

Q&A ON THE U.S. – INDIA JOINT CLEAN ENERGY R&D CENTER

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Cost Share and Funding

1. Is consortium member cost share expected to be 50% or 100% of government funds?
 - Consortium members must match the level of funding awarded by the Department of Energy and the Government of India. This equates to 50% of the total project cost (government and non-government funding combined), hence it is referred to as 50% cost share.
 - As an example of our intent, if the U.S. consortium members request \$1 million of DOE funding, the U.S. consortium members must provide \$1 million in cost sharing – cash or in-kind. The same applies to Indian consortium members. If they request \$1 million from the Government of India, the Indian consortium members must provide \$1 million in cost sharing – cash or in-kind.
2. Can cost sharing be in-kind instead of cash?
 - Yes, cost sharing may be in-kind.
 - For DOE, see http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=195ccb88a2f5bd1bd944eb92caba8dc4&tpl=/ecfrbrowse/Title10/10cfr600_main_02.tpl for additional information on cost sharing. See 10 CFR Part 600 Subpart A – General – Section 600.30 Cost Sharing; Subpart B – Uniform Administrative Requirements for Grants and Cooperative Agreements with Institutions of Higher Education, Hospitals and Other Nonprofit Organizations -- Section 600.123 Cost Sharing or Matching; Subpart C – Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments – Section 600.224 Matching or Cost Sharing; and Subpart D—Administrative Requirements for Grants and Cooperative Agreements with For-Profit Organizations – Section 600.313 Cost Sharing or Matching.
3. Can government-aided Indian institutions such as IISc or IIT contribute towards cost sharing by showing faculty time commitment, student scholarships, land, internal grant for equipment, costing for usage of existing equipment, etc?
 - Yes.
4. If industry partners have a presence in both the U.S. and India, may they participate from both the U.S. and Indian sides, or does the FOA restrict a partner to one side only?
 - The answer depends on the nature of the industry partners' participation, i.e., whether they intend to receive government funding or contribute cost share. Government of India funding can be provided only to companies registered in India under the Companies Act, and having 51% Indian shareholding, including from Non-Resident Indians. DOE

funding can be provided only to U.S.-owned companies as that term is defined at 10 C.F.R. 600.501. GOI funds would not go to U.S. companies and DOE funds would not go to Indian companies. Indian subsidiaries of U.S. companies and U.S. subsidiaries of Indian companies are acceptable as partners in the consortia. However, their participation and contribution in the consortia would be considered as being from the same side as the parent company. For cost share contributions to be considered as being from the Indian consortia partners, the company(s) should have a 51% Indian stake and similarly, for the U.S., the company(s) must be U.S.-owned as that term is defined at 10 C.F.R. 600.501.

5. Would the FOA allow the proposed consortium to work with its company partners to determine what fraction of funding, including in-kind work, from any company would be used as cost share for each government's funding? For example, could cost share, in the form of direct funding or in-kind funding, from a company headquartered in the United States be used as cost share to Indian government funding for a consortium?
 - The award amounts of the respective Governments must be matched by the consortia members of that country. U.S. consortium members must match U.S. Government funding, and Indian consortium members must match Indian Government funding.
 - *In-kind* cost sharing beyond 50% from the consortium members of one country may not be applied to the cost sharing requirement of the consortium members of the other country. However, *cash* could be transferred from consortium members of one country to consortium members of the other country. However, GOI funds could not be transferred to the United States and DOE funds could not be transferred to India.
 - However, it is not our intent to dictate how cost share is apportioned among consortium members. The matching funds in the consortium can be utilized by any partner irrespective of whether they are Indian or United States, depending on the understanding between the partners.
6. *Indian applicant-specific*: Can we consider funds committed/received under recently funded or about to be funded projects as partners' contributions to the consortium fund?
 - Only project funding received on or after June 2010 will be considered as partners' contributions to the consortium fund.
7. What are the funding modalities for joint research being conducted by Indian consortium partners in U.S. laboratories or U.S. consortium partners in India? How will the expenses be met?
 - This should be indicated as part of the project cost.
 - As regards mobility of researchers/scientists under a funded consortium, if government funding is being used, the sending side will cover the travel cost while the receiving side will meet the expenses for local hospitality as a reciprocal arrangement. If cost share funding is being used, the consortium members will decide the arrangement amongst themselves.

8. Are all consortium members required to provide some minimum level of funding? Is there any minimum funding requirement for the lead member of the Project?
- There are no such requirements. This is to be decided by the consortium members themselves.
9. *Indian applicant-specific:* The minimum floor of Rs.4.5 Crores per year is not practical, because of the following:
- The award is expected in August'11, the possibility of delay by 1-2 months is not ruled out. Hence, minimum floor limit on expenditure of Rs 4.5 Crores during the financial year 2011-2012 is not justified.
 - In such projects expenditure profile may vary from year to year. In some cases expenditure during 1st year and terminal year is less and higher in the middle years, hence floor for each year is not desirable.”
- Budget requirement year-wise can be projected as per technical work plan. Based on the performance review of the consortium and on approval, it may be permissible to carry over the unspent fund to the next financial year.

Intellectual Property

10. In the event that the successful contractor enters into a contractual agreement with DOE, and subsequently submits a Request for Patent Waiver, who owns title to any inventions conceived or reduced to practice under the program prior to the approval or granting of the patent waiver?
- DOE plans to issue a “Class Patent Waiver,” by which it would waive its rights to ownership of any inventions conceived or first actually reduced to practice under the program. This should obviate the need for any “contractor” to request a patent waiver. If, for whatever reason, a contractor is not covered by, or chooses not to take rights pursuant to, the class patent waiver, a contractor may submit a patent waiver request on its own behalf. If such a patent waiver is granted, it can be made retroactive to cover all inventions made under the program.
11. Who owns title to any inventions conceived or reduced to practice under the program if the Request for Patent Waiver is subsequently disapproved or denied? It would appear under these conditions that an unfortunate scenario could occur whereby a Contractor enters into an agreement with DOE on the premise that its Request for Patent Waiver will be approved. Subsequently, it is disapproved and the Contractor is left to perform the agreement at the loss of title to its patents, since DOE has not granted the waiver request. Whereby, if this were known at the outset, the Contractor would have the freedom of choice as to whether to undertake the program or not. Our experience in dealing with DOE and its Management & Operations Contractors at the National Labs has also resulted in programs where a blanket Patent Waiver governing a specific procurement was granted by the DOE and included in the solicitation documents, thereby assuring contractors that the patent waiver was "built into" the procurement opportunity.

- See response to Question # 10. It is anticipated that the “Class Patent Waiver” discussed above will be approved prior to contractor selection.

12. Can you please clarify if the contractor will be allowed to published their analysis and own the copyright. Will the rights in technical data be modified?

- As referenced in the FOA, Part XI F., the Rights in Technical Data clauses of 10 CFR 600, Subpart D, Appendix A, would apply.

Regarding publication of data, the relevant subparagraph is (d)(1), Release, Publication and Use of Data, which provides that Recipient shall have the right to...publish any data first produced...in the performance of the contract, except to the extent such data may be subject to the Federal export control or national security laws or regulations, or unless otherwise provided in this paragraph of this clause or expressly set forth in the contract.

Regarding copyright, (c)(1) provides, for data first produced in performance of the agreement, that, except as otherwise specifically provided, Recipient may establish claim to copyright subsisting in any data first produced in the performance of the agreement.... For any such copyrighted data, including computer software, the Recipient grants to the Government and others acting on its behalf, a paid-up, nonexclusive, irrevocable, worldwide license to reproduce, prepare derivative works, distribute copies to the public, etc., by or on behalf of the Government, for all such data.

Paragraph (i) sets forth responsibilities of the Prime awardee regarding subawards and subcontracts, which may be implemented by flowing down the rights in data clause to subcontractors.

Technology

13. The description of the R&D priority areas focuses on new or emerging technology development, particularly for solar, (i.e. low technology readiness levels, TRLs); whereas the 50% cost share requirement is more commensurate with applied R&D at higher TRLs and more mature technologies. What spectrum of R&D activities, i.e., TRL range and timelines, is desired from proposed consortia to support the overall goals of the U.S.-India Center? What measureable outcomes would define the success of such a center?

- It is not our intention to dictate a consortium’s activities and outcomes. Consortium applicants are expected to present their best case. Please refer to the links in the FOA to DOE and GOI goals, targets and priorities for each area.

14. Can a consortium address two topics with a single proposal (e.g., “energy efficient buildings” and “solar”)?

- While a consortium can address two topics within a single application, for processing the submission, the application should be categorized under one of the three identified focus areas.

15. What are the R&D deployment strategies for the R&D focus areas?

➤ This funding opportunity does not include funding for deployment.

16. Under the Objective for Building Energy Efficiency, the FOA states “The objective is to contribute to dramatic improvements in the energy efficiency of buildings (commercial or residential) in the United States and India.” The R&D priorities to achieve the maximum impact in buildings energy efficiency in India may differ considerably from current priorities in the United States, e.g., new construction vs. retrofit. What is the FOA’s intent as far as addressing these differences?

➤ It is up to each consortium to determine its focus and present its best case for evaluation.

17. Is the intent of the FOA that all the topics listed within a research area (solar, building energy efficiency, second-generation biofuels) must be covered or that proposals may focus on a selected topic or set of topics? May other topics be added?

➤ It is not a requirement that all the listed topics be addressed in a consortium’s application or that topics not listed be excluded. We are looking to the consortium applicants to make the best case for their proposal.

18. If second generation biofuels utilization is included as a part of the proposal, will the proposal be considered non-responsive?

- The application will not be treated as “non-responsive,” however, this should not be the focus of the proposal.

19. *Indian applicant-specific:* The genetic enhancement of feedstock (e.g. Jatropha) and its use in development for second generation biofuels involving public sector companies (e.g. IOCL) would require large hectares of land, which would be obtained from the state government, whether be accounted for the cost; as the R&D organization have limited land and the state agricultural universities are in financial crunch be supported by DBT/DST?

- The cost of land and buildings cannot be supported through the Government of India fund.

Application/Process

20. The FOA describes a single U.S.-India Joint Clean Energy Research and Development Center with three priority areas to be addressed through consortia of U.S. and Indian researchers. Should proposals be written to form a consortium or to form a center for each priority area?

- The proposals should be written to form a consortium to work in one of the three areas identified. The chosen consortia will undertake the work of the U.S.-India Joint Clean Energy R&D Center, under DOE and Government of India oversight.

21. In the Team Arrangements section in Part IV and listed on page 10, it is specified that the consortium must have at least two participants from the U.S. and two participants from India. Is “participant” referring to individuals or distinct organizations?

- The reference is for distinct organizations, but an individual with an affiliation to a distinct organization (academia, industry etc.) may be considered an organization in this context.

22. Is there a minimum effort expectation for the lead members (e.g., PI or Project Director) of the lead organizations or subcontracted partners?

- The minimum effort expectation for the lead member of the lead organization is at the discretion of the applicant.

23. Are you accepting new proposals from consortia that have not submitted a letter of intent (LOI) with regards to the same till date?

- Proposals will be accepted from consortia against the final FOA irrespective of whether an LOI was submitted or not.

24. Is the 50 page limit for project narrative for both “U.S. proposal” and “India proposal” combined? Or is it for each country’s proposal?
- A single proposal needs to be submitted, which is jointly prepared by all consortium partners – both from India and the United States.
25. Does each applicant need to include travel for annual meetings with the joint U.S.-India Steering Committee on Clean Energy Science and Technology as addressed in Part I, Section C on page 4?
- Yes.
26. What is the anticipated start date that should be used for applications?
- Page 26 of FOA, Part VII, Paragraph D, states that DOE anticipates awards being made in November 2011. Please assume a start date of November 30, 2011.
27. SF424 Application Form – Should the funds requested total the US government share, the total US share (govt funding + cost share), the combined US/India government funding, or the combined total of the US/India government and cost shared funds?
- SF-424, Block 18 – Estimated Funding (\$), should represent the total estimated project total, to include the US/DOE, Indian government and applicant’s cost share. See the following description of the identified categories:
 - a. Federal = Funding to be provided by DOE
 - b. Applicant = Applicant’s matching cost share
 - c. State = Funding to be provided by a US state as cost share
 - d. Local = Local Governmental entity, such as a Municipality, cost share
 - e. Other = Funding by Indian government cost share
 - f. Program Income = Estimated gross income earned by the recipient that is directly generated by a supported activity or earned as a result of the award.
 - g. Total = Reflect total estimated cost of project, base on the contributions identified in elements “a - f” above.
28. The current forms available do not provide “questions 1-5” as specified in the application instructions on page 14. Is the current form version correct?
- Page 14 of FOA, Part VI, Paragraph C.3 – Other Project Information Form, the FOA has been amended to delete reference to the “Other Project Information Form.” Please provide the required attachment in one consolidated document with the appropriate attachment header/title.

29. The project summary/abstract requests a lot of individual pieces of information and, across large teams, may be difficult to fit on one page. Is there any flexibility to increase the available page length for this section to 2 pages?

- The maximum page limit for the Project Summary/Abstract is hereby increased to 2 pages.

30. In terms of use of Appendix 11, would it be possible to include executed Intellectual Property plans and/or consortia bylaws in this section?

- No, the intellectual property plan is a requirement to be included in the Project Narrative. See Page 14 of the FOA, Part VI, Paragraph C.3

31. Please clarify the instructions for Appendix 7. What are the applicable COI standards and are they different for US and Indian organizations? The linked terms and conditions and award information don't offer much information that addresses the applicable standards and having more information would facilitate drafting of a COI management plan.

- Appendix 7 is only applicable to US Laboratories that will be functioning as the US Lead for the consortium. Organizational conflict of interest means that because of other activities or relationships with other persons, an offeror/applicant is unable or potentially unable to render impartial assistance or advice to the Government, or the person's objectivity in performing the contract work is or might be otherwise impaired, or a person has an unfair competitive advantage.

The organizational conflict of interest statement must contain the following:

(1) A statement of any past (within the past twelve months), present, or currently planned financial, contractual, organizational, or other interests relating to the performance of the statement of work. For contractual interests, such statement must include the name, address, telephone number of the client or client(s), a description of the services rendered to the previous client(s), and the name of a responsible officer or employee of the offeror who is knowledgeable about the services rendered to each client, if, in the 12 months preceding the date of the statement, services were rendered to the Government or any other client (including a foreign government or person) respecting the same subject matter of the instant solicitation, or directly relating to such subject matter. The agency and contract number under which the services were rendered must also be included, if applicable. For financial interests, the statement must include the nature and extent of the interest and any entity or entities involved in the financial relationship. For these and any other interests enough such information must be provided to allow a meaningful evaluation of the potential effect of the interest on the performance of the statement of work.

32. Should the budget forms depict just the amount requested from the US and/or Indian government, or should they also reflect the cost sharing?

- The budget forms should reflect the total estimated amount of the project, US and/or Indian Government and Applicant's cost share.

33. What are the plans for the ongoing oversight of the centers?

- Please refer to Part I, Paragraph C of the FOA (pages 4-5).

34. Should we budget additional funds to support meetings with centers funded through the other priority areas?

- Should budgets permit, the Government of India and DOE may host an annual meeting to convene consortia from the three priority areas. Awarded funds may be used to support travel and accommodation for such a meeting. An individual consortium may not use awarded funds for independent meetings with consortia from other priority areas.

35. Also, what type of ongoing engagement is expected with the Steering Committee?

- The Steering Committee will remain actively involved in the centers through regular contact with the Joint High Level Experts' Panel and the DOE and Government of India secretariats.

36. The paragraph on page 4 lays out some basic information but we wanted to check to see if other plans and/or expectations had been developed.

- The information in Part I, Paragraph C reflects the current state of planning.

FFRDCs

37. Are all U.S. National Labs considered to be FFRDC's?

- No, Contractor Operated Centers are considered FFRDCs.

38. The FOA states that "the value of, and funding for, the FFRDC contractor portion of the work will not normally be included in the award to a successful applicant. Usually, DOE/NNSA will fund a DOE/NNSA FFRDC contractor through the DOE field work proposal system and other FFRDC contractors through an interagency agreement with the sponsoring agency." It is not clear what other sources of Federal funding would be available for an FFRDC to participate in a proposed consortium if not part of the award of the solicitation. It is not clear if these statements are intended to describe how funding would flow to an FFRDC or if other sources of funding would be used. If an FFRDC were designated as the lead organization of a consortium, would not the funding for their work scope have to come from this solicitation? If not, what would be the source of the funding for the lead organization FFRDC?

- These statements are intended to describe how funding would flow to an FFRDC. If an FFRDC is the lead on a consortium and selected, then the funding provided would come from this solicitation.