



Clean Energy Infrastructure Community Benefits Plan FAQs

Community Benefits Plan FAQs

The Department of Energy (DOE) requires [Community Benefits Plans \(CBPs\)](#) for nearly all Bipartisan Infrastructure Law (BIL) and Inflation Reduction Act (IRA) funding opportunity announcements (FOAs) and loan applications.

FAQ Documents

This document is a [Guide to DOE Evaluation of Community Benefits Plan Costs](#).

General Questions

The following are frequently asked questions about developing CBPs:

How is scoring balanced across the four categories?

For demonstration and deployment projects, the four categories of the Community Benefits Plan are equally scored. For a proposal to be complete, all four sections must be submitted with clear plans and commitments for each section. The commitments will be evaluated and scored by expert merit reviewers. The only way to receive all Community Benefit Plan points is to have strong commitments in each of the four categories.

Who should prepare the CBP?

The CBP should be coordinated and drafted by the prime applicant, but the prime applicant should make an effort to collect input from all project partners so that the plan is inclusive of the team's approach and commitments. Developing the CBP should involve all project partners in a cohesive effort.

Is technical assistance available?

The Green Economy Program of the UC Berkeley Labor Center has been contracted by the Lawrence Berkeley National Laboratory through the Department of Energy's Office of Energy Jobs to provide no-cost technical assistance to stakeholders interested in developing and implementing the job quality and skilled workforce and labor engagement components of Community Benefit Plans for demonstration and deployment projects.

For more information, please visit: Technical Assistance: [DOE](#)
[Community Benefit Plans - UC Berkeley Labor Center](#).

The above refers to grants funded by BIL and IRA. When do Loan Programs Office applications require a CBP and who can assist?

The Loan Programs Office (LPO) requires Community Benefit Plans for [Title 17 Clean Energy Financing Programs and for CIFIA – Carbon Dioxide Transportation Infrastructure Program](#). LPO considers the quality of a Community Benefits Plan among the factors that indicate the prospect of loan repayment. The LPO Community, Jobs, and Justice team is able to work with applicants throughout the process to understand how the project is approaching community benefits, share resources, and answer related questions. The team supports applicants in strengthening and implementing Community Benefits Plans.

Engaging Communities and Labor

What are Workforce and Community Agreements?

The term “Workforce and Community Agreement” includes a range of formal agreements between a project developer/owner, impacted community groups, and relevant labor unions. Workforce and Community Agreements are tools used in project development

and/or execution to ensure that benefits promised to communities and workers are realized. This could be an agreement specifying a project's commitments to the community; a collective-bargaining agreement specifying wages, benefits, health and safety standards, workforce education and training, and other terms of employment with a labor union; or it could include both community and workforce provisions. This term as used here is inclusive of Community Benefits Agreements, Community Workforce Agreements, Good Neighbor Agreements, Project Labor Agreements, Collective-Bargaining Agreements, and other similar contractual tools.

It is important to recognize that the enforcement mechanism varies depending on the provisions of the agreement. Project Labor Agreements, which may also include Community Workforce Agreements, are covered under the National Labor Relations Act and fall under the oversight of the National Labor Relations Board. Community Benefits Agreements and Good Neighbor Agreements are legally binding agreements that are negotiated directly between community coalitions and project developers.

DOE's goal is to maximize success of BIL-funded projects, and therefore DOE encourages the expansive use of Workforce and Community Agreements because legal enforceability is a key tool for accountability. DOE will not be party to the Workforce and Community Agreements. However, DOE may incorporate a Workforce and Community Agreement into the award terms and pursue action if a recipient fails to comply with the terms of the Workforce and Community Agreement.

How should applicants engage community and labor stakeholders?

Project planning should include engagement with a wide range of local stakeholders such as labor unions, local governments,

community and technical colleges, Tribal governments, and community-based organizations that support or work with disadvantaged communities (DACs) or economically marginalized populations. Proactive engagement with these stakeholders can lead to stronger project plans, increased transparency, and the reduction or elimination of certain associated risks.

What are examples of Workforce and Community Agreements?

[See Project Labor Agreement Resource Guide | U.S. Department of Labor \(dol.gov\)](#)

What is a Community Benefits Agreement?

A “Community Benefits Agreement” is an agreement signed by community groups or coalitions and a project developer, identifying the community or labor benefits a developer agrees to deliver in return for community support or workforce availability for a project. Community coalitions can comprise stakeholder groups that would be impacted by a project, including neighborhood associations, faith-based organizations, worker-serving organizations, environmental groups, labor unions, child care providers, and others. Community Benefit Agreements help ensure that measurable local benefits will be given to a community. They are enforceable, legally binding contracts for all parties. They typically specify responsibilities, reporting, and remedies.

Is a Community Benefits Agreement the same as a Community Benefits Plan?

No, the Community Benefit Agreement is one possible outcome of meaningful community engagement that is part of the Community

Benefits Plan. While the names are similar, the two are not synonymous. For more resources relating to Community Benefits Agreements, please reference DOE's [Community Benefits Agreements Toolkit web page](#).

What is a Project Labor Agreement (PLA)?

A PLA is a pre-hire collective-bargaining agreement with one or more labor organizations that establishes the terms and conditions of employment for a specific construction project. PLAs are permissible pre-hire agreements under section 8 (f) of the National Labor Relations Act (29 U.S.C. 158(f)), which authorizes the use of these agreements between labor organizations and employers engaged primarily in the building and construction industry. These pre-hire agreements help secure the skilled and trained workforce required to complete a high-quality project on schedule. PLAs generally prevent labor disputes (and related delays) on projects by preventing strikes and lockouts. PLAs establish wage rates for workers on a project and typically include language related to worksite health and safety. PLAs can also encourage increased veteran participation, apprentice utilization, local hiring, and the employment of women and people from disadvantaged communities.

Outside of construction, pre-hire collective-bargaining agreements are not permitted under the National Labor Relations Act. However, under the National Labor Relations Act, employees in other industries covered by the Act can join and form unions and engage in collective bargaining if they so choose.

For more information, see

- [Project Labor Agreement Resource Guide | U.S. Department of Labor \(dol.gov\)](#)
- [Project Labor Agreements \(everycrsreport.com\)](#)

- [Building Better: A Look at Best Practices for the Design of Project Labor Agreements](#)
- [Efficiencies of Project Labor Agreements](#)

What is a Community Workforce Agreement (CWA)?

A CWA is a PLA that includes community-oriented commitments relating to equitable workforce development, social justice, small business support and/or other issues. Negotiating a CWA brings building trades unions and the trades council together with the project user/owner, the general contractor, and community organizations to jointly develop the terms of the project. As with PLAs, CWAs generally help prevent delays, maintain workplace safety, and ensure high-quality construction products, all of which help protect taxpayer investment in the project.

Additionally, Access and Opportunity Committees can provide structure to increase accountability and community oversight of goals within PLAs and CWAs. These committees bring contractors, labor groups, and community groups together to meet regularly to review a project's progress and adherence to recruitment and retention goals (e.g. the female and minority participation goals for federally assisted construction projects under Executive Order 11246) and engage in strategic problem solving with all relevant stakeholders at the table.

CWAs have proven effective tools to embed inclusive and effective workforce development investments and activities into major projects.

[\[1\] Built-to-Last-Best-Practices-for-Diversity-in-the-Construction-Industry.pdf \(massgaming.com\)](#)

[2] Finishing-the-Job-v.9.1-12.2.2021-1.pdf **(policygroupontradeswomen.org)**

What is DOE looking for related to Workforce and Community Agreements in funding proposals?

DOE supports the negotiation of Workforce and Community Agreements because these agreements help settle disputes ahead of project deployment, strengthen civic participation, increase worker empowerment, secure the required workforce, and equitably align the resources and needs of local workers and communities with the benefits and opportunities of new projects. Robust Workforce and Community Agreements:

- Are negotiated between the project developer and an inclusive, representative, and accountable coalition of community and labor partners;
- Are legally enforceable with clear metrics, timelines, transparency, and reporting processes; and
- Assign roles and responsibilities to determine compliance and outline processes to address non-compliance.

How can I find the relevant labor union contacts to begin engagement?

A potential bidder may find it advantageous or highly beneficial to engage with labor unions when drafting their Community Benefits Plan. Most large projects will involve many different unions, as they all represent trades with different skill sets. There could also be several different unions representing the same trade with overlapping jurisdictions in a geographic area; be aware that contact with only one union for a certain trade may not be best practice.

For construction activity, reaching out to the national headquarters office of a construction union is an effective first step to connect

with their local affiliates. Many states and counties have Building and Construction Trades Councils and their websites will list their affiliated unions. Please note that not all construction unions are affiliated with these councils.

For ongoing operations and production activity, reaching out to the national headquarters office of a relevant industrial union is an effective first step to connect with their local affiliates. Most states and counties have Central Labor Councils or State Labor Federations that are made up of their affiliated unions. Please note that not all industrial unions are affiliated with these organizations.

Investing in QUALITY JOBS

DOE is committed to encouraging collective bargaining and free and fair opportunities for workers to organize. DOE seeks proposals that expand good jobs through explicit strategies and actions designed to attract, train, and retain a skilled diverse workforce; foster safe and healthy work environments; reduce the risk of work slowdowns or stoppages; and ensure the efficient and effective use of taxpayer funds.

What Executive Orders describe the Administration's priorities on good jobs?

Strengthening prosperity by expanding good-paying, secure, and safe union jobs accessible to all workers is a key goal set by President Biden, discussed in depth across several Executive

Orders: Ensuring the Future Is Made in All of America by All of America's Workers (EO 14005), Tackling the Climate Crisis at Home and Abroad (EO 14008), Worker Organizing and Empowerment (EO 14025), Boosting Quality of Federal Construction Contracts (EO 14063), Promoting Competition in the American Economy (EO 14036), Implementing the Infrastructure Investment and Jobs Act (EO 14052), Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety - *Supporting Alternatives to Arrest and Incarceration and Enhancing Reentry* (EO 14074 Sec. 15), and Ensuring high quality, effective care supports are available to employees through the Executive Order on Increasing Access to Quality Care and Supporting Caregivers (EO 14095).

What does it mean to invest in America's workforce?

Investing in America's workforce means shifting from seeing "labor as a cost" to "labor as an investment." DOE's funding opportunities seek to create domestic energy and supply chain jobs with good pay, benefits, predictable schedules and with assurances that workers will have a free and fair chance to join or form a union.

Investing in America's workers means making meaningful investments in training, education, and skill development programs that are connected to jobs with career mobility potential and that incorporate services geared towards supporting participants to succeed in the programs (e.g. guidance on how the training fits into a career pathway, support and assistance for participants to navigate child care, earn-and-learn training models such as Registered Apprenticeship, etc.) It also means making investments in skill development activities that create exposure to careers in the field for young people, as well as skill development opportunities for the current workforce, including a company's existing employees.

Investing in workers also means ensuring that America's workers have access to the types of support services they need to show up and be effective at their job, such as access to high-quality, affordable childcare and long-term care, and reliable transportation to work. Investing in workers includes, where relevant, hiring workers as employees rather than through temp agencies or as independent contractors. It also means fostering safe, healthy, and inclusive workplaces with equal opportunity, free from harassment and discrimination.

By supporting such employment practices, DOE seeks to ensure that the efficiency, ingenuity, and skill of the American workforce is the foundation of our nation's competitive advantage in the global energy industry and related supply chains.

What is a "good job"?

A "good job" is a job that:

1. provides fair, transparent, and equitable pay that exceeds the local average wage for an industry;
2. delivers basic benefits (e.g., paid leave, health insurance, retirement/savings plan, access to affordable, reliable, and high-quality child care/long-term care for loved ones, and transportation);
3. provides workers with an environment in which to have a collective voice;
4. helps the employee develop the skills and experiences necessary to advance along a career path.
5. provides predictable scheduling, and a safe, healthy, and accessible workplace devoid of hostility and harassment.
6. has employees properly classified with the limited use of independent contractors and temporary workers.
7. protects workers' statutory right for a free and fair choice to join a union under the National Labor Relations Act (NLRA).

Good jobs are provided by management's rigorous knowledge of these rights and other employment rights that protect against harassment, discrimination, and retaliation and their active attempt to avoid any violations of the NLRA and other labor and employment laws; such as worker intimidation or harassment, or unwarranted delay in negotiations or grievance resolution.

See also <https://www.dol.gov/general/good-jobs/principles>.

[1] Economic Development Administration, ARPA Good Jobs Challenge NOFO, EDAHDQ-ARPGJ-2021-2006964, at n. 1, available at

<https://www.grants.gov/web/grants/viewopportunity.html?oppld=334720>

How can I demonstrate a plan to attract, train, and retain a skilled and well-qualified workforce?

For construction-related jobs, a Project Labor Agreement may provide sufficient detail on skill requirements and provide assurances of skilled worker availability. Unless already included in the Project Labor Agreement, applicants should provide sufficient detail on the following:

1. How the recipient will ensure the project has ready access to a sufficient supply of appropriately skilled labor to ensure high-quality construction throughout the life of the project, including a description of any required professional certifications and/or training (in-house, apprenticeship, etc.);
2. How the recipient will minimize risks of labor disputes and disruptions that would jeopardize timeliness and cost-effectiveness of the project;
3. How the recipient will provide a safe and healthy workplace that trains on the recognition, avoidance, abatement, and prevention of safety and health hazards in workplaces, and avoids delays and costs associated

with workplace illnesses, injuries, and fatalities, including descriptions of safety training, certification, and/or licensure requirements for all relevant workers (e.g., OSHA 10, OSHA 30);

4. How the project prioritizes local or targeted hires, or an explanation of unfeasibility;
5. How the project will support good quality jobs (see above), including commitments related to wages, benefits, supports for workers to access the worksite (e.g. child care and transportation where gaps exist), and the protected right to join or form a union; and
6. Records to substantiate the information in items 1-5 upon request.

For ongoing operations/production jobs, a collective-bargaining agreement, labor-management partnership, or other such agreement which supports efforts to attract, train, and retain a skilled and well-qualified workforce may provide sufficient detail on assurances of skilled worker availability. In the absence of such an agreement, applicants should provide sufficient detail on the number of people they anticipate hiring and quality of jobs to be created, which may include:

1. Family-sustaining wages above the median for the region, with clear opportunities for wage progression alongside skill progression;
2. Employer-sponsored health insurance and pension/retirement coverage options;
3. Personal and family benefits, such as paid family and medical leave, parental leave, paid sick leave, other paid time off, and mental health support, etc.;
4. Subsidies or other assistance to access affordable, high-quality, and reliable childcare;
5. Predictable scheduling; and
6. Correct classification of workers as permanent employees and notification of rights of employees to all workers (including those classified as independent contractors).

What are workers rights on Bipartisan Infrastructure Law projects?

There are several protected rights of workers on BIL Projects, and the Community Benefits Plan commitments on job quality need to be additional to these rights. The following rights should not be reiterated in the Community Benefits Plan:

1. **Davis-Bacon Compliance.** Workers doing construction work on covered construction projects must be paid the Davis-Bacon “prevailing wage”, which varies depending on where the work is and the type of work they perform. Contractors must post a Davis-Bacon Employee Rights poster and a copy of the correct wage determination at the job site in a prominent and easily accessible place where it can be easily seen. Workers can review the “Employee Rights under the Davis-Bacon Act” poster and wage determination to ensure they are being paid at least the prevailing wage for the work they perform. For additional assistance, please contact the Wage and Hour Division of the U.S. Department of Labor: 1-866-487-9243.
2. **Safety Compliance.** Workers have the right to a safe and healthy workplace. Employer must provide a workplace free of known health and safety hazards. Workers with concerns about health and safety issues at their workplace, have the right to speak up about them and contact OSHA without fear of retaliation. For additional assistance, please contact the Occupational Safety and Health Administration: 1-800-321-6742.
3. **Voice.** Workers have the right to act with a co-worker (or co-workers) to address work related issues. For example, workers can talk about their pay, join a group that refuses to work in unsafe conditions, and sign a petition asking for better hours. Workers also have the right to form, join or assist a union. They can organize a union to negotiate with their employer over their terms and conditions of employment. For additional assistance, please contact the National Labor Relations Board: 1-844-762-6572.
4. **Fairness.** Workers have the right to equal treatment. Employers cannot treat a worker badly or discriminate against them because of their race, color, religion, sex (including pregnancy), gender identity, sexual orientation, national origin, age (40 or older), disability, genetic information, citizenship or immigration status, or service member or veteran status. For additional assistance please contact the Equal Employment Opportunity Commission: 1-800-669-6820, Immigrant

Employee Rights Section of the Department of Justice: 1-800-255-7688, Veterans' Employment and Training Service: 1-866-487-2365, or Office of Federal Contract Compliance Programs: 1-800-397-6251.

5. **Status.** No matter a worker's immigration or documentation status, they have the right to pay, safety, voice, and fairness on construction jobs.

All workers on construction jobs have the right to fair pay. All employees on construction jobs have the right to safety. All employees on construction jobs have the right to form, join or assist a union. All employees on construction jobs have the right to equal treatment.

Source: [5 Fast Facts in Construction | U.S. Department of Labor \(dol.gov\)](https://www.dol.gov/eis/whd/5-fast-facts-in-construction)

What does a workplace safety and health plan entail?

A safety and health plan must have the three basic elements of management leadership, worker participation, and a systematic approach to finding and fixing hazards. The main goal of a safety and health plan is to prevent workplace injuries, illnesses, and deaths, as well as the suffering and financial hardship these events can cause for workers, their families, and employers. It is important to have a health and safety committee that includes representatives of the hourly workforce. This committee should meet regularly to discuss issues and remedies, and provide a forum for workers to raise concerns. Workers should receive health and safety training.

What assurances can I provide that workers will have a free and fair choice to join or form a union?

Per the National Labor Relations Act, employees have the right to form, assist or join a union or engage with other employees to take action for their mutual aid or protection regarding terms and conditions of employment. In addition, it is the Federal

Government's policy to support worker organizing and collective bargaining.

Strong assurances that applicants are ensuring workers' free and fair chance to join or form a union may include:

1. Pledge to permit union recognition through card check (as opposed to requiring union elections);
2. Commit to providing union organizers access to appropriate non-work employer property and workers; and
3. Intention to enter into binding arbitration to settle first contracts.

What specific commitments can I make to workforce education and training?

Employer investments in workforce education and training can take several forms, including:

1. Participation in labor-management training partnerships, including Registered Apprenticeships;
2. Sponsoring Registered Apprenticeships;
3. Commitments to employer financial contributions to workforce training programs (e.g. directly making contributions to support relevant programming at training institutions such as community and technical colleges and/or K-12 school systems), scholarships, and paid time for employees to participate in skills training;
4. Partnerships and financial contributions to community-based organizations to provide support services to workers on projects or people in relevant training (e.g., childcare supports, transportation vouchers, and employability skills training); and
5. Adoption of inclusive recruitment strategies (e.g., a strategy to support broad recruitment for the apprenticeship programs and outreach to community-based organizations that work with prospective workers/apprentices).

What are Registered Apprenticeship Programs (RAPs)?

A Registered Apprenticeship Program (RAP) is an industry-driven, high-quality career training model, as well as a job with an articulated wage progression. Apprenticeship programs provide on-the-job learning and related classroom instruction on the technical and academic aspects of the job. The training is rooted in industry skill standards and competencies. Apprenticeship programs help companies successfully recruit, develop, and retain a highly skilled workforce for the jobs they need filled. Programs are designed to reflect the communities in which they operate through strong non-discrimination, anti-harassment, and recruitment practices to ensure access, equity, and inclusion. Apprentices are afforded worker protections while receiving rigorous training to equip them with the skills they need to succeed and the proper training and supervision they need to be safe. Finally, RAPs are programs that meet the quality standards established by the U.S. Department of Labor and have been registered with the Department of Labor's Office of Apprenticeship or a Department of Labor recognized State Apprenticeship Agency. When individuals successfully complete a RAP, they receive an industry-recognized, nationally portable credential.

Registered apprentices earn a paycheck as soon as they begin an apprenticeship, so they are earning while they build their skills and knowledge. Registered apprentices also earn progressively higher wages as their skills develop. The RAP training model works for a broad variety of industries, and there are both union and non-union apprenticeship programs in over 1,000 occupations and growing. Programs vary in length and may be as short as one year or as long as six years.¹

[1] [Registered Apprenticeship Program | Apprenticeship.gov](https://www.energy.gov/infrastructure/community-benefits-plan-faqs)

Advancing Diversity, Equity, Inclusion, and Accessibility (DEIA)

DOE seeks to support investments that advance equity, civil rights, racial justice, and equal opportunity, including access to jobs and other economic opportunities. The term “equity” means the consistent and systematic, fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment.

Which Executive Orders describe the Administration’s priorities on diversity, equity, inclusion and accessibility?

EO 13985, “Advancing Racial Equity and Support for Underserved Communities Through the Federal Government” and EO 11246, which requires that all federally assisted contractors make good faith efforts to meet goals that 6.9% of construction project hours be performed by women and a certain percentage of construction work hours, varying based on geography, be performed by people of color.¹

EO 14074 - Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety and Flag Section 15: Supporting Alternatives to Arrest and Incarceration and Enhancing Reentry [“Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public

Safety - Supporting Alternatives to Arrest and Incarceration and Enhancing Reentry (EO 14074 Sec. 15)"]

[1] <https://www.dol.gov/sites/dolgov/files/ofccp/Participati>

What types of communities have been denied systematic fair, just, and impartial treatment?

These communities include Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; women, immigrants, veterans, individuals with disabilities; individuals in rural communities; individuals without a college degree, individuals with or recovering from a substance abuse disorder, individuals who have been involved in the criminal legal system, Opportunity Youth, and individuals otherwise adversely affected by persistent poverty or inequality.

How can I advance diversity, equity, inclusion, and accessibility (DEIA) in my proposal and project?

As part of a whole-of-government approach to advancing equity, DOE's funding opportunities encourage the participation of underserved communities and underrepresented groups, and ensure equitable access to business opportunities, good quality jobs, effective and inclusive workforce training, and other economic opportunities. Key tools include partnerships with community-based organizations, comprehensive support services (e.g., childcare and long-term care benefits), and programs and practices

that reduce barriers to business and employment opportunities for members of disadvantaged communities.

What are Minority Serving Institutions?

Minority Serving Institutions (MSIs) refer to universities and colleges that serve a significant percentage of students from minority groups, including Historically Black Colleges and Universities (HBCUs), Hispanic Serving Institutions, Tribal Colleges and Universities, and Other Minority Institutions as educational entities recognized by the Office of Civil Rights (OCR), U.S. Department of Education, and identified on the OCR's Department of Education accredited postsecondary minorities' institution list.

For more information

visit: <https://www2.ed.gov/about/offices/list/ocr/edlite-minorityinst.html>.

How can I advance diversity, equity, inclusion, and accessibility (DEIA) within my project team?

DOE seeks to encourage the participation of underserved communities and underrepresented groups across all projects. Applicants are highly encouraged to include individuals from groups historically or presently underrepresented in Science, Technology, Engineering and Mathematics (STEM) on their project teams. Further, DOE encourages Minority Serving Institutions, Minority Business Enterprises, Minority-Owned Businesses, Woman-Owned Businesses, Veteran-Owned Businesses, and Tribal Colleges and

Universities to apply as the prime applicant or participate on an application as a proposed partner to the prime applicants.

What are specific DEIA actions that I should consider?

Note that several of the below actions can and should tie into strategies that are relevant to other parts of the CBP, e.g. related to investments in developing and retaining a skilled workforce.

- 1. Identify Minority Business Enterprises, Minority-Owned Businesses, Woman-Owned Businesses, Native American-owned businesses, LGBT-owned business, and Veteran-Owned Businesses** and make efforts to ensure they are aware of/have access to RFPs so that they can submit bids as vendors and sub-contractors on supplies, services and equipment;
- 2. Create quantifiable efforts to increase the representation and engagement with Minority Serving Institutions;**
- 3. Collaborate and/or partner with researchers and staff in Minority Serving Institutions;**
- 4. Require comprehensive training for worksites on anti-harassment, bystander intervention, and other strategies** (including third-party reporting procedures and robust anti-retaliation measures) to prevent and address hostility and harassment based on race, gender, ethnicity or other categories protected under law;
- 5. Identify and collaborate with workforce training partners to foster improved access to jobs for members of the community**, including under-represented demographic groups and those facing barriers to employment such as women, those with disabilities, people who have been incarcerated, opportunity youth (e.g., foster youth), and veterans;
- 6. Support for quality apprenticeship readiness** (also called pre-apprenticeship) programs that provide a preference or direct route into Registered Apprenticeships and, wherever possible, offer participants support to complete their apprenticeship programs (e.g., childcare or long-term care benefits);
- 7. Provide comprehensive financial supportive services for workers and participants in partnered training programs**, such as emergency flexible income supports, access to technology/equipment, mental health services, transportation assistance, education reimbursement(s)

- for upskilling through qualified industry certifications, subsidies or other assistance to access to childcare and long-term care;
8. **Provide non-financial supportive services aimed at helping to retain and support mobility for underrepresented groups in jobs**, such as mentoring programs, support groups, and peer networking, career navigation and other activities to reduce barriers to career-track training and jobs for underrepresented and disadvantaged workers;
 9. **Regularly report performance metrics and demographic data on the project's workforce** as well as comprehensive information demonstrating good faith efforts for recruiting and retaining workers from underrepresented and economically disadvantaged communities. Data should be collected and reported frequently enough to permit course correction and deploy new strategies as needed, to ensure that good quality employment opportunities are available to underrepresented and economically disadvantaged workers in the communities in which projects are contemplated. See also Access and Opportunity Committees, described in "What is a Community Workforce Agreement?"
 10. **Partner with organizations that focus on preparing and connecting formerly incarcerated individuals for employment**. Such organizations may also work on sealing and expunging criminal records, restoring the right to vote for eligible people, and assisting with access to government-issued identification.
 11. **Partner with local childcare and long-term care providers** to ensure high-quality, affordable, accessible care options in target communities so that people can participate in training and access jobs;

[1] [**National-Strategy-on-Gender-Equity-and-Equality.pdf**](#) ([**whitehouse.gov**](https://www.whitehouse.gov)), p. 12

What are the strategies to expand opportunities on my construction project for women, economically disadvantaged, local workers?

The following are examples of strategies to increase participation of workers facing barriers to employment and populations that have been significantly underrepresented in good quality construction jobs. These elements can work together, or individually, to expand

opportunities for women, economically disadvantaged populations, and local workers on your construction projects. These strategies are relevant even when the firm applying for DOE funds is not the lead construction firm, but is rather the project owner of a construction project.

1. Support and/or launch high-quality, worker-centered workforce training programs, to foster improved access to training and jobs for members of the community, including under-represented individuals and those facing barriers to employment such as those with disabilities, people exiting incarceration or who were formerly incarcerated, opportunity youth (i.e. foster youth), women, and veterans.
2. Related to the above strategy, provide support for placed-based and quality apprenticeship readiness (also called pre-apprenticeship) programs that are integrated with registered apprenticeship through meaningful preferences or direct entry into registered apprenticeship and, wherever possible, offer participants support to complete their apprenticeship programs. Such programs should have specific strategies for supporting success (e.g., financial and non-financial supportive services to aid apprentices during the registered apprenticeship program).
3. Partner with the local workforce system, community-based organizations, community and technical colleges, school systems, and other entities for outreach and recruitment focused on connecting women to apprenticeship readiness programs and Registered Apprenticeship in construction.
4. Partner with local childcare providers to ensure high-quality, affordable care options that meet the specific needs of employees required for the project (e.g., care hours that meet working hours).
5. Partner with educational institutions to promote the construction industry to K-12 programs.
6. Collaborate with industry associations to develop and implement initiatives that promote inclusion of people of under-represented genders.
7. Provide comprehensive financial supportive services for workers and participants in partnered training programs, such as emergency flexible income supports, mental health services, transportation assistance,

- subsidies, or other assistance to access affordable, high-quality childcare and other forms of caregiving.
8. Provide non-financial supportive services aimed at helping to retain and support mobility for underrepresented groups in jobs, such as mentoring programs, support groups, peer networking, career navigation and other activities to reduce barriers to career-track training and jobs for underrepresented and disadvantaged workers.
 9. Executive Order 11246, as amended, includes a requirement for contractors to make best efforts to meet geographic goals for people of color and a nationwide 6.9% goal of women's participation on federally funded construction projects. Contractors may consider establishing higher goals for their projects. Contractors are required to make good faith efforts to meet these goals, but no sanctions are imposed for failure to meet the goals—only for failure to make best faith efforts to meet them.
 10. Establish, consistent with equal opportunity laws, voluntary commitments for DEIA on projects including goals for apprentice and journey level work hours for women, economically disadvantaged, and local workers.
 11. Include specific elements focused on women, economically disadvantaged, and/or local workers in a Project Labor Agreement/Community Workforce Agreement, including identifying apprenticeship readiness programs focused on recruitment of populations facing barriers to employment; establishing training goals for apprenticeship readiness programs; and establishing goals for apprentice and journey level work hours for women, economically disadvantaged, and/or local workers.
 12. Fund and launch preparatory classes to increase access to apprenticeship readiness Programs and Registered Apprenticeship Programs including classes focused on:
 - Helping students obtain High School diploma/HS equivalency
 - Math prep classes to help students enter apprenticeship readiness programs and more intensive classes focused on entry exams for relevant Apprenticeship Programs

What strategies can be used to support access to high-quality affordable childcare and long-term care for local workers?

The care sector is the backbone of the U.S. economy. Yet, workers are too often unable to find or afford care that would allow them to successfully complete workforce training or maintain employment. This is especially relevant to jobs with irregular work hours, which includes many construction projects. Therefore, insufficient access to care can be considered a barrier to employment, and with it a barrier to the success of attracting and retaining a skilled workforce to complete a project. Insufficient supply of affordable, high-quality child- and long-term care services is exacerbated by the low average pay for workers in the care sector.

Below are related strategies that DOE applicants should consider:

- Workers should be offered a range of support options that can be used to meet their families' care needs.
- Projects can partner directly with care providers to support access to care in flexible ways, such as figuring out ways to support care providers to provide services that align with a construction project's work hours.
- Partnering with care providers should involve stable and sufficient funding to meet quality standards and invest in adequate compensation for the care workforce.
- Predictable work schedules allow workers to better plan for their childcare and other caregiving obligations.

What are quality pre-apprenticeship programs or apprenticeship readiness programs?

The US Department of Labor has developed a framework for quality pre-apprenticeship programs (also referred to as apprenticeship readiness programs). This framework identifies the characteristics of quality pre-apprenticeship programs, as follows:

- Direct partnership with Registered Apprenticeship program sponsors, allowing for quality pre-apprenticeship programs to be designed and delivered with input from RAP sponsors and provide a clearly articulated

- pathway for entry into Registered Apprenticeship programs upon successful completion of the pre-apprenticeship program.
- Collaboration with Registered Apprenticeship sponsors to promote apprenticeship to other employers as a preferred means to develop a skilled workforce and to create career opportunities and pathways for individuals.
 - Meaningful training combined with hands-on experience replicating a workplace, while observing proper supervision and safety protocols, which does not displace incumbent paid employees and is approved by the Registered Apprenticeship sponsor with whom the pre-apprenticeship program is partnering.
 - Access to career and supportive service during the program throughout the pre-apprentice's transition into a RAP and following that helps participants remain in the program (such as, but not limited to, child and dependent care, transportation assistance, mentoring, and counseling).
 - Strategies that increase access and entry to Registered Apprenticeship opportunities for underrepresented populations that will allow participants to successfully enter into and persist in RAPs. These involve:
 - Thoughtful and targeted recruitment strategies focused on outreach to one or more populations underrepresented in local, state, and national RAPs;
 - Educational and pre-vocational services, as well as design of instruction and training to assist underrepresented populations in overcoming barriers for entering and succeeding in RAPs;
 - Activities introducing participants to Registered Apprenticeship programs and assistance in applying for those programs.

Collaboration between pre-apprenticeship and registered apprenticeship program sponsors is essential. Beyond collaboration and MOUs, **DOE especially prioritizes pre-apprenticeship programs that have established articulation agreements with registered apprenticeship programs to afford direct or preferential entry for pre-apprenticeship program completers into registered apprenticeship.**

For additional information on pre-apprenticeship, please review [**USDOL's Training and Employment Notice 13-12.**](#)

As a recipient of Federal financial assistance from DOE. Must I comply with Federal civil rights statutes and DOE regulations?

Answer: Yes. Foremost, it is important to understand that diversity, inclusion, equity, and accessibility goals are not categorically prohibited under Title VI or any other federal civil rights law. However, it is crucial to know the legal framework under which these goals are examined to avoid legal challenges that can hinder the progress the Department of Energy and recipients of financial assistance from DOE are making towards these goals.

Notwithstanding the goals that may inspire a DEI Plan, DOE regulations at 10 C.F.R. § 1040.7(b) regarding affirmative action stipulate that, in the absence of a finding of discrimination on the basis of race, color, national origin, sex (where applicable), disability, or age in any program or activity, a recipient may continue to encourage participation by all persons regardless of race, color, national origin, sex, disability, or age.

Consequently, if a recipient expressly, or with purpose and intent, imposes a benefit or burden on one class of persons (based on their race or sex, for example), to the exclusion of another class of persons (based on their race or sex), it may be found to have imposed a suspect classification that is subject to heightened scrutiny. When a recipient takes this action, the action will be subject to heightened scrutiny and the justification must be sufficient. This is so because federal civil rights statutes are interpreted to be coextensive with the Equal Protections embodied in the Fifth and Fourteenth Amendments to the U.S. Constitution.

Hence, classifications that are based on race are subject to strict scrutiny, while classifications that are based on sex are subject to intermediate scrutiny. See, e.g. *Wygant v. Jackson Board of Education*, 476 U.S. 267, 313 (1986); *Mississippi University for*

Women v. Hogan, 458 US 718 (1982); United States v. Virginia, 518 U.S. 515 (1996). Strict scrutiny places the burden on the recipient to prove that: (1) its race-based classification furthers a compelling interest; (2) such classification is demonstrably effective in advancing that compelling interest; and (3) its use of a race-based classification is narrowly tailored to further that compelling interest (i.e., is the least burdensome of all available alternatives).

Intermediate scrutiny places the burden on the recipient to prove that: (1) it is acting to further an important objective; and (2) its use of a sex-based classification is substantially related to this important objective.

For more information about Civil Rights in the Office of Economic Impact and Diversity and additional External Civil Rights FAQs, visit: energy.gov/diversity/civil-rights

What is the U.S. Department of Labor's Mega Construction Program and how could this relate to the proposed project?

Equal employment opportunity is an important priority. The U.S. Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) has a Mega Construction Project Program through which it engages with project sponsors to assist with compliance with non-discrimination and affirmative action obligations. Through the program, OFCCP offers contractors and subcontractors on select federally assisted construction projects extensive compliance assistance, conducts compliance evaluations, and helps to build partnerships between the project sponsor, prime contractor, subcontractors, and relevant stakeholders.

OFCCP will identify projects required to participate in OFCCP's Mega Construction Project Program from a wide range of federally assisted projects over which OFCCP has jurisdiction and that have a project cost above \$35 million.

If selected by OFCCP to participate in this program, DOE will require project sponsors to partner with OFCCP as a condition of their award. Under that partnership, OFCCP will ask these project sponsors to make clear to prime contractors in the pre-bid phase that project sponsor's award terms will require their participation in the Mega Construction Project Program. Additional information on how OFCCP makes their selections for participation in the Mega Construction Project Program is outlined under the "Scheduling" on the Department of Labor website: <https://www.dol.gov/agencies/ofccp/faqs/construction-compliance>.

Implementing the Justice40 Initiative

DOE is committed to the Justice40 Initiative to drive environmental and economic benefits in DACs, with the goal that at least 40% of the overall benefits of certain federal investments flow to DACs.

What is the Justice40 Initiative?

The Justice40 initiative, created by Executive Order 14008, establishes a goal that 40% of the overall benefits of certain federal investments flow to disadvantaged communities (DACs). [DOE's current Justice40 guidance](#) provides a broad definition of DACs (see pages 8-10). DOE, the U.S. Office of Management and Budget (OMB), and/or the Federal Council for Environmental Quality (CEQ)

may issue additional and subsequent guidance regarding the designation of DACs and recognized benefits under the Justice40 Initiative.

Does Justice40 apply at the project level or at the portfolio level?

Justice 40 is a whole of government initiative with the goal of 40% of the benefits flowing to disadvantaged communities across the portfolio of all relevant federal spending on climate change, clean energy and energy efficiency, clean transit, affordable and sustainable housing, training and workforce development, remediation and reduction of legacy pollution, and the development of critical clean water and wastewater infrastructure.

All BIL and IRA programs are expected to contribute to the goal. In addition, all 144 covered programs must have a goal of 40% of the benefits flowing to disadvantaged communities. Projects with these covered programs must implement these Justice40 goals.

What are covered programs and investments?

Nearly all DOE programs and investments, including new programs established by BIL as well as well-established programs, are covered by the Justice40 Initiative. Please see [DOE Justice40 Covered Programs | Department of Energy](#) for an up-to-date list of Covered Programs developed pursuant to OMB's Interim Implementation Guidance.

Per Justice40 guidelines, covered programs and investments are described as follows:

"[A] Federal Government program that makes covered investment benefits in one or more of the following seven areas: 1. Climate change; 2. Clean energy and energy efficiency; 3. Clean

transportation; 4. Affordable and sustainable housing; 5. Training and workforce development (related to climate, natural disasters, environment, clean energy, clean transportation, housing, water and wastewater infrastructure, and legacy pollution reduction, including in energy communities); 6. Remediation and reduction of legacy pollution; and 7. Critical clean water and waste infrastructure.

“Pursuant to the Interim Implementation Guidance, a ‘covered investment’ is a federal investment in any one of the following categories: 1. Federal financial assistance as defined at 2 CFR 200.1, including both Federal grants as well as other types of financial assistance (including cooperative agreements, loans, loan guarantees, and direct spending/benefits); 2. Direct payments or benefits to individuals; 3. Federal procurement benefits (acquisition of goods and services for the Federal government’s own use); 4. Programmatic Federal staffing costs (e.g., federal pay for staff that provide technical assistance); and 5. Additional federal investments under Covered Programs as determined by OMB.”

What is a disadvantaged community?

Justice40 directs that 40% of benefits from Covered Programs flow to “disadvantaged communities” (DACs). OMB’s Interim Implementation Guidance defines a community as either: (1) Geographic: a group of individuals living in geographic proximity (such as census tract), or (2) Common condition: a geographically dispersed set of individuals (such as migrant workers or Native Americans), where either type of group experiences common conditions. For the “geographic” definition of community, pursuant to the Interim Implementation Guidance and OMB guidance M-23-09 , DOE recognizes as disadvantaged those census tracts identified by the White House CEJST tool, which can be located at <https://screeningtool.geoplatform.gov/>.

DOE's working definition of "disadvantaged" is based on cumulative burden and includes data for 36 indicators collected at the U.S. Census tract level. These indicators can be grouped across the following four categories (the numbers in parenthesis are the number of indicators in each category):

- Fossil Dependence (2)
- Energy Burden (5)
- Environmental and Climate Hazards (10)
- Socio-economic Vulnerabilities (19)

Pursuant to the current guidance, DOE identified certain census tracts as DACs through undertaking the following analysis:

1. For every census tract, DOE calculated percentile values for each of the 36 indicators by census tract.
2. DOE summed percentiles across all indicators to create a score for each census tract. Each indicator was given equal weight; therefore, final scores for each tract could range from 0 to 36, where 36 would represent the largest disadvantage.
3. Based on the final scores, the top 20 percent of census tracts were selected for each state, ensuring that DACs were identified in every state.
4. DAC eligibility was further restricted based on income. A census tract selected in step three was identified as a DAC if at least 30% of households are:
 - at or below 200% of Federal Poverty Level; and/or
 - considered low-income households by the U.S. Department of Housing and Urban Development (HUD), defined as households earning less than 80% of area median income.

In sum: To be considered a DAC in the DOE reporter, a census tract must rank in the 80th percentile of the cumulative sum of the 36 burden indicators and have at least 30% of households classified as low-income.

Nationwide, 13,581 census tracts were identified as disadvantaged (18.6% of 73,056 total U.S. census tracts). Additionally, federally

recognized Tribal lands and U.S. territories, in their entirety, are categorized as DACs in accordance with OMB's Interim Guidance "common conditions" definition of community.

DOE's convenient online DACs mapping tool can be accessed at: <https://energyjustice.egs.anl.gov/>. Geospatial data files and an excel spreadsheet of the underlying DACs data are available at www.energy.gov/justice40.

If my project is not in a DAC, how should I calculate the benefits?

A project does not need to be geographically situated in a DAC for a DAC to benefit from implementation. In addition, DACs are not limited to geographic proximity. DACs are also defined as those with a common condition: a geographically dispersed set of individuals (such as migrant workers or Native Americans), where either type of group experiences common conditions. The benefits can be measurable direct or indirect benefits described below, as well as secondary benefits from the long-term impacts of the project.

If my project is not in a DAC, should I apply?

A project does not need to be geographically located in a DAC for a DAC to benefit from implementation. In addition, DACs are not limited to geographic proximity. DACs are also defined as those with a common condition: a geographically dispersed set of individuals (such as migrant workers or Native Americans), where either type of group experiences common conditions.

What Justice40 benefits should be considered?

Benefits include, but are not limited to, measurable direct or indirect investments or positive project outcomes that achieve or contribute to the following in DACs:

1. a decrease in energy burden
2. a decrease in environmental exposure and burdens
3. an increase in access to low-cost capital
4. an increase in good quality job creation
5. an increase in high-quality, accessible job training
6. increases in clean energy enterprise creation and contracting (e.g., minority-owned or disadvantaged business enterprises)
7. increases in energy democracy, including community ownership
8. increased parity in clean energy technology access and adoption
9. an increase in energy resilience

A benefit can be identified as accruing to a DAC if it achieves or contributes to one or more of the eight policy priorities identified above. For greater clarity, the below matrix (Figure 1) provides examples of measurable benefit and how they map to the different DOE policy priorities mentioned above.

(Figure 1)

Policy Priorities	Benefit Metric and Units
1. Justice40 Efforts	Dollars spent by DOE Covered Programs in DACs
2. Decrease Energy burden in DACs	Dollars saved in energy <i>expenditures</i> due to technology adoption in DACs
	Energy saved [MMBTU or MWh] or reduction in fuel [GGe] by DACs
3. Decrease environmental exposure and burdens for DACs	Avoided air pollutants (CO ₂ equivalents, NO _x , SO ₂ , and/or PM _{2.5}) in DACs
	Remediation impacts on surface water, groundwater, and soil in DACs

Reduction of legacy contaminated waste in DACs

<p>4. Increase clean energy jobs, job pipeline and access, and career-track job training for individuals from DACs</p>	<p>Dollars spent and/or number or percentage of participants from DACs in career-track job training programs, registered apprenticeship programs, quality pre-apprenticeship programs, labor-management training partnerships, engaged community college programs, and engaged STEM education programs and/or dollars spent on tuition, scholarships, and recruitment activities for individuals from DACs.</p>
	<p>Number of new hires and/or percent of total project jobs filled by residents of DACs</p>
	<p>Number of jobs created for DACs because of DOE program</p>
	<p>Number of and/or dollar value of partnerships, contracts or training with MSIs and DAC-serving community-based organizations</p>
<p>5. Increase clean energy enterprise creation and contracting (MBE/DBE) in DACs</p>	<p>Number of contracts and/or dollar value awarded to businesses that are principally owned by women, minorities, disabled veterans, and/or LGBT persons</p>
<p>6. Increase energy democracy in DACs</p>	<p>Number of stakeholder events, participants, and/or dollars spent to engage with organizations and residents of DACs, including participation and notification of how input was used</p>

Number of tools, trainings for datasets/tools, people trained and/or hours dedicated to dataset/tool and technical assistance and knowledge transfer efforts to DACs

Dollars spent or number of hours spent on technical assistance for DACs

Dollar value and number of clean energy assets owned by DACs members

Dollars spent [\$] by source and purpose and location

- | | |
|---|--|
| 7. Increase access to low-cost capital in DACs | <p>Leverage ratio of private to public dollars [%]</p> <p>Loan performance impact through dollar value [\$] of current loans and of delinquent loans (30-day or 90-day) and/or number of loans (30-day delinquent or 90-day default)</p> |
| 8. Increase parity in clean energy technology access and adoption in DACs | <p>Clean energy resource [MWh] adopted in DACs</p> |
| 9. Increase reliability, resilience, and infrastructure to support reliability and resilience in DACs | <p>Increase in community resilience hubs in DACs</p> <p>Number and size (MWh) of community resilience infrastructure deployed in DACs (e.g., Distributed solar plus storage, utility scale, DERs, microgrids)</p> |

Other examples of positive long-term outcomes in DACs include wealth creation, workforce development, reduced energy or

environmental burdens, and long-term development.

The benefit examples provided above are not intended to be all-inclusive and funding participants are encouraged to research and identify benefits that can be tracked that may not be listed in the figure above. Each FOA may tailor the benefits that are most applicable to the project.



About Community Benefits Plans

Community Benefits Plans are being included in proposals for funding to meet the Administration and Secretary's goal of creating broadly shared prosperity through the implementation of the Bipartisan Infrastructure Law.

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