

Financial Assistance  
Notice of Funding Opportunity  
Part 2



**U.S. DEPARTMENT *of* ENERGY**

**MODIFICATIONS**

<u>Modification No.</u>	<u>Date</u>	<u>Description of Modification</u>
000004	1/8/2026	Clarifications to Section II.A.3. regarding Cost Share Types and Allowability and Section II.A.4. Unallowable Cost Share Sources

This is Part 2 of the Notice of Funding Opportunity (NOFO). The NOFO Part 2 is intended as a companion document to the NOFO Part 1. The NOFO Part 1 describes the specific DOE programmatic goals and evaluation criteria, eligibility, and other components that are specific to each funding opportunity.

Part 2 includes fixed DOE requirements that generally do not change from NOFO to NOFO. This document includes standard information for the application phase and describes expectations for award negotiations and post-award requirements for selected applications. Applicants should review both the NOFO Part 1 and the NOFO Part 2 prior to applying.

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## I. Basic Information

Please refer to the **NOFO Part 1, Basic Information** for key facts, Executive Summary, and Agency Contact Information.

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## II. Eligibility

Please refer to the [NOFO Part 1, Eligibility](#) for the eligibility criteria specific to your application. This section includes additional information to help applicants understand the standard eligibility requirements across all DOE NOFOs.

### A. Cost Sharing

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This section contains additional information to help applicants understand federal cost sharing requirements. Please refer to the [NOFO Part 1, Eligibility—Cost Sharing](#) for the cost sharing criteria specific to your application.

#### 1. Legal Responsibility

Although the cost share requirement applies to the entire project, including work performed by members of the project team other than the recipient, the recipient is legally responsible for paying the entire cost share. 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 at least the 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 obligation assumed by project team members in subawards or related agreements.

#### 2. Cost Share Allocation

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

#### 3. Cost Share Types and Allowability

Cost share must meet requirements set forth in [2 C.F.R. §§ 200.306](#) and [910.130](#), and cost principles set forth in [2 C.F.R. §§ 200.400-476](#) and [2 C.F.R. §§ 910.352](#). In addition, cost share must be verifiable upon submission of the application. Cost share may be provided in the form of cash or cash equivalents, or in-kind contributions. Cost share must come from non-federal sources (unless otherwise allowed by law), such as project participants, state or local governments, or other third-party financing. ~~DOE Loan Guarantees cannot be leveraged by applicants to provide the required cost share or otherwise support the same scope that is proposed under a project.~~ For this project, DOE may consider applications proposing appropriate use of federal financing such as DOE loan guarantees.

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

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

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

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

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

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, DOE will review the cost share dollars according to the same federal regulations as federal dollars to the project. Every cost share contribution must be reviewed and approved in advance by the Grants Officer and incorporated into the project budget before the expenditures are incurred.

## 4. Unallowable Cost Share Sources

The recipient and subrecipient(s) may not use the following sources to meet cost share obligations:

- Cost share derived from federal sources (unless otherwise authorized by law).
- Cost share that does not meet:
  - Requirements set forth in 2 C.F.R. §§ 200.306 and 910.130;
  - Cost principles set forth in 2 C.F.R. §§ 200.400-476 and 2 C.F.R. §§ 910.352;
  - For State Energy Programs, refer to 10 C.F.R. §§ 420.
- ~~Cost share derived from the DOE loan program.~~
- 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);
- Expenditures that were reimbursed under a separate federal program.
- Cash or in-kind contributions used to meet cost share requirements for another federal project or program;
- Existing data as an in-kind contribution (e.g., data owned by an entity, that is not routinely sold commercially but is instead donated to the project and assigned a value);
- In general, deferred or avoided costs such as unrealized tax credits; or
- If applicable, other items as identified by DOE Programs and as specified in the applicable **NOFO Part 1, Eligibility—Cost Sharing.**

## 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 contractor's Management Fee or another non-federal source.

## 6. Cost Share Verification

Applicants are required to provide written assurance of their proposed cost share contributions in their applications. If selected for award negotiations, applicants are required to provide additional information and documentation regarding their cost share contributions. Please refer to the [NOFO Part 1, Eligibility—Cost Sharing](#) for specific requirements.

## 7. Cost Share Calculation Examples

Cost sharing is calculated as a percentage of the Total Project Cost. If applicable, FFRDC costs must be included in Total Project Costs.

### Example 1, Standard Cost Share Calculation

The following is an example of how to calculate cost sharing amounts for a project with \$1 million 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%

### Example 2, Blended Cost Share Calculation

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

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

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

Each task must be calculated individually as follows:

#### Task 1

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

#### Task 2

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

## Task 3

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

## Task 4

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

The calculation may then be completed as follows:

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

## Blended Cost Share %

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

## B. Other Eligibility Information

Refer to [NOFO Part 1, Eligibility—Eligible Applicants](#) for NOFO-specific eligibility information. The information below is standard for DOE NOFOs.

### 1. Questions Regarding Eligibility

DOE will not make eligibility determinations for potential applicants prior to the date on which applications to the NOFO Part 1 must be submitted. The decision to apply in response to the NOFO Part 1 lies solely with the applicant.

### 2. Entity of Concern Prohibition

#### Prohibition

No Entity of Concern as defined in [Section 10114 of Public Law 117-167 \(42 USC 18912\)](#), may receive any grant, contract, cooperative agreement, or loan of \$10 million or more in Department of Energy funds, including funds made available by the Consolidated Appropriations Act, 2024 ([Public Law 118-42](#)).

In addition, for all awards involving Departmental activities authorized under [Public Law 117-167](#), no Entity of Concern (including an individual that owns or controls, is owned or controlled by, or is under common ownership or control with an Entity of Concern) may receive DOE funds or perform work under any award, subject to certain penalties. See [Section 10114 of Public Law 117-167 \(42 USC 18912\)](#) and [Division D, Title III, Section 310 of Division D of the Consolidated Appropriations Act of 2024 \(Pub. L. No. 118-42\)](#) for additional information.

By submitting an application to this NOFO, the applicant is certifying that neither the applicant nor any of the project participants qualify as Entities of Concern.

#### Definitions

Entity of Concern is defined as in section 10114 of Public Law 117-167 (42 USC 18912), also known as the CHIPS and Science Act, as any entity, including a national, that is—

- (A) identified under section 1237(b) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (50 U.S.C. 1701 note; Public Law 105-261);
- (B) identified under section 1260H of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (10 U.S.C. 113 note; Public Law 116- 283);
- (C) on the Entity List maintained by the Bureau of Industry and Security of the Department of Commerce and set forth in Supplement No. 4 to part 744 of title 15, Code of Federal Regulations;
- (D) included in the list required by section 9(b)(3) of the Uyghur Human Rights Policy Act of 2020 (Public Law 116-145; 134 Stat. 656); or
- (E) identified by the Secretary, in coordination with the Director of the Office of Intelligence and Counterintelligence and the applicable office that would provide, or is providing, covered support, as posing an unmanageable threat—
  - (i) to the national security of the United States; or
  - (ii) of theft or loss of United States intellectual property.

### 3. Notice Regarding Eligible/Ineligible Activities

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

### 4. Artificial Intelligence (AI) Application Use

Applicants must indicate in the project summary the extent to which, if any, generative Artificial Intelligence (AI) technology was used and how it was used to develop their application or proposal. Note that all submissions to the Department are subject to information and disclosure statutes and regulations, including the Freedom of Information Act, Privacy Act, and 10 CFR § 1004.11. Applicants are responsible for the accuracy, authenticity, and authorship representations of their proposal submission under consideration for merit review, including content developed with the assistance of generative AI tools. The applicant is responsible for ensuring that they are fully capable of performing the work described in the application and that the submission of the application does not and will not infringe or violate any rights of any third party or entity.

Applicants should be aware that the use of generative AI may introduce significant risks, including, but not limited to, research misconduct resulting from fabrication, falsification, or plagiarism when proposing, performing, or reviewing research, or in reporting research results. Federal regulations governing procedures for handling of research misconduct allegations concerning research supported by DOE grants, cooperative agreements, and management and operations (M&O) contracts, are specified in 10 § CFR 733. Specific provisions governing research misconduct procedures for financial assistance recipients (under grants and cooperative agreements) are specified in 2 CFR § 910.132.

## III. Program Description

Refer to **NOFO Part 1, Program Description** for all information related to the specific NOFO goals, objectives, and topic areas, if any.

### A. Informational Webinar

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Refer to the **NOFO Part 1, Basic Information—Key Dates** to determine if DOE plans to conduct an informational webinar while the NOFO is open.

If applicable, DOE will conduct an informational webinar during the NOFO process. It will be held after the initial NOFO release but before the due date for concept papers or the application if concept papers are not required.

Attendance is not mandatory and will not positively or negatively impact the overall review of any applicant submissions. The webinar will be open to all potential applicants who wish to participate. Applicants should refrain from asking questions or communicating information that would reveal confidential and/or proprietary information specific to their project.

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## IV. Application Content and Form

This section contains supplemental information to help applicants understand the application content and form requirements outlined in the NOFO including detailed information on the content and naming conventions of the application content. Please refer to the [NOFO Part 1, Application Content and Form](#) section for the application contents and form specific to your application.

Note that some of the required application elements below have separate requirements for Research and Development (R&D) versus non-R&D NOFOs. Refer to the [NOFO Part 1, Application Content Requirements](#) section for specific instructions.

### A. Application Format Summary

All submissions must conform to the form and content requirements described below. Refer to the [NOFO Part 1, Application Content and Form](#) for the page limits.

Format Requirements	
Parameter	Requirement
File Format	Portable Document Format (PDF) unless stated otherwise
Language	English
Paper Size	8.5" x 11"
Margins	Not less than 1" ( $\geq 1"$ ) on every side
Font	Calibri typeface, a black font color, and a font size of 12-point or larger (except in figures or tables, which may be 10-point font). A symbol font may be used to insert Greek letters or special characters, but the font size requirement still applies.
References	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.
Control Number	A control number (i.e., a unique application identifier) will be issued when an applicant begins the eXCHANGE application process. The control number must be included with all application documents. Specifically, the control number must be prominently displayed on the upper right corner of the header of every page and included in the file name (i.e., <i>Control Number_Applicant Name_Application</i> ).
Page Numbers	Page numbers must be included in the footer of every page. Each submission must not exceed the specified maximum page limit, including cover page, charts, graphs, maps, and photographs when printed using the formatting requirements set forth above and single spaced.
Page Count Limitations	If applicants exceed the maximum page limitations, DOE will review only the authorized number of pages and disregard any additional pages.

The following information is intended to address eXCHANGE issues typically encountered during the application process. Refer to **NOFO Part 1, Submission Requirements and Deadlines—Application Package** for the eXCHANGE site location and support for technical assistance information.

Additional eXCHANGE Information	
<b>Deadlines for Submission</b>	eXCHANGE is designed to enforce the deadlines specified in this NOFO. The “Apply” and “Submit” buttons will automatically disable at the defined submission deadlines.
<b>Submission Difficulties</b>	Applicants who experience technical difficulties with submission PRIOR to the NOFO deadline should contact the eXCHANGE helpdesk for assistance using the information provided above.
<b>Application Forms</b>	To access application forms and instructions available on eXCHANGE, select the appropriate funding opportunity number on the Funding Opportunity page.
<b>Size Limitations</b>	<p>The maximum file size that can be uploaded to the eXCHANGE website is 50MB. Files larger than 50MB cannot be uploaded and hence cannot be submitted for review. If a file is larger than 50MB but is still within the maximum page limit specified in the NOFO, it must be broken into parts and denoted to that effect. For example: "TechnicalVolume_Part_1", "TechnicalVolume_Part_2".</p> <p>DOE will not accept late submissions that resulted from technical difficulties due to uploading files that exceed 50MB.</p>

## B. Application Content Requirements

The **NOFO Part 1, Application Content Requirements** identifies which of the following application documents are required including the program-specific requirements, such as the technical volume and specified page limits. Each application must be limited to a single concept and must not exceed the stated page limits. DOE reserves the right to not proceed with merit reviews for incomplete applications.

### 1. Application for Federal Assistance (SF-424)

Applicants must complete the SF-424: Application for Federal Assistance, which is available in eXCHANGE. A list of associated certifications and assurances can be found on: [Financial Assistance Forms and Information For Applicants and Recipients | Department of Energy](#). Complete all required fields in accordance with the instructions on the form. The System for Award Management (SAM) is the central repository for common government-wide certifications and representations required of Federal grants recipients. As registration in SAM is required for eligibility for a federal award and registration must be updated annually, Federal agencies use SAM information to comply with award requirements and avoid increased burden and costs of separate requests for such information, unless the recipient fails to meet a federal award requirement, or there is a need to make updates to their SAM registration for other purposes.

Please ensure that the dates (Block 17) and dollar amounts (Block 18) on the SF-424 are for the complete project period and not just the first project year, first phase, or another subset of the project period.

## 2. Letters of Commitment

Submit letters of commitment from all subrecipients and third-party cost share providers. In addition, submit letters of commitment from all third-party cost share providers. If applicable, the letter must state that the third party is committed to providing a specific minimum dollar amount or value of in-kind contributions allocated to cost sharing. Letters of support or endorsement for the project from entities that do not have a substantive role in the project will not be accepted. The following information for each third party contributing to cost sharing should be identified:

Letters of Commitment Content	
<b>Organization Name</b>	Phone, email, and address
<b>Proposed Dollar Amount to be Provided</b>	Value of the contribution
<b>Cost Sharing Type</b>	Cash or In-Kind contribution (or both)

Each letter must not exceed one page, and must be signed by an authorized representative of the third-party entity.

## 3. Impacted Indian Tribes Documentation

For any application that potentially impacts Indian Tribes or is on Tribal land<sup>1</sup> including when the potentially impacted Indian Tribe is the applicant, applicants are required to submit additional documentation at the time of application, and possibly during negotiation and prior to award. For any project that potentially impacts Indian Tribes, applicants are required to submit documentation demonstrating that an authorized representative of each potentially impacted Indian Tribe is, at a minimum, aware of the nature of the application and its potential impacts to the relevant Indian Tribes. The notified authorized representative<sup>2</sup> must be holding their position while the award is open for applications, and documentation must demonstrate affirmative awareness of the application (e.g. a delivery record from certified mail, a reply by the authorized representative).

For any project intended to be sited on Tribal land(s) or intersecting with Tribal subsurface rights, applicants are required to submit documentation demonstrating support from the relevant Indian Tribes at the time of application.

Helpful Resources	
Item	Criteria
Letter of Support from Tribal Leadership	The letter must be signed by an authorized representative of the Indian Tribe. The signer(s) must be holding their position while the NOFO is open for applications or when subsequently submitted.

<sup>1</sup> Tribal land is as defined in 25 U.S.C. §§ 3501(2), (3), (4)(A) and (13).

<sup>2</sup> An authorized representative must be an elected official or designated leader according to the traditions, constitution, or charter of the Indian Tribe, or someone with relevant delegated authority within the Tribal government. Examples include: Chief, Chairman, Chairwoman, Governor, Nation Representative, President, Chief Executive Officer, Chief Financial Officer, Speaker of the Council, Speaker of the Congress, Tribal administrator.

Tribal Council Resolution, Board resolution (including the Board of Directors of an Alaska Native Corporation (ANC)), or similar act passed by the legislative body of the Tribal government or Board of Directors of an ANC	Must express support for the project.
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For projects not intended to be sited on Tribal land(s) or intersecting with Tribal subsurface rights, but that may have other potential impacts on Tribal resources or reserved rights, letters of support or resolutions of support are strongly encouraged and, depending on the nature of the impact, may be required if selected for negotiation of an agreement. Applicants are encouraged to reach out to Indian Tribes as early as possible in the application process to give Indian Tribes ample time to evaluate and respond.

The following resources may be useful to help determine if a project may impact Indian Tribe(s) resources or reserved rights and the appropriate contacts. These resources are not exhaustive, and many Indian Tribes have resources or reserved rights which extend beyond their Tribal lands, or are covered within treaties, statutes, or case-law. Applicants are encouraged to do additional research:

Helpful Resources	
Item	Location
Map of Indian Lands	<a href="#">BIA Tract Viewer</a>
Tribal Treaties Database	<a href="https://treaties.okstate.edu/">https://treaties.okstate.edu/</a>
Directory of federally recognized Tribes and Tribal leaders	<a href="https://www.bia.gov/service/tribal-leaders-directory">https://www.bia.gov/service/tribal-leaders-directory</a>
Best Practices for Identifying and Protecting Tribal Treaty Rights, Reserved Rights, and other similar rights in federal regulatory actions	<a href="#">BEST PRACTICES FOR IDENTIFYING AND PROTECTING TRIBAL TREATY RIGHTS, RESERVED RIGHTS, AND OTHER SIMILAR RIGHTS IN FEDERAL REGULATORY ACTIONS AND FEDERAL DECISION-MAKING</a>

To help determine if an Indian Tribe's resources or reserved rights may be impacted by the project, applicants must address the elements listed in the table below, as applicable to the application. If the applicant is an Indian Tribe, these elements should be addressed to ascertain impacts to Indian Tribes other than the applicant. Applicants do not need to reveal specific details about sacred sites such as specific location or specific ceremonies:

Indian Tribe Resource or Reserved Rights Impact Assessment		
Type of Action	Assessment	Mitigation
If Research and Development (R&D)	Identify any [specific resources] which will be [quantified modeled] on or near Tribal land, traditional homelands, Tribal historic sites, sacred sites, or in areas where an Indian Tribe maintains rights to [specific resources]. Identify which Indian Tribe(s) may be impacted? Explain any instances of uncertainty or confidentiality."	

<b>If Demonstration and Deployment (D&amp;D)</b>	Identify any elements of the project that will occur on or near Indian land, Tribal historic sites, or sacred sites and describe its potential impacts to Indian Tribes. Identify the potentially impacted Indian Tribe(s).	Explain any actions taken by the applicant to mitigate or address any potential impacts identified, including engaging with the potentially impacted Indian Tribe(s), in the application.
<b>Subsurface Resource Activities (carbon sequestration, oil &amp; gas, geothermal, critical minerals, groundwater, etc.)</b>	Identify any Tribal mineral rights, subsurface, or water rights at or near the proposed project location. Explain any relevant studies already performed, such as groundwater studies. Identify which Indian Tribe(s) might be impacted. Explain any instances of uncertainty and any potential for subsurface resource migration which has been considered.	
<b>If Hydropower, Offshore Wind, or other Water Related Projects</b>	Identify any Tribal resources or reserved rights (e.g., water, fishing, or other treaty rights) which could be impacted by the proposed project. Identify any Tribal historic sites, sacred sites, or relevant vistas, which could be impacted by the project. Identify the potentially impacted Indian Tribe(s) and explain any sources of uncertainty or confidentiality.	
<b>If Infrastructure (e.g., Transmission and Pipeline) Projects</b>	Identify any Indian Land (as defined in 25 U.S.C. § 3501), traditional homelands, or Tribal historic and sacred sites which will be crossed, or adjacent to the proposed infrastructure. Identify which Indian Tribe(s) might be impacted and explain any instances of uncertainty or confidentiality.	
<b>Other Actions Not Categorized Above</b>	Identify any [other] proposed actions which may impact an Indian Tribe(s) resources or reserved rights. Tribal resources and reserved rights include, and are not limited to, an Indian Reservation or Land (as defined in 25 U.S.C. § 3501) [or intersecting Tribal subsurface rights], historic homelands from which they were removed, cultural sites, sacred sites, water rights, mineral and other subsurface rights, fishing rights, and hunting rights. Identify the Tribe(s) potentially impacted and any sources of uncertainty or confidentiality.	

Applicants are required to document any efforts taken to identify any potential impacts to Indian Tribes, Indian lands, Alaska Native regional and village land, traditional homelands, Tribal rights, or Tribal historic sites, or sacred sites. This includes any correspondence with Indian Tribes. These documents should be available on request to DOE. An applicant's failure to submit documentation of an Indian Tribe's awareness, or a letter of support, when required as described above, may constitute grounds for determining an application ineligible, non-responsive to the NOFO, not subject to further review, and/or not otherwise subject to selection or award.

Any application that may potentially impact Indian Tribe(s) may be shared with the potentially impacted Indian Tribe(s). Applicants should include a Notice of Restriction on Disclosure and Use of Data identifying any business sensitive, trade secrets, proprietary, or otherwise confidential information.

Such information shall be used or disclosed only for evaluation of the application or to determine whether the proposed project affects an Indian Tribe(s). If an applicant determines an Indian Tribe(s) will be impacted, the applicant must provide information on the project location, potential impacts and how the applicant will engage with Indian Tribe(s), during the period of performance of the agreement, and, if necessary, after the end of the agreement. If the applicant proposes any activities that could impact Tribal resources or reserved rights, including but not limited to lands, cultural sites, sacred sites, water rights, mineral rights, fishing rights, and hunting rights, they must notify DOE as outlined below in the application submission requirements. DOE will determine if formal government-to-government consultation is needed, and DOE will conduct that consultation accordingly, in addition to any engagement by applicant.

## 4. Statement of Project Objectives (SOPO)

Refer to the [NOFO Part 1, Technical Volume](#) for specific requirements. If required, applicants must submit a SOPO. The SOPO template is available in eXCHANGE, which is provided for the administrative convenience of the applicant. Applicants are strongly encouraged to use the template to complete their SOPO. If the template is not used, the SOPO must address all of the elements described in NOFO Part 1, *Technical Volume*, and as outlined in the template.

## 5. Project Management Plan

Refer to the [NOFO Part 1, Technical Volume](#) for specific requirements. If required, applicants must submit a PMP. The PMP template is available in eXCHANGE, which is provided for the administrative convenience of the applicant. Applicants are strongly encouraged to use the template to complete their PMP. If the template is not used, the PMP must address all of the elements described in NOFO Part 1, *Technical Volume*, and as outlined in the template.

## 6. Budget Information-Non-Construction Programs (SF-424A)

If applicants elect to use the budget justification workbook in eXCHANGE, they do not need to submit a separate SF-424A. Applicants must provide a separate budget for each year of support requested and a cumulative budget for the total project period of performance. Use the SF-424A Excel, "Budget Information - Non-Construction Programs" form on the DOE Financial Assistance Forms Page at [Financial Assistance Forms and Information For Applicants and Recipients](#).

You may request funds under any of the Object Class Categories as long as the item and amount are necessary to perform the proposed work, meet all the criteria for allowability under the applicable federal cost principles, and are not prohibited by the standard [Funding Restrictions](#) described below or any program-specific restrictions in the [NOFO Part 1, Application Content and Form—Funding Restrictions](#).

## 7. Limitation on Indirect Costs

DOE has established a maximum dollar amount that it will reimburse for indirect costs and fringe benefits under its financial assistance awards. The maximum amount of funds to be paid or reimbursed under an award for indirect costs and fringe benefit costs will be calculated as a percentage of the Total Award Amount and the maximum dollar amount will be included in the award terms and conditions.

For for-profit organizations, this maximum dollar amount is calculated as fifteen percent (15%) of the Total Award Amount. For nonprofit organizations, this maximum dollar amount is calculated as 15 percent (15%) of the Total Award Amount. For state and local governments, this maximum dollar amount is calculated as 10 percent (10%) of the Total Award Amount.

The Total Award Amount is the sum of total direct costs and indirect cost amounts and comprised of the Federal and, as applicable, the required non-Federal cost share. The maximum indirect and fringe benefits cost reimbursement amount (limitation) applies to all budget periods negotiated at the time of the award and will be adjusted should a modification change the Total Award Amount. The limitation applies to the total award across all budget periods. For multiyear awards, applicants must ensure the indirect costs for each year collectively do not exceed the limitation of the Total Award Amount.

Applicants and recipients must ensure that the sum of indirect costs and fringe benefits in the proposed budget do not exceed the maximum percentage allowed against the total award. For example, a 15% reimbursement limit against a Total Award Amount of \$100,000 means the total indirect costs and fringe benefits may not exceed \$15,000, leaving \$85,000 for direct costs. This limit applies regardless of an applicant's negotiated indirect cost rate agreement (NICRA), rate proposal, or the election of the de minimis rate (15% of modified total direct costs per 2 CFR 200.414(f)). If an applicant's NICRA or de minimis rate yields higher indirect cost amounts than the 15% limitation allows, the limited amount must be used.

Applicants should apply a consistent accounting methodology when allocating their indirect rates (e.g., NICRA, Rate Proposal, or de minimis rate per 2 CFR 200.414(f)), that the organization utilizes to develop the indirect rates, to the maximum extent possible without exceeding the reimbursement limit.

**Subrecipients:** The indirect cost reimbursement limit applies to the prime recipient and subrecipients, as applicable. Budgets for subawards must also comply with the limitation based on entity type (i.e., for-profit, nonprofit, or state and local government). The maximum amount of funds to be paid or reimbursed from the recipient to a subrecipient for its indirect costs and fringe benefits under a subaward will be calculated as a percentage (%) of the total subaward amount, inclusive of the Federal and applicable non-Federal cost share amount.

**Key Definitions per 2 CFR 200.1:**

**Direct Costs** are project costs which can be solely attributed to a specific project, award, or activity with a high degree of accuracy.

**Indirect Costs** are those costs incurred for a common or joint purpose benefiting two or more cost objectives (e.g., project, award, or activity) and not readily assignable to the cost objectives specifically benefited, without effort disproportionate to the results achieved.

**Calculating the amount of reimbursable indirect and fringe benefit costs:**

Developing and applying the indirect cost and fringe benefit reimbursement limit as a percentage of the Total Award Amount requires a flexible and iterative approach during budget planning.

To remain compliant, the budget must be structured so that indirect cost and fringe benefit reimbursement does not exceed the applicable percentage of the Total Award Amount (e.g., "indirect costs cannot exceed 10% or 15% of the total award, as applicable"). This may require multiple rounds of budget adjustments to align the proposed costs with the allowable limitations.

Additional guidance on calculating the allowable indirect cost reimbursement, including a list of frequently asked questions (FAQs) is available.

**Compliance:**

DOE will monitor indirect cost and fringe benefits expenditures throughout the award period to ensure compliance with the established limitation. Any costs that exceed this limitation will be considered unallowable and may result in repayment by the recipient or other corrective actions, as appropriate.

Applicants are responsible for maintaining accurate financial records and reporting indirect costs and fringe benefits in accordance with 2 CFR 200.

## 8. Budget Justification Workbook

Please refer to the Budget Justification Workbook template in eXCHANGE. Applicants are strongly encouraged to use the suggested template. If applicants choose not use the suggested template, a SF-424A Budget Information form (available on [grants.gov](https://grants.gov)) must also be submitted and include a breakdown of all costs by Budget Category as outlined in the SF-424A and the Budget Justification suggested template, that will include all work to be performed by the recipient and its subrecipients and contractors. The SF-424A budget justification form must be saved as PDF file using the following convention for the title, "Control Number\_LeadOrganization\_424A\_Budget".

In addition to project-specific costs, applicants should include costs associated with the following activities, as applicable:

- Oversight;
- Required annual audits and incurred cost proposals (such costs may be reimbursed as a direct or indirect cost);
- Implementing award-specific requirements such as Buy America requirements and Davis-Bacon Act requirements; and;
- Reporting.

The "Instructions and Summary" and "SF-424A" tabs included with the Budget Justification Workbook will auto-populate as the applicant enters information into the Workbook. Applicants must carefully read the "Instructions and Summary" tab provided within the Budget Justification Workbook.

## 9. Subrecipient Budget Justification

Applicants must provide a separate budget justification for each subrecipient that is expected to perform work estimated to be more than \$500,000 of the total proposed budget. The budget justification must include the same justification information described in the [Budget Justification Workbook](#) section above.

## 10. Work Proposal for DOE FFRDC

If a DOE FFRDC is to perform a portion of the work, the applicant must provide a DOE work proposal (WP) in accordance with the requirements in DOE Order 412.1A, Work Authorization System, available at: <https://www.directives.doe.gov/directives-documents/400-series/0412.1-BOrder-a-chg1-AdmChg>.

## 11. Authorization for Non-DOE or DOE FFRDCs (if applicable)

If an FFRDC is to perform a portion of the work, the federal agency sponsoring the FFRDC must authorize in writing the use of the FFRDC on the proposed project. This authorization must be submitted with the application. The use of a FFRDC must be consistent with the contractor's authority under its award.

## 12. Waiver for Foreign Entity Participation

All recipients receiving funding under the applicable NOFO Part 1 must be incorporated (or otherwise formed) under the laws of a state or territory of the United States and have a physical location for business operations in the United States. To request a waiver of this requirement, an applicant must submit an explicit waiver request in the application.

## Waiver Criteria

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

1. Its participation is in the best interest of the United States industry and United States economic development;
2. The project team has appropriate measures in place to control sensitive information and protect against unauthorized transfer of scientific and technical information;
3. Adequate protocols exist between the United States subsidiary and its foreign parent organization to comply with export control laws and any obligations to protect proprietary information from the foreign parent organization;
4. The work is conducted within the United States, and the entity acknowledges and demonstrates that it has the intent and ability to comply with the U.S. Competitiveness Provision (see [Post-Award Requirements--U.S. Manufacturing Commitments](#) below); and
5. The foreign entity will satisfy other conditions that DOE may deem necessary to protect U.S. government interests.

## Content for Waiver Request

A Foreign Entity waiver request must include all of the following:

1. Information about the entity(ies) involved in the proposed work to be conducted outside the United States (i.e., the entity seeking a waiver and the entity(ies) that will conduct the work): name, point of contact, and proposed type of involvement in the project;
2. Country of incorporation, the extent of the ownership/level control by foreign entities, whether the entity is state owned or controlled, a summary of the ownership breakdown of the foreign entity, and the percentage of ownership/control by foreign entities, foreign shareholders, foreign state, or foreign individuals;
3. The rationale for proposing a foreign entity participant (must address criteria above);
4. A description of the project's anticipated contributions to the United States economy;
  - a. How the project will benefit United States R&D and manufacturing, including contributions to employment in the United States and growth in new markets and jobs in the United States;
  - b. How the project will promote domestic American manufacturing of products and/or services;
5. A description of how the foreign entity's participation is essential to the project;
6. A description of the likelihood of IP being created from the work and the treatment of any such IP; and
7. Countries where the work will be performed. (Note: If any work is proposed to be conducted outside the United States, the applicant must also complete a separate request foreign work waiver.)

DOE may also require:

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

DOE may require additional information before considering the waiver request. DOE's decision concerning a waiver request is not appealable.

### 13. Performance of Work in the United States (Foreign Work Waiver)

Requirement: All work for the projects selected must be performed in the United States. To request a waiver of this requirement, the applicant must submit an explicit waiver request in the application. A separate waiver request must be submitted for each entity proposing performance of work outside of the United States.

Overall, a waiver request must demonstrate to the satisfaction of DOE that it would further the purposes of this NOFO and is otherwise in the economic interests of the United States to perform work outside of the United States. (see Due Diligence Review for Research Technology and Economic Security below). A request for a foreign work waiver must include the following:

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

DOE may require additional information before considering the waiver request. DOE's decision concerning a waiver request is not appealable.

### 14. Digital Persistent Identifier (PID)

For all Research and Development (R&D) NOFOs, individuals that are required to submit Biographical Sketch and/or Current and Pending (Other) Support disclosures must provide a digital persistent identifier (PID) in such disclosures as part of the application. Included PIDs must meet the common/core standards specified in the NSPM-33 Implementation Guidance or successor guidance (e.g., an [ORCID iD](#)). The PID is a digital identifier that is globally unique, persistent, machine resolvable and processable, and has an associated metadata schema. Consistent with NSPM-33, digital persistent identifiers for individuals are used to disambiguate and identify an individual person.

Include this information for each covered individual with the Current and Pending Support submission as described above and in the [NOFO Part 1, Application Content Requirements—Covered Individual Definition, Designation, and Responsibility](#) section.

### 15. Research Security Training Requirement

The research security training requirement described here is required for R&D applications. Covered individuals listed on applications under this NOFO are required to certify that they have taken research security training consistent with Section 10634 of the CHIPS and Science Act of 2022. In addition, an

applicant who receives an award must maintain sufficient records (records must be retained for the time period noted in [2 CFR 200.334](#) and made available to DOE upon request) of its compliance with this requirement for covered individuals at the applicant/recipient organization and it must extend this requirement to any and all subrecipients.

Include this information for each covered individual with the Current and Pending Support submission as described above and in the **NOFO Part 1, Application Content Requirements—Covered Individual Definition, Designation, and Responsibility**.

## 16. Transparency of Foreign Connections

Applicants must provide a Transparency of Foreign Connections disclosure and certification as it relates to the proposed recipient and subrecipient(s). Include a separate disclosure for the applicant and each proposed subrecipient.

**Disclosure Format:** For the convenience of the entity providing the disclosure and certification, a template is available at [Transparency of Foreign Connections](#), however, the entity is not required to use this specific format. If another format is used, the signatory must include the same substantive information, a signature, date, and the certification statement provided at [Transparency of Foreign Connections](#).

Disclosure exceptions by entity type:

- U.S. National Laboratories and domestic government entities are not required to respond to the Transparency of Foreign Connections disclosure.
- Institutions of higher education are only required to respond to items with an asterisk symbol (\*).
- The applicability of disclosure requirements is determined by the entity type. Regardless of whether the applicant is exempt, the subrecipient(s) must provide these disclosures unless the subrecipient is also exempt.

Applicants, regardless of entity type, must provide complete responses for project team members that are not U.S. National Laboratories, domestic government entities, or institutions of higher education.

**Questions:** Contact [rtesinfo@hq.doe.gov](mailto:rtesinfo@hq.doe.gov)

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

## 17. Potentially Duplicative Funding Notice

If the applicant or project team member has other active awards of federal funds, the applicant must determine whether the activities of those awards potentially overlap with the activities set forth in its application to this NOFO. If there is 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.

## 18. Locations of Work

If required in the **NOFO Part 1, Application Content and Form—Application Content Requirements**, the applicant must provide a list of locations where project work will be performed by the recipient or subrecipient(s), including the information identified in the Locations of Work (LOW) template for each location.

For your convenience, a Locations of Work template is available on eXCHANGE (please refer to the **NOFO Part 1, Application Content and Form—Application Content Requirements** table for the file format and name instructions). Applicants are strongly encouraged to use the template. If the template is not used, the submission must include all the elements described below, and as outlined in the template.

- Location Type (project work site or operations site)
- Is this a Principal Place of Performance?
- Prime or Subrecipient Location?
  - If Subrecipient, Subrecipient Name
- Facility Name (if applicable)
- Is location in a foreign country?
- Street Address, City, State, 5-Digit Zip Code - +4
- Briefly describe the primary activity at this location or with this population. For example, management headquarters; construction, operations, production; raw materials extraction, etc.
- Latitude/Longitude
- Percentage (%) of work performed at this location

## 19. Environmental Considerations Summary

Refer to the **NOFO Part 1, Application Content Requirements—Application Content Requirements** section to determine if the Environmental Considerations Summary is required. If required, the template will be included in eXCHANGE.

## 20. Environmental Impact Volume

Refer to the **NOFO Part 1, Application Content Requirements—Application Content Requirements** section to determine if the Environmental Impact Volume (EIV) is required. If required, the template will be included in eXCHANGE.

If required, the Environmental Impact Volume should describe the proposed action, its alternatives, and the existing environment.

## 21. Environmental Questionnaire

Refer to the **NOFO Part 1, Application Content and Form—Application Content Requirements** section to determine if the Environmental Questionnaire is required. If required, the template will be included in eXCHANGE.

If required, the Environmental Questionnaire must include the scope of work for the entire project. The Applicant is also responsible for submitting a separate Environmental Questionnaire for each proposed subrecipient performing work at a different location. If selected for award and if a subrecipient's location is not known at the time of application, a subsequent Environmental Questionnaire will be needed prior to any work being performed at an alternate location.

When the Environmental Questionnaire is required with the application, DOE's decision whether and how to distribute federal funds under this NOFO is subject to the National Environmental Policy Act (42 USC 4321, et seq.).

## 22. 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.

**A) All applicants and proposed subrecipients that have lobbying activities to disclose:**

Complete and submit the Disclosure of Lobbying Activities (SF-LLL) available at:

[https://apply07.grants.gov/apply/forms/sample/SFLLL\\_2\\_0-V2.0.pdf](https://apply07.grants.gov/apply/forms/sample/SFLLL_2_0-V2.0.pdf) 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.

**B) Recipients and subrecipients that have no lobbying activities to disclose:**

Complete and submit, Certification Regarding Lobbying form (OMB 4040-0013) available at:

[https://apply07.grants.gov/apply/forms/sample/GG\\_LobbyingForm-V1.1.pdf](https://apply07.grants.gov/apply/forms/sample/GG_LobbyingForm-V1.1.pdf)

## 23. Summary for Public Release

Applicants must submit a one-page summary of their project that is suitable for dissemination to the public.

Summary of Public Release Content	
<b>Applicant Name</b>	Provide the legal name of the applicant.
<b>Major Participant Names</b>	List all significant project participants and their roles.
<b>Lead Project Manager / Principal Investigator(s)</b>	Provide names and titles.
<b>Project Title</b>	Provide the title for the planned project.
<b>Project Location(s)</b>	Provide the locations(s) of work for the proposed project.
<b>Project Objectives</b>	Identify the overarching project objectives aligned with requirements set forth in the NOFO.
<b>Project Description</b>	The description must include methods to be employed, the potential impact of the project (e.g., benefits, outcomes), and the project's goals.
<b>Publicly Releasable (Unlimited Rights)</b>	This document must not include any proprietary or business-sensitive information, as DOE may make it available to the public after selections are made.

Page Limit Clarification	The summary must not exceed the stated page limit when printed, using standard 8.5" x 11" paper with 1" margins (top, bottom, left, and right) with font not smaller than 12-point.
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## 24. Summary Slide

Applicants must provide a single slide summarizing the proposed project. The Summary Slide requirements and instructions are reflected in the **NOFO Part 1, Application Content and Form—Application Content Requirements**.

Typically, the Summary Slide includes information such as:

Summary Slide Content	
Project Title	Provide the title for the planned project.
Applicant	Provide the legal name of the applicant.
Project Location(s)	Provide the locations(s) of work for the proposed project.
PI/LPM and Key Personnel Information	Provide names and titles.
Requested DOE Funds	Identify federal funds requested for the project.
Proposed Cost Share	Provide the amount of cost share contribution.
Technology Summary	Describe the technology to be developed.
Technology Impact	Describe the impact of the proposed technology if the project is successful.
Project Goals	Identify the overarching project goals.
Key Graphics	Illustrations, charts and/or tables
Key Idea / Takeaway	Describe the key takeaway that you would like to provide to the DOE.

## C. Additional Requirements

### 1. Content and Form of Replies to Reviewer Comments

Refer to **NOFO Part 1, Application Content and Form—Summary** to determine if the reply to reviewer comments submission phase applies. If so, the following information applies:

DOE will provide applicants with reviewer comments following the evaluation of all eligible applications. Applicants will have a brief opportunity to prepare a short Reply to Reviewer Comments (Reply). The Reply must not exceed three pages. If a Reply is more than three pages in length, DOE will review only the first three pages and disregard additional pages. Applicants may use the Reply to respond to one or more comments or to supplement their application. The Reply may include text, graphs, charts, or data.

DOE will post the reviewer comments in eXCHANGE. The expected submission deadline is on the cover page of the NOFO Part 1; however, it is the applicant's responsibility to monitor eXCHANGE if the expected date changes. The deadline will not be extended for applicants who are unable to timely submit their Reply due to failure to check eXCHANGE or relying on the expected date alone. Applicants should anticipate having approximately three (3) business days to prepare and submit a Reply.

Applicants are not required to submit a Reply to Reviewer Comments. DOE will review and consider each eligible application, even if no Reply is submitted or if the Reply is found to be ineligible.

## D. Funding Restrictions

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### 1. Allowable Costs

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

### 2. Pre-Award Costs

Applicants selected for award negotiations (selectees) must request prior written approval to charge pre-award costs. Pre-award costs are those incurred prior to the effective date of the federal award directly pursuant to the negotiation and in anticipation of the federal award where such costs are necessary for efficient and timely performance of the scope of work.

Such costs are allowable only to the extent that they would have been allowable if incurred after the date of the federal award and only with the written approval of the federal awarding agency, through the DOE Grants Officer.

Pre-award costs cannot be incurred prior to the Selection Official signing the Selection Statement and Analysis.

Pre-award expenditures are made at the selectee's risk. DOE is not obligated to reimburse costs: (1) in the absence of appropriations; (2) if an award is not made; or (3) if an award is made for a lesser amount than the selectee anticipated.

#### National Environmental Policy Act (NEPA) Requirements Related to Pre-Award Costs

DOE's decision whether and how to distribute federal funds under this NOFO is subject to NEPA. Applicants should carefully consider and should seek legal counsel or other expert advice before taking any action related to the proposed project that would have an adverse effect on the environment or limit the choice of reasonable alternatives prior to DOE completing the NEPA review process.

DOE does not guarantee or assume any obligation to reimburse pre-award costs incurred prior to receiving written authorization from the Grants Officer. If the applicant elects to undertake activities that DOE determines may have an adverse effect on the environment or limit the choice of reasonable alternatives prior to receiving such written authorization from the Grants Officer, the applicant is doing so at risk of not receiving federal funding for its project and such costs may not be recognized as allowable cost share. Nothing contained in the pre-award cost reimbursement regulations or any pre-award costs approval letter from the Grants Officer overrides the requirement to obtain the written authorization from the Grants Officer prior to taking any action that may have an adverse effect on the environment or limit the choice of reasonable alternatives.

Likewise, if an application is selected for negotiation of award, and the recipient elects to undertake activities that are not authorized for federal funding by the Grants Officer in advance of DOE completing a NEPA review, the recipient is doing so at risk of not receiving federal funding and such costs may not be recognized as allowable cost share.

### 3. Performance of Work in the United States (Foreign Work Waiver) Requirement

#### Requirement

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

#### 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, contractors or other project partners.

#### Foreign Work Waiver

To seek a foreign work waiver, the applicant must submit a written waiver request to DOE. Refer to [Performance of Work in the United States \(Foreign Work Waiver\)](#) which lists the information that must be included in a request for a foreign work waiver.

### 4. Foreign Travel

Please refer to [NOFO Part 1, Application Content and Form—Funding Restrictions](#) to see if foreign travel is allowable under this NOFO.

If allowable per NOFO Part 1 and if international travel is proposed for your project, **foreign travel costs are allowable only with the prior written approval of the Grants Officer**. If your proposal is selected for negotiations, please inform the DOE project team of any planned international travel that may occur during the course of the project.

In addition to the GO approval above, a foreign work waiver is also required in the following circumstances:

- For travel to any country, submit a foreign work waiver for foreign travel conducted in connection with the scope of the project where the purpose of the travel is a not a conference, scholarly workshop, or symposium.
- If the purpose of the travel is a conference, scholarly workshop, or symposium, the applicant is only required to submit a foreign work waiver if the travel is to a [foreign country of concern](#) (People's Republic of China, the Democratic People's Republic of Korea, the Russian Federation, the Islamic Republic of Iran, or any other country determined to be a country of concern by the Secretary of State per sec. 10638(2) of P.L. 117-167, and including countries of risk designated by the Department of Energy).
- See [Performance of Work in the United States \(Foreign Work Waiver\)](#) above for details.

All planned international travel must be essential to the successful completion of a task outlined in your proposal.

All international travel must comply with the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. § 40118), commonly referred to as the "Fly America Act," and implementing regulations at 41 CFR 301-10.131 through 301-10.143. The law and regulations require air transport of people or property to, from, between, or within a country other than the United States, the cost of which is supported under this award, to be performed by or under a cost-sharing arrangement with a United States flag carrier, if service is available.

## 5. Equipment and Supplies

All equipment and products purchased with funds made available under this NOFO should be American-made, to the greatest extent practicable. This requirement does not apply to used or leased equipment. This requirement does not supersede any other statutory requirement in the NOFO (e.g., [Buy America Requirements for Infrastructure Projects](#)).

## 6. Davis-Bacon Act Requirements

Refer to [NOFO Part 1, Application Content and Form—Funding Restrictions](#) to determine if the Davis-Bacon Act requirements are applicable (if “Davis-Bacon Act Requirements” is not listed in the [Applicable Funding Restrictions](#) table, it is not required).

For projects awarded under NOFOs that will be funded under Division D of the Infrastructure Investment and Jobs Act (IIJA), per Section 41101 of that law, all laborers and mechanics employed by the recipient, subrecipients, contractors, or subcontractors in the performance of construction, alteration, or repair work funded in whole or in part under the applicable NOFO Part 1 shall be paid wages at rates not less than those prevailing on similar projects in the locality, as determined by the Secretary of Labor in accordance with Subchapter IV of Chapter 31 of Title 40, United States Code commonly referred to as the Davis-Bacon Act (DBA).

Applicants shall provide written assurance acknowledging the DBA requirements above, confirming that the laborers and mechanics performing construction, alteration, or repair work on projects funded in whole or in part by awards made as a result of this NOFO are paid or will be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by Subchapter IV of Chapter 31 of Title 40, United States Code (Davis-Bacon Act).

Applicants acknowledge that they will comply with all the Davis-Bacon Act requirements, including but not limited to:

- Ensuring that the wage determination(s) and appropriate Davis-Bacon clauses and requirements are flowed down to and incorporated into any applicable subrecipient or contract awards;
- Ensuring that if wage determination(s) and appropriate Davis-Bacon clauses and requirements are improperly omitted from subrecipient or contract awards, the applicable wage determination(s) and clauses are retroactively incorporated to the start of performance;
- Being responsible for compliance by any subrecipient or contractor with the Davis-Bacon labor standards;
- Receiving and reviewing certified weekly payrolls submitted by all subrecipients or contractors for accuracy and to identify potential compliance issues;
- Maintaining original certified weekly payrolls for three years after the completion of the project and making those payrolls available to DOE or the U.S. Department of Labor (DOL) upon request, as required by 29 CFR 5.6(a)(2);
- Conducting payroll and job-site reviews for construction work, including interviews with employees, with such frequency as may be necessary to assure compliance by its subrecipients or contractors and as requested or directed by DOE;
- Cooperating with any authorized representative of DOL in its inspection of records, interviews with employees, and other actions undertaken as part of a DOL investigation;
- Posting in a prominent and accessible place the wage determination(s) and DOL Publication: WH-1321, Notice to Employees Working on Federal or Federally Assisted Construction Projects;
- Notifying the Grants Officer of all labor standards issues, including all complaints regarding incorrect payment of prevailing wages and/or fringe benefits, received from recipient, subrecipient, contractor, or subcontractor employees; significant labor standards violations, as defined in 29 CFR 5.7; disputes concerning labor standards pursuant to 29 CFR Parts 4, 6, and 8

and as defined in FAR 52.222-14; disputed labor standards determinations; DOL investigations; or legal or judicial proceedings related to the labor standards under this award, subrecipient award, contract or subcontract; and

- Preparing and submitting to the Grants Officer, the Office of Management and Budget Control Number 1910-5165, Davis Bacon Semi-Annual Labor Compliance Report, by April 21 and October 21 of each year.

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

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

Recipients must ensure the timely submission of weekly certified payrolls as part of its compliance with the Davis-Bacon Act.

DOE has contracted with [LCPtracker](#), a third-party DBA electronic payroll compliance software application, and recipients use of LCPtracker is mandatory absent a waiver approved by DOE. A waiver for the use of LCPtracker may be granted to a particular recipient if they are unable or limited in their ability to use or access the system. LCPtracker allows for certified payroll reports and workforce data to be uploaded electronically, 24 hours a day, 7 days per week and currently partners with several commercially available payroll systems. If a recipient uses a different payroll system, LCPtracker provides a free, spreadsheet template they can use to map out their payroll file, which would allow them to upload their employee and payroll data into the system. The LCPtracker validation system checks payrolls for federal Davis-Bacon prevailing wage requirements by flagging mathematical errors or omission discrepancies for the recipient to review on a report. Examples include base hourly rate, total hourly rate, overtime, doubletime, apprentice approval, and fringe benefit contributions.

Additionally, LCPtracker utilizes industry standard eSignature technology, thus allowing recipients to electronically sign payroll reports versus using a wet signature. Individual program offices will coordinate with recipients on access and training.

For more information, visit [Davis-Bacon Act Requirements for Recipients of Infrastructure Investment and Jobs Act Funding](#).

## V. Submission Requirements and Deadlines

Please refer to the [NOFO Part 1, Application Content and Form—Application Content Requirements](#) for all submission requirements and instructions including the content and form for each submission and deadlines.

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# VI. Application Review Information

Please refer to the **NOFO Part 1, Application Review Information—Review Criteria** for specific compliance and technical criteria. The following describes the DOE evaluation and selection process that is applicable to all NOFOs.

## A. Standard Evaluation and Selection Processes

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### 1. Overview

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

### 2. Pre-Selection Interviews

As part of the evaluation and selection process, DOE may invite one or more applicants to participate in pre-selection interviews. Pre-selection interviews are distinct from and more formal than pre-selection clarifications described below. The invited applicant(s) will meet with DOE representatives to provide clarification on the content of the applications and to provide DOE an opportunity to ask questions regarding the proposed project. The information provided by applicants to DOE through pre-selection interviews contributes to DOE's selection decisions.

DOE will arrange to meet with the invited applicants in person at DOE's offices or a mutually agreed upon location. DOE may also arrange site visits at certain applicants' facilities. In the alternative, DOE may invite certain applicants to participate in a one-on-one conference with DOE via webinar, videoconference, or conference call.

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

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

### 3. Pre-Selection Clarification

DOE may determine that pre-selection clarifications are necessary from one or more applicants. Pre-selection clarifications are distinct from and less formal than pre-selection interviews described above. These pre-selection clarifications will solely be for the purposes of clarifying the application. The pre-selection clarifications may occur before, during or after the merit review evaluation process. Information provided by an applicant that is not necessary to address the pre-selection clarification question will not be reviewed or considered. Typically, a pre-selection clarification will be carried out through either written responses to DOE's written clarification questions or video or conference calls with DOE representatives.

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

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

#### 4. Recipient Responsibility and Qualifications

Prior to making a federal award with a total amount of federal share greater than the simplified acquisition threshold, DOE is required to review and consider any responsibility and qualification information about the applicant that is in the entity information domain in [SAM.gov](http://SAM.gov) (see 41 U.S.C. § 2313).

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

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

#### 5. Due Diligence Review for Research, Technology and Economic Security

All applications submitted to DOE are subject to a due diligence review.

As DOE invests in critical infrastructure and funds critical and emerging technology areas,<sup>3</sup> DOE considers possible threats to United States research, technology, and economic security from undue foreign government influence when evaluating risk. If high risks are identified and cannot be sufficiently mitigated, DOE may elect to not fund the applicant. As part of the research, technology, and economic security risk review, DOE may contact the applicant and/or proposed project team members for additional information to inform the review. This risk review is conducted separately from the technical merit review.

The due diligence review of covered individuals includes but is not limited to the review of resumes and disclosures, as required in the NOFO. DOE reserves the right to ask for disclosures on project participants not defined as covered individuals. The Applicant need not submit any additional information on non-covered individuals, unless requested by DOE. The volume and type of information collected may depend on various factors associated with the award.

All project participants, including covered individuals participating in the project, are subject to Research Technology and Economic Security (RTES) due diligence reviews. The due diligence review of covered individuals includes, but is not limited to, the review of resumes/biosketches, disclosures, and certifications, as required in the NOFO. DOE reserves the right to require resumes/biosketches,

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<sup>3</sup> See [Critical and Emerging Technologies List Update \(whitehouse.gov\)](http://whitehouse.gov).

disclosures, and certifications for project participants not defined as covered individuals. The applicant need not submit any additional information on non-covered individuals, unless requested by DOE. The volume and type of information collected may depend on various factors associated with the award.

Note this review is separate and distinct from DOE Order 142.3B “Unclassified Foreign National Access Program”.

In the event an RTES risk is identified, DOE may require risk mitigation measures, including but not limited to, requiring that an individual or entity not participate in the award. If significant risks are identified and cannot be sufficiently mitigated, DOE may elect to not fund the applicant.

Consistent with section 4(e) of the Presidential Memorandum on United States Government-Supported Research and Development National Security Policy-33 (NSPM-33), DOE may share information regarding the risks identified as part of the RTES due diligence review process or monitoring with other Federal agencies.

DOE's decision regarding a due diligence review is not appealable.

## **6. Evaluation and Administration by Non-Federal Personnel**

In conducting evaluation of applications and subsequent awards, the government may seek the advice of qualified non-federal personnel as reviewers. The government may also use non-federal personnel to conduct routine, nondiscretionary administrative activities, including DOE contractors. The applicant, by submitting its application, consents to the use of non-federal reviewers/administrators. Non-federal reviewers must sign conflict of interest (COI) and non-disclosure acknowledgements (NDA) prior to reviewing an application. Non-federal personnel conducting administrative activities must sign an NDA.

## **7. Selection**

The Selection Official may consider the technical merit, the merit reviewer's recommendations, program policy factors, risk reviews, and the amount of funds available in arriving at selections for this NOFO.

## VII. Selection and Award Notices

DOE anticipates notifying applicants selected for negotiation of award and negotiating awards by the dates provided on the **NOFO Part 1, Basic Information—Key Dates**.

### A. Selection Notices

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#### 1. Ineligible Submissions

Ineligible concept papers, if required, and applications will not be further reviewed or considered for award. The Grants Officer will send a notification letter by email to the technical and administrative points of contact designated by the applicant in eXCHANGE. The notification letter will state the basis upon which the concept paper or the application is ineligible and not considered for further review.

#### 2. Concept Paper Notifications

Please refer to the **NOFO Part 1, Application Content and Form** section to determine if Concept Papers are required.

If Concept Papers are required, DOE will notify applicants of its determination to encourage or discourage the submission of an application. DOE will post these notifications to eXCHANGE. DOE may include general comments provided from reviewers on an applicant's concept paper in the encourage/discourage notifications.

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

A notification encouraging the submission of an application does not authorize the applicant to commence performance of the project.

#### 3. Application Notifications

DOE will notify applicants of its determination via a notification letter by email to the technical and administrative points of contact designated by the applicant in eXCHANGE. The notification letter will inform the applicant whether its application was selected for award negotiations. Alternatively, DOE may notify one or more applicants that a final selection determination on particular applications will be made at a later date, subject to the availability of funds or other factors.

#### 4. Applicants Selected for Award Negotiations

DOE may stagger its selection determinations. As a result, some applicants may receive their notification letter in advance of other applicants. Successful applicants will receive written notification that they have been selected for award negotiations including estimated award negotiation dates. Receipt of a notification letter selecting an application for award negotiations does not authorize the applicant to commence performance of the project. If an application is selected for award negotiations, it is not a commitment by DOE to issue an award nor is it a guarantee of federal government funding.

Applicants do not receive an award until award negotiations are complete and the Grants Officer executes the funding agreement, accessible by the recipient in FedConnect.

The award negotiation process can take a minimum of 60 days up to 180 days depending on the complexity of the project and responsiveness of the selectee among other factors. Applicants must designate a primary and a backup point-of-contact in eXCHANGE with whom DOE will communicate to conduct award negotiations.

The applicant must be responsive during award negotiations by providing requested documentation, including post-selection documentation, and meet the negotiation deadlines. If the applicant fails to do so or if award negotiations are otherwise unsuccessful, DOE will cancel the award negotiations and rescind the Selection. DOE reserves the right to terminate award negotiations at any time for any reason.

Please refer to the [Pre-Award Costs](#) section above for guidance on pre-award costs.

## 5. Alternate Selections

In some instances, an applicant may receive 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. Applicants Not Selected for Award Negotiations

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

## B. Post-Selection Information Requests

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To reduce burden in the application process, DOE has instituted Post-Selection Information Requests and Submissions procedures. These procedures allow certain elements of an application to be submitted later in the application process, either prior to merit review or after merit review when the application is under consideration for funding.

Applicants will be notified (primarily by e-mail) when Post-Selection Information is needed. This notification is not a Notice of Award, nor should it be construed to be an indicator of possible funding. Applicants should only submit this information when requested. The applicant will be notified on what documents and materials to submit, the format required and where and when to submit.

### 1. Example Information Requests

The following is a list of examples of information that may be required to complete award negotiations:

- Participants and Collaborating Organizations;
- Current and Pending Support;
- Other budget information;
- Indirect cost information;
- Letters of Commitment from subrecipients and third parties contributing to cost share, if applicable;

- Name and phone number of the Designated Responsible Employee for complying with national policies prohibiting discrimination (See 10 CFR 1040.5);
- Information for the DOE Office of Civil Rights to process assurance reviews under 10 CFR 1040;
- Environmental Questionnaire;
- Representation of Limited Rights Data and Restricted Software, if applicable;
- Cybersecurity Plan (specific to certain IIJA-funded projects)
- For construction projects: information related to Davis-Bacon Act requirements; Construction Workforce Continuity Plan; Operations Workforce Continuity Plan.

## 2. Entity Risk Assessment

Pursuant to 2 CFR 200.206, DOE may conduct an additional review of the risk posed by applications submitted under the applicable NOFO. This risk assessment may consider:

- Financial stability;
- Quality of management systems and ability to meet the management standards prescribed in 2 CFR Part 200 as adopted and supplemented by 2 CFR Part 910;
- History of performance;
- Audit reports and findings; and
- The applicant's ability to effectively implement statutory, regulatory, or other requirements imposed on recipients or subrecipients.

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 recipients or subrecipients 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.

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

DOE's decision whether and how to distribute federal funds under this NOFO is subject to NEPA (42 U.S.C. § 4321, *et seq.*). NEPA requires federal agencies to integrate environmental values into their decision-making processes by considering the potential environmental impacts of their proposed actions. For additional background on NEPA, please see DOE's NEPA website at <https://www.energy.gov/nepa>.

While NEPA compliance is a federal agency responsibility and the ultimate decisions remain with the federal agency, all applicants selected for award negotiations and recipients of 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 documents must be prepared to complete the NEPA review process, the recipient may be required to prepare the documents and the costs to prepare the necessary documents may be included as part of the project costs.

DOE will independently evaluate the environmental document and will take responsibility for the contents, including ensuring the professional integrity of the discussion and analysis, as required by NEPA.

#### **National Historic Preservation Act (NHPA)**

DOE must comply with the requirements of Section 106 of the National Historic Preservation Act (NHPA) prior to deciding whether or how to distribute federal funds. Section 106 requires DOE to identify and consider adverse effects to historic properties that are listed in or eligible for listing in the National Register of Historic Places. DOE may perform a NHPA review under the umbrella of its NEPA review and will require applicants to assist in this review and consider impacts to historic, Tribal, and cultural resources.

### **4. Trafficking in Persons**

Awards under this NOFO will be subject to the requirements at [2 CFR Part 175, Award Term for Trafficking in Persons](#), including the compliance plan and certification requirements applicable if the estimated value of services required to be performed under the grant or cooperative agreement outside the United States exceeds \$500,000.

### **5. Construction Workforce Continuity Plan**

Required for awards inclusive of any construction project with total construction costs greater than \$35M and where DOE is contributing 10 percent or more of the project amount, or as otherwise selected by DOE.

If selected for award negotiations, within 30 days of the notification of selection for award negotiations, the selectee must submit a Construction Workforce Continuity Plan. A [Workforce Continuity Plan template](#) is provided with the intent to reduce the administrative burden by promoting the use of common formats.

### **6. Operations Workforce Continuity Plan**

Required for awards inclusive of any project that will have more than 100 employees in operation, including contract workers who are not W2 employees, and where DOE is contributing 10 percent or more of the project amount, or as otherwise selected by DOE.

If selected for award negotiations, within 30 days of the notification of selection for award negotiations, the selectee must submit an Operations Workforce Continuity Plan. A [Workforce Continuity Plan template](#) is provided with the intent to reduce the administrative burden by promoting the use of common formats.

### **7. Interim Conflict of Interest Policy for Financial Assistance**

The DOE interim Conflict of Interest Policy for Financial Assistance (COI Policy)<sup>4</sup> is applicable to all recipients or subrecipients applying for, or that receive, DOE funding by means of a financial assistance award (e.g., a grant or cooperative agreement) and, through the implementation of this policy by the entity, to each Investigator who is planning to participate in, or is participating in, the project funded wholly or in part under the DOE financial assistance award. The term "Investigator" means the PI and

<sup>4</sup> DOE's interim COI Policy can be found at <https://www.energy.gov/management/department-energy-interim-conflict-interest-policy-requirements-financial-assistance>.

any other person, regardless of title or position, who is responsible for the purpose, design, conduct, or reporting of a project funded by DOE or proposed for funding by DOE. Recipients must flow down the requirements of the interim COI Policy to any subrecipient. Further, for DOE funded projects, the recipient must include all financial conflicts of interest (FCOI) (i.e., managed and unmanaged/unmanageable) in its initial and ongoing FCOI reports.

It is understood that recipients or subrecipients receiving DOE financial assistance awards will need sufficient time to come into full compliance with DOE's interim COI Policy. To provide some flexibility, DOE allows for a staggered implementation. Specifically, prior to award, applicants selected for award negotiations must: ensure all Investigators complete their significant financial disclosures; review the disclosures; determine whether a FCOI exists; develop and implement a management plan for FCOIs; and provide DOE with an initial FCOI report that includes all FCOIs (i.e., managed and unmanaged/unmanageable). Recipients will have 180 days from the date of the award to come into full compliance with the other requirements set forth in DOE's interim COI Policy. Prior to award, the applicant must certify that it is, or will be within 180 days of the award, compliant with all requirements in the COI Policy.

## 8. Participants and Collaborating Organizations

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

## 9. Current and Pending Support

If selected for award negotiations, the selected applicant must submit, if applicable, 1) current and pending support disclosure statements and resumes for any new covered individuals, and 2) updated disclosures if there are changes to the Current and Pending Support previously submitted to DOE. Also see the Current and Pending Support information in the [NOFO Part 1, Application Content and Form—Application Content Requirements](#).

## 10. Transparency of Foreign Connections

If selected for award negotiations, the selected applicants must provide updates, if applicable to a Transparency of Foreign Connections disclosure and certification as it relates to the proposed recipient and subrecipient(s). See [Transparency of Foreign Connections](#) information in the Application Contents Requirements section above.

## 11. Prohibition Related to Malign Foreign Talent Recruitment Programs

### Prohibition

Individuals participating in a Malign Foreign Talent Recruitment Program are prohibited from participating in this award.

Should an award result from this NOFO, the recipient must exercise ongoing due diligence to reasonably ensure that no such individuals participating on the DOE-funded project are participating in a *Malign Foreign Talent Recruitment Program*. Consequences for violations of this prohibition will be determined according to applicable law, regulations, and policy.

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

### **Required Certifications**

- a. Each covered individual must certify that they are not party to a Malign Foreign Talent Recruitment Program.
- b. The applicant and the subrecipients must certify that the covered individuals in their respective employment have been made aware of the Malign Foreign Talent Recruitment Program prohibition and have complied with their certification responsibilities identified in a.

### **Non-Discrimination**

DOE will ensure that the Malign Foreign Talent Recruitment Program Prohibition is carried out in a manner that does not target, stigmatize, or discriminate against individuals on the basis of race, ethnicity, or national origin, consistent with title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

### **Definitions**

#### **Malign Foreign Talent Recruitment Program. as defined in P.L. 117-167, Section 10638(4):**

- A. any program, position, or activity that includes compensation in the form of cash, in-kind compensation, including research funding, promised future compensation, complimentary foreign travel, things of non de minimis value, honorific titles, career advancement opportunities, or other types of remuneration or consideration directly provided by a foreign country at any level (national, provincial, or local) or their designee, or an entity based in, funded by, or affiliated with a foreign country, whether or not directly sponsored by the foreign country, to the targeted individual, whether directly or indirectly stated in the arrangement, contract, or other documentation at issue, in exchange for the individual—
  - i. engaging in the unauthorized transfer of intellectual property, materials, data products, or other nonpublic information owned by a United States entity or developed with a federal research and development award to the government of a foreign country or an entity based in, funded by, or affiliated with a foreign country regardless of whether that government or entity provided support for the development of the intellectual property, materials, or data products;
  - ii. being required to recruit trainees or researchers to enroll in such program, position, or activity;
  - iii. establishing a laboratory or company, accepting a faculty position, or undertaking any other employment or appointment in a foreign country or with an entity based in, funded by, or affiliated with a foreign country if such activities are in violation of the standard terms and conditions of a federal research and development award;
  - iv. being unable to terminate the foreign talent recruitment program contract or agreement except in extraordinary circumstances;

- v. through funding or effort related to the foreign talent recruitment program, being limited in the capacity to carry out a research and development award or required to engage in work that would result in substantial overlap or duplication with a federal research and development award;
- vi. being required to apply for and successfully receive funding from the sponsoring foreign government's funding agencies with the sponsoring foreign organization as the recipient;
- vii. being required to omit acknowledgment of the recipient institution with which the individual is affiliated, or the federal research agency sponsoring the research and development award, contrary to the institutional policies or standard terms and conditions of the federal research and development award;
- viii. being required to not disclose to the federal research agency or employing institution the participation of such individual in such program, position, or activity; or
- ix. having a conflict of interest or conflict of commitment contrary to the standard terms and conditions of the federal research and development award; and

B. a program that is sponsored by—

- i. a foreign country of concern or an entity based in a foreign country of concern, whether or not directly sponsored by the foreign country of concern;
- ii. an academic institution on the list developed under section 1286(c)(8) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (10 U.S.C. 2358 note; Public Law 115–232); or
- iii. a foreign talent recruitment program on the list developed under section 1286(c)(9) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (10 U.S.C. 2358 note; Public Law 115–232).

Consistent with applicable law (42 U.S.C. 19232), this provision does not prohibit, unless such activities are funded, organized, or managed by an academic institution or a foreign talent recruitment program on the lists developed under paragraphs (8) and (9) of section 1286(c) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (10 U.S.C. 4001 note; Public Law 115–232)—

- A. making scholarly presentations and publishing written materials regarding scientific information not otherwise controlled under current law;
- B. participation in international conferences or other international exchanges, research projects or programs that involve open and reciprocal exchange of scientific information, and which are aimed at advancing international scientific understanding and not otherwise controlled under current law;
- C. advising a foreign student enrolled at an institution of higher education or writing a recommendation for such a student, at such student's request; and
- D. other international activities determined appropriate by the federal research agency head or designee.

## 12. Foreign Collaboration Considerations

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

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

Description of collaborations that should be reported:

- In general, a collaboration will involve some provision of a thing of value to, or from, the recipient.
- A thing of value includes but may not be limited to all resources made available to, or from, the recipient in support of and/or related to the DOE award, regardless of whether they have monetary value.
- Things of value also may include in-kind contributions (such as office/laboratory space, data, equipment, supplies, employees, students).
- In-kind contributions not intended for direct use on the DOE award but resulting in provision of a thing of value from or to the DOE award must also be reported.

Collaborations do not include routine workshops, conferences, use of the recipient's services and facilities by foreign investigators resulting from its standard published process for evaluating requests for access, or the routine use of foreign facilities by awardee staff in accordance with the recipient's standard policies and procedures.

## 13. Data Management and Sharing Plan

A Data Management and Sharing Plan (DMSP) is required for all research and development (R&D) projects following DOE and DOE sponsoring office guidelines. Please refer to the **NOFO Part 1, Application Content and Form—Application Content Requirements** and the **NOFO Part 1, Applicable Post-Award Requirements and Administration** tables to determine if, and when, a DMSP is required.

Data Management and Sharing Plans (DMSPs) must be provided for R&D efforts following DOE and DOE sponsoring office guidelines. If needed, updates to the DMSP, through the course of the award, must be provided to DOE for review and approval. In general, a DMSP should address the requirements on the DOE Requirements and Guidance for Digital Research Data Management website:

<https://www.energy.gov/datamanagement/doe-requirements-and-guidance-digital-research-data-management>.

Note that the purpose of the DMSP is different from the IP provisions included in the award. The IP Provisions will govern rights provided to the Government regarding IP such as the Government-purpose license, march-in rights, and certain U.S. manufacturing requirements that may be implemented.

## C. Award Notices

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Upon successful completion of award negotiations, the DOE Grants Officer will approve the award, and the recipient will then receive notification of award and can access it in the FedConnect system. Selectees must be registered in FedConnect to receive the final award package after successful completion of award negotiations.

Registering with [FedConnect](#)® is fast, easy, and free. Only individuals who are designated as Points of Contact in SAM.gov can create a new company account.

- **What is it?** It's how recipients receive their legally executed award package.
- The SAM Unique Entity Identifier Number (UEI) must be obtained before this registration can be initiated.
- Review the FedConnect Ready, Set, Go! Guide at:  
[https://www.fedconnect.net/FedConnect/Marketing/Documents/FedConnect\\_Ready\\_Set\\_Go.pdf](https://www.fedconnect.net/FedConnect/Marketing/Documents/FedConnect_Ready_Set_Go.pdf)
- **Duration** to complete: can take two to three days.
- **Registration Link:** FedConnect website: <https://www.fedconnect.net/FedConnect/Default.htm>
- **HELP:** <https://www.fedconnect.net/FedConnect/TechSupport.aspx>

### Electronic Authorization of Applications and Award Documents

Submission of an application and supplemental information under the NOFO Part 1 through electronic systems used by the DOE, including eXCHANGE and FedConnect, constitutes the authorized representative's approval and electronic signature.

## VIII. Award Administration Information

### A. Post-Award Requirements and Administration

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DOE requires all award recipients to follow and accept requirements governed by laws and policies – both federal government-wide and DOE or program specific. These post-award requirements include: all National and Administrative Policy Requirements; financial assistance general Certifications and Representations; Build America, Buy America requirements; Davis-Bacon Act requirements; Risk-Based Review of Project Participants; Performance of Work in the United States; Infrastructure Investment and Jobs Act-Specific Requirements; Fraud, Waste and Abuse requirements; Safety, Security, and Regulatory requirements; and Environmental Review in Accordance with National Environmental Policy Act requirements.

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

Please review the [Standard Award Terms and Conditions](#), the [sample Federal Assistance Reporting Checklist](#), and sample [Intellectual Property Provisions](#) to better understand post-award requirements and administration.

## IX. Other Information

### A. Government Right to Reject or Negotiate

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

### B. Commitment of Public Funds

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

### C. Notice of Right to Conduct a Review of Financial Capability

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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).

### D. Requirement for Full and Complete Disclosure

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

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

### E. Retention of Submissions

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DOE expects to retain copies of all applications and other submissions. By applying to DOE for funding, applicants consent to DOE's retention of their submissions.

### F. Title to Subject Inventions

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A subject invention is any invention conceived or first actually reduced to practice in performance of work under an award. An invention is any invention or discovery which is or may be patentable. Ownership of subject inventions is governed pursuant to the authorities listed below:

- a. Domestic Small Businesses, Educational Institutions, and Nonprofits: Under the Bayh-Dole Act (35 U.S.C. § 200 et seq.), domestic small businesses, educational institutions, and nonprofits may elect to retain title to their subject inventions.

- b. Domestic Large Businesses: DOE has issued a class patent waiver that applies to this NOFO. Under this class waiver, domestic large businesses may elect title to their subject inventions similar to the right provided to the domestic small businesses, educational institutions, and nonprofits by law. To avail itself of the class waiver, a domestic large business must agree that any products embodying or produced through the use of a subject invention first conceived or first actually reduced to practice under this program will be substantially manufactured in the United States.
- c. All other parties: The Federal Non-Nuclear Energy Act of 1974, 42. U.S.C. § 5908, provides that the government obtains title to new inventions unless a patent waiver is granted. Applicants not covered by a Class Patent Waiver or the Bayh-Dole Act may request a patent waiver that will cover subject inventions that may be invented under the award, in advance of or within 30 days after the effective date of the award. Even if an advance waiver is not requested or the request is denied, the recipient will have a continuing right under the award to request a waiver for identified inventions, i.e., individual subject inventions that are disclosed to DOE within the timeframes set forth in the award's intellectual property terms and conditions. Any patent waiver that may be granted is subject to certain terms and conditions in 10 CFR 784.
- d. Determination of Exceptional Circumstances: On June 07, 2021, DOE approved a Determination of Exceptional Circumstances (DEC) under the Bayh-Dole Act to further promote domestic manufacture of DOE science and energy technologies. In accordance with this DEC, all awards, including subawards and contracts, for research, development or demonstration activities shall include the U.S. Competitiveness Provision in accordance with paragraph (P) U.S. Manufacturing Commitments listed below. A copy of the DEC can be found at <https://www.energy.gov/gc/determination-exceptional-circumstances-decs>. Pursuant to 37 CFR 401.4, any nonprofit organization or small business firm as defined by 35 U.S.C. § 201 affected by any DEC has the right to appeal it by providing written notice to DOE within 30 working days from the time it receives a copy of the determination.

## **G. Subject Invention Utilization Reporting**

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

## H. Government Rights in Subject Inventions

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

### Government Use License

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

### March-In Rights

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

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

- The owner or licensee has not taken or is not expected to take effective steps to achieve practical application of the invention within a reasonable time;
- The owner or licensee has not taken action to alleviate health or safety needs in a reasonably satisfied manner;
- The owner has not met public use requirements specified by federal statutes in a reasonably satisfied manner; or
- The United States manufacturing requirement has not been met.

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

## I. Copyright

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

## J. Personally Identifiable Information (PII)

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All information provided by the applicant must to the greatest extent possible exclude PII. “PII” refers to information that can be used to distinguish or trace an individual’s identity, such as their name, Social Security number, or biometric records, alone or combined with other personal or identifying

information linked or linkable to a specific individual, such as date and place of birth or mother's maiden name.

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

## K. Annual Independent Audits

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If a for-profit entity is a recipient and has expended \$1,000,000 or more of DOE awards during the entity's fiscal year, an annual compliance audit performed by an independent auditor is required. For additional information, please refer to 2 CFR 910.501 and Subpart F.

If an educational institution, nonprofit organization, or state/local government is a recipient or subrecipient and has expended \$1,000,000 or more of federal awards during the non-federal entity's fiscal year, a Single or Program-Specific Audit is required. For additional information, please refer to 2 CFR 200.501 and Subpart F.

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

## L. U.S. Manufacturing Commitments

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Refer to **NOFO Part 1, Award Administration Information—Post-Award Requirements** to determine if U.S. Manufacturing Commitments are applicable (if "U.S. Manufacturing Commitments" is not listed in the **Applicable Post-Award Requirements and Administration** table, it is not required). If applicable, the following applies:

A primary objective of DOE's multi-billion-dollar research, development, and demonstration investments is to cultivate new research and development ecosystems, manufacturing capabilities, and supply chains for and by United States industry and labor. Therefore, in exchange for receiving taxpayer dollars to support an applicant's project, the applicant/recipient and any subrecipient and contractor must agree to a U.S. Competitiveness provision requiring that any products embodying any subject invention or produced through the use of any subject invention will be manufactured substantially in the United States unless an impacted entity can show to the satisfaction of DOE that it is not commercially feasible. Award terms, including the specific U.S. Competitiveness Provision applicable to the various types of recipients and projects, are available at <https://www.energy.gov/gc/standard-intellectual-property-ip-provisions-financial-assistance-awards>.

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

plan. The statement or plan would contain specific and enforceable commitments that would be beneficial to the United States economy and competitiveness. Examples of such commitments could include manufacturing specific products in the United States, making a specific investment in a new or existing United States manufacturing facility, keeping certain activities based in the United States or supporting a certain number of jobs in the United States related to the technology. DOE may, in its sole discretion, determine that the proposed modification or waiver promotes commercialization and provides substantial United States economic benefits, and grant the request. If granted, DOE will modify the award terms and conditions for the requesting entity accordingly.

More information and guidance on the waiver and modification request process can be found in the DOE Financial Assistance Letter on this topic, available at <https://www.energy.gov/management/pf-2022-09-fal-2022-01-implementation-doe-determination-exceptional-circumstances-under>. Additional information on DOE's Commitment to Domestic Manufacturing for DOE-funded R&D is available at <https://www.energy.gov/gc/us-manufacturing>.

The U.S. Competitiveness Provision is implemented by DOE pursuant to a Determination of Exceptional Circumstances (DEC) under the Bayh-Dole Act and DOE Patent Waivers. Please refer to the [Title to Subject Inventions](#) section above for more information on the DEC and DOE Patent Waivers.

## M. Acronyms

Acronym	Spelled Out	Acronym	Spelled Out
AI	Artificial Intelligence	NEPA	National Environmental Policy Act
ANC	Alaska Native Corporation	NETL	National Energy Technology Laboratory
BABA	Build America, Buy America Act	NHPA	National Historic Preservation Act
CESER	Office of Cybersecurity, Energy Security, and Emergency Response	NOFO	Notice of Funding Opportunity
CFR	Code of Federal Regulations	NSF	National Science Foundation
COI	Conflict of Interest	NSPM	National Security Policy Memorandum
CRADA	Cooperative Research and Development Agreement	OFCCP	Office of Federal Contractor Compliance Programs
DBA	Davis-Bacon Act	OIG	Office of Inspector General
DEC	Determination of Exceptional Circumstances	OMB	Office of Management and Budget
DMSP	Data Management and Sharing Plan	OTA	Other Transactions Authority
DOE	United States Department of Energy	PII	Personally Identifiable Information
DOI	Digital Object Identifier	PID	Digital Persistent Identifier
DOL	United States Department of Labor	PDF	Portable Document Format
EO	Executive Order	PRL	Physical Review Letters
EIV	Environmental Impact Volume	R&D	Research and Development
FCOI	Financial Conflicts of Interest	RD&D	Research, Development, and Demonstration
FEMP	Federal Energy Management Program	RTES	Research, Technology, and Economic Security

<b>FFATA</b>	Federal Funding and Transparency Act of 2006	<b>SAM</b>	System for Award Management
<b>FFRDC</b>	Federally Funded Research and Development Center	<b>SCEP</b>	Office of State and Community Energy Programs
<b>GDO</b>	Grid Deployment Office	<b>SciENcv</b>	Science Experts Network Curriculum Vita
<b>IIJA</b>	Infrastructure Investment and Jobs Act	<b>SMART</b>	Specific, Measurable, Achievable, Relevant, and Timely
<b>IP</b>	Intellectual Property	<b>SOPO</b>	Statement of Project Objectives
<b>IRA</b>	Inflation Reduction Act	<b>SSN</b>	Social Security Number
<b>LOW</b>	Locations of Work	<b>STEM</b>	Science, Technology, Engineering, and Mathematics
<b>MESC</b>	Office of Manufacturing and Energy Supply Chains	<b>UCC</b>	Uniform Commercial Code
<b>M&amp;O</b>	Management and Operations	<b>UEI</b>	Unique Entity Identifier
<b>NDA</b>	Non-Disclosure Acknowledgement	<b>WP</b>	Work Proposal