicant has not fully complied with the requirements by the time DOE is ready to make a federal award, the DOE may determine that the Applicant is not qualified to receive a federal award and use that determination as a basis for rescinding the selection for negotiation of award.

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 utilize 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 to 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.

F. Submission Dates and Times

Applications must be submitted no later than 5:00 p.m. Eastern on the date specified on the cover page of this FOA.

G. Intergovernmental Review

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

H. Funding Restrictions

1. Allowable Costs

All expenditures must be allowable, allocable, and reasonable in accordance with the applicable federal cost principles.

Refer to the following applicable federal cost principles for more information:

- FAR Part 31.2 for for-profit entities; and
- 2 CFR Part 200 Subpart E - Cost Principles for *all* other non-federal entities.

2. *Pre-Award Costs*

Selectees may not incur pre-award costs without **prior** approval by DOE. Pre-award costs are those costs 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 **prior** written approval of the federal awarding agency, through the Contracting Officer assigned to the award.

Pre-award costs cannot be incurred **prior** to the Selection Official making selections.

All 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. *All* costs must be allowable, allocable, and reasonable in accordance with the applicable cost principles (For for-profit entities, FAR Part 31.2; 2 CFR Part 200 Subpart E - Cost Principles, for *all* other non-federal entities).

3. *Pre-Award Costs Related to National Environmental Policy Act (NEPA) Requirements*

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 costs where the Applicant incurred the costs prior to receiving written authorization from the Contracting Officer. If the Applicant elects to undertake activities that 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 and such costs may not be recognized as allowable cost share.

Likewise, if a project is selected for award negotiation, and the Selectee elects to undertake activities that are not authorized for federal funding by the Contracting Officer in advance of DOE completing a NEPA review, the Selectee is doing so at risk of not receiving federal funding 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 override these NEPA requirements 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.

4. Performance of Work in the United States and Waivers (Foreign Work Waiver)

a. Requirement.

All work performed under DOE awards must be performed in the United States. This requirement does not apply to the purchase of supplies and equipment; however, the purchase of supplies and equipment may be subject to similar requirements (see Section IV.H.9. (Buy America Requirements for Infrastructure Projects) and Appendix C (Required Use of American Iron, Steel, Manufactured Products and Construction Materials)). The Recipient must flow down this requirement to its Subrecipients.

b. Failure to Comply.

If the Recipient fails to comply with the Performance of Work in the United States requirement, DOE may deny reimbursement for the work conducted outside the United States and such costs may not be recognized as allowable Recipient cost share. The Recipient is responsible should any work under this award be performed outside the United States, absent a waiver, regardless of whether the work is performed by the Recipient, Subrecipients, Vendors or other project partners.

c. Waiver.

There may be limited circumstances where it is in the interest of the project to perform a portion of the work outside the United States. To seek a waiver of the Performance of Work in the Unites States requirement, the Recipient must submit a written waiver request to DOE, which includes the following information:

- The countries in which the work is proposed to be performed;
- A description of the work to proposed to be performed outside the U.S.;
- Proposed budget of work to be performed; and
- The rationale for performing the work outside the U.S.

For the rationale, the Applicant must demonstrate to the satisfaction of DOE that a waiver would further the purposes of the FOA that the award was selected under and is otherwise in the interests of DOE and the United States.

For the rationale, address the following, as applicable:

- The associated benefits to be realized and the contribution to the project from the foreign work;
- How the foreign work will benefit U.S. research, development, and manufacturing, including contributions to employment in the U.S. and growth in new markets and jobs in the U.S.;
- How the foreign work will promote domestic American manufacturing of products or services;
- Evidence that there will be no significant infringement upon or unfair competition with American-owned companies by including foreign work;
- A description of the plan to ensure adequate and effective protection of the IP rights; and
- How the foreign work or participation is essential to the project.

DOE may require additional information before considering a waiver request. The Applicant does not have the right to appeal DOE's decision concerning a waiver request.

6. FOREIGN TRAVEL

Foreign travel will not be considered as part of projects selected under this FOA.

7. CONSTRUCTION

For the purpose of this FOA, "construction" is defined as, but not limited to, building, erecting, altering, remodeling, or repairing a particular structure or facility. Construction does not include the installation of equipment, such as energy generating systems, energy efficiency measures, energy storage systems, integrated energy systems, energy infrastructure, or activities ancillary to those installations. Projects that include construction as a primary activity will not be considered under this FOA unless such activity is integral to meeting the objectives of the FOA and only with prior written authorization from the Contracting Officer.

8. EQUIPMENT AND SUPPLIES

With the exception of equipment and supplies subject to Buy America Requirements (see Section IV.H.9.), *all* other equipment and supplies purchased under a grant resulting from this FOA should, to the maximum extent practicable, be American-made. This requirement does not apply to used or leased equipment.

If an award is made, property disposition will be required at the end of the grant period of performance if the current fair market value of equipment and supplies exceeds $5,000. The

rules relative to equipment and supplies management and disposition are set forth in 2 CFR §§ 200.313 – 200.314 as amended by 2 CFR § 910.360.

9. BUY AMERICA REQUIREMENTS FOR INFRASTRUCTURE PROJECTS

Unless waived,[9] the Build America Buy America Act (hereafter Buy America, or "BABA"), subtitle IX of the Infrastructure Investment and Jobs Act (IIJA),[10] also known as the Bipartisan Infrastructure Law (BIL requires that federally assisted projects that involve infrastructure work, undertaken by applicable Recipient types:

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

Whether a given project must apply this requirement is project-specific and dependent on several factors, such as the Recipient's entity type, whether the work involves "infrastructure," as that term is defined in Section 70914 of the Bipartisan Infrastructure Law, and whether the infrastructure in question is publicly owned or serves a public function.

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

Please note that, based on implementation guidance from the Office of Management and Budget (OMB) issued April 18, 2022, the Buy America requirements of the BIL do not apply to DOE projects in which the prime Recipient is a for-profit entity; the requirements only apply to projects whose prime Recipient is a "non-Federal entity," e.g., a State, local government, Indian tribe, Institution of Higher Education, or nonprofit organization. Subawards should conform to the terms of the prime award from which they flow; in other words, for-profit prime Recipients are not required to flow down these But America requirements to Subrecipients, even if those Subrecipients are non-Federal entities as defined above. Conversely, prime Recipients which are non-Federal entities must flow the Buy America requirements down to *all* Subrecipients,

[9] General Applicability Public Interest Waiver applicable to Indian Tribes under Build America, Buy America Provisions as Applied to Recipients of Department of Energy Federal Financial Assistance (BABA WAV 2023-02) exempts Department of Energy federal financial assistance agreements in which the recipient is a federally recognized Indian Tribe, Tribal organization (including a tribal energy development organization as defined in 25 USC 3501(12)), or Tribal entity from this requirement until August 18, 2024, unless terminated—with appropriate public notice—if it is determined it is no longer required. See DOE-Proposed-Indian Tribes - BABA Waiver 6-26 (approved).pdf (energy.gov).

[10] See Section 40554 of Infrastructure Investment and Jobs Act (IIJA), Pub. L. 117-58 (Nov. 15, 2021)

even if those Subrecipients are for-profit entities – DOE is including a Program Policy Factor that the Selection Official may consider in determining which applications to select for award negotiations that considers whether the Applicant has made a commitment to procure U.S. iron, steel, manufactured products, and construction materials in its project.

The DOE financial assistance agreement will require each Recipient: (1) to fulfill the commitments made in its application regarding the procurement of U.S. produced products and (2) to fulfill the commitments made in its application regarding the procurement of other key component metals and manufactured products domestically that are deemed available in sufficient and reasonably available quantities or of a satisfactory quality at the time of award negotiation. Applicants may seek waivers of these requirements in very limited circumstances and for good cause shown. Further details on requesting a waiver can be found in Appendix C and the terms and conditions of an award.

Applicants are strongly encouraged to consult Appendix C for more information.

10. 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.

11. RISK ASSESSMENT

Prior to making a federal award, DOE is required by 31 U.S.C. § 3321 and 41 U.S.C. § 2313 to review information available through any OMB-designated repositories of government-wide eligibility qualification or financial integrity information, such as SAM Exclusions and "Do Not Pay".

Additionally, DOE evaluates the risk(s) posed by Applicants before they receive federal awards. This evaluation may consider: results of the evaluation of the Applicant's eligibility; the quality

of the application; financial stability; quality of management systems and ability to meet the management standards prescribed in this part; history of performance; reports and findings from audits; and the Applicant's ability to effectively implement statutory, regulatory, or other requirements imposed on non-federal entities.

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

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

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

12. Invoice Review and DOE Reimbursement

Reimbursement of actual costs will only include those costs that are reasonable, allowable and allocable to the project as determined in accordance with the applicable cost principles prescribed in FAR Part 31.2 for for-profit entities; and 2 CFR Part 200 Subpart E - Cost Principles for *all* other non-federal entities.

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 funding for the project.

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;
- Invoices/receipts for *all* travel, equipment, supplies, contractual, and other costs;
- Uniform Commercial Code (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; or
- Other items as required by DOE.

Payment will be made electronically on a reimbursement basis through the Automated Clearing House (ACH) system for electronic funds transfer. Provided the requisite support is submitted, reimbursement of costs will normally be made within seven to ten days; however, reimbursement may take up to 30 days.

Documentation (evidence of expenditures) for *all* costs (requested DOE and cost share) associated with the project will be required with each and every request for reimbursement from DOE for DOE's portion of those costs.

V. APPLICATION REVIEW INFORMATION

A. TECHNICAL REVIEW CRITERIA

Applications deemed compliant, responsive, and eligible, will be comprehensively reviewed for technical merit. Applications submitted under *all* Topic Areas will be evaluated against the Technical Review Criteria shown below. The subcriteria under each criterion are of equal weight, unless otherwise specified.

Criterion 1: Goals and Objectives (10%)

- Clarity and completeness of the Executive Summary including:
  - Concise overview of the proposed project;
  - Description of the Indian Tribe, Intertribal Organization, or Tribal Energy Development Organization and if applicable, a description of the Tribal Organization submitting the application on behalf of the Indian Tribe, or Tribal Consortium, including the:
    - energy vision and long-term goals;
    - organizational structure; and
    - demographics;

    and,
  - Discussion of the project goals and objectives, and how the project integrates into the energy vision and long-term goals of the Applicant.

- Extent to which the proposed project provides economic (e.g., money saved, jobs, etc.) or other benefits to the eligible Applicant **and** the tribal community.

- Soundness of the discussion of the need for and impact of DOE funding the proposed project, and the implications if not funded.

Criterion 2: Project Description and Outcomes (50%)

- Clarity and completeness of the detailed project description

- Technical viability of the proposed project, including
  - Adequacy of the studies and analyses, including:
    1) Energy audit(s) or industrial energy assessment(s); and/or
    2) Comprehensive feasibility study and availability of the renewable energy resource(s);
  - Viability and quality of the completed design and engineering (except *final* design and engineering) as evidence by the Design and Engineering File that may include, but is not limited to, detailed engineering drawings, interconnection studies and/or agreements (if applicable), detailed materials and equipment lists, hardware specifications, warranties, and any other design or engineering data;
  - Reasonableness of the methodology to be used to install clean energy generating system(s), energy efficiency measure(s), energy storage, integrated energy system(s), or energy infrastructure;
  - Clarity and completeness of the discussion of barriers that could impede the project **and** the reasonableness of the plan to overcome those barriers; and
  - Reasonableness of the operation and maintenance (O&M) plan.

- Economic viability and sustainability of the proposed project, including
  - Quality of the economic assessment as evidenced by the Economics File, including, as a minimum, a (1) pro forma income statement, (2) pro forma cash flow analysis and its findings (e.g., Internal Rate of Return, Net Present Value), and (3) payback period calculations, in years, against **both** (a) the total project investment (DOE share and recipient cost share) and (b) solely against the recipient cost share, **and** each input and *all* assumptions identified;
  - Reasonableness of the payback period; and
  - Financial sustainability of the proposed project.

- Significance of outcomes including, but not limited to:
  - Amount of energy generated, displaced, or saved;
  - Economic benefits (e.g., money saved, people trained, jobs created);
  - Environmental benefits (e.g., reduction in emissions); and
  - Other outcomes (e.g., replicability, resiliency, reliability, environmental stewardship, specific energy goal(s) met, step toward energy independence).

Criterion 3: Roles, Responsibilities, Capabilities and Commitment (30%)

- Soundness of the project management approach, including:
  - Organizational and individual roles and responsibilities;
  - Organizational relationships as evidenced by existing business or other agreements, if applicable; and
  - Capabilities of the Applicant and project participants, as evidenced by the resumes, to comprehensively address *all* aspects of the proposed project, including the reasonableness of any plan to obtain qualified Subrecipients or Vendors.

- Demonstrated level of commitment of the Applicant and each participating organization as evidenced by:
  (1) Past energy-related efforts; and,
  (2) Commitments to the proposed project as evidenced by Letters of Commitment.

Criterion 4: Workplan (10%)

- Clarity and completeness of the narrative description of each activity necessary to complete the project; and
- Likelihood of achieving project objectives through a logical task structure.

B. STANDARDS FOR APPLICATION EVALUATION

Applications that are determined to be compliant, responsive, and eligible will be evaluated in accordance with this FOA, by the standards set forth in 2 CFR § 200.205, and the guidance provided in the "Department of Energy Merit Review Guide for Financial Assistance" (9/2020) which is available with associated attachments at: https://www.energy.gov/management/downloads/merit-review-guide-financial-assistance-and-unsolicited-proposals-current.

C. PROGRAM POLICY FACTORS

In addition to the above criteria, the Selection Official may consider the following program policy factors (in no particular order) in determining which applications to select for award negotiations:

- 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, or group of projects, represent a desired technology diversity (considering past awards and current applications);

- The degree to which the proposed project, including proposed cost share, optimizes the use of available DOE funding to achieve programmatic objectives;
- Whether the proposed project(s) serves tribal communities with high energy costs;
- Whether the proposed project(s) serves tribal communities not connected to the traditional centralized electrical power grid;
- The degree to which the proposed project will employ procurement of U.S. iron, steel, manufactured products, and construction materials; and,
- Applicants who have not previously received a grant from the Office of Indian Energy.

D. Evaluation and Selection Process

1. Overview

The evaluation process consists of multiple reviews: an initial review for compliance, responsiveness, and eligibility, followed, as applicable, by a comprehensive technical review. Rigorous technical reviews 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 (see Section V.C.), in determining which applications to select for negotiation toward an award.

2. Pre-Selection Clarification

DOE may determine that pre-selection clarifications are necessary from one or more Applicants. These pre-selection clarifications will be *solely* for the purposes of clarifying the application and will be limited to information already provided in the application documentation. The pre-selection clarifications may occur before, during or after the 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 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 toward an 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.

3. *Recipient Integrity and Performance Matters*

DOE, prior to making a federal award with a total amount of federal share greater than the simplified acquisition threshold, is required by 41 U.S.C. § 2313 to review and consider any information about the Applicant that is in the designated integrity and performance system accessible through SAM (currently the Federal Awardee Performance and Integrity Information System (FAPIIS))

The Applicant, at its option, may review information in the designated integrity and performance systems accessible through SAM and comment on any information about itself that a federal awarding agency previously entered and is currently in the designated integrity and performance system accessible through SAM.

DOE will consider any written comments by the Applicant, in addition to the other information in the designated integrity and performance system, 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 § 200.205.

4. *Selection*

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

E. Anticipated Notice of Selection and Award Dates

DOE anticipates notifying Applicants whose applications are selected for negotiation of an award on the date specified on the cover page of this FOA and making awards approximately 90 days after receipt of any requested supplemental information.

F. 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 or award.

G. 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 expressly or implied, is invalid.**

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

I. Evaluation and Administration by Non-Federal Personnel

In conducting application evaluations, 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. The Applicant, by submitting its application, consents to the use of non-federal reviewers/administrators. Non-federal reviewers must sign conflict of interest and non-disclosure agreements prior to reviewing an application. Non-federal personnel conducting administrative activities must sign a non-disclosure agreement.

J. 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).

K. Treatment of Application Information

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

If an application includes business sensitive, trade secrets, proprietary, or otherwise confidential information, it is furnished to the federal government (government) in confidence with the understanding that the information shall be used or disclosed only for evaluation of the application. Such information will be withheld from public disclosure to the extent

permitted by law, including the Freedom of Information Act. Without assuming any liability for inadvertent disclosure, DOE will seek to limit disclosure of such information to its employees and to outside reviewers when necessary for merit review of the application or as otherwise authorized by law. This restriction does not limit the government's right to use the information if it is obtained from another source.

If an Applicant chooses to submit business sensitive, trade secrets, proprietary, or otherwise confidential information, the applicant must provide two copies of the 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 business sensitive, trade secrets, 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 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 application, and other Applicant submissions, must be marked as follows and identify the specific pages containing business sensitive, trade secrets, proprietary, or otherwise confidential information:

> **Notice of Restriction on Disclosure and Use of Data:**
> Pages [list applicable pages] of this document may contain business sensitive, trade secrets, 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 business sensitive, trade secrets, proprietary, or otherwise confidential information must be marked as follows: "Contains Business Sensitive, Trade Secrets, 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.

L. RETENTION OF SUBMISSIONS

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

VI. AWARD ADMINISTRATION INFORMATION

A. AWARD NOTICES

1. INELIGIBLE APPLICATIONS

Ineligible applications will not be reviewed or considered for award. If determined ineligible, the Contracting Officer will send a notification letter by email to the points of contact designated by the Applicant in its application. The notification letter will state the basis upon which the application is not considered for further review.

2. APPLICATION NOTIFICATIONS

The DOE Office of Indian Energy will notify *all* eligible Applicants that their applications will be comprehensively reviewed under the technical review criteria set forth in Section V.A. Following the comprehensive technical review, DOE will then notify each Applicant whether its application was selected for negotiation of award. Alternatively, DOE may notify one or more Applicants that a final selection determination on particular applications may be made at a later date, subject to the availability of funds or other programmatic factors. ***All* Applicants whose applications are comprehensively reviewed will also receive written feedback at the time of notification.**

3. SUCCESSFUL APPLICANTS

Receipt of a notification letter selecting an application for negotiation of an award does not authorize the Applicant to commence performance of the project. Notification that an application is selected for negotiation of an award is not a commitment on DOE to issue an award. Applicants do not receive an award until award negotiations are complete and the Contracting Officer executes the funding agreement, accessible to the Recipient in FedConnect.

The award negotiation process is estimated to take approximately 90 days after receipt of any requested supplemental information. The Applicant must be responsive during award negotiations (e.g., provide requested documentation) and meet the negotiation deadlines. If the Applicant fails to do so or negotiations are otherwise unsuccessful, DOE may cancel 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.H. of the FOA for guidance on pre-award costs.

4. POSTPONED SELECTION DETERMINATIONS

An Applicant may also receive a notification that a final selection has been postponed. A notification letter postponing a final selection determination until a later date does not authorize the Applicant to commence performance of the project as DOE may ultimately decide to not select the application for award negotiations.

5. 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. As an alternate, DOE may consider the application for federal funding in the future. A notification letter stating the application is designated as an alternate does not authorize the Applicant to commence performance of the project. DOE may ultimately determine to select or not select the application for award negotiations.

6. UNSUCCESSFUL APPLICANTS

DOE shall notify in writing each Applicant whose application was not selected for award or whose application cannot be funded because of the unavailability of appropriated funds. If the application was not selected, the written notice shall explain why the application was not selected.

B. ADMINISTRATIVE AND NATIONAL POLICY REQUIREMENTS

1. REGISTRATION REQUIREMENTS

There are several one-time actions required before submitting an application in response to this FOA, and it is vital that Applicants address these items as soon as possible as some actions may take several weeks, and **failure to complete them prior to submitting an application could result in DOE determining that the Applicant in not qualified to receive a federal award and use that determination as a basis for not considering their application.**

The Applicant will be required to certify that these registrations have been completed and to include that certification as part of their application. Therefore, it is essential that these registrations be completed as soon as possible as some may take several weeks to process.

The following registrations are required before submitting an application:

a. IE-Exchange

Register and create an account on IE-Exchange at https://ie-exchange.energy.gov. This account will then allow the user to register for any open FOAs that are currently in IE-Exchange. It is recommended that each organization or business unit, whether acting as a team or a single entity, use only one account as the contact point for each submission. Applicants should also designate backup points of contact so Applicants may be easily contacted if deemed necessary.

A Control Number will be assigned while registering in IE-Exchange. Retain this number as it will be required on *all* application documents.

The IE-Exchange registration does not have a delay.

The remaining registration requirements below could take several weeks to process and are required prior to submitting an application. Therefore, *all* potential Applicants lacking a UEI number, or not yet registered with SAM, FedConnect, or Grants.gov should complete those registrations as soon as possible.

b. Obtain a Unique Entity Identifier (UEI) number

Obtain a Unique Entity Identifier (UEI) number (replaced the data universal numbering system (DUNS) number for entities doing business with the federal government) during the SAM registration or renewal process at https://www.sam.gov. A UEI is required for *all* entities doing business with the federal government.

c. System for Award Management (SAM)

Register with the System for Award Management (SAM) at https://www.sam.gov. Designating an Electronic Business Point of Contact (EBiz POC), obtaining a special password called an MPIN, and obtaining a UEI number are important steps in SAM registration. SAM registration must be updated annually.

Note that effective June 2017, you can no longer access the System for Award Management (SAM) using Internet Explorer (IE) Versions older than IE11. You either need to upgrade to an Internet Explorer version of IE11 or higher, or access SAM using another supported browser type (Chrome, Firefox, Safari, or other).

d. FedConnect

Register in FedConnect at https://www.fedconnect.net. To create an organization account, your organization's SAM MPIN (see above) 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.

e. Grants.gov

Register in Grants.gov (http://www.grants.gov) to receive automatic updates when Amendments to this FOA are posted. However, please note that applications will not be accepted through Grants.gov. ***All* applications must be submitted through IE-Exchange at https://ie-exchange.energy.gov.**

f. Electronic Authorization of Applications and Award Documents

Submission of an application, acceptance of an award, and submittal of supplemental information under this FOA through electronic systems used by DOE, including IE-Exchange and FedConnect, constitutes the authorized representative's approval and electronic signature.

2. AWARD ADMINISTRATIVE REQUIREMENTS

Award administrative requirements for DOE grants and cooperative agreements are contained in the Code of Federal Regulations (CFR), 2 CFR Part 200 as amended by 2 CFR Part 910.

3. FOREIGN NATIONAL PARTICIPATION

All Applicants selected for an award under this FOA and project participants (including Subrecipients and Vendors) 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. A "foreign national" is defined as any person who is not a United States citizen by birth or naturalization. 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.

DOE may elect to deny foreign nationals' participation in the award. Likewise, DOE may elect to deny a foreign national's access to a DOE sites, information, technologies, equipment, programs, or personnel.

4. *Subaward and Executive Reporting under the Federal Funding and Transparency Act (FFATA)*

Additional administrative requirements necessary for DOE grants and cooperative agreements to comply with the Federal Funding and Transparency Act of 2006 (FFATA) (Public Law 109–282, September 26, 2006) are contained in 2 CFR Part 170. Recipients must register with the new FFATA Subaward Reporting System database and report the required data on their first tier Subrecipients. Recipients must report the executive compensation for their own executives as part of their registration profile in SAM.

5. *National Policy Requirements*

The National Policy Assurances that are incorporated as a term and condition of award are located at: http://energy.gov/management/downloads/national-policy-assurances-be-incorporated-award-terms. By signing and submitting the Application for Federal Assistance (SF-424), the Applicant is providing the required assurances and agreeing to comply with the resulting terms if an award is made.

6. *National Environmental Policy Act (NEPA) Review*

DOE's decision whether and how to distribute federal funds under the subject FOA is subject to the National Environmental Policy Act as codified and amended at 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 http://energy.gov/nepa.

While NEPA compliance is a federal agency responsibility and the ultimate decisions remain with the federal agency, *all* Applicants 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 costs to prepare the necessary records can be included as part of the proposed project budget.

7. *Applicant Representations and Certifications*

a. *Lobbying Restrictions*

By accepting funds under this award, the 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.

b. ***Corporate Felony Conviction and Federal Tax Liability Representations (March 2014)***

By submitting an application in response to this FOA, the Applicant represents that:

(1) It is **not** a corporation that has been convicted of a felony criminal violation under any federal law within the preceding 24 months,

(2) 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 the following definitions apply:

A Corporation includes any 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]. It includes both for-profit and nonprofit organizations.

c. ***Nondisclosure and Confidentiality Agreements Representations***

In submitting an application in response to this FOA the Applicant represents that:

(1) 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.

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

a. *''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.''

b. The limitation above shall not contravene requirements applicable to Standard Form 312, Form 4414, or any other form issued by a federal department or agency governing the nondisclosure of classified information.

c. Notwithstanding 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 United States government, may contain provisions appropriate to the particular 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 in the course of such activity unless specifically authorized to do so by the United States 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 Department of Justice, that are essential to reporting a substantial violation of law.

8. 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 or temporary intervention in usual 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.

9. 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.

10. REPORTING

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

11. 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 United States government of a conference held by any Executive branch department, agency, board, commission, or office for which the cost to the United States government would otherwise exceed $20,000, thereby circumventing the required notification by the head of any such Executive Branch department, agency, board, commission, or office to the Inspector General (or senior ethics official for any entity without an Inspector General), of the date, location, and number of employees attending such conference. For additional information, refer to 2 CFR § 200.432.

12. 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 $1,000,000, the Recipient or Subrecipient must:

Properly record, and consent to the Department's ability to properly record if the Recipient fails to do so, 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.

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

States, local governments, or other public entities may not condition sub-awards in a manner that would discriminate, or disadvantage Subrecipients based on their religious character.

14. 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 (currently FAPIIS). Failure to make required disclosures can result in any of the remedies described in 2 CFR § 200.339. (See also 2 CFR part 180, 31 U.S.C. § 3321, and 41 U.S.C. § 2313.) [85 FR 49539, Aug. 13, 2020]

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.

15. 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 retains unlimited rights in technical data produced under government financial assistance awards, including the right to distribute to the public. One exception to the foregoing is that invention disclosures may be protected from public disclosure for a reasonable time in order to allow for filing a patent application.

16. COPYRIGHT

The Recipient and Subrecipients may assert copyright in copyrightable data, 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.

17. NOTICE OF POTENTIAL DISCLOSURE UNDER FREEDOM OF INFORMATION ACT (FOIA)

Under the FOIA as codified at 5 U.S.C. § 552, et. seq., and as amended by the OPEN Government Act of 2007, Pub. L. No. 110-175, any information received from the Applicant is considered to be an agency record, and as such, subject to public release under FOIA. The purpose of the FOIA is to afford the public the right to request and receive agency records unless those agency records are protected from disclosure under one or more of the nine FOIA exemptions. Decisions to disclose or withhold information received from the Applicant are based upon the applicability of one or more of the nine FOIA exemptions, not on the existence or nonexistence of protective markings or designations. Only the agency's designated FOIA Officer may determine if information received from the Applicant may be withheld pursuant to one of the nine FOIA exemptions. *All* FOIA requests received by DOE are processed in accordance with 10 CFR Part 1004.

18. PROTECTED PERSONALLY IDENTIFIABLE INFORMATION

All information provided by the Applicant must to the greatest extent possible exclude Personally Identifiable Information (PII). The term "personally identifiable information" refers to information which can be used to distinguish or trace an individual's identity, such as their name, social security number, biometric records, etc. alone, or when combined with other personal or identifying information which is linked or linkable to a specific individual, such as date and place of birth, mother's maiden name, etc. (See OMB Memorandum M-07-16 dated May 22, 2007, found at:
https://www.whitehouse.gov/sites/default/files/omb/memoranda/fy2007/m07-16.pdf

By way of example, Applicants must screen resumes to ensure that they do not contain PII such as personal addresses, phone/cell numbers, personal emails, or social security numbers. In short, if the PII is not essential to the application, it should not be in the application.

19. ANNUAL COMPLIANCE AUDITS

If a for-profit entity is a Recipient and has expended $750,000 or more of DOE funds 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, Indian tribe, or state and local government is a Recipient or Subrecipient and has expended $750,000 or more of federal funds during the non-federal entity's fiscal year, then 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.

20. PROCUREMENT STANDARDS AND COMPETITIVE SELECTION OF SUBRECIPIENTS AND VENDORS

The Recipient must have and use documented procurement procedures, consistent with State, local, and tribal laws and regulations and the standards of 2 CFR § 200.318, for the acquisition of property or services required under a Federal award or subaward. The non-Federal entity's documented procurement procedures must conform to the procurement standards identified in 2 CFR §§ 200.317 – 200.327.

21. APPROVAL OF NON-COMPETITIVELY SELECTED SUBRECIPIENTS AND VENDORS

The Recipient's selection of Subrecipients and Vendors must comply with applicable statutory and regulatory requirements for full and open competition. See, e.g., 2 CFR § 200.319; 2 CFR § 200.320. If the Recipient intends to non-competitively select any Subrecipient or Vendor, it must comply with the requirements of 2 CFR § 200.320(c).

In addition, the Recipient's non-competitive selection of any Subrecipient or Vendor must be expressly authorized by the DOE Contracting Officer in response to a written request from the Applicant. The request must be signed by an authorized representative and addressed to the DOE Contracting Officer. The approval request should be on the Applicant's letterhead and include the justification for each of the non-competitive sole source selection(s), including: (1) the specific non-competitive category applicable under 2 CFR § 200.320(c); (2) any unique or exclusive qualifications; (3) time urgency, if any; (4) past working relationships; and (5) any other relevant information justifying the non-competitive selection.

22. CONTINUED USE OF 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 award under this FOA, the Recipient 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 where 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 at 2 CFR § 910.360. Property disposition requirements for other non-federal entities are set forth in 2 CFR §§ 200.310 – 200.316.

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 as described below. Specifically, questions regarding the content of this FOA must be submitted to: TribalGrants@hq.doe.gov not later than three (3) business days prior to the application due date.

All questions and answers related to this FOA will be posted on IE-Exchange at: https://ie-exchange.energy.gov. **Please note that in order to view questions specific to this FOA you must first select this specific FOA Number and then "Frequently Asked Questions (FAQS)".** DOE will attempt to respond to a question within three (3) business days, unless a similar question and answer has already been posted on IE-Exchange.

Questions related to the registration process and use of the IE-Exchange website must be submitted to: ExchangeHelp@hq.doe.gov as DOE is unable to assist with IE-Exchange issues. For general questions, see Questions and Answers at https://ie-exchange.energy.gov/FAQ.aspx.

VII. OTHER INFORMATION

A. FOA MODIFICATIONS

Amendments to this FOA will be posted on the IE-Exchange website and the Grants.gov system. **However, you will only receive an email when an amendment is posted on these sites if you register for email notifications for this FOA in Grants.gov.** DOE 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. INFORMATIONAL WEBINAR

DOE will conduct one informational webinar during the FOA process. It will be held after the initial FOA release but before the due date for applications. Specifically, the webinar will be held on the date specified on the cover page of this FOA. See IE-Exchange for any updates and how to register for the webinar.

The purpose of this webinar is to cover the basic aspects of the FOA and highlighting essential details about the application process. Attendance is not mandatory and will not positively **or** negatively impact the overall review of any Applicant submissions.

APPENDIX A – DEFINITIONS

"Alaska Native" for the purposes of this FOA means a member or descendent of any of the indigenous peoples of Alaska.

"**Alaska Native Regional Corporation**" for the purposes of this FOA, means one of the thirteen Alaska Native Regional Corporations, as defined in and established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. § 1602(g)).

"**Alaska Native Village Corporation**" or "**Village Corporation**", for the purposes of this FOA, means an Alaska Native Village Corporation organized under the laws of the State of Alaska as a business for profit or nonprofit corporation to hold, invest, manage and/or distribute lands, property, funds, and other rights and assets for and on behalf of a Native village, as defined in and established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. § 1602(j)).

"**Amendment**" means a revision to a FOA or a Financial Assistance Agreement. Also see Modification.

"American Indian" for the purposes of this FOA means a member of any of the peoples indigenous to the Americas except Alaska Native people.

"**Applicant**" means the legal entity or individual signing the application. This entity or individual may be one organization or a single entity representing a group of organizations (such as a Consortium) that has chosen to submit a single application in response to a FOA.

"**Application**" means the documentation submitted in response to a FOA.

"**Authorized Organization Representative (AOR)**" is the person with assigned privileges who is authorized to submit grant applications through IE-Exchange on behalf of an organization. The privileges are assigned by the organization's E-Business Point of Contact designated in the SAM.

"**Award**" means the written documentation executed by a Contracting Officer, after an Applicant is selected, which contains the negotiated terms and conditions for providing Financial Assistance to the Applicant. A financial assistance award may be a grant, cooperative agreement, or technology investment agreement.

"**Budget**" means the cost expenditure plan submitted in the application, including both the DOE contribution and the Applicant cost share.

"**Building Efficiencies**" for the purposes of this FOA may include, but are not limited to, building envelope improvements (improvements to walls, roofs, foundation slab, ceiling, windows, doors, insulation), the installation of energy efficient equipment, high-efficiency lighting, efficient appliances, air sealing, moisture management, controlled ventilation, high R-value (high thermal resistance) insulation, high efficiency windows, efficient heating systems (furnaces, boilers, passive solar), efficient cooling systems (air conditioners, evaporative coolers), ground or air source heat pumps, energy saving building electrical equipment, and efficient mechanical systems and heat recovery ventilation units.

"Business Contact" means a representative of the Applicant authorized to act on behalf of the Applicant in the daily administration of the grant and to negotiate the agreement, as *all* DOE official correspondence related to this FOA, or agreement if one were awarded, would be addressed to the business point of contact.

"**Clean Energy Generating System(s)**" for the purposes of this FOA include: (1) renewable energy system(s), or (2) combined heat and power system(s) using renewable fuels such as biomass, biogas, renewable natural gas, or renewable hydrogen (see definitions).

"**Combined Heat and Power System(s)**," for the purposes of this FOA include, but are not limited to, integrated systems that simultaneously generate heat and power using energy efficient turbines, reciprocating engines, micro-turbines, fuel cells, or waste heat recovery systems (capturing heat discarded by an existing process and using that heat directly or to generate power). Combined heat and power systems may be fueled by any fuel source (natural gas, landfill or sewage gas, fuel and gas oils, coal, lignite, coke, biomass or biogas, renewable natural gas, renewable hydrogen, solid waste, waste gases, or waste process heat).

"Commercially proven" for the purposes of this FOA, means the technology must be at least a Technology Readiness Level (TRL) of 9, where TRL 9 is "Commercial-Scale Production/Application" and represents an in-service application of the technology in its final form and under mission condition and at TRL 9, the actual, commercial-scale system is proven through successful mission operations, whereby it is fielded and being used in commercial application. Information relative to the technology and its TRL should be provided as part of the application. For more on TRL, see http://en.wikipedia.org/wiki/Technology_readiness_level.

"**Community**" for the purposes of this FOA, means a group of any size whose members reside in a specific locality, share government, and often have a common cultural and historical heritage.

"**Community-scale**" for the purposes of Topic Area 2, means serving a "substantial" number of the total buildings within a community, **or** a "substantial" portion of the community's energy load, **or** an entire tribal community. For the purposes of this FOA, "substantial" means of "ample or considerable amount".

"**Community-scale**" for the purposes of Subtopic Area 3.b., means serving a "substantial" number of "**Essential Tribal Buildings**" (see definition) within a community, **or** a "substantial" portion of the community's energy load, **or** an entire tribal community, where, for purposes of this FOA, "substantial" means of "ample or considerable amount".

"**Compliance**" is an eligibility determination that refers to the non-technical requirements outlined in a FOA (e.g., formatting, timeliness of submission, or satisfaction of prerequisites).

"**Consortium (plural consortia)**" means the group of organizations or individuals that have chosen to submit a single application in response to a FOA.

"**Construction**" for the purpose of this FOA, is defined as, but not limited to, building, erecting, altering, remodeling, or repairing a particular structure or facility. Construction does not include the installation of equipment, such as energy generating systems, energy efficiency measures, energy storage systems, integrated energy systems, or activities ancillary to those installations.

"**Contracting Officer**" means the DOE official authorized to execute awards on behalf of DOE and who is responsible for the business management and non-technology/program office aspects of the financial assistance process.

"**Controls and management system(s)**" for the purposes of this FOA include, but are not limited to, software controllers, supervisory control and data acquisition (SCADA) systems, power and frequency controllers, voltage regulators, power protection systems.

"**Conventional Energy Generation Device(s)**," for the purposes of this FOA include, but are not limited to, gas turbine, steam turbine, combustion gas turbines, stirling engine, internal combustion engine (e.g., diesel or propane generator), and combined heat and power system.

"**Cooperative Agreement**" means a financial assistance instrument used by DOE to transfer money or property when the principal purpose of the transaction is to accomplish a public purpose of support or stimulation authorized by federal statute, and Substantial Involvement (see definition below) is anticipated between DOE and the Applicant during the performance of the contemplated activity. Refer to 2 CFR § 200.1 for additional information regarding cooperative agreements.

"**Cost Share**" means that portion of the project or program's costs not borne by the federal government. The percentage of Applicant cost share is to be applied to the total project cost (i.e., the sum of Applicant plus DOE cost share) rather than to the DOE contribution alone. Cost share information can be found in the Code of Federal Regulations at 2 CFR § 200.306 as amended by 2 CFR § 910.130.

"**Data Universal Numbering System (DUNS) Number**" is a unique nine-character identification number issued by Dun and Bradstreet (D&B). The Unique Entity Identifier (UEI) replaced the Data Universal Numbering System (DUNS) number for entities doing business with the federal government.

"**E-Business Point of Contact (POC)**" is the individual who is designated as the Electronic Business Point of Contact in the SAM registration. This person is the sole authority of the organization with the capability of designating or revoking an individual's ability to conduct SAM transactions.

"**IE-Exchange**" is the Department of Energy, Office of Indian Energy's web system for posting federal FOAs and receiving applications. IE-Exchange may be found at https://ie-exchange.energy.gov.

"**Electrification**" for the purposes of this FOA, means the process of providing electricity to unelectrified Tribal Buildings by (1) deploying integrated energy system(s) to operate independent of the traditional centralized electric power grid; or (2) deploying energy infrastructure to connect Tribal Buildings to the traditional centralized electric power grid.

"**Electrify**" for the purposes of this FOA, means the act of electrification.

"**Energy Infrastructure**" for purposes of this FOA, means electric power distribution technologies to transport electricity from the transmission system to individual consumers and may include, but is not limited to, distribution substations, circuits, circuit breakers, switchgear, busbars, distribution lines, distribution transformers, capacitors, voltage regulators, meters, and utility poles.

"**Emergency**" for the purposes of this FOA, means a situation that poses an immediate risk to health, life, property, or environment and requires urgent intervention to prevent a worsening of the situation.

"**Energy Conservation**" for the purposes of this FOA, means decreasing energy consumption by using less energy or going without to save energy. Energy conservation typically involves a behavioral change and may include meters or other indicators to induce that behavioral change.

"**Energy Displaced**" for the purposes of this FOA, means to take the place of or to supplant one type of energy source for another, such as when coal displaces wood as an energy source.

"**Energy Efficiency**" for the purposes of this FOA, means efficient energy use, or to reduce the amount of energy required to provide products and services through "energy efficiency

measures" (see definition below). For the purposes of this FOA, "energy efficiency" is not the same as "energy conservation", which is not eligible under this FOA (see definition of energy conservation above).

"**Energy Efficiency Measure(s)**," for the purposes of this FOA, means the implementation of (1) building efficiency measure(s) or (2) industrial process efficiency measure(s) (see definitions).

"**Energy Saved**" for the purposes of this FOA, means the amount energy use is reduced by using "energy efficiency measures" (see definition above) to provide products and services).

"**Energy Storage System(s)**" for the purposes of this FOA, include, but are not limited to, batteries, pumped hydropower, flywheels, compressed air energy storage, or thermal energy storage systems.

"**Essential Services**" for the purposes of this FOA means services that, if interrupted, would endanger the life, health, or personal safety of the whole or part of the tribal community. Such essential services include, but are not limited to, emergency facilities or shelters, hospitals or medical services, fire services, police services, water/wastewater, sewage, communications, electricity, natural gas, telecommunications (including telephone, radio or television broadcasting, internet connectivity, and broadband speeds), and transportation.

"**Essential Tribal Building(s)**" for the purposes for this FOA, are **Tribal Building(s)** (see definition) necessary for providing **Essential Services** (see definition).

"**Financial Assistance**" means the transfer of money or property to an Applicant or Participant to accomplish a public purpose of support authorized by federal statute through grants or cooperative agreements and subawards. For DOE, it does not include direct loans, loan guarantees, price guarantees, purchase agreements, Cooperative Research and Development Agreements (CRADAs), or any other type of financial incentive instrument.

"**FedConnect**" is where federal agencies make awards via the web. It can be found at https://www.fedconnect.net/FedConnect/.

"**Federally Funded Research and Development Center (FFRDC)**" means a government-sponsored operation that exists for the purpose of carrying out various functions related to both basic and applied research and development on behalf of the government. Typically, most or *all* of the facilities utilized in an FFRDC are owned by the government, but the operations are not always managed by the government; an FFRDC may be managed by a university or consortium of universities, other not-for-profit or nonprofit organization, or a for-profit organization, with the government performing an oversight function.

"**Funding Opportunity Announcement (FOA)**" is a publicly available document by which a federal agency makes known its intentions to award discretionary grants or cooperative agreements, usually as a result of competition for funds. FOAs may be known as notices of funding availability, solicitations, or other names depending on the agency and type of program. See 2 CFR § 200.203 for more information.

"**Grant**" means a Financial Assistance instrument used by DOE to transfer money or property when the principal purpose of the transaction is to accomplish a public purpose of support or stimulation authorized by federal statute, and no Substantial Involvement is anticipated between DOE and the Applicant during the performance of the contemplated activity.

"**Grants.gov**" is the web portal which allows organizations to electronically find grant opportunities from *all* federal grant-making agencies. Grants.gov is THE single access point for over 900 grant programs offered by the 26 federal grant-making agencies. It can be accessed at http://www.grants.gov.

"**Grid-connected**", for the purposes of this FOA, means the Tribal Building(s) are connected to the traditional centralized electric power grid.

"**Indian land**," for the purposes of this FOA, means –

(a) any land which is located within the boundaries of an "**Indian reservation**" (see definition below), pueblo, or rancheria:

(b) any land not located within the boundaries of an Indian reservation, pueblo or rancheria, the title to which is held –

  (i) in trust by the United States for the benefit of an Indian tribe or an individual Indian;

  (ii) by an Indian tribe or an individual Indian, subject to restriction against alienation under laws of the United States; or

  (iii) by a dependent Indian community; and

(c) land that is owned by an Indian tribe and was conveyed by the United States to a Native Corporation pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. § 1601, et seq.), or that was conveyed by the United States to a Native Corporation in exchange for such land;

(d) any land located in a census tract in which the majority of residents are Natives (as defined in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. § 1602(b)); and

(e) any land located in a census tract in which the majority of residents are persons who are enrolled members of a federally recognized Tribe or village.

"Indian reservation," for the purposes of this FOA and as defined under Part 503 of EPAct 2005, includes an Indian reservation in existence in any State or States as of the date of enactment of Title V of EPAct 2005; a public domain Indian allotment; and a dependent Indian community located within the borders of the United States, regardless of whether the community is on original or acquired territory of the community; or within or outside the boundaries of any State or States.

"**Indian Tribe**," for the purposes of this FOA and as defined in in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. § 5304),[11] means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) [43 U.S.C. § 1601, et seq.], which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians. See below for further definition.

For the purposes of this FOA, an eligible Indian tribe, band, nation or other organized group or community (including Alaska Native villages), must be federally recognized as listed in *Indian Entities Recognized and Eligible to Receive Services from the United States Bureau of Indian Affairs*, published by the Department of Interior's Bureau of Indian Affairs in the Federal Register on January 12, 2023, 88 FR 8.

"**Industrial Process Efficiencies**" may include, but are not limited to, insulating piping, tank walls and roofs, the installation of higher efficiency equipment (e.g., heat exchangers, compressors, blowers, pumps, and fans), minimizing air leaks, optimizing air systems using variable speed drives, and adding or optimizing controls.

"**Integrated Energy System(s)**" under Topic Area 3 and Subtopic Area 4.a. must, as a minimum, provide power to Essential Tribal Building(s) or unelectrified Tribal Buildings, respectively, and include: (1) clean energy generating system(s); (2) controls and management system(s); and (3) energy storage system(s). Such systems may also include (4) conventional energy generation device(s); however, conventional energy generation device(s) are eligible only if used solely as a dispatchable stand-by power source. Note that some components of the proposed integrated energy system(s) may already exist and, therefore, not *all* of the components must be proposed for DOE funding; however, the integrated energy system(s) as a whole must meet the requirements under Topic Area 3 and Subtopic Area 4.a., respectively.

[11] Referenced as 25 U.S.C. § 450b in Indian Tribal Energy Development and Self Determination Act of 2005 (Energy Policy Act of 2005 (EPAct 2005), Title V, § 502, codified at 42 U.SC. § 7144e and 25 U.SC. § 3501, et seq.). Section 450b was editorially reclassified as section 5304. See 25 U.S.C. § 5304.

"**Interconnection Infrastructure**" may include, but is not limited to, distribution substations, circuits, circuit breakers, switchgear, busbars, distribution lines, distribution transformers, capacitors, voltage regulators, meters, and utility poles.

"**Intertribal Organization**," for the purposes of this FOA, means any organization comprised of *two or more* Indian Tribes, established under Congressional, State, or Tribal law to act on behalf of the participating Indian Tribes. "**Intertribal Organizations**" may include, but are not limited to, intertribal councils, regional tribal organizations or associations, Alaska regional development organizations, and tribal federations.

"**Key Personnel**" mean the individuals who will have significant roles in planning and implementing the proposed Project on the part of the Applicant and Participants, including FFRDCs.

"**Marketing Partner Identification Number (MPIN)**" is a very important password designated by your organization when registering in SAM. The E-Business Point of Contact will need the MPIN to assign privileges to the individual(s) authorized to perform SAM transactions on behalf of your organization. The MPIN must have 9 digits containing at least one alpha character (must be in capital letters) and one number (no spaces or special characters permitted).

"**Modification**" means a revision to a FOA. Also see Amendment.

"**Owned or Controlled,**" for the purposes of this FOA, is where the eligible entity has or has been given certain rights and duties, specifically the ability to exercise authority, direction, and control over the project. Note that ownership may be private, collective, or common and some of those rights and duties may be held by different parties.

"**Participant,**" for the purposes of this FOA, means any entity, except the Applicant substantially involved in a consortium, or other business arrangement (including all parties to the application at any tier), responding to the FOA.

"**Project**" means the set of activities described in an application, State plan, or other document that is approved by DOE for Financial Assistance (whether such Financial Assistance represents all or only a portion of the support necessary to carry out those activities).

"Project Manager" means a representative authorized to oversee and execute the project on behalf of the Applicant and act as the prime point of contact for DOE's Project Officer during the period of performance of the grant, if an agreement is awarded.

"**Project Team**" means the team which consists of the Recipient, Subrecipients, and others performing or otherwise supporting work under a DOE funding agreement.

"**Proposal**" is the term used to describe the documentation submitted in response to a FOA. Also see Application.

"**Recipient**" means the organization, individual, or other entity that receives a financial assistance award from DOE (i.e., is the signatory on the award), is financially accountable for the use of any DOE funds or property provided for the performance of the Project, and is legally responsible for carrying out the terms and condition of the award.

"**Renewable energy system(s)**," for the purposes of this FOA, include systems for: (1) electric power generation; and/or (2) heating or cooling systems.

(1) Renewable energy system(s) for electric power generation include, but are not limited to, photovoltaic (solar electric), biomass (including waste to energy), wind power, hydropower (diversion, run-of-river, small impoundment and incremental), or other renewable energy hybrid systems for electricity power generation. Note that, for purposes of this FOA, ground or air source heat pumps are considered an energy efficiency measure.

(2) Heating or cooling system(s) include, but are not limited to, the use of biomass for high efficiency combustion systems (i.e., stoves and boilers), active solar thermal systems for space or water heating, wind energy for heating, direct-use hydrothermal (geothermal) resources for water and space heating, or other renewable energy hybrid systems for heating and/or cooling.

"**Resilience,**" for the purposes of this FOA, means the ability to anticipate, prepare for, and adapt to changing conditions and withstand, respond to, and recover rapidly from energy disruptions through adaptable and holistic planning and technical solutions. Additionally, the proposed integrated energy system(s) should increase the reliability of the existing system and make that system more robust.

"**Responsiveness**" is an eligibility determination that refers to the objective technical requirements (not goals or targets) outlined in a FOA, such as a technology type or technical parameters. For example, submission of a photovoltaic solar panel design in response to a FOA calling for innovative geothermal drilling technologies should be found nonresponsive. Likewise, an application with a design that incorporates rare earth materials to a FOA that prohibits the use of rare earth materials should be found nonresponsive. Conversely, the belief that a technology will not achieve the technical targets of the FOA will never be used as a proper basis for a rejection as nonresponsive.

"**Selection**" means the determination by the DOE Selection Official that negotiations take place for certain Projects with the intent of awarding a Financial Assistance instrument.

"**Selection Official**" means the DOE official designated to select applications for negotiation toward Award under a subject FOA.

"**Stand-Alone (Isolated) Microgrid**" means a local electrical grid with defined electrical boundaries, acting as a single and controllable entity, that only operates autonomously from the traditional centralized electric power grid.

"**Subaward**" means an award provided by a pass-through entity to a **Subrecipient** (see definition) for the **Subrecipient** (see definition) to carry out part of a federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a federal program. A Subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract."

"**Subawardee**" means a non-federal entity that expends federal awards received from a pass-through entity to carry out a federal program, but does not include an individual that is a beneficiary of such a program.

"**Subrecipient**" means an entity, usually but not limited to non-federal entities, that receives a **Subaward** (see definition) from a pass-through entity to carry out part of a federal award; but does not include an individual that is a beneficiary of such award. A Subrecipient may also be a Recipient of other federal awards directly from a federal awarding agency. If an entity is designated as a **Subrecipient**, the terms and conditions of the award will flow down from the **Recipient** (see definition) to the Subrecipient.

"**Substantial,**" for the purposes of this FOA, means of "ample or considerable amount".

"**Substantial Involvement**" means involvement on the part of the government. DOE's involvement may include shared responsibility for the performance of the project; providing technical assistance or guidance which the Applicant is to follow; and the right to intervene in the conduct or performance of the Project. Such involvement will be negotiated with each Applicant prior to signing any cooperative agreement.

"**System for Award Management (SAM)**" is the primary database which collects, validates, stores, and disseminates data in support of agency missions. It can be accessed at https://www.sam.gov.

"**Total Project Cost**" means all the funds to complete the effort proposed by the Applicant, including DOE funds (including direct funding of any FFRDC) plus all other funds that will be committed by the Applicant as Cost Share.

"**Traditional Centralized Electric Power Grid,**" for the purposes of this FOA, refers to the main power grids in the continental United States: (1) the Eastern Interconnected System (Eastern Interconnect); (2) the Western Interconnected System (Western Interconnect); and (3) the Texas Interconnected System (Texas Interconnect); as well as (4) the interconnected grid system in Alaska that connects Anchorage, Fairbanks, and the Kenai Peninsula.

"Tribal," for the purposes of this FOA, means of, relating to, or characteristic of an Indian tribe or Indian tribes.

"**Tribal Building(s),**" for the purposes of this FOA, is a single **or** multiple buildings located on Tribal Lands, where the eligible tribal entity has or has been granted certain rights and duties, specifically the ability to exercise authority, direction, and control over the project. Note that ownership may be private, collective, or common and some of those rights and duties may be held by different parties. Tribal Building(s) are those where the eligible tribal entity has the authority to augment or modify the building and where the building is owned by the eligible tribal entity **or** tribal members **or** tribal organization, **or** the eligible tribal entity has a long-term lease (as a minimum, for the useful life of the proposed project). Tribal Buildings may include, but are not limited to, tribal member homes, schools, community buildings, clinics/hospitals, tribal government buildings, fire stations, police stations, radio stations, washaterias, utility facilities (such as water/wastewater systems), or tribal businesses.

"**Tribal Consortium,**" (plural consortia) for purposes of this FOA, means a group of Indian tribes (see Indian Tribe), that have chosen to submit a single application. Under this FOA, a Tribal Consortium is eligible to submit an application provided the application is submitted by a single Indian tribe representing the Consortium.

"**Tribal Energy Development Organization**," for the purposes of this FOA, means:

(1) any enterprise, partnership, consortium, corporation, or other type of business organization that is engaged in the development of energy resources and is wholly owned by an Indian tribe (including an organization incorporated pursuant to section 17 of the Act of June 18, 1934 (25 U.S.C. § 5124) (commonly known as the ''Indian Reorganization Act'') or section 3 of the Act of June 26, 1936 (49 Stat. 1967, chapter 831, 25 U.S.C. § 5201, et seq.) (commonly known as the 'Oklahoma Indian Welfare Act'));

and

(2) any "**organization**" of two or more entities, at least one of which is an Indian tribe, that has the written consent of the governing bodies of all Indian tribes participating in the organization to apply for a grant, loan, or other assistance under 2602 of EPAct (25 U.S.C. § 3502) or to enter into a lease or business agreement with, or acquire a right-of-way from, an Indian tribe pursuant to subsection (a)(2)(A)(ii) or (b)(2)(B) of 2604 of EPAct (25 U.S.C. § 3504), where "**organization**" means a partnership, joint venture,

Limited Liability Company (LLC) or other unincorporated association or entity that is established to develop Indian energy resources.

"**Tribal Lands**"" for the purposes of this FOA, is defined as:

(a) "**Indian land**" (see definition);

(b) lands held in fee simple (purchased or owned) by an Indian Tribe, Intertribal Organization, Tribal Energy Development Organization, or other eligible Applicant;

(c) lands held under a long-term land lease (as a minimum, for the useful life of the proposed project) by an Indian Tribe, Tribal Energy Development Organization, or other eligible Applicant; and

(d) land that was conveyed to a Native Corporation pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. § 1601, et seq.) and *subsequently* conveyed to another entity, provided that entity is either a Native village or Tribal governmental entity or the land is held, invested, managed for and on behalf of a Native village or Tribal governmental entity.

"**Tribal Organization**," per Public Law 115-245 has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. § 5304). Specifically, per 25 U.S.C. § 5304, "**Tribal Organization**" means the recognized governing body of any Indian tribe; any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities: Provided, That in any case where a contract is let or grant made to an organization to perform services benefiting more than one Indian tribe, the approval of each such Indian tribe shall be a prerequisite to the letting or making of such contract or grant.

"**Unique Entity Identifier**," is a unique number assigned to all entities (public and private companies, individuals, institutions, or organizations) who do business with the federal government. The Unique Entity Identifier (UEI) replaced the Data Universal Numbering System (DUNS) number for entities doing business with the federal government.

"**Unelectrified"** for the purposes of this FOA, means Tribal Buildings not connected to (1) the traditional centralized electric power grid or (2) an integrated energy system(s) operating independent of the traditional centralized electric power grid.

"**Vendor**," for the purposes of this FOA, is a legal entity contracted to provide goods and services within normal business operations, who provides similar goods or services to many different purchasers, and operates in a competitive environment.

"**Warrantied,**" for the purposes of this FOA, is to have a guarantee or promise which provides assurance by one party to the other party that specific facts or conditions are true or will happen. This factual guarantee may be enforced, regardless of materiality, and allows for a legal remedy, if that promise is not true or followed. For purposes of this FOA, DOE expects that a warranty will cover defects in materials and workmanship and potentially the replacement of parts and labor for the failed components (or a portion thereof) for a specified period of time. The warranty should also describe the conditions under which the warranty will be honored. Additionally, depending on the type of energy efficiency measure, energy generating system(s), or integrated energy system(s), performance, function, or degradation may be included as part of the warranty and thereby the warranty guarantees minimum standards of quality such as availability or amount of power production, and includes the terms under which those standards are honored.

APPENDIX B – 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 § 910.130, use both of the terms in the titles specific to regulations applicable to cost sharing. DOE almost always uses the term "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. Following is an example of how to calculate cost sharing amounts for a project with $1,000,000 in federal funds with a minimum 20% non-federal cost sharing requirement:

- Formula: Federal share ($) divided by Federal share (%) = Total Project Cost
  Example: $1,000,000 divided by 80% = $1,250,000

- Formula: Total Project Cost ($) minus Federal share ($) = Non-federal share ($)
  Example: $1,250,000 minus $1,000,000 = $250,000

- Formula: Non-federal share ($) divided by Total Project Cost ($) = Non-federal share (%)
  Example: $250,000 divided by $1,250,000 = 20%

What Qualifies For Cost Sharing

While it is not possible to provide a single definition that applies in all situations, 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, then it is allowable as cost share. Conversely, if the cost is not allowable under the cost principles and not eligible for reimbursement, then 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 are generally the same for all types of entities. The specific rules applicable to:

- FAR Part 31.2 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 regulations referenced above, other factors may also come into play such as timing of donations and length of the project period. For example, the value of ten 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 those costs precede the signing of the appropriation bill that funds the award. In the case of a competitive award, DOE generally will not allow pre-award costs **prior** to the signing of the Selection Statement by the DOE Selection Official.

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 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 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–122OMB Circular A–122 is determined in accordance with the for-profit cost principles in 48 CFR Part 31 in the Federal Acquisition Regulation, 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.

b. Other types of organizations. Allowability of costs incurred by other types of organizations that may be Subrecipients under a prime award is determined as follows:

i. Institutions of higher education. Allowability is determined in accordance with: 2 CFR Part 200 Subpart E - Cost Principles for all other non-federal entities.

ii. Other nonprofit organizations. Allowability is determined in accordance with: 2 CFR Part 200 Subpart E - Cost Principles for all other non-federal entities.

iii. Hospitals. Allowability is determined in accordance with the provisions of: 2 CFR Part 200 Subpart E - Cost Principles for all other non-federal entities.

iv. Governmental organizations. Allowability for State, local, or federally recognized Indian tribal government is determined in accordance with: 2 CFR Part 200 Subpart E - Cost Principles for all other non-federal entities

(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 C – REQUIRED USE OF AMERICAN IRON, STEEL, MANUFACTURED PRODUCTS, AND CONSTRUCTION MATERIALS BUY AMERICA REQUIREMENTS FOR INFRASTRUCTURE PROJECTS

A. Definitions

For purposes of the Buy America requirements, the following definitions apply:

Construction materials includes an article, material, or supply—other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives[12] —that is or consists primarily of:

- non-ferrous metals;
- plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables);
- glass (including optic glass);
- lumber; or
- drywall.

Infrastructure includes, at a minimum, the structures, facilities, and equipment for, in the United States, roads, highways, and bridges; public transportation; dams, ports, harbors, and other maritime facilities; intercity passenger and freight railroads; freight and intermodal facilities; airports; water systems, including drinking water and wastewater systems; electrical transmission facilities and systems; utilities; broadband infrastructure; and buildings and real property. Infrastructure includes facilities that generate, transport, and distribute energy.

Moreover, according to the OMB guidance document:

> When determining if a program has infrastructure expenditures, Federal agencies should interpret the term "infrastructure" broadly and consider the definition provided above as illustrative and not exhaustive. When determining if a particular construction project of a type not listed in the definition above constitutes "infrastructure," agencies should consider whether the project will serve a public function, including whether the project is publicly owned and operated, privately operated on behalf of the public, or is a place of public accommodation, as opposed to a project that is privately owned and

[12] Bipartisan Infrastructure Law, § 70917(c)(1).

not open to the public. Projects with the former qualities have greater indicia of infrastructure, while projects with the latter quality have fewer. Projects consisting solely of the purchase, construction, or improvement of a private home for personal use, for example, would not constitute an infrastructure project.

The Agency, not the Applicant, will have the final say as to whether a given project includes infrastructure, as defined herein. Accordingly, in cases where the "public" nature of the infrastructure is unclear, but the other relevant criteria are met DOE strongly recommends that Applicants complete their application with the assumption that Buy America requirements will apply to the proposed project.

Project means the construction, alteration, maintenance, or repair of infrastructure in the United States.

B. Buy America Requirements for Infrastructure Projects ("Buy America" requirements)

In accordance with Section 70914 of the Bipartisan Infrastructure Law, unless waived,[13] none of the project funds (includes federal share and Recipient cost share) may be used for a project for infrastructure unless:

(1) *all* iron and steel used in the project are produced in the United States--this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;

(2) *all* manufactured products used in the project are produced in the United States—this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and

[13] General Applicability Public Interest Waiver applicable to Indian Tribes under Build America, Buy America Provisions as Applied to Recipients of Department of Energy Federal Financial Assistance (BABA WAV 2023-02) exempts Department of Energy federal financial assistance agreements in which the recipient is a federally recognized Indian Tribe, Tribal organization (including a tribal energy development organization as defined in 25 USC 3501(12)), or Tribal entity from this requirement until August 18, 2024, unless terminated—with appropriate public notice—if it is determined it is no longer required. See DOE-Proposed-Indian Tribes - BABA Waiver 6-26 (approved).pdf (energy.gov).

(3) *all* construction materials[14] are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States.

The Buy America requirements only apply to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does the Buy America requirements apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project, but are not an integral part of the structure or permanently affixed to the infrastructure project, except where the prime Recipient is a for-profit entity. Based on guidance from the Office of Management and Budget (OMB), the Buy America requirements of the BIL do not apply to DOE projects in which the prime Recipient is a for-profit entity; the requirements only apply to projects whose prime Recipient is a State, Indian tribe, local government, Institution of Higher Education, or nonprofit organization.

For additional information related to the application and implementation of these Buy America requirements, please see OMB Memorandum M-22-11, issued April 18, 2022: https://www.whitehouse.gov/wp-content/uploads/2022/04/M-22-11.pdf

Note that for all Applicants—both non-federal entities and for-profit entities—DOE is including a Program Policy Factor that the Selection Official may consider in determining which applications to select for award negotiations that considers whether the Applicant has made a commitment to procure U.S. iron, steel, manufactured products, and construction materials in its project.

C. DOE Submission Requirements for Application

Within the first two pages of the Workplan, Applicants must provide a short statement on whether the project will involve the construction, alteration, and/or repair of infrastructure in the United States. The ultimate determination about whether a project includes infrastructure remains with DOE, but the Applicant's statement will assist project planning and integration of domestic preference requirements, which may impact the project's proposed budget.

[14] Excludes cement and cementitious materials, aggregates such as stone, sand, or gravel, or aggregate binding agents or additives.

D. Waivers

The DOE financial assistance agreement will require each Recipient: (1) to fulfill the commitments made in its application regarding the procurement of U.S.-produced products and (2) to fulfill the commitments made in its application regarding the procurement of other key component metals and manufactured products domestically that are deemed available in sufficient and reasonably available quantities or of a satisfactory quality at the time of award negotiation.

In limited circumstances, DOE may waive the application of the Buy America requirements where DOE determines that:

(1) applying the Buy America requirements would be inconsistent with the public interest;

(2) the types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or

(3) the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent.

If an Applicant is seeking a waiver of the Buy America requirements, it may submit a waiver request after it has been notified of its selection for negotiation of award. A waiver request must include:

- A detailed justification for the use of "non-domestic" iron, steel, manufactured products, or construction materials to include an explanation as to how the non-domestic item(s) is essential to the project
- A certification that the Applicant or Recipient made a good faith effort to solicit bids for domestic products supported by terms included in requests for proposals, contracts, and nonproprietary communications with potential suppliers;
- Applicant/Recipient name and Unique Entity Identifier (UEI)
- Total estimated project cost, DOE and cost-share amounts
- Project description and location (to the extent known)
- List and description of iron or steel item(s), manufactured goods, and construction material(s) the Applicant or Recipient seeks to waive from Domestic Content Procurement Preference requirement, including name, cost, country(ies) of origin (if known), and relevant PSC and NAICS code for each.
- Waiver justification including due diligence performed (e.g., market research, industry outreach) by the Applicant or Recipient

- Anticipated impact if no waiver is issued

DOE may require additional information before considering the waiver request.

Waiver requests are subject to public comment periods of no less than 15 days and must be reviewed by the Made in America Office. There may be instances where an award qualifies, in whole or in part, for an existing waiver described at https://www.madeinamerica.gov/financial-assistance/.

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