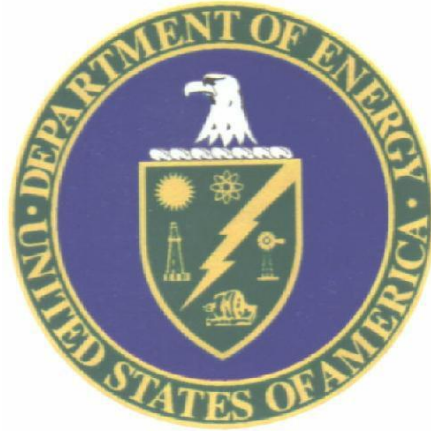


# CIFIA PROGRAM GUIDE



**U.S. Department of Energy  
Office of Fossil Energy and Carbon Management  
Loan Programs Office**

## **CIFIA LOANS FOR CARBON DIOXIDE TRANSPORTATION INFRASTRUCTURE**

**OMB Control Number: 1910-5134;  
see Burden Disclosure Statement in Section VI of this document.**

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## TABLE OF CONTENTS

### Contents

I. Purpose of Guidance.....	4
II. Eligibility.....	7
Project .....	7
Project Costs.....	7
Obligor .....	9
Priority Considerations .....	9
III. Terms and Conditions .....	10
Maximum Financing .....	10
Interest Rate .....	10
Final Maturity Date.....	11
Repayment Schedule.....	11
Prepayments .....	11
Davis-Bacon Act.....	11
Cargo Preference Act.....	11
Use of American Iron, Steel, and Manufactured Goods .....	12
National Environmental Policy Act (NEPA) .....	12
Credit Subsidy.....	12
Financing Fee.....	12
Exclusions .....	12
IV. Application Process.....	13
Pre-Application Consultation.....	13
Letter of Interest .....	13
V. Due Diligence and Approval Process.....	18
Due Diligence.....	18
Conditional Agreement .....	18
Financial Close .....	18
VI. Additional Provisions .....	19
Restrictions on Disclosure and Use of Information.....	19
Commitment of Public Funds .....	20
Procurement or Financial Assistance Award .....	20

Burden Disclosure Statement ..... 20

Statements of Entries Generally ..... 21

Questions ..... 21

    Attachment A – Defined Terms ..... 22

    Attachment B – Credit Subsidy and Future Growth Grants ..... 26

    Attachment C – Community Benefits Plan ..... 27

    Attachment D – Use of American Iron, Steel, and Manufactured Products ..... 32

    Attachment E – Application Requirements ..... 34

    Attachment F – National Environmental Policy Act Compliance ..... 44

    Attachment G – Letter of Interest Requirements for Future Growth Grants ..... 47

## I. Purpose of Guidance

Eligible parties are invited to apply for secured or “direct” loans or loan guarantees (“CIFIA Loans”) and Future Growth Grants (“CIFIA FGG”) from the U.S. Department of Energy (“DOE”) under the carbon dioxide (“CO<sub>2</sub>”) transportation infrastructure finance and innovation (“CIFIA”) program. The CIFIA program was established by Section 40304 of the Infrastructure Investment and Jobs Act (“IIJA”), Public Law 117-58, signed November 15, 2021, also known as the Bipartisan Infrastructure Law (“BIL”).<sup>1</sup> Under CIFIA, a secured loan means a direct loan to an Obligor (also referred to herein as Applicant or Sponsor) or a debt obligation issued by an Obligor and purchased by the Secretary of Energy,<sup>2</sup> and a loan guarantee means a guarantee by the Secretary of Energy to pay all or part of the principal of, and interest on, a loan made to an Obligor and funded by a Lender.<sup>3, 4</sup>

The BIL is a once-in-a-generation investment in infrastructure, designed to modernize and upgrade American infrastructure to enhance United States competitiveness, drive the creation of good-paying union jobs, tackle the climate crisis, and ensure stronger access to economic, environmental, and other benefits for disadvantaged communities.<sup>5</sup> The BIL appropriates more than \$62 billion to DOE<sup>6</sup> to invest in American manufacturing and workers; expand access to energy efficiency and clean energy; deliver reliable, clean, and affordable power to more Americans; and demonstrate and deploy the technologies of tomorrow through clean energy demonstrations.

As part of and in addition to upgrading and modernizing infrastructure, DOE’s BIL investments will support efforts to build a clean and equitable energy economy that achieves zero carbon electricity by 2035 and puts the United States on the path to achieve net-zero emissions economy-wide by no later than 2050 to benefit all Americans.<sup>7</sup>

The BIL will invest \$2.1 billion to provide Federal Government financing to large capacity common carrier<sup>8</sup> CO<sub>2</sub> transportation infrastructure projects. The \$2.1 billion may be used by

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<sup>1</sup> Infrastructure Investment and Jobs Act, Pub. L 117-58, Nov. 15, 2021, <https://www.congress.gov/117/plaws/publ58/PLAW-117publ58.pdf>.

<sup>2</sup> 42 U.S.C. § 16371(14)

<sup>3</sup> All capitalized terms used throughout this Guidance are defined in Attachment A.

<sup>4</sup> 42 U.S.C. § 16371(8)

<sup>5</sup> Pursuant to E.O. 14008 and the Office of Management and Budget’s Interim Justice40 Implementation Guidance M-21-28, DOE has developed a definition and tools to locate and identify disadvantaged communities. These resources can be located at <https://energyjustice.egs.anl.gov/>. DOE will also recognize disadvantaged communities as defined and identified by the White House Council on Environmental Quality’s Climate and Economic Justice Screening Tool (“CEJST”), which can be located at <https://screeningtool.geoplatform.gov/>.

<sup>6</sup> U.S. Department of Energy. November 2021. “DOE Fact Sheet: The Bipartisan Infrastructure Deal Will Deliver for American Workers, Families and Usher in the Clean Energy Future.” <https://www.energy.gov/articles/doe-fact-sheet-bipartisan-infrastructure-deal-will-deliver-american-workers-families-and-0>

<sup>7</sup> See [Executive Order \(EO\) 14008](#), “Tackling the Climate Crisis at Home and Abroad,” January 27, 2021.

<sup>8</sup> As defined in Attachment A, “Common Carrier” means “[t]ransportation infrastructure operator or owner that publishes a publicly available Tariff containing the just and reasonable rates, terms, and conditions of nondiscriminatory service, and holds itself out to provide transportation services to the public for a fee.”

DOE as credit subsidy to support CIFIA Loans or as grants for CIFIA FGG (see Attachment B for information on credit subsidy and Attachment G for additional guidance on CIFIA FGG).

DOE's Office of Fossil Energy and Carbon Management ("FECM") and Loan Programs Office ("LPO") are issuing this guidance document to inform prospective applicants about the CIFIA Program and the application and review process for CIFIA Loans. In addition, the guidance contains limited but pertinent information about the CIFIA FGG. The National Energy Technology Laboratory (NETL), on behalf of FECM, has issued additional guidance specifically for the parties interested in applying for a CIFIA FGG.<sup>9</sup>

Carbon management technologies, including carbon capture, utilization, and storage ("CCUS") technologies and direct air capture ("DAC"), must be deployed at a large-scale in the coming decades to meet net-zero goals.<sup>10</sup> CIFIA will support CCUS and DAC technology deployment by financing projects that build shared CO<sub>2</sub> transport infrastructure. This infrastructure will benefit from economies of scale and help form an interconnected carbon management market.

Common carrier CO<sub>2</sub> transport infrastructure shares similar barriers to deployment previously faced by other types of critical national infrastructure, such as high capital costs, low to modest economic returns, and "chicken-and-egg" challenges. Overcoming these barriers requires Federal, state, and local government support along with private investment. CIFIA serves as a key Federal tool to help address these barriers.

As discussed below, the application process for a CIFIA Loan involves Pre-Application Consultations, a Letter of Interest, and an Application. Successful CIFIA Loan Applicants will be invited into the Due Diligence process where DOE will underwrite the Project and may negotiate a Conditional Agreement with the Applicant that contains terms and conditions of an offered CIFIA Loan.

For successful CIFIA Loan Applicants, DOE will present Conditional Agreements to approval committees at DOE, as well as to the United States Department of the Treasury ("UST") and the Office of Management and Budget ("OMB"), for review. Upon completion of that process, DOE and the respective Applicant may proceed with Financial Close of the CIFIA Loan based on Conditional Agreement terms and conditions. If an Applicant requests a Master Credit Agreement under CIFIA, the timing and amount of each credit instrument to be provided under that Master Credit Agreement should be described in its application.

Applicants should expect at least twelve months between submitting a Letter of Interest to DOE and achieving Financial Close on a CIFIA Loan, with ultimate timing based on the level of the Project's development and timing requirements for i) DOE due diligence and ii) completion of the Project's National Environmental Policy Act ("NEPA") review. Executed CIFIA Loans will be administered during construction and operation by LPO's Portfolio Management Division ("PMD"), which currently manages approximately \$19 billion in large energy project loans.

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<sup>9</sup> [Funding Opportunity Announcement: Bipartisan Infrastructure Law - Carbon Dioxide Transportation Infrastructure Finance and Innovation \(CIFIA\) Program: Future Growth Grants \(Section 40304\)](#)

<sup>10</sup> [The Long-Term Strategy of the United States, Pathways to Net-Zero Greenhouse Gas Emissions by 2050 \(whitehouse.gov\)](#)

The Application process for a CIFIA FGG, whether in conjunction with a CIFIA Loan or not, involves first submitting a Letter of Interest (*see* Section IV). If the Letter of Interest is favorably reviewed, interested parties will be invited to apply to the [CIFIA FGG Funding Opportunity Announcement](#) (FOA). Applications submitted to the CIFIA FGG FOA before receiving an invitation to apply by way of a Letter of Interest will be deemed non-compliant and will not be considered. Please note, while Letters of Interest may be submitted at any time, applications to the CIFIA FGG FOA may only be submitted during the open periods specified in the CIFIA FGG FOA. It is anticipated that the CIFIA FGG FOA will have multiple open periods for application submission.

Upon receipt of the full application to the CIFIA FGG FOA, the application will first be screened for compliance. If deemed compliant, the application will enter the evaluation process, which includes a full review of the application's merits and adherence to the criteria set forth in the CIFIA FGG FOA. Once the evaluation process is complete, applicants will be notified whether or not their application has been selected for an award. Selected applications will then move to the award negotiation process. Once negotiations are finalized, a formal funding agreement will be issued at which point work may begin per the terms of the funding agreement. Full detail of the CIFIA FGG process will be provided in the CIFIA FGG FOA.

Projects financed by CIFIA may also support activities under other sections of the BIL:

- Section 41004a: \$937 million for large-scale CCUS pilots
- Section 41004b: \$2.5 billion for demonstration scale carbon capture projects
- Section 40308: \$3.5 billion for regional DAC hubs
- Section 40303: \$100 million for FEED (“Front-End Engineering Design”) studies for CO<sub>2</sub> transport systems
- Section 40305: \$2.5 billion available for the development and validation of carbon storage infrastructure
- Section 40314: \$8 billion for hydrogen hubs including fossil-based H<sub>2</sub> with carbon management

Potential CIFIA Applicants are encouraged to review and determine if there are complementary or synergistic opportunities around linking multiple provisions throughout the CCUS value chain. However, it is important to note that Federal dollars provided from one of the BIL provisions above cannot be used as cost share for another provision<sup>11</sup>.

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<sup>11</sup> See definition of “cost sharing” at 2 C.F.R. 200.1 and related regulations at 2 C.F.R. 200.306.

## II. Eligibility

Before beginning the Application process, potential Applicants should assess and confirm they are eligible for CIFIA funding based on the criteria set forth herein. This section discusses eligibility for Projects, Project Costs, Obligors, and Lenders. This section also discusses Priority Considerations that DOE will use to evaluate CIFIA applications.

### Project

CIFIA Loans can be made only for projects that satisfy the CIFIA eligibility requirements. An Eligible Project under CIFIA is a Project that:

1. Is a Common Carrier CO<sub>2</sub> transportation infrastructure Project in the United States,<sup>12</sup> with Total Project Costs greater than \$100 million, that will transport CO<sub>2</sub> captured from anthropogenic sources and/or ambient air<sup>13</sup> by pipeline, shipping, rail, or other transportation infrastructure for storage or use,<sup>14, 15</sup>
2. Can attract public and/or private investment to fund Project costs not covered by the CIFIA Loan, as evidenced by binding commitments and/or expressions of interest from other potential funders,<sup>16, 17</sup>
3. Is reasonably expected to commence the construction contracting process (“Project Readiness”) in no more than ninety days after Financial Close,
4. Will publish a publicly available Tariff<sup>18</sup> with just and reasonable rates, terms, and conditions for nondiscriminatory CO<sub>2</sub> transportation service, and
5. Has a Reasonable Prospect of Repayment of the CIFIA Loan from Project cash flows.

### Project Costs

The maximum amount of a CIFIA Loan is eighty percent of the reasonably anticipated Eligible Project Costs.<sup>19</sup> Eligible Project Costs are those costs, including escalation and contingencies, that are expended or accrued by an Obligor in connection with a Project, including:

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<sup>12</sup> 42 U.S.C. § 16372(c)(2)(A)

<sup>13</sup> 42 U.S.C. § 16371(12)

<sup>14</sup> 42 U.S.C. § 16372(b)(4)

<sup>15</sup> 42 U.S.C. § 16372(b)(8)

<sup>16</sup> 42 U.S.C. § 16372(b)(2)(A)

<sup>17</sup> 42 U.S.C. § 16372(b)(2)(B)

<sup>18</sup> An Applicant should demonstrate how it satisfies the definition of “Common Carrier”. If an applicable regulatory body (e.g., a state public utility or pipeline safety commission) has not made a determination that a Project Tariff contains just and reasonable rates, terms, and conditions of nondiscriminatory service, DOE will evaluate a Project’s satisfaction of this eligibility requirement on a case-by-case basis.

<sup>19</sup> 42 U.S.C. § 16373(b)(2)

1. Project development-phase activities, such as planning, feasibility analysis, revenue forecasting, environmental review, permitting, preliminary engineering and design work, community engagement, and other preconstruction activities including legal and technical costs;<sup>20</sup>
2. Construction, reconstruction, rehabilitation, replacement, and acquisition of real property (including land relating to the Project and improvements to the land), environmental mitigation, construction contingencies, and acquisition and installation of equipment (including labor);<sup>21</sup>
3. Capitalized interest necessary to meet market requirements, Reasonably required Reserve Accounts, capital issuance expenses, and other Carrying Costs during construction;<sup>22</sup> and
4. Transaction costs associated with financing the Project, including legal and technical consultants.<sup>23</sup>

Examples of ineligible costs include:

1. Fees and commissions charged to the Borrower, including finder's fees, for obtaining Federal or other funds;
2. Parent corporation or other affiliated entity's general and administrative expenses, and non-Eligible Project related parent corporation or affiliated entity assessments, including organizational expenses;
3. Goodwill, franchise, trade, or brand name costs;
4. Dividends and profit sharing to stockholders, employees, and officers;
5. Research, development, and demonstration costs of readying any technology used by the Project for deployment;
6. Costs that are excessive or are not directly required to carry out the Project, as determined by DOE;
7. Expenses incurred after commissioning, startup, and shakedown of the project or, in DOE's discretion, any portion of the project that has completed commissioning, startup, and shakedown; and
8. Operating costs.

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<sup>20</sup> 42 U.S.C. § 16371(4)(A)(i)

<sup>21</sup> 42 U.S.C. § 16371(4)(A)(ii)

<sup>22</sup> 42 U.S.C. § 16371(4)(A)(iii)

<sup>23</sup> 42 U.S.C. § 16371(4)(B)



## **Obligor**

An eligible Obligor (also generally referred to as Applicant or Sponsor, except as provided below) under CIFIA will oversee Project development, construction, and operations (including repayment of the CIFIA Loan) and may be a:

1. Corporation, partnership, joint venture, or trust;
2. Non-federal governmental entity, agency, instrumentality, or public authority; or
3. Public-private partnership between a private party and a state or local government, agency, instrumentality, or public authority, under which the public entity is the Applicant to CIFIA, and the selected or to-be-selected private party is the Obligor.<sup>24</sup>

## **Priority Considerations**

Eligible Projects may receive Priority Consideration for a CIFIA Loan if they:

1. Clearly demonstrate demand for the Project's CO<sub>2</sub> transport infrastructure by associated projects that capture CO<sub>2</sub> from anthropogenic sources or ambient air (e.g., documents such as counterparty expressions of interest, contracts with terms and Tariff rates, market data showing long-term viability of proposed sources of CO<sub>2</sub>, and similar materials);
2. Enable geographic diversity in associated projects that capture CO<sub>2</sub> from anthropogenic sources or ambient air, with the goal of enabling projects in all major CO<sub>2</sub> emitting regions of the United States;
3. Are sited within, or adjacent to, existing pipeline or other linear infrastructure corridors, in a manner that minimizes environmental disturbance and other siting concerns (i.e., existing right of way, voluntary easements, etc.); and
4. Demonstrate a strong Community Benefits Plan (see Attachment C).<sup>25</sup>

Prior to making a CIFIA Loan, DOE must also determine that the financial assistance for the applicable Project will i) attract public or private investment for the Project, ii) enable the Project to proceed at an earlier date than the Project would otherwise be able to proceed, or iii) reduce the lifecycle costs (including debt service costs) of the Project compared to other sources of financing.<sup>26</sup>

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<sup>24</sup> 42 U.S.C. § 16371(10), 42 USC 16372(b)(6).

<sup>25</sup> <https://www.energy.gov/infrastructure/about-community-benefits-plans>

<sup>26</sup> 42 U.S.C. § 16372(b)(7)

### III. Terms and Conditions

A CIFIA Loan will include such terms and conditions and contain such covenants, representations, warranties, and requirements (including requirements for audits) as the Secretary of Energy determines to be appropriate.<sup>27</sup> CIFIA Loans may be used to:

1. Finance Eligible Project Costs of an Eligible Project,
2. Refinance interim construction financing of Eligible Project Costs of an Eligible Project, or
3. Refinance long-term project obligations or Federal credit instruments, if the refinancing provides additional funding capacity for the completion, enhancement, or expansion of an Eligible Project.<sup>28</sup>

For secured or “direct” loans, the Lender will be the Federal Investments and Borrowings Branch of the Bureau of the Fiscal Service at the UST. For loan guarantees provided by DOE, the lender must be a qualified institutional buyer (as defined in section 230.144A(a) of title 17, Code of Federal Regulations, commonly known as Rule 144A(a) of the Securities and Exchange Commission and issued under the Securities Act of 1933 (15 U.S.C. 77a et seq.), or a successor regulation), that is not a Federal qualified institutional buyer.<sup>29</sup> Prior to making a loan guarantee under CIFIA, DOE must determine that the Budgetary Cost of the loan guarantee is substantially the same as, or less than, that of a direct loan.<sup>30</sup> For guaranteed loans, the guaranteed loan and any prepayment features will be negotiated between the Obligor and the Lender, with the consent of DOE.<sup>31</sup>

The terms and conditions of CIFIA Loans will be included in a Conditional Agreement and will be informed by the following parameters.

#### **Maximum Financing**

The total amount of a CIFIA Loan for a Project may not exceed eighty percent of the reasonably anticipated Eligible Project Costs.<sup>32</sup> The actual negotiated amount of financing offered by DOE will be determined by Due Diligence and expected Project cash flows over the CIFIA Loan tenor under reasonable forecast scenarios.

#### **Interest Rate**

The interest rate on CIFIA Loans shall be set in accordance with Section 999C of the CIFIA subtitle of the IIJA (42 U.S.C. 16373(b)(4)) and as set forth in the Conditional Agreement.

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<sup>27</sup> 42 U.S.C. § 16373(b)(1)

<sup>28</sup> 42 U.S.C. § 16373(a)(1)

<sup>29</sup> 42 U.S.C. § 16372(6)

<sup>30</sup> 42 U.S.C. § 16373(e)(1)

<sup>31</sup> 42 U.S.C. § 16373(e)(2)

<sup>32</sup> 42 U.S.C. § 16373(b)(2)

### **Final Maturity Date**

The Final Maturity Date of a CIFIA Loan will be the earlier of the date that is thirty-five years after the date that the Project reaches Substantial Completion and the date that is the end of the useful life of the asset, as validated by DOE's independent engineer.<sup>33</sup>

### **Repayment Schedule**

DOE will establish a loan amortization schedule for each CIFIA Loan based on the projected cash flow from Project revenues and other repayment sources over the duration of the CIFIA Loan.<sup>34</sup> Scheduled loan repayments of principal or interest must commence not later than five years after the date of Substantial Completion of the Project.<sup>35</sup>

### **Prepayments**

Any excess revenues that remain after satisfying scheduled debt service requirements on the Project obligations and CIFIA Loan and all deposit requirements under the terms of any trust agreement, bond resolution, or similar agreement securing Project obligations may be applied annually to prepay the CIFIA Loan, without penalty.<sup>36</sup> A CIFIA Loan may be prepaid at any time without penalty from the proceeds of refinancing from non-Federal funding sources.<sup>37</sup>

### **Davis-Bacon Act**

Each laborer or mechanic employed by a contractor or subcontractor for a Project financed, in whole or in part, by a CIFIA Loan shall be paid wages at rates not less than those prevailing on the same type of work on similar construction projects in the applicable locality, as determined by the Secretary of Labor under subchapter IV of chapter 31 of part A of subtitle II of title 40, United States Code (commonly referred to as the 'Davis-Bacon Act').<sup>38</sup>

### **Cargo Preference Act**

All Projects that receive a CIFIA Loan must comply with the Cargo Preference Act of 1954, which establishes certain requirements for the use of U.S.-flagged vessels in the movement of cargo in international waters. These requirements may apply to shipments contracted for or made prior to receiving a CIFIA Loan. DOE urges Applicants to contact the Maritime Administration directly to ensure that relevant Project agreements provide for compliance with the Cargo Preference Act.<sup>39</sup>

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<sup>33</sup> 42 U.S.C. § 16373(b)(5)

<sup>34</sup> 42 U.S.C. § 16373(c)(2)

<sup>35</sup> 42 U.S.C. § 16373(c)(2)

<sup>36</sup> 42 U.S.C. § 16373(c)(4)(A)

<sup>37</sup> 42 U.S.C. § 16373(c)(4)(B)

<sup>38</sup> 42 U.S.C. § 18851(a)

<sup>39</sup> General information on cargo preference can be found at the Maritime Administration's web site:

<https://www.maritime.dot.gov/ports/cargo-preference/cargo-preference>. Questions on cargo preference may also be addressed by contacting the Maritime Administration's Office of Cargo Preference and Domestic Trade at (202) 366-4610 or via email to [cargo.marad@dot.gov](mailto:cargo.marad@dot.gov).

### **Use of American Iron, Steel, and Manufactured Goods**

In general, no CIFIA Loan will be provided to a Project unless all iron, steel, and manufactured goods used in the Project are produced in the United States.<sup>40</sup> See Attachment D for details, including information on requesting a waiver of these requirements.

### **National Environmental Policy Act (NEPA)**

Prior to Financial Close of a CIFIA Loan, Projects must receive an environmental record of decision, a finding of no significant impact, or a categorical exclusion under NEPA.<sup>41</sup>

Expectations for NEPA, including when to begin the NEPA process, the amount of time required for completion, options for a Programmatic NEPA Review, and the relationship between NEPA and a Project's Community Benefits Plan can be discussed between the Obligor and DOE during Pre-Application Consultations. Additional information on the NEPA process for loan guarantee projects and required application material is available in Attachment F – National Environmental Policy Act Compliance.

### **Credit Subsidy**

Before Conditional Agreement of a CIFIA Loan, an appropriate Credit Subsidy amount will be determined for each CIFIA Loan, taking into account all relevant factors, including creditworthiness.<sup>42</sup> The Credit Subsidy will be paid by appropriated funds under the CIFIA program, subject to certain limitations. Credit Subsidy is further described in Attachment B.

### **Financing Fee**

At Financial Close, the Obligor will wire a \$3 million Financing Fee<sup>43</sup> to a specified UST account.

### **Exclusions**

The provision of a CIFIA Loan shall not i) relieve any recipient of the assistance of any Project obligation to obtain any required state or local permit or approval with respect to the Project, ii) limit the right of any unit of state or local government to approve or regulate any rate of return on private equity invested in the Project, and iii) otherwise supersede any state or local law (including any regulation) applicable to the construction or operation of the Project.<sup>44</sup>

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<sup>40</sup> 42 U.S.C. § 16372(e)(1)

<sup>41</sup> 42 U.S.C. § 16372(d)(2)

<sup>42</sup> 42 U.S.C. § 16373(a)(2)

<sup>43</sup> 42 U.S.C. § 16373(a)(7)(A)

<sup>44</sup> 42 U.S.C. § 16376

## IV. Application Process

The Application Process for potential Applicants with Projects that may be eligible for a CIFIA Loan begins with three steps – 1) Pre-Application Consultation, 2) Letter of Interest, and 3) Application.

### Pre-Application Consultation

Potential Applicants to the CIFIA program may request free, informal Pre-Application Consultations with DOE by visiting the CIFIA webpage at [www.energy.gov/lpo/cifia](http://www.energy.gov/lpo/cifia) or by sending an email to [CIFIA@hq.doe.gov](mailto:CIFIA@hq.doe.gov).

During Pre-Application Consultations, DOE will:

1. Evaluate Project eligibility for the CIFIA program,
2. Determine whether the Project is Ready to Proceed with a CIFIA Application,
3. Discuss the phases of the process to get a CIFIA Loan, and
4. Answer questions that the potential Applicant may have.

Based on the Pre-Application Consultations, DOE may invite potential Applicants with Projects deemed Ready to Proceed to submit a Letter of Interest.

### Letter of Interest

A Letter of Interest is the first formal step in applying for a CIFIA Loan. Letters of Interest should include high level written summaries of the following:<sup>45</sup>

1. Project details.
  - a. Type, location/route, volume, and cost of the proposed CO<sub>2</sub> transport infrastructure.
  - b. Development status, including:
    - i. Expected CO<sub>2</sub> sources and their status of development,
    - ii. Expected CO<sub>2</sub> sequestration and/or utilization site(s) and their status of development, and
    - iii. Status of permits (Federal, state, and local), rights of way, and contracts for the Project and the Project's CO<sub>2</sub> sources and sequestration or utilization site(s).
  - c. Timeline for key milestones including:
    - i. Financial Close on the CIFIA Loan,
    - ii. Commencement of Construction,

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<sup>45</sup> 42 U.S.C. § 16371(7)

- iii. Substantial Completion,
- iv. Commercial Operation Date,
- v. Loan Amortization Start Date, and
- vi. Final Maturity Date.

2. Obligor details.<sup>46</sup>

- a. Legal entity or entities responsible for overseeing Project development, construction, and operation,
- b. Organizational chart of the Obligor's management team and brief description of experience and qualifications of respective management team members,
- c. Organizational structure of the Project company showing relationship to Obligor and other key Project counterparties (e.g., construction contractor, operations company, CO<sub>2</sub> suppliers and offtakers, etc.), and
- d. Status and nature of contractual relationships between Obligor and key Project counterparties.

3. Financial details.<sup>47</sup>

- a. Requested sources and uses of CIFIA funding broken into appropriate categories, distinguishing between eligible and ineligible costs, and listing all expected sources of Federal funds,
- b. Requested terms of the CIFIA Loan including percentage of Total Project Costs supported by the CIFIA Loan, tenor, interest rate, debt service coverage ratio (minimum, average, maximum), reserve accounts (e.g., debt service, O&M, major maintenance), and other material items,
- c. Plan for and status of financing of Eligible Project Costs that are not covered by the CIFIA Loan and for other needs such as working capital lines and letters of credit, and
- d. Estimated Project cash flows for the tenor of the CIFIA Loan including a description of how the Tariff rate will be determined and applied in a nondiscriminatory fashion and how forecasted capacity utilization is estimated for the entire CIFIA Loan term.

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<sup>46</sup> 42 U.S.C. § 16373(B)(1)

<sup>47</sup> 42 U.S.C. § 16371(7)(B)

4. Policy Consideration and Other Details.<sup>48</sup>

- a. Evidence that there is demonstrated market demand for the proposed CO<sub>2</sub> transport infrastructure,
- b. Proximity to and/or use of existing infrastructure/rights of way,
- c. Proximity to and ability to transport CO<sub>2</sub> from existing and proposed industrial hubs,
- d. Provide a high-level summary of the project's plan to use U.S. made iron, steel, and manufactured goods (see Attachment D), and
- e. Provide high-level summary of the project's Community Benefits Plan (see Attachment C).

Letters of Interest should be no more than ten pages long and can be submitted as a single PDF document via LPO's Application Intake Portal. The Letter of Interest should be organized according to the four sections and respective subsections listed above.

Potential Applicants seeking either a CIFIA Loan or a CIFIA Loan and CIFIA FGG should follow the Letter of Interest guidance prescribed in this section. Potential Applicants seeking only a CIFIA FGG (i.e., without CIFIA Loan funding) should follow the Letter of Interest guidance prescribed in Attachment G. A general schematic of the Letter of Interest process is presented in Figure 1.

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<sup>48</sup> 42 U.S.C. § 16371(7)(D)

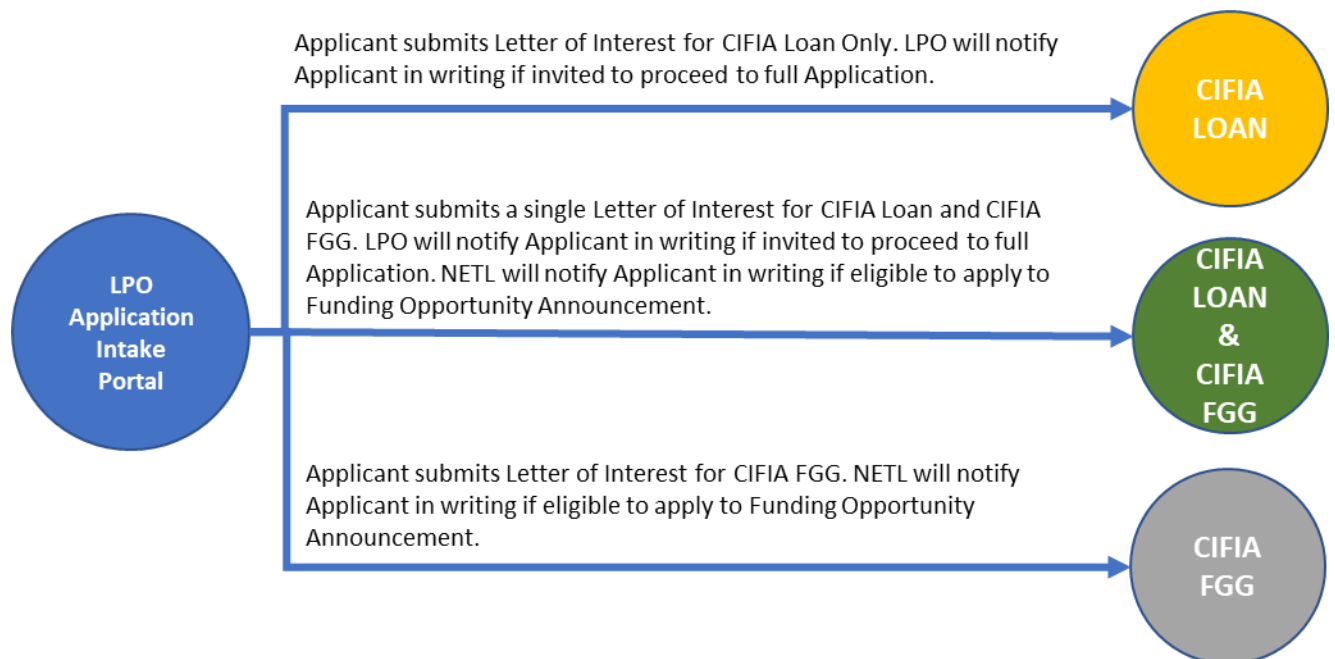


Figure 1: Letter of Interest Flow Chart. Note: The National Energy Technology Laboratory (NETL) is an FECM laboratory.

DOE will review Letters of Interest to determine if the Project appears suitable for the CIFIA Program, has a Reasonable Prospect of Repayment, is Ready to Proceed, and supports Priority Consideration factors. DOE seeks to review and respond to Letters of Interest within thirty days of receipt.

Potential Applicants that submit Letters of Interest to DOE that are favorably reviewed will be invited, in writing, to submit an Application. Letters of Interest that are not favorably reviewed will receive written notification from DOE along with i) an explanation of why an Application is not being invited and ii) information on options for the potential Applicant to withdraw the Letter of Interest, appeal DOE's decision not to invite an Application, or potentially submit a revised Letter of Interest.

### Application<sup>49</sup>

Applications for a CIFIA Loan should be submitted to LPO's Application Intake Portal. For each of the following four sections – Project Summary, Business Information, Technical Information, and Legal and Regulatory Information, a separate PDF document should be submitted. Each PDF should have subsections corresponding to the information requests laid out in Attachment E. Each PDF should contain a table of contents with internal links to the relevant sections, subsections, and attachments (e.g., CO<sub>2</sub> supply agreements, engineer's report, permits). Files that are not easily attached to the respective PDF section, like financial models or documents that create file size problems, may be submitted as separate files but should be labeled clearly to indicate which Application section they belong to and should be referenced in the respective section's table of contents.

Prior to submitting an Application, potential Applicants must:

<sup>49</sup> 42 U.S.C. § 16372(b)(3)



1. Obtain a North American Industry Classification System (“NAICS”) code,<sup>50</sup> and
2. Register with the Federal government’s System for Award Management (“SAM”) and obtain a Unique Entity ID.<sup>51</sup>

DOE will provide a written Notice of Complete Application to an Applicant within thirty days after receipt of a complete Application.<sup>52</sup> If an Application is not complete, DOE will provide a written Notice of Incomplete Application to the Applicant within thirty days detailing what is missing from the Application.<sup>53</sup> DOE will re-start the thirty-day review clock for incomplete Applications when all missing items are received.

DOE will notify Applicants within sixty days of a Notice of Complete Application whether they will receive an Invitation to Due Diligence.<sup>54</sup> If an Applicant is not selected to begin the Due Diligence and Approval Process, a written notice will be provided to the Applicant with an explanation of i) why the Application was rejected and ii) information on options for the Applicant to withdraw the Application, appeal the rejection, or potentially submit a revised Application.

DOE will review CIFIA Loan Applications on a rolling basis. Key factors in the Application review will be the Eligible Project and Priority Consideration factors in Section II of this guidance document and a qualitative assessment of the materials submitted in the Business Information, Technical Information, and Legal and Regulatory Information sections of the Application. A fair and competitive scoring system will be used to select between Projects that i) are competing for CIFIA funds, ii) are in a region with a disproportionately high number of CIFIA Loan applications, iii) are competing for the same right of way, or iv) some other similar consideration. The scoring methodology may be issued in an addendum to this guidance document.

Application requirements for a CIFIA Loan are provided in Attachment E.

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<sup>50</sup> See <https://www.census.gov/naics/> to request or search for a NAICS code.

<sup>51</sup> See [www.sam.gov](http://www.sam.gov) to register with SAM.

<sup>52</sup> 42 U.S.C. § 16372(f)(1)(A)

<sup>53</sup> 42 U.S.C. § 16372(f)(1)(B)

<sup>54</sup> 42 U.S.C. § 16372(f)(2)

## V. Due Diligence and Approval Process

The Due Diligence and approval process has three steps – 1) Due Diligence, 2) Conditional Agreement approval, and 3) Financial Close.

### **Due Diligence**

DOE will conduct Due Diligence on approved CIFIA Loan Applications to thoroughly evaluate the prospects for successful Project construction and operation. Due Diligence will include technical, business/financial, environmental, and legal reviews, supported by third-party advisors (paid for by DOE), and a detailed analysis of risks to Project success. The Due Diligence will inform DOE's decisions on if and how to offer a CIFIA Loan to the proposed Project. During this time, DOE and the Applicant may negotiate a Conditional Agreement.

### **Conditional Agreement**

The Conditional Agreement sets forth the negotiated loan terms and conditions for a CIFIA Loan to a Project, including conditions precedent and standard covenants, representations, and warranties. Key financing terms that will be in the Conditional Agreement are listed in Section III of this guidance document.

The Conditional Agreement will be presented to DOE's Credit Review Board ("CRB") for approval and then to the Secretary of Energy for signature. Presentation, review, approval, and signature may take thirty to forty-five days. Upon signature, CIFIA funds are obligated to the Project but are not available for use until Financial Close (subject to terms and conditions).

### **Financial Close**

Financial Close requires converting the terms of the Conditional Agreement into executable financing documents, completing deferred Due Diligence and negotiations, and satisfying conditions precedent and other requirements. Just prior to Financial Close, the Obligor will be required to wire a \$3 million Financing Fee to the UST.<sup>55</sup>

After Financial Close, responsibility for managing the CIFIA Loan will transfer to LPO's Portfolio Management Division ("PMD"). PMD will manage the CIFIA Loan from construction through the life of the CIFIA Loan and will charge a Maintenance Fee to the Project of up to \$500,000 per year. PMD will also appoint a Collateral Agent to assist with loan servicing and to act as DOE's agent in certain matters. Fees charged by the Collateral Agent will be paid by the Project. PMD may also, from time to time, maintain advisors such as Lender's engineer and counsel, environmental and permitting specialists, and market and financial advisors. Such costs may also be required to be paid by the Project.

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<sup>55</sup> 42 U.S.C. § 16373(7)(A)

## VI. Additional Provisions

### Restrictions on Disclosure and Use of Information

CIFIA authorizes the collection of information requested in this Guidance document. This information will aid DOE in its review of Applications for CIFIA Loans.

Confidential business information shared with the LPO is subject to Federal laws, regulations, and DOE policies. As a matter of policy, LPO and its Federal employees do not enter into Non-Disclosure Agreements. Application materials may become Federal records and subject to disclosure statutes such as the Freedom of Information Act. To the extent practicable DOE will protect confidential business information from public release.

Patentable ideas, trade secrets, proprietary and confidential commercial or financial information, disclosure of which may harm the Applicant, should be included in an Application only to the extent that such information is necessary to convey an understanding of a Project. The use and disclosure of such data will be restricted, to the extent consistent with applicable law, provided the Applicant specifically identifies and marks such data in accordance with 10 CFR 600.15, as described below:

Include the following legend as an Attachment when submitting a Letter of Interest<sup>56</sup> or Application (be sure to specify the section number(s) from the Letter of Interest or Application that contain(s) such data):

“Applicant submits this material based on DOE’s assurance that the Application will be kept confidential to the extent consistent with applicable law. Applicant hereby certifies that Section(s) [\_\_\_] of this Application contain(s) trade secrets or commercial or financial information that is privileged or confidential and is exempt from public disclosure. Such information shall be used or disclosed only for evaluation purposes or in accordance with the loan or loan guarantee agreement, if any, entered in response to this Application. If Applicant is issued a loan or loan guarantee under CIFIA, as amended, as a result of, or in connection with, the submission of this Application, DOE shall have the right to use or disclose the data contained herein, other than such data that have been properly declared in the loan or loan guarantee agreement to be trade secrets or commercial or financial information that is privileged or confidential and is exempt from public disclosure.”

Include the following legend on the first or cover page of each document or electronic file submitted that contains such data (be sure to specify the page numbers from such document or electronic file that contains such data):

“Notice of Restriction on Disclosure and Use of Data Pages [\_\_\_] of this document contain trade secrets or commercial or financial information that is privileged or confidential and is exempt from public disclosure. Such information shall be used or

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<sup>56</sup> Such attachment will not count toward the ten-page limit for Letters of Interest.

disclosed only for evaluation purposes or in accordance with a financial assistance or a loan or loan guarantee agreement between the submitter and the Government. The Government may use or disclose any information that is not appropriately marked or otherwise restricted, regardless of source.”

Include the following legend on each page containing trade secrets or commercial or financial information that is privileged or confidential: “Contains trade secrets or commercial or financial information that is privileged or confidential and exempt from public disclosure.”

In addition, each line or paragraph containing trade secrets or commercial or financial information that is privileged or confidential should be marked with brackets or other clear identification, such as highlighting.

For more guidance regarding the treatment of confidential information, please refer to the [Treatment of Confidential Materials](#) fact sheet and DOE’s regulations implementing the Freedom of Information Act (10 C.F.R. 1004)

### **Commitment of Public Funds**

DOE shall not be bound by oral representations made before or during the Application stage or during any negotiations. No binding commitment, agreement, obligation, or right of any kind may be assumed or enforced by any Applicant or Project Sponsor against DOE other than in accordance with a duly and validly executed Conditional Agreement.

### **Procurement or Financial Assistance Award**

Neither a procurement action under Title 48 of the CFR nor a financial assistance award under 10 CFR Part 600 is contemplated by the portions of this guidance document that relate solely to the CIFIA Loans under the CIFIA program. Guidance on CIFIA FGG, a financial assistance award, is available from NETL, on behalf of FECM,<sup>9</sup> and in Attachment G.

### **Burden Disclosure Statement**

This data is being collected by DOE for the purpose of evaluating the eligibility of Projects seeking CIFIA Loans. Applying for such benefit is voluntary, but if you choose to apply, your Application must include the data described in this guidance.

Public reporting hour burden for this collection of information is estimated to be 132.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering, and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Office of the Chief Information Officer, Enterprise Policy Development and Implementation Office, IM-22, Paperwork Reduction Project OMB Control Number 1910-5134, U.S. Department of Energy, 1000 Independence Ave. SW, Washington, DC, 20585-1290; and to the Office of Management

and Budget, OIRA, Paperwork Reduction Project OMB Control Number 1910-5134, Washington, DC, 20503.

Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subject to penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

### **Statements of Entries Generally**

It is a crime to knowingly make false statements to a Federal agency. Misrepresentation of material facts may be the basis for denial of an Application for a CIFA Loan guarantee. Penalties upon conviction may include fine and imprisonment. For details, please refer to 18 U.S.C. §1001.

### **Questions**

Questions regarding this guidance document can be sent by email to [CIFA@hq.doe.gov](mailto:CIFA@hq.doe.gov).

## Attachment A – Defined Terms

**Applicant:** Entity applying for a CIFIA Loan. Also, may be referred to as an Obligor or a Sponsor.

**Application:** Substantive package of materials consistent with what an investment bank would require for a similar project finance. Applications should be submitted to CIFIA via the Application Intake Portal in separate PDF documents for each of the four sections – Project Summary, Business Information, Technical Information, and Legal and Regulatory Information. Each PDF should have subsections corresponding to the information requests laid out in Appendix E.

**Application Intake Portal:** The Application Intake Portal for Letters of Interest and Applications will be hosted on the CIFIA page of the LPO website. A link to the Application Intake Portal will be sent to Obligors invited to submit Letters of Interest and Applications. All Letter of Interest and Application files should be submitted to DOE via the Application Intake Portal.

**Application Process:** Pre-Application Consultation, Letter of Interest, and Application.<sup>57</sup>

**Associated Equipment:** Equipment required for the successful functioning of the CO<sub>2</sub> transportation infrastructure asset such as pumps, feeder lines, and transfer equipment for pipelines and storage tanks and pump houses for train, maritime, or road transport of CO<sub>2</sub>. The costs of Associated Equipment are Eligible Project Costs under CIFIA.

**Budgetary Costs:** The Credit Subsidy of a CIFIA Loan.

**Capitalized Interest:** Interest accrued on disbursed CIFIA Loan funds prior to the Loan Amortization Start Date. This accrued interest is added to the interest-bearing principal of the CIFIA Loan. Capitalized Interest is an Eligible Project Cost under CIFIA.<sup>58</sup>

**Carrying Costs:** Fees and related costs required to secure financing, such as letters of credit.

**CIFIA Loan:** A direct loan or loan guarantee made by DOE under the CIFIA program.

**Closing Documents:** Legal documents common to project finance agreements including a Loan or Loan Guarantee Agreement, Accounts Agreement, and Intercreditor Agreements.

**Collateral Agent:** A financial services firm retained by DOE to manage Project accounts. The Collateral Agent will require a fee for services and this fee will be paid by the Project.

**Commercial Operations Date:** The date on which the Project's CO<sub>2</sub> transportation infrastructure begins moving volumes of CO<sub>2</sub> at a commercial target quantity and at a commercial target tariff price.

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<sup>57</sup> 42 U.S.C. § 16372(b)(3)

<sup>58</sup> 42 U.S.C. § 16371(4)(A)(iii)

**Commencement of Construction:** The beginning of material construction activities including a formal notice to proceed to the construction contractor and a concurrence from DOE's independent engineer that material construction activities on the Project have begun.

**Common Carrier:** Transportation infrastructure operator or owner that publishes a publicly available Tariff containing the just and reasonable rates, terms, and conditions of nondiscriminatory service,<sup>59</sup> and holds itself out to provide transportation services to the public for a fee.<sup>60</sup>

**Community Benefits Plan:** See Attachment C.

**Conditional Agreement:** The conditional agreement for a CIFIA Loan to a Project and the point at which Federal funds are obligated and committed to the Project.

**Contracting Process:** See Commencement of Construction.

**Credit Subsidy:** The net present value of cash flows to and from the government over the term of a Federal credit instrument. Determined at Conditional Agreement of selected Projects in accordance with the Federal Credit Reform Act of 1990.

**Credit Subsidy Rate:** The percentage of the CIFIA Loan that reflects the cost of a loan guarantee (as defined in section 502(5)(C) of the Federal Credit Reform Act of 1990), which is the net present value, at the time the loan guarantee agreement is executed, of the following estimated cash flows, discounted to the point of disbursement: i) payments by the Government to cover defaults and delinquencies, interest subsidies, or other payments less ii) payments to the Government including origination and other fees, penalties, and recoveries, including the effects of changes in loan or debt terms resulting from the exercise by the borrower, eligible Lender, or other holder of an option included in the loan guarantee agreement.

**Due Diligence:** Standard lender review of Application materials, which may generate questions and requests from DOE for the Applicant and will inform DOE's underwriting and negotiation of a Conditional Agreement and documents leading to Financial Close.

**Eligible Project:** See Section II of this guidance document.

**Eligible Project Costs:** See section II of this guidance document and Associated Equipment definition above.

**Final Maturity Date:** The date on which the CIFIA Loan is fully repaid.

**Financial Close:** The time at which all legal documents for the CIFIA Loan, and any other debt/bond/equity instruments used to fund the Project, are officially signed and executed.

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<sup>59</sup> 42 U.S.C. § 16371(2)(A)

<sup>60</sup> 42 U.S.C. § 16371(2)(B)

**Financing Fee:** A \$3 million fee due to the Federal government from the Obligor at Financial Close.<sup>61</sup>

**Future Growth Grants:** Grant funds from CIFIA that may be provided to cover the Eligible Project Costs for infrastructure needed for potential future volumes of CO<sub>2</sub>.<sup>62</sup>

**Invitation to Due Diligence:** Written notice sent from DOE to Applicants who have submitted a successfully reviewed Application. DOE seeks to send this notice to successful Applicants within sixty days of issuing a Notice of Complete Application.<sup>63</sup>

**Lender:** See Section III of this guidance document.

**Letter of Interest:** A letter of no more than ten pages that is the first formal step in applying to CIFIA and includes written summaries of Project, Obligor, financial plan, and Priority Consideration details<sup>64</sup> as explained in Section IV of this guidance document.

**Loan Amortization Start Date:** The date on which the first scheduled principal and interest payment on the CIFIA Loan is made.

**Maintenance Fee:** A fee up to \$500,000 per year after Financial Close to cover DOE's cost to administer the CIFIA Loan.

**Master Credit Agreement:** See 42 U.S. Code § 16371 (9).

**Notice of Complete Application:** Written notice sent to Applicants with complete Applications within thirty days of Application submittal.<sup>65</sup>

**Notice of Incomplete Application:** Written notice to Applicants with incomplete Applications within thirty days of Application submittal.<sup>66</sup>

**Obligor:** Entity that will oversee Project development, construction, and operations of a CIFIA Project and who may be referred to in this guidance document as an Applicant or Sponsor. An Obligor may be a corporation, partnership, joint venture, or trust; a governmental entity, agency, instrumentality, or public authority; or a public-private partnership between a private party and a state or local government, agency, instrumentality, or public authority, under which the public entity is the Applicant to CIFIA, and the selected or to-be-selected private party is the Obligor.<sup>67</sup>

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<sup>61</sup> 42 U.S.C. § 16373(b)(7)(A)

<sup>62</sup> 42 U.S.C. § 16374

<sup>63</sup> 42 U.S.C. § 16372(f)(2)

<sup>64</sup> 42 U.S.C. § 16371(7)

<sup>65</sup> 42 U.S.C. § 16372(f)(1)(A)

<sup>66</sup> 42 U.S.C. § 16372(f)(1)(B)

<sup>67</sup> 42 U.S.C. § 16371(10)



**Pre-Application Consultation:** One or more discussions between DOE and a potential CIFIA Applicant with a CO<sub>2</sub> transportation infrastructure Project, upon which DOE determines whether to invite the potential Applicant to submit a Letter of Interest.

**Priority Consideration:** Factors that may increase the likelihood of a Project being selected to negotiate a Conditional Agreement. See Section II of this guidance document for the list of Priority Consideration factors.

**Project:** An Eligible Project under CIFIA.<sup>68</sup>

**Project Readiness:** A Project's ability to promptly commence construction activities following Financial Close.

**Ready to Proceed:** In a stage of Project development such that the Obligor can promptly begin Conditional Agreement negotiations with DOE and the Project Readiness can occur within ninety days after Financial Close.<sup>69</sup>

**Reasonable Prospect of Repayment:** Evidence that cash flows to the Project are reasonably likely to be sufficient to repay the CIFIA Loan by the scheduled Final Maturity Date or that there are funds available to pre-pay the CIFIA Loan ahead of the Final Maturity Date if cash flows are not forecasted to be sufficient to cover debt service for the full life of the CIFIA Loan.<sup>70</sup>

**Reserve Accounts:** Types of accounts common to project finance transactions including for debt service, operations and maintenance, major maintenance, and liquidity.

**Sponsor:** Entity applying for a CIFIA Loan. Also, may be referred to as an Applicant or an Obligor.

**Substantial Completion:** The date on which the Project commences transportation of CO<sub>2</sub>, or a comparable event as determined by DOE and set forth in the Conditional Agreement.<sup>71</sup>

**Tariff:** The transparent and non-discriminatory fee charged by the Project to transport CO<sub>2</sub>, as appropriate for Common Carrier infrastructure.

**Total Project Costs:** The combination of eligible and ineligible project costs. See Section II of this guidance document for a list of Eligible Costs and the definition above for Associated Equipment. All other project costs are ineligible.

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<sup>68</sup> 42 U.S.C. § 16371(12)

<sup>69</sup> 42 U.S.C. § 16372(b)(8)

<sup>70</sup> 42 U.S.C. § 16372(b)(2)(B)

<sup>71</sup> 42 U.S.C. § 16371(16)

## **Attachment B – Credit Subsidy and Future Growth Grants**

Congress provided \$2.1 billion to DOE to cover the costs to the Federal government for CIFIA Loans (i.e., Credit Subsidy), Future Growth Grants, and DOE costs to administer the program.

Credit Subsidy, the net present value of cash flows to and from the Government over the term of a Federal credit instrument, will be determined at Conditional Agreement of selected Projects in accordance with the Federal Credit Reform Act of 1990.<sup>72</sup> The total amount of loan authority for CIFIA Loans enabled by \$2.1 billion in Credit Subsidy is a function of i) the amount of authority remaining after any funds are used for Future Growth Grants and administrative costs and ii) the Credit Subsidy Rate applied to respective CIFIA Loans.

For illustrative purposes only, if the entire \$2.1 billion were used for Credit Subsidy, and if the Credit Subsidy Rate on selected projects averaged ten percent, then a total of \$21 billion in CIFIA Loans would be enabled. A five percent average Credit Subsidy Rate on CIFIA Loans would enable \$42 billion in CIFIA Loan funding if all \$2.1 billion were used for that purpose. If the entire \$2.1 billion were used for Future Growth Grants, the total grant funding under CIFIA would be \$2.1 billion and loan funding would be \$0.<sup>73</sup>

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<sup>72</sup> If the subsidy amount of a Federal credit instrument is re-estimated, the cost increase or decrease of the re-estimate shall be borne by, or benefit, the general fund of the Treasury, consistent with section 504(f) of the Congressional Budget Act of 1974 (2 U.S.C. 661c(f)).

<sup>73</sup> This illustrative example does not account for the authorized allocation of administrative expenses from the \$2.1 billion appropriated, which is approximately \$39 million, but subject to inflation.

## **Attachment C – Community Benefits Plan**

CIFIA Loan applicants are required to submit a Community Benefits Plan as an attachment to the Business Information section of their Application. Separate Community Benefits Plan guidance will be issued for CIFIA FGG in the CIFIA FGG FOA. The Community Benefits Plan should discuss how the Obligor is engaging and will engage with stakeholders affected by the proposed CIFIA project. Applicants will be evaluated on the quality of their Community Benefits Plan, including the extent to which the plan includes specific, measurable actions and outcomes.

DOE can discuss and provide feedback on Community Benefit Plans with potential CIFIA Loan applicants during pre-application consultations and throughout the application process. Community Benefits Plans will be preliminarily evaluated once submitted, and further evaluated during due diligence. Applications with incomplete or otherwise inadequate Community Benefits Plans may not be invited to proceed to due diligence.

In general, an applicant's Community Benefits Plan should explain how the proposed project will support i) community and labor engagement leading to negotiated agreements, ii) job quality and workforce continuity, iii) diversity, equity, inclusion, and accessibility, and iv) the Justice40 initiative goal that 40 percent of the overall benefits from certain federal investments flow to disadvantaged communities. Each of these components is discussed below; examples are provided for illustration only and are not a prescriptive or exhaustive list of items to be included in the Community Benefits Plan.

A Community Benefits Plan for an LPO CIFIA application does not need to entail extraordinary additional requirements beyond the normal course of project development activities. The Community Benefits Plan should be approximately 3-8 pages in length and written in an executive summary format to identify project benefits described elsewhere in the application. Applicants should specifically communicate ways in which the Community Benefits Plan de-risks the project and mitigates community harm. Furthermore, the plan should outline any work already done to-date by the project sponsor as well as forward-looking plans to be executed over the course of the project. It is expected that CIFIA projects will typically involve multiple communities and applicants should outline engagement in each respective impacted community.

In support of the Community Benefits Plan, applicants may submit documentation to demonstrate existing or planned community, environmental and labor initiatives. For example, applicants should identify existing partnerships with community entities, such as organizations that work with local stakeholders most vulnerable to or affected by the project, organizations that carry out workforce development programs, labor unions, Tribal organizations, local environmental organizations, community-based organizations that work with disadvantaged communities, and other diversity and equity partners.

Applicants should also provide documents that demonstrate fulfillment of key objectives, such as existing Community and Labor Partnership documentation from representative organizations reflecting substantive engagement and feedback on the applicant's approach to community benefits.

For additional information, see [Community Jobs and Justice | Department of Energy](#), [Planning for Societal Considerations Impacts in FECM Projects](#), and [About Community Benefits Plans |](#)

[Department of Energy](#).

## **A. Community and Labor Engagement**

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

Community and labor engagement should ideally lay the groundwork for the eventual negotiation of Workforce and Community Agreements, which could take the form of one or more kinds of negotiated agreements with communities, labor unions, or both.

In the Community and Labor Engagement portion of the Plan, applicants may:

- Identify the project’s Community Jobs and Justice Lead.
- Outline local stakeholders that have been or will be engaged in stakeholder engagement and describe the types of engagement and outcomes of that engagement.
- Indicate local labor leaders who have been engaged during construction and operations planning.
- Identify any community-focused agreements developed or in development for the project and explain how they relate to community and labor engagement. Examples include: Construction Workforce Agreement, Community Benefits Agreement, Good Neighbor Agreements, and/or Memorandums of Understanding (MOUs).
- Describe stakeholder outreach and engagement conducted or planned as part of the project’s environmental reviews.
- Identify any plans to pursue bonus tax credits for projects placed in service in an “energy community,” low-income community, or part of a “qualified low-income residential building project” or “qualified low-income economic benefit project.”
- Outline efforts to complete a community and stakeholder engagement plan such as those outlined here: [Creating a Community and Stakeholder Engagement Plan 8.2.22.pdf \(energy.gov\)](#)

## **B. Quality Jobs and Workforce Continuity**

A well-qualified, skilled, and trained workforce is necessary to ensure project stability, continuity, and success, and to meet program goals. High-quality jobs are critical to attracting and retaining the qualified workforce required. The Community Benefits Plan should describe the applicant’s approach to investing in workforce education and training of both new and incumbent workers and ensuring jobs are of sufficient quality to attract and retain skilled workers in the industry.

Applicants should include details on how they will support strong labor standards; creation of good-paying jobs with the free and fair choice to join a union; wages, benefits, and other worker supports; workforce education and training, especially registered apprenticeship programs and quality pre-apprenticeship programs; and efforts to engage employees in the design and execution of workplace safety and health plans.

The Community Benefits Plan can include anticipated jobs that will be enabled by the project in the region, which may not be directly associated with the project receiving LPO support. For example, reconductoring a transmission line to carry more energy could allow the construction of new energy supply resources in a region or provide power directly to manufacturing or other industry that is currently infeasible. Applications should describe such cases of related economic impact, including references to available analyses or commitments that demonstrate these anticipated effects.

In the Quality Jobs and Workforce Continuity portion of the Plan, applicants may:

- Identify any workforce-focused agreements developed or in development for the project. Examples may include Construction Workforce Agreement, Project Labor Agreement, Neutrality Agreement, Collective Bargaining Agreement, or Labor Management Partnership. • Indicate if the applicant (or EPC contractor) has a Responsible Contractor Standards Policy aligned with industry best practices.
- Identify any plans to pursue the Inflation Reduction Act (IRA) Production Tax Credits (PTCs) and Investment Tax Credits (ITCs) Labor Standards Bonus Rate for Prevailing Wage and Registered Apprenticeship Utilization. To meet the 2024 IRA Tax Credit Bonus Rate Apprenticeship Utilization Requirement, applicants must set a workforce goal of at least 15% of all hours to be worked by apprentices, prioritizing apprentices from disadvantaged communities.
- Describe any employer-sponsored training that allows access to entry-level workers, advancement within the company, or attainment of skills (e.g., registered apprenticeship programs, quality pre-apprenticeship programs, labor-management training programs, tuition reimbursement programs, etc.).
- Describe efforts to engage employees in the design and execution of workplace safety and health plans.
- Outline training partnerships with community colleges, local workforce boards and workforce systems, community-based organizations, and apprenticeship readiness programs.
- Describe any local and targeted hiring goals associated with the project.
- Describe the employees' ability to organize, bargain collectively, and participate, through labor organizations of their choosing, in decisions that affect them.

### **C. Diversity, Equity, Inclusion, and Accessibility (DEIA)**

The Community Benefits Plan should include a section describing how diversity, equity, inclusion, and accessibility (DEIA) objectives will be incorporated into the project. The applicant should describe any plans to partner with business organizations, educational institutions, and workforce training organizations that serve underrepresented workers who face barriers to accessing high-quality jobs. In doing so, the applicant increases likelihood of project success by strengthening its ties with the community, diversifying its supply chains, and contributing to the health and robustness of the surrounding community. In the Diversity, Equity, Inclusion, and Accessibility portion of the Plan, applicants may:

Outline efforts to complete a Diversity, Equity, Inclusion, and Accessibility plan such as those

outlined here: [Guidance for Project Teams on Diversity, Equity, Inclusion, and Accessibility Plans 8.2.22.pdf \(energy.gov\)](#)

- Indicate if you have a relationship with the regional Minority Business Development Agency (MBDA) Business Center or a local community business diversity organization. 4 Construction Union Apprenticeship Programs & Job Training Near Me (nabtu.org).
- Create business DEIA plans, including goals for number and/or dollar value of contracts, grants, or cooperative agreements awarded to federally identified SBA graded socioeconomic categories, minority business enterprises, minority-owned businesses, woman-owned businesses, veteran-owned businesses, businesses located in underserved communities, or local businesses identified as disadvantaged or prioritized by the State, local government, or local community.
- Partner with and participate in events with federal, State, and local economic development and business development organizations, such as the Minority Business Development Agency, the Small Business Administration, and/or the Department of Energy.
- Participate in business mentoring programs to help grow clean energy enterprises.
- Describe mechanisms to publicly share and promote employment, contracting, supplier, and other opportunities.
- Outline recruitment partnerships with Minority Serving Institutions.
- Outline recruitment partnerships in the community with Community Colleges, local workforce boards and workforce systems, community-based organizations, and Apprenticeship Readiness Programs.
- Support gender inclusion by setting goals for female worker recruitment in all areas of the project. For example, see the U.S. Department of Labor requirements in Executive Order 11246 Equal Employment Opportunity for establishing a workforce goal of at least 6.9% of all hours to be worked by female workers.
- Establish workforce diversity, equity, inclusion, and accessibility goals for individuals who belong to underserved communities, such as 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; persons with disabilities; persons who live in rural areas; veterans; returning citizens; and persons otherwise adversely affected by persistent poverty or inequality and contracting with businesses owned by such persons

#### **D. Justice40 Initiative**

Describe how the applicant's project advances DOE's equity, environmental, and energy justice priorities, including DOE's commitment to the Justice40 Initiative and DOE's commitment to energy communities.<sup>7</sup> Describe the applicant's plan to identify and engage with affected communities and to measure, track, and address the potential benefits (e.g., jobs) and impacts (e.g., environmental degradation) of the project to these communities. Benefits may align with DOE's energy justice policy priorities for disadvantaged communities, which include decreasing environmental exposure and burdens, increasing access to low-cost capital, increasing clean energy enterprise creation and contracting, increasing clean energy jobs (including job pipeline and training), and increasing energy resiliency.

Applicants must provide an overview of benefits to disadvantaged communities that the project can deliver, supported by measurable milestones. In the Justice40 portion of the Plan, applicants may:

- Outline efforts to complete Justice40 Initiative plan such as those outlined here: [Creating a Justice40 Initiative Plan 8.2.22.pdf \(energy.gov\)](#)
- Identify and report on local and State incentives, programs, and commitments made by the applicant for the project.
- Identify disadvantaged communities impacted by the project and to which the anticipated project benefits will flow, specifically those identified by Council on Environmental Quality (CEQ) Justice40 Communities.
- Define whether the project, or sections of the project, are eligible for the 10% energy community tax credit bonus set by the Inflation Reduction Act, as defined by the U.S. Department of Treasury.
- Report hiring goals for underserved communities or disadvantaged communities.
- Report Clean Energy Jobs and Justice40 Initiative | Department of Energy priorities for the project, focusing on applicant-driven goals aligned with any local and State commitments (e.g., number of jobs created, GHG emission reductions). Identify metrics and tracking methods and systems to align with Executive Order 11246, Justice40.
- Identification of applicable benefits that are quantifiable, measurable, and trackable, including a discussion of the relevance of each of the eight DOE Justice40 Initiative benefits outlined here. Benefits include (but are not limited to) measurable direct or indirect investments or positive project outcomes that achieve or contribute to the following in disadvantaged communities: (1) a decrease in energy burden; (2) a decrease in environmental exposure and burdens; (3) an increase in access to low-cost capital; (4) an increase in high-quality job creation, the clean energy job pipeline, and job training for individuals; (5) increases in clean energy enterprise creation and contracting (e.g., minority-owned or disadvantaged business enterprises); (6) increases in energy democracy, including community ownership; (7) increased parity in clean energy technology access and adoption; and (8) an increase in energy resilience.
- A description of how and when anticipated benefits are expected to flow to disadvantaged communities. For example, will the benefits be provided directly within the disadvantaged community identified in the Justice40 Initiative section, or are the benefits expected to flow in another way? Will the benefits flow during project development or after project completion, and how will the applicant track benefits delivered?
- A discussion of anticipated negative and cumulative environmental impacts on disadvantaged communities. Are there anticipated negative or positive environmental impacts associated with the project, and how will the applicant mitigate any negative impacts? Within the context of cumulative impacts created by the project, applicants should use Environmental Protection Agency EJSCREEN tool to quantitatively discuss existing environmental impacts in the project area. See EJScreen: Environmental Justice Screening and Mapping Tool

## Attachment D – Use of American Iron, Steel, and Manufactured Products

In accordance with section 999B(e) of the CIFA subtitle of the IJA,<sup>74</sup> no Federal credit instrument or grant provided under the CIFA program may be available for a Project unless:

1. All iron and steel used in the Project are produced in the United States<sup>75</sup>--this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;
2. All manufactured products used in the Project are produced in the United States<sup>76</sup>—this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than fifty-five percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and
3. All construction materials are manufactured in the United States. Construction materials include articles, materials, or supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. This requirement also does not apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.

These requirements apply to all Applicants, including for-profit entities, non-profit entities, and state or municipal entities. The requirements listed above must flow down to all sub-awards, all contracts, subcontracts and purchase orders for work performed under the proposed project.

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

1. Applying the requirements would be inconsistent with the public interest;<sup>77</sup>
2. The types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a

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<sup>74</sup> DOE interprets the domestic content requirements in Section 999B(e) as consistent with the requirements of, and guidance for implementing, the Build America Buy America Act in IJA Please refer to the [Office of Management and Budget Guidance](#) regarding the IJA Build America, Buy America Act implementation for more details regarding these requirements.

<sup>75</sup> 42 U.S.C. § 16372(e)(1)

<sup>76</sup> 42 U.S.C. § 16372(e)(1)

<sup>77</sup> 42 U.S.C. § 16372(e)(2)(A)



satisfactory quality;<sup>78</sup> or

3. The inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall Project by more than twenty-five percent.<sup>79</sup>

If an Applicant seeks a waiver of these requirements, it must include a written waiver request as an attachment to Section 4 of its CIFA Application. A waiver request must include:

1. A list and description of iron or steel item(s), manufactured goods, and construction material(s) the Applicant seeks to waive from the Buy America requirement, including name, cost, country(ies) of origin (if known), and relevant PSC and NAICS code for each,
2. A detailed justification for the use of “non-domestic” iron, steel, manufactured products, or construction materials to include an explanation as to how the non-domestic item(s) is essential to the project and a summary of due diligence performed by the Applicant to support this conclusion (e.g., market research, industry outreach),
3. A certification that the Applicant made a good faith effort to solicit bids for domestic products supported by terms included in requests for proposals, contracts, and nonproprietary communications with potential suppliers, and
4. Anticipated impact to the Project if no waiver is issued.

DOE may require additional information before considering the waiver request. Waiver requests are subject to public comment periods of no less than fifteen days<sup>80</sup> and must be reviewed by the Made in America Office. There may be instances where an award qualifies, in whole or in part, for an existing waiver described at <https://www.energy.gov/management/financial-assistance>.

The Applicant has no right to appeal DOE’s decision concerning a waiver request.

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<sup>78</sup> 42 U.S.C. § 16372(e)(2)(B)

<sup>79</sup> 42 U.S.C. § 16372(e)(2)(C)

<sup>80</sup> 42 U.S.C. § 16372(e)(3)(B)

## **Attachment E – Application Requirements**

Applications to CIFIA should include the following sections and information:

1. Project Summary.
  - a. One paragraph Project description, including transport method, location, volume, distance, sources, and delivery points for transported CO<sub>2</sub>,
  - b. One paragraph describing the status of land rights, pore space rights, rights of way, and permits for the Project, CO<sub>2</sub> sources, and sequestration and/or utilization site(s),
  - c. One paragraph describing the Project structure and management team, including qualifications/capabilities to build and operate the proposed CO<sub>2</sub> transport infrastructure project and experience working together as a team,
  - d. One paragraph describing the Project financial plan, including sources of funds, cash flow forecasts over the requested loan tenor, and Applicant base case debt service coverage ratios (minimum, average, and maximum),
  - e. Evidence that the Project is Ready to Proceed with Due Diligence for a CIFIA Loan;
  - f. A table and one paragraph description of Sources and Uses of funds for the Project;
  - g. One paragraph describing the Project construction plan including the status of agreements with key contract counterparties for construction and equipment supply;
  - h. One paragraph describing the Project's operations plan including labor requirements, maintenance schedules, and monitoring procedures;
  - i. One paragraph describing the greenhouse gas emissions from the Project, including any emissions associated with the use of CO<sub>2</sub>;
  - j. Detailed Plan for how the Project will address Use of American Iron, Steel, and Manufactured Goods requirements (see Attachment D);
  - k. Detailed Community Benefits Plan (see Attachment C);
  - l. A table of target dates for Financial Close, Commencement of Construction, Substantial Completion, Commercial Operations Date, Loan Amortization Start

Date, and Final Maturity Date; and

- m. Letters of support for the Project from local/state government, industry counterparties, community groups, labor groups, investors, etc., if available.

## 2. Business Information

- a. Summarize the business plan and highlight strengths/weaknesses and risks/mitigants;
- b. Describe the Project's Community Benefits Plan (see Attachment C), providing details on past and future stakeholder engagements and summary information on the type and number of stakeholders engaged and lessons learned (attach a full copy of the Project's Community Benefits Plan as an attachment to the Business Information section of the Application);
- c. Analyze the total addressable CO<sub>2</sub> capture market that can be served by the proposed transport infrastructure Project;
- d. Describe the targeted sources of CO<sub>2</sub> for the Project, with details including:
  - i. Company names, locations, sizes, and industry,
  - ii. Expected CO<sub>2</sub> volumes and capture costs,
  - iii. Technical requirements for installing and operating capture equipment at target plants,
  - iv. Local emissions and/or other pollution impacts from technology used by targeted sources,
  - v. Financial and permitting requirements for and status of carbon capture equipment installation at respective industrial facilities,
  - vi. Nature, status, details, and timing of contractual agreements between CO<sub>2</sub> sources and the Project,
  - vii. Evidence of these companies' commitment to use the Project's CO<sub>2</sub> transport infrastructure for the tenor of the CIFIA Loan (e.g., contract, MOU, LOI, press release) and if such evidence is not available, an explanation of the plan for ensuring financial viability for the Project until the CIFIA Loan's Final Maturity Date, and
  - viii. Business case for and risks to continued CO<sub>2</sub> supply from these companies.
- e. Describe the proposed CO<sub>2</sub> transportation infrastructure, including:
  - i. Method by which the CO<sub>2</sub> will be transported by the Project and benefits of this method relative to alternatives,
  - ii. The Project's proposed CO<sub>2</sub> transport route and:
    - 1. Benefits of this route relative to alternatives,

2. Challenges to this route and how they will be addressed,
  3. Proximity to and use of existing infrastructure and rights of way (including the positive and/or negative community and environmental impacts of extending, repurposing, or altering existing infrastructure), and
  4. Proximity to and ability to serve CO<sub>2</sub> sources at existing and/or proposed industrial hubs (e.g., petrochemical, hydrogen, DAC).
- iii. Status and timing of securing land rights, rights of way, permits, and community support for the proposed Project,
  - iv. Transport system safety features, first responder training and notification plans, and community advance notification plans,
  - v. Construction plan, cost, and timing,
  - vi. Operating and maintenance plan, cost, and financials (including basis for setting Common Carrier Tariff rate),
  - vii. Business case for and risks to the proposed CO<sub>2</sub> transport infrastructure Project, and
  - viii. Capabilities and experience of Obligor and key Project counterparties (e.g., construction contractor) to build, own, and operate the proposed CO<sub>2</sub> transportation infrastructure.
- f. Describe the proposed CO<sub>2</sub> delivery point(s) for the Project, including:
- i. Location(s) of and method(s) by which CO<sub>2</sub> transported by the Project will be sequestered and/or used,
  - ii. Company name(s) and corporate details of counterparty, or counterparties, responsible for sequestering and/or using the transported CO<sub>2</sub>,
  - iii. Status and timing of development, land rights, pore space rights, permitting, financing, etc., for the site(s) where the CO<sub>2</sub> will be sequestered and/or used,
  - iv. Local emissions or other pollution impacts from technology used for CO<sub>2</sub> use or sequestration,
  - v. Evidence of respective sequestration or use counterparty commitment to take CO<sub>2</sub> from the Project for the life of the CIFIA Loan (e.g., contract, MOU, LOI, press release), and
  - vi. Business case for respective CO<sub>2</sub> sequestration and/or use companies.
- g. Discuss the Project's financial plan, including:
- i. List Total Project Costs in accordance with generally accepted accounting principles and practices, including:
    1. A break down by phase (i.e., development, financing, construction), cost category, and year of expenditure,
    2. A description of the methodology and key assumptions used to estimate Total Project Costs,

3. An indication of how firm the cost estimates are and estimates for escalation and contingencies,
  4. An indication of which costs are eligible and ineligible, and
  5. An estimate of and basis for annual operating and maintenance costs during the life of the Project.
- ii. List all sources of expected funding (e.g., debt, bond, equity) by provider, type, and aggregate amount, and:
1. To the extent available, provide copies of all material agreements, whether entered into or proposed, relevant to the investment and financing of the Project,
  2. Include anticipated short-term financing or credit facilities required for on-going operations of the Project, such as working capital facilities, performance bonds and similar forms of financing,
  3. Describe the nature of the security or collateral to be made available to respective financing parties,
  4. Summarize each tranche of funding (e.g., source, amount, maturity, fixed or floating rate, amortization schedule, and amount guaranteed by DOE), and
  5. Confirm that the CIFIA Loan will not be subordinated to the claims of any holder of Project obligations in the event of bankruptcy, insolvency, or liquidation of the Obligor, or request a waiver of the non-subordination pursuant to the IJJA.
- iii. List all uses of funds for the Project and:
1. Break uses into appropriate categories and distinguish between eligible and ineligible costs, and
  2. Include cost assumptions based on compliance with the Davis-Bacon Act, the use of U.S. produced iron and steel, and the Cargo Preference Act, as applicable.
- iv. Provide a dynamic financial model with:
1. Major assumptions and requested loan terms in a separate worksheet within the model that is dynamically linked to the other model worksheets,
  2. Detailed and linked income statement, balance sheet, cash flow statement, and waterfall statement,
  3. Financial ratios including debt service coverage ratio, loan life coverage ratio, debt-to-capital ratio, and working capital ratio,
  4. Monthly calculations up to the Commercial Operations Date plus two years and quarterly calculations for the balance of the proposed guaranteed loan tenor plus two years, and
  5. Sensitivity analyses that demonstrate the Project's performance under appropriate stress scenarios, including reduced CO<sub>2</sub> volumes and Tariff rates, higher O&M costs, and unexpected outages.

- v. Analyze the expected financial performance of the Project over the life of the CIFIA Loan and:
  - 1. Explain and demonstrate why the Project's revenue from a non-discriminatory Tariff presents a Reasonable Prospect of Repayment of the CIFIA Loan,
  - 2. Explain plan for maintaining sufficient volumes of CO<sub>2</sub> in the transportation infrastructure, which may include sustained volumes from initial CO<sub>2</sub> sources and/or new volumes of CO<sub>2</sub> from new sources, and
  - 3. Discuss risks that could impair the Project's ability to meet debt service obligations through the Final Maturity Date and mitigants to those risks.
  
- h. Describe the Project's proposed insurance coverage, ideally including a report from an insurance company opining on the appropriateness and adequacy of such coverage.
  
- i. Provide a project employment estimate detailing:
  - i. The number of workers employed directly by the Applicant to execute this project,
  - ii. The number of employees of contractors and sub-contractors working on the project, and
  - iii. The total number of employees on the project hired directly and hired through a third party.
  
- j. Provide unaudited financial statements for the Applicant or majority Project Sponsor for the three immediately preceding fiscal years (or since inception if the Applicant or majority Project Sponsor has not been in existence for at least three years), prepared in accordance with generally accepted accounting principles in the United States ("U.S. GAAP").
  
- k. Provide a listing, description, and value of all assets associated, or to be associated, with the Project and any other assets that will serve as collateral for the CIFIA Loan, including any intellectual property necessary for the operation of the Project. Valuations must be supported by independent, third-party appraisals for existing assets and commercial cost substantiation for assets to be constructed for the purpose of the Project, and in all cases acceptable to DOE. An appraisal of real property must be performed by a licensed or certified appraiser consistent with the Uniform Standards of Professional Appraisal Practice promulgated by the Appraisal Standards Board of the Appraisal Foundation. The appraisal should include information on the useful life of all physical assets expected to serve as collateral, including a depreciation schedule (prepared in accordance with U.S.

GAAP).

### 3. Technical Information

- a. Project Site and Route:
  - i. Describe the Project site and rights-of-way, easements, and logistical considerations (e.g., roads, water, highway, and rail) if applicable,
  - ii. Provide the status and milestones for site access and, as appropriate, purchase or lease terms, zoning approvals or operating restrictions, and
  - iii. Describe required improvements for the Project (e.g., utility access).
  
- b. Key Contracts and Agreements: Provide and describe key term sheets, contracts, and agreements (whether draft or signed) relevant to the design, engineering, construction, startup commissioning, operations and maintenance of the Project, and Project sales, including, as applicable:
  - i. Project development contracts such as Front-End Engineering and Design (“FEED”) studies,
  - ii. Land right and right of way contracts,
  - iii. Engineering, procurement, and construction (“EPC”) contract and equipment/input supply contract(s),
  - iv. Operating and maintenance contract(s),
  - v. CO<sub>2</sub> supplier and storage and/or utilization site(s) contracts, and
  - vi. Any additional relevant contracts or commitments.
  
- c. Workforce Continuity Plan: The Applicant may provide certification that the Project includes a project labor agreement, meaning a pre-hire collective bargaining agreement consistent with section 8(f) of the National Labor Relations Act (29 U.S.C. 158(f)). If the Applicant does not provide such certification, the Applicant must provide a workforce continuity plan, detailing:
  - i. How the Applicant will ensure the project has ready access to a sufficient supply of appropriately skilled and unskilled labor to ensure high-quality construction throughout the life of the project, including a description of any required professional certifications and/or in-house training,
  - ii. How the Applicant will minimize risks of labor disputes and disruptions that would jeopardize timeliness and cost-effectiveness of the Project,
  - iii. How the Applicant will provide a safe and healthy workplace that 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),

- iv. Whether workers on the Project will receive wages and benefits that will secure an appropriately skilled workforce in the context of the local or regional labor market, and
  - v. Whether the Project prioritizes local hires and maintains sufficient records to substantiate this information upon request.
- d. Design and Construction Plan: Provide a description of each of the following:
- i. Describe prior successful implementation of similar project plans for projects of this scale by the Applicant, any Project Sponsor, and/or key contract counterparties (e.g., construction contractor, equipment supplier, operator).
    - 1. Applicants that are not able to include examples of successful implementation of similar project plans for projects of this scale should provide a description of the prior and related experience that they believe are sufficient to demonstrate to DOE that they and/or their key contract counterparties have the expertise that would be evidenced in examples of successful implementation of similar project plans for projects of this scale.
  - ii. Describe the proposed design and construction processes including:
    - 1. Fully sourced or cited material and energy balance, including system simulation for processes, using industry standard software,
    - 2. Unique equipment requirements,
    - 3. Rights or licenses necessary to use processes proposed and acquisition status,
    - 4. An integrated schedule or Project work plan that encompasses time periods for design, procurement (including long-lead procurements), construction (including mobilization, testing, and start-up), and commissioning and that identifies any Project external dependencies such as regulatory approvals or scheduling (e.g., interconnection), land-use agreements, environmental permits, licenses, or site improvements (e.g., utility service),
    - 5. Project cost analysis including analysis based on minimum design specifications coupled to process flow diagrams and cost estimates,
    - 6. Project management plan and use of tools, such as Gantt charts, Monte-Carlo and other variance analysis, resource-based scheduling, or other methods to assess and track progress,
    - 7. Staffing plans, including identification of costs and resources to design, engineer, and construct the Project,
    - 8. Project risks and mitigation strategies, including risks related to construction cost and schedule, scale-up and commissioning, procurement, obtaining skilled labor and avoiding labor strife, etc. and the potential Project impact and mitigation of such risks, and
    - 9. Contingency plans to address cost overruns and schedule slippage.



- iii. Describe the Project's plan for sourcing materials to build the CO<sub>2</sub> transportation infrastructure Project including:
  - 1. Details of planned counterparties for input materials such as technical and financial capacity to deliver the volume of materials required by the Project,
  - 2. The track record of the counterparties' materials being used in infrastructure transport for CO<sub>2</sub>, or a similar product, and
  - 3. Counterparties' plan to provide iron, steel, and manufactured goods made in the U.S. (see Attachment D).
  
- e. Operations and Maintenance Plan
  - i. The plan for project operations, proposed providers, expected staffing requirements, anticipated parts inventory and acquisition plans, major maintenance schedules and procedures, estimated annual downtime and any performance guarantees and related liquidated damages provisions,
  - ii. The plans for commissioning and initial operations (taking into account the construction schedule, the establishment of CO<sub>2</sub> supply chains, the hiring and training of management and operating personnel, logistics, potential bottlenecks and delays, and financing for contingencies and working capital) and information concerning the management experience of each officer or key person associated with the Project,
  - iii. Any plans for expanding capacity over initial operations and the Applicant or the Project Sponsor's experience with comparable ramp-ups,
  - iv. Plans for safety measures, monitoring, and emergency response plans, incorporating the latest guidance from the Department of Transportation's Pipeline and Hazardous Materials Safety Administration ("PHMSA") and including details of the operating company's capacity to respond to an incident should one occur, and
  - v. A summary of the Project's plans for risk management and response as well as measurement, reporting and verification.
  
- f. Decommissioning Plan: Provide a description of the Project decommissioning, including anticipated costs and arrangements that have been made to ensure that funding will be available as necessary.
  
- g. Engineers Report: Provide an independent engineer's report that includes review, evaluation, analysis, and recommendations in the following areas:
  - i. Base infrastructure technology appropriateness for large volume CO<sub>2</sub> transport,
  - ii. Engineering and design approach,
  - iii. Integrated Project schedule, including the schedule for Substantial Completion,
  - iv. Cost estimates and technical input to the financial model,

- v. Contractual requirements and arrangements,
- vi. Proposed supply chain,
- vii. Project construction and operating risks, including mitigation activities and milestones,
- viii. Direct labor requirements during construction and operations,
- ix. Siting and permitting,
- x. Testing and commissioning,
- xi. Operation and maintenance, and
- xii. Decommissioning plan and costs.

#### 4. Legal and Regulatory Information

- a. Permits and Approvals:
  - i. Provide as a table the status and timelines for application and expected completion or receipt of all required Federal, state, or local permits, approvals, or reviews, including as to environmental matters.
- b. Background and Legal Structure:
  - i. Provide a current Project organizational chart showing the direct and indirect owners of the Project and the Applicant's relationship to each Project Sponsor, the Project, and to any subsidiaries or affiliates.
    - 1. Include the legal structure (e.g., corporation, partnership, or LLC) of each entity listed in the organizational chart.
    - 2. Include a short narrative description of the chart indicating the status and plans, if any, to create any entity.
  - ii. Litigation and/or Conflicts:
    - 1. Disclose any current, threatened (in writing), or pending litigation involving the Applicant, a Project Sponsor, or, to the Applicant's knowledge, any other relevant party, related to permitting, public involvement, environmental issues, construction defects, fraud, securities fraud, conflict of interest, failure to perform under a local, state or Federal contract, or other charges which may reflect on the Applicant's, or any Project Sponsor's reputation, financial position or ability to complete the Project.
- c. Lobbying, Debarment, and Related Certifications and Assurances
  - i. In submitting an Application for a CIFIA Loan, Applicants must provide certain certifications and assurances contained in the form entitled "Certifications for Use with Applications for Department of Energy CIFIA Loans under the CIFIA provision of the Infrastructure Investments and Jobs Act of 2021" which form may be downloaded from the CIFIA

Program website at [www.energy.gov/lpo/cifia](http://www.energy.gov/lpo/cifia).

d. Applicant Validation Statement

- i. Provide a written statement and supporting analysis attesting that, based on the information provided to DOE, there is a reasonable prospect that all debt of the Project (including the CIFIA Loan) will be repaid on time and in full (including interest) from cash flow generated by the Project and in accordance with the terms proposed in the Application.
- ii. As part of the Project evaluation process, DOE may require that Applicants provide additional certifications or supporting documentation.

e. Penalty of Perjury Statement

- i. The following certification must be included with each Application:
  1. “The undersigned certifies that the data and information submitted, and the representations made in this Application and any attachments to this Application are true and correct, to the best of the Applicant’s knowledge and belief after due diligence, and the Applicant has not omitted any material facts. The undersigned further certifies that [s]he has full authority to bind the Applicant.”

## **Attachment F – National Environmental Policy Act Compliance**

### **I. Background**

All applications for projects pursuant to the Carbon Dioxide (“CO<sub>2</sub>”) Transportation Infrastructure Finance and Innovation (CIFIA) are subject to review under the National Environmental Policy Act (NEPA). The NEPA review process begins once the Applicant has accepted LPO’s invitation into the continued due diligence phase following the Application review. DOE evaluates the Project to determine the appropriate level of NEPA review required, unless a NEPA review is being or has been prepared for the Project by another federal agency. The Applicant, with DOE oversight, is responsible for providing all necessary analysis and documentation to comply with NEPA and the applicable implementing regulations in 40 CFR 1500-1508 and 10 CFR 1021. The NEPA review must be completed before a loan guarantee can be issued.

Once DOE initiates the NEPA review process, Applicants should consult with DOE before commencing any work on the Project site (beyond preliminary design activities). Such consultation is necessary as certain actions that could cause adverse environmental impacts or limit the choice of available alternatives for the Project may not be allowable during the NEPA review process and could result in discontinuing consideration of an Application or terminating an outstanding Conditional Commitment.

There are three possible levels of NEPA review for an Applicant’s Project:

- a. **Categorical Exclusion (CX):** For projects that meet the conditions for excluding the requirement to prepare an EA or EIS because prior analysis of similar actions determined such actions will not have significant impacts (e.g., re-equipping and retooling within existing facilities). A CX typically requires less time to process than an EA;
- b. **Environmental Assessment (EA):** For projects with the potential to significantly impact biological, physical, and socio-cultural resources. An EA typically requires 6-9 months to process; and
- c. **Environmental Impact Statement (EIS):** For projects expected to have significant effects on the quality of the human environment (biological, physical, and socio-cultural resources). An EIS typically requires an 12-24 month processing time.

Examples of projects normally requiring an EA or an EIS can be found in the DOE NEPA implementing regulations at 10 CFR 1021, Appendix C and D to Subpart D, respectively. A list of actions potentially eligible for categorical exclusion to the EA or EIS requirements can be found at 10 CFR 1021 Appendix B to Subpart D.

### **II. Information to be Submitted to DOE in an Application**

Under Section III of this Program Guide, an Application must include a report containing an analysis of the potential environmental impacts of the Project that will assist DOE in assessing whether the Project will comply with all applicable environmental requirements and will enable DOE to complete any necessary reviews under NEPA. Accordingly, each Applicant should

submit the following information to assist DOE in determining the appropriate level of NEPA review, and in preparing an EA or EIS if necessary. For projects involving multiple sites, the data listed in Sections A-C below should be submitted for each site, as applicable. However, if a NEPA document has already been prepared by a Federal agency, and encompasses the full scope of the Project contained in the Application, that NEPA document may be submitted in lieu of the following information:

A. Description of Project Facilities, Site, and Surrounding Area: Describe and, as appropriate, identify and quantify:

1. A map showing the location of the Project site, and a site layout map showing the Project facilities and associated infrastructure;
2. Site address, and description of site control and ownership (under Federal, State, Tribal or local ownership);
3. Purpose of the Project facility and materials produced or services provided;
4. Description of new facilities to be constructed, any modifications of existing facilities, and any new infrastructure or facilities necessary for the construction or operation of the Project (e.g., access roads, laydown areas, off-site parking areas, railroad links, docks, water outfalls and intakes, pipelines, electrical transmission, waste treatment facilities, etc.);
5. Footprint of the new and modified facilities;
6. Adjacent land uses (e.g., industrial, commercial, agricultural, residential, recreational);
7. Areas with special designation both on the Project site and surrounding area, including national forests, historic or culturally significant sites, wetlands, floodplains, critical habitat for designated threatened or endangered species or the presence of those species, prime and unique farmland;
8. Extent of necessary ground disturbance for the Project (e.g., site clearing, fill and excavation);
9. Expected Project lifetime, including any planned expansion of initial Project at the proposed site and to other sites;
10. Existing transportation infrastructure (e.g. rail, waterways, roads) and utility infrastructure (e.g., electricity, natural gas, water, and wastewater) that would be utilized by the Project;
11. Ambient air quality; and
12. Near-by human populations and demographics (including minority and low-income and methods used for identifying those populations).

B. Resource Consumption Rates and Effluent Emissions Streams and Impacts:

1. Present an overall schematic process diagram that identifies all material inputs and outputs;
  2. For both construction and operation, describe and, as appropriate, identify and quantify:
    - a. Material resources to be used, including how they would be transported;
    - b. Source(s) and rates of water consumption and adequacy of water supply sources;
    - c. Onsite and offsite emissions and discharges (e.g. air emissions, including carbon dioxide and criteria pollutants, wastewater effluents and other liquid waste streams; hazardous waste streams, and odors), including their rate and duration;
    - d. Onsite and offsite waste treatment and disposal; and
  3. Identify a spectrum of scenarios that could result from process upsets, accidents, or human error.
  4. Analysis of potential impacts to physical, biological, cultural, and socioeconomic resources from facility construction and operation, including any mitigating measure(s) to be used or considered to be used to reduce environmental impacts, or any adverse effects that cannot be avoided.
- C. Status of other environmental and regulatory reviews: Status reports should include, but not be limited to:
1. If the Project would require review or permitting by another federal agency or by a state, Tribal, regional, or local agency, identify the required reviews and permits and the status of each; and
  2. If an environmental impact review (e.g., NEPA documentation or agency consultations) has been prepared (or is in the process of being prepared or is anticipated) for the Project (by another federal agency or a state agency), provide a summary or copy of the review.
  3. Whether a Phase 1 Environmental Site Assessment has been completed, if so, summarize results.

## Attachment G – Letter of Interest Requirements for Future Growth Grants

The CIFIA legislation authorizes FGG to pay a portion of the cost differential with respect to a projected and probable future increase in demand for CO<sub>2</sub> transportation by a large-capacity, common carrier infrastructure project. The cost differential is defined as the difference between:

- 1) the cost of constructing the infrastructure asset with the capacity to transport an increased flow rate of CO<sub>2</sub>, as made practicable under the project (i.e., Expanded Project); and
- 2) the cost of constructing the infrastructure asset with the capacity to transport CO<sub>2</sub> at the flow rate initially required, based on commitments for the use of the asset (i.e., Base Project).<sup>81</sup>

Applicants applying to the CIFIA program and requesting **only** a CIFIA FGG must submit a Letter of Interest. Applicants must provide detail on the Base Project, which is not funded by a CIFIA Loan, and the connected Expanded Project.<sup>9</sup> The Base Project must consist of large-capacity, common carrier infrastructure that will transport quantities of anthropogenic and/or ambient air CO<sub>2</sub> for which firm commercial contractual commitments are in place for CO<sub>2</sub> supply and offtake, while the Expanded Project must consist of large-capacity, common carrier infrastructure with the capacity to transport an **increased, uncontracted** flow rate of CO<sub>2</sub>. The FGG may only be used to support the Expanded Project. If deemed eligible for a CIFIA FGG, Applicants may submit an application for the Expanded Project via the [Funding Opportunity Announcement](#) (FOA)(DE-FOA-0002966).

Letters of Interest should include high level written summaries of the following:

1. Project details.
  - a. Type, location/route, volume, and cost of the proposed CO<sub>2</sub> transport infrastructure.<sup>82</sup>
  - b. Development status, including:
    - i. Expected CO<sub>2</sub> sources and their status of development,
    - ii. Expected CO<sub>2</sub> sequestration and/or utilization site(s) and their status of development, and
    - iii. Status of permits (Federal, state, and local), rights of way, and contracts for the Project and the Project's CO<sub>2</sub> sources and sequestration or utilization site(s).
  - c. Timeline for key milestones including:
    - i. Commencement of Construction,
    - ii. Substantial Completion, and

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<sup>81</sup> 42 U.S.C. § 16374.

<sup>82</sup> 42 U.S.C. § 16371(7)(A)

iii. Commercial Operation Date.

2. Applicant details.

- a. Legal entity or entities responsible for overseeing Project development, construction, and operation,
- b. Organizational chart of the Applicant's management team and brief description of experience and qualifications of respective management team members,
- c. Organizational structure of the Applicant showing relationship to other key Project counterparties (e.g., construction contractor, operations company, CO<sub>2</sub> suppliers and offtakers, etc.), and
- d. Status and nature of contractual relationships between Applicant and key Project counterparties.

3. Financial details.<sup>83</sup>

- a. Source of financing or funding for the base project, including financing terms and percentage of the total base project costs covered by each source of funding, and
- b. Estimated Project cash flows for the life of the Base Project including a description of how the Tariff rate will be determined and applied in a nondiscriminatory fashion and how forecasted capacity utilization is estimated for the lifetime (e.g. 20 year) of the project.

4. Eligibility, Priority Consideration, and other details.<sup>84</sup>

- a. Evidence that the Base Project is Ready to proceed to construction,
- b. Evidence that there is demonstrated market demand for the proposed CO<sub>2</sub> transport infrastructure,
- c. Proximity to and/or use of existing infrastructure/rights of way,
- d. Proximity to and ability to transport CO<sub>2</sub> from existing and proposed industrial hubs,

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<sup>83</sup> 42 U.S.C. § 16371(B)

<sup>84</sup> 42 U.S.C. § 16371(7)(D)



- e. Plan to use U.S. made iron, steel, and manufactured goods (see Attachment D), and
- f. Details of a Community Benefits Plan (see Attachment C).

Letters of Interest should be no more than ten pages long and can be submitted as a single PDF document to LPO's Application Intake Portal. The Letter of Interest should be organized according to the four sections and respective subsections listed above.

Potential Applicants that submit Letters of Interest for CIFIA FGG to DOE that are favorably reviewed will be notified, in writing, that they are eligible to submit an Application to the CIFIA FGG FOA. Letters of Interest that are not favorably reviewed will receive written notification from DOE along with an explanation of why the project was determined not to be eligible to submit an Application to the FOA, and information on options for the potential Applicant to withdraw the Letter of Interest or potentially submit a revised Letter of Interest.