

## ADMINISTRATIVE AND LEGAL REQUIREMENTS DOCUMENT (ALRD)



**U.S. Department of Energy  
Office of the Under Secretary for Infrastructure  
Golden Field Office**

**Energy Efficiency and Conservation Block Grant (EECBG) Program  
Infrastructure Investment and Jobs Act (IIJA) of 2021  
Energy Efficiency and Conservation Block Grant (EECBG) Program Formula Awards  
(EECBG Program Formula) - IIJA ALRD  
CFDA Number: 81.128, Energy Efficiency and Conservation Block Grant Program**

### PURPOSE

The purpose of this Administrative and Legal Requirements Document (ALRD) is to provide guidance to States, Local Governments, and Indian Tribes for preparation of EECBG Program Formula Grant applications submitted in response to Section 40552 of the Infrastructure Investment and Jobs Act (IIJA), also known as the Bipartisan Infrastructure Law (BIL).

**Issue Date: January 18, 2023**

### Application Due Dates:

- All Applicants: Pre-Award Information Sheet or registration on the voucher portal due ASAP.
- For State and Territory Applicants Only: Application due by **July 31, 2023**, at 8:00 PM ET
- Local Government Applicants Only: Application due by **April 30, 2024**, at 8:00 PM ET
- Tribal Government Applicants Only: Application due by **May 31, 2025**, at 8:00 PM ET

DOE will accept applications using five application periods. Applications meeting DOE priority criteria (see application instructions section 6.2 for more information) may apply in application Periods 1 and 2. All other applicants may apply in Periods 3, 4, and 5:

Application Period	Application Submittal Timeframe	Applications Accepted
1	January 18, 2023 – April 28, 2023	State, Local Government and Tribal applications in one or more priority categories
2	June 1, 2023 – July 31, 2023	
3	Sept 1, 2023 – Oct 31, 2023	All other Local Government and Tribal applications
4	December 1, 2023 – Jan 31, 2024	
5	<b>March 1, 2024 – April 30, 2024</b>	
6	<b>May 1, 2024 – May 31, 2025</b>	All other Tribal applications

**Note: Due to the volume of applications, DOE may not review your application immediately upon submittal. Once a complete application is received and reviewed by DOE, it typically takes up to 60 days to process an EECBG Program formula grant. Applications are not necessarily considered**

**complete upon submission. For additional information on application requirements, see Section 6.0 of the application instructions.**

## REGISTRATION/SUBMISSION REQUIREMENTS

### **Registration Requirements (GRANT APPLICANTS ONLY): Allow at least 21 days to complete.**

If you have not already registered, there are several one-time actions grant applicants must complete:

1. Register with the System for Award Management (SAM) at <https://www.sam.gov>. Designating an Electronic Business Point of Contact (EBiz POC) and obtaining a special password called an MPIN are important steps in SAM registration. **Please update your SAM registration annually.** Upon registration, SAM will automatically assign a Unique Entity ID (UEI).

Unique Entity ID and System for Award Management (SAM) — Each applicant (unless the applicant is excepted from those requirements under 2 CFR 25.110) is required to: (1) be registered in the SAM at <https://www.sam.gov> before submitting its application, (2) provide a valid UEI number in its application; and (3) continue to maintain an active SAM registration with current information at all times during which it has an active federal award or an application or plan under consideration by a federal awarding agency. DOE may not make a federal award to an applicant until the applicant has complied with all applicable UEI and SAM requirements. If an applicant has not fully complied with the requirements by the time DOE is ready to make a federal award, the DOE will determine that the applicant is not qualified to receive a federal award and use that determination as a basis for making a federal award to another applicant.

**NOTE: Due to the high demand of UEI requests and SAM registrations, entity legal business name and address validations are taking longer than expected to process. Entities should start the UEI and SAM registration process as soon as possible. If entities have technical difficulties with the UEI validation or SAM registration process, they should utilize the HELP feature on SAM.gov. SAM.gov will work on entity service tickets in the order in which they are received and asks that entities not create multiple service tickets for the same request or technical issue. Additional entity validation resources can be found here: [GSAFSD Tier 0 Knowledge Base - Validating your Entity](#).**

2. Register in FedConnect to receive and acknowledge your award at <https://www.fedconnect.net/>. See the Quick Start Guide at [https://www.fedconnect.net/FedConnect/Marketing/Documents/FedConnect\\_Ready\\_Set\\_Go.pdf](https://www.fedconnect.net/FedConnect/Marketing/Documents/FedConnect_Ready_Set_Go.pdf). For additional questions, email [support@fedconnect.net](mailto:support@fedconnect.net) or call 1-800-899-6665.
3. Have a login for the Performance and Accountability for Grants in Energy (PAGE) System at <https://www.page.energy.gov/default.aspx> in order to submit your application. For questions regarding PAGE, refer to the Help Menu in PAGE or contact the PAGE hotline at [PAGE-Hotline@ee.doe.gov](mailto:PAGE-Hotline@ee.doe.gov) or 1-866-492-4546.

**Electronic Signatures:** Acknowledgement of award documents by the Grantee's authorized representative through electronic systems used by the Department of Energy, including FedConnect, constitutes the Grantee's acceptance of the terms and conditions of the award. Acknowledgement via FedConnect by the Grantee's authorized representative constitutes the Grantee's electronic signature.

**IMPORTANT:** The electronically signed Assistance Agreement with attached award documents distributed via FedConnect is the formal authorization and approval from the Contracting Officer. Grantees may not rely on PAGE as the formal authorization and approval. Award documents in the initial award and any modifications to the award must be reviewed and acknowledged by the Grantee in FedConnect.

All modifications to the ALRD are **[HIGHLIGHTED]** in the body of the ALRD.

Mod. No.	Date	Description of Modification
1	5/1/2023	Deadline to submit Pre-Award Information Sheet extended to <b>July 31, 2023</b> . Original deadline was <b>April 28, 2023</b> .
2	10/31/2023	<p>Deadline for local government and Tribal EECBG Program applications extended to <b>April 30, 2024</b>. Original deadline was <b>January 31, 2024</b>.</p> <p>Section V.D.4. updated to include July 28, 2023, DOE Build America, Buy America General Applicability Public Interest Waiver.</p> <p>Links to new EECBG Program resources that were not available at the original time of drafting were added, including the EECBG Program Formula Application Hub and voucher guidance materials.</p> <p>National Environmental Policy Act (NEPA) Statements of Work were added to the list of Reference Material in Part VII.</p> <p>The IIJA EECBG Program Application Instructions referenced in Part VII were updated in accordance with the October 31, 2023, ALRD modifications and to reflect recent developments in the EECBG Program.</p>
3	2/27/2024	<p>Deadline for Tribal EECBG Program applications extended to <b>May 31, 2025</b>. Previous deadline was <b>April 30, 2024</b>.</p> <p>In the previous IIJA EECBG Program Attachment 1C: DOE Formula Grant Funding Allocations to Indian Tribes for the Energy Efficiency and Conservation Block Grant (EECBG) Program Document, Oneida Nation's state abbreviation was listed incorrectly listed as NY. It has been corrected to WI.</p> <p>The IIJA EECBG Program Application Instructions referenced in Part VII were updated in accordance with the February 27, 2024, ALRD modifications.</p>

## TABLE OF CONTENTS

<b>PART I AUTHORITY .....</b>	<b>3</b>
<b>PART II AWARD INFORMATION .....</b>	<b>3</b>
A. TYPE OF AWARD INSTRUMENT.....	3
B. ESTIMATED FUNDING .....	3
C. PERIOD OF PERFORMANCE .....	4
<b>PART III ELIGIBILITY INFORMATION.....</b>	<b>4</b>
A. ELIGIBLE APPLICANTS .....	4
B. COST MATCHING .....	4
<b>PART IV APPLICATION AND SUBMISSION INFORMATION .....</b>	<b>4</b>
A. CONTENT AND FORM OF APPLICATION: GRANTS.....	4
<b>PART V AWARD ADMINISTRATION INFORMATION .....</b>	<b>5</b>
A. AWARD NOTICES.....	5
B. FUNDING RESTRICTIONS .....	5
C. REPORTING .....	5
D. ADMINISTRATIVE AND NATIONAL POLICY REQUIREMENTS.....	6
<b>PART VI OTHER INFORMATION .....</b>	<b>13</b>
A. INTERGOVERNMENTAL REVIEW .....	13
B. GOVERNMENT RIGHT TO REJECT OR NEGOTIATE.....	13
C. COMMITMENT OF PUBLIC FUNDS .....	13
D. LOBBYING RESTRICTIONS.....	13
E. EXPENDITURE RESTRICTIONS.....	13
F. MODIFICATIONS .....	13
G. PROPRIETARY APPLICATION INFORMATION .....	14
H. PROTECTED PERSONALLY IDENTIFIABLE INFORMATION .....	14
<b>PART VII REFERENCE MATERIAL .....</b>	<b>16</b>

## **PART I AUTHORITY**

The EECBG Program is authorized by Title V, Subtitle E of the Energy Independence and Security Act of 2007 (EISA), as amended,<sup>1</sup> and signed into Public Law (PL 110-140) on December 19, 2007. All awards made under this program shall comply with applicable laws and regulations including, but not limited to, [2 CFR Part 200](#) as amended by [2 CFR Part 910](#) and Section 40552 of the [Infrastructure Investment and Jobs Act](#) (IIJA) (PL 117-58).

## **PART II AWARD INFORMATION**

### **A. TYPE OF AWARD INSTRUMENT**

DOE will award grants or vouchers.

Entities eligible for formula EECBG Program allocations, including state, local, and Tribal governments can apply to DOE for an EECBG Program award. States are eligible to apply for a grant. Local and Tribal governments can apply for either a grant or a voucher. Vouchers may be used for technical assistance and/or equipment rebates. Local governments and Tribal entities must **choose either a grant or voucher and must allocate 100% of their EECBG Program funding to either a voucher or a grant**. States are not eligible to apply for a voucher. Local and Tribal governments are encouraged to indicate whether they are choosing a grant or a voucher as soon as possible by submitting the Pre-Award Information Sheet. See “EECBG Program Application Instructions” for additional details.

### **B. ESTIMATED FUNDING**

Entities shall administer DOE funds received under the EECBG Program in accordance with Federal rules and regulations as well as applicable state, local or Tribal policies and procedures. The Grantee is to manage Federal Funds in a prudent, effective, and efficient manner to accomplish program objectives.

The Infrastructure Investment and Jobs Act, Section 40552 provides \$550 million for EECBG Program for fiscal year 2022, to remain available until expended. DOE will distribute \$440 million in formula and competitive EECBG Program funding to eligible units of local government, states, and Indian Tribes. Of the amount appropriated by IIJA, DOE will allocate funds as prescribed in section 543 of EISA:

- 34% to eligible units of local government-alternative 1 through formula grants;
- 34% to eligible units of local government-alternative 2 through formula grants;
- 28% to states through formula grants;
- 2% to Indian Tribes through formula grants; and
- 2% for competitive grants to ineligible local governments and Indian Tribes.<sup>2</sup>

IIJA allocations for EECBG Program direct formula awards from the DOE, as adjusted, are based on the following funding amounts:

- \$299,200,000 for formula awards to eligible units of local government
  - \$149,600,000 to eligible units of local government-alternative 1
  - \$149,600,000 to eligible units of local government-alternative 2
- \$123,200,000 for formula awards to states

---

<sup>1</sup> 42 U.S.C. 17151 et seq.

<sup>2</sup> 42 U.S.C. 17153(a).

- Each state (except for those noted as exempt in Section 6.3.E of the application instructions) is required to pass not less than 60% of its allocation through to cities and counties within the state that are ineligible for direct formula grants from DOE.
- \$8,800,000 for formula awards to eligible Indian Tribes

DOE also intends to allocate \$8.8 million for competitive grants available to units of local government (including Indian Tribes) and consortia of units of local government that are not eligible to receive direct formula grants from DOE. Availability of competitive grants will be announced through a separate future Funding Opportunity Announcement (FOA).

Prior to distributing funding to eligible entities, DOE intends to utilize \$110 million to ensure delivery of an effective and efficient EECBG Program and to provide technical assistance to eligible entities throughout the lifetime of the EECBG Program.

**Funding Amount:** Funding allocations to states, local governments, and Indian Tribes are included as attachments to this document.

### **C. PERIOD OF PERFORMANCE**

Grants will consist of a **3-year** Project and Budget Period for States, and a **2-year** Project and Budget Period for Local Governments and Indian Tribes. Vouchers to Local Governments and Indian Tribes will be for a **2-year** Project and Budget Period. Recipients may request a no-cost time extension (or a modification to shorten the period of performance) of their grant or voucher.

## **PART III ELIGIBILITY INFORMATION**

### **A. ELIGIBLE APPLICANTS**

In accordance with Section 543 of EISA, eligible entities for EECBG Program formula allocations include States (including U.S. Territories, and the District of Columbia, hereinafter referred to as “states”), local governments, and Indian Tribes.<sup>3</sup> Eligibility for this award is restricted to eligible states, local governments and Indian Tribes applying for formula grant financial assistance under the EECBG Program. No other entity types may be considered for this funding.

### **B. COST MATCHING**

Cost match is not required for these awards.

## **PART IV APPLICATION AND SUBMISSION INFORMATION**

### **A. CONTENT AND FORM OF APPLICATION: GRANTS**

The application must be submitted via the PAGE online system at <https://www.page.energy.gov/default.aspx>. DOE reserves the right to request additional or clarifying information for any reason deemed necessary. Applications will be reviewed for consistency with the EECBG Program objectives.

---

<sup>3</sup> 42 U.S.C. 17153(a).

The EECBG Program Grant Application consists of:

- Standard Form 424 (Application form)
- Standard Form 424A (Budget summary)
- Budget Justification
- Energy Efficiency and Conservation Strategy
- EECBG Program Activity File
- Required certifications
- Electronic copy (or web link) to the applicant's latest single or program-specific audit as required by 2 CFR 200 Subpart F
- NEPA Statement of Work (SOW)
- An environmental questionnaire (EQ-1) (if applicable)
- Pre-Award Information Sheet

Please see Section 6.3 in the Application Instructions for more detail.

Note: applicants choosing a Voucher should not submit a grant application. Additional Guidance on the Voucher application process is available on the following website, <https://www.energy.gov/scep/eeecbg-program-formula-grant-application-hub>.

## **PART V AWARD ADMINISTRATION INFORMATION**

### **A. AWARD NOTICES**

An Assistance Agreement issued by the Contracting Officer is the authorizing award document for traditional grants (as opposed to vouchers). The Assistance Agreement normally includes, either as an attachment or by reference: (1) Special Terms and Conditions; (2) Application as approved by DOE; (3) DOE Financial Assistance regulations at [2 CFR Part 200](#) as amended by [2 CFR Part 910](#); (4) National Policy Assurances To Be Incorporated As Award Terms; (5) Budget Summary; (6) Intellectual Property Provisions; (7) Federal Assistance Reporting Checklist, which identifies the Reporting Requirements; and (8) National Environmental Policy Act (NEPA) Determination. These documents are sent to the Recipient via [FedConnect](#).

### **B. FUNDING RESTRICTIONS**

All expenditures must be allowable, allocable, and reasonable in accordance with the applicable Federal cost principles. Refer to the following Federal cost principles for more information: [2 CFR Part 200](#) as amended by [2 CFR Part 910](#).

Under [2 CFR Part 200](#) as amended by [2 CFR Part 910](#) regulations, the cost principles are contained in Subpart E–Cost Principles within [2 CFR Part 200](#).

### **C. REPORTING**

Reporting requirements are identified on the Federal Assistance Reporting Checklist (FARC), attached to the award agreement.

Awards initiated since 10/1/2010 are subject to the requirement of Reporting Subawards and Executive Compensation to comply with the Federal Funding and Transparency Act of 2006 (FFATA). Additional



information about this requirement can be found in the Special Terms and Conditions of the recipient's award, at <https://www.fsr.gov>, and in [2 CFR Part 170](#).

Additional information regarding reporting is available from the EECBG Program website, at: <https://www.energy.gov/scep/eecbg-program-formula-grant-application-hub>.

## **D. ADMINISTRATIVE AND NATIONAL POLICY REQUIREMENTS**

### **1. Administrative Requirements**

- The administrative requirements for DOE grants and cooperative agreements are contained in:
  - [2 CFR Part 200](#) as amended by [2 CFR Part 910](#) and [10 CFR Part 420](#)
  - [2 CFR Part 25](#) – Universal Identifier and Central Contractor Registration
  - [2 CFR Part 170](#) – Reporting Subaward and Executive Compensation

The Electronic Code of Federal Regulations is found at [www.ecfr.gov](http://www.ecfr.gov).

### **2. National Policy Requirements**

The National Policy Assurances to be incorporated as Award Terms are located at <http://www.nsf.gov/awards/managing/rtc.jsp>.

Intellectual Property Provisions. The standard DOE financial assistance intellectual property provisions applicable to the various types of recipients are located at <http://energy.gov/gc/standard-intellectual-property-ip-provisions-financial-assistance-awards>

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

The Office of the Under Secretary for Infrastructure's decision whether and how to distribute Federal funds is subject to the National Environmental Policy Act (42 U.S.C. 4321, et seq.). NEPA requires Federal agencies to integrate environmental values into their decision-making processes by considering the potential environmental impacts of their proposed actions.

For further information on NEPA requirements, see section 6.3.G in the Application Instructions.

### **4. Build America, Buy America Requirements**

Federally assisted projects which involve infrastructure work, undertaken by applicable recipient types, require that:

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

Whether a given project must apply this requirement is project-specific and dependent on several factors, such as the recipient's entity type, whether the work involves "infrastructure," as that term is defined in Section 70914 of the BIL, and whether the infrastructure in question is publicly owned or serves a public function. Additionally, recipients with EECBG Program allocations less than \$250,000 are exempt from Build America, Buy America requirements under a July 28, 2023, DOE General Applicability Public Interest Waiver.<sup>4</sup>

---

<sup>4</sup> See: [https://www.energy.gov/sites/default/files/2023-07/DOE-Final-%20Public%20Interest-%20Sm%20Grant%20De%20Minimis%20Minor%20Component%20-%20Final%20for%20posting%207.26.23\\_0.pdf](https://www.energy.gov/sites/default/files/2023-07/DOE-Final-%20Public%20Interest-%20Sm%20Grant%20De%20Minimis%20Minor%20Component%20-%20Final%20for%20posting%207.26.23_0.pdf)

Applicants are strongly encouraged to consult the Build America, Buy America Guidance and Resources<sup>5</sup> to determine whether their project may have to apply this requirement, both to make an early determination as to the need of a waiver, as well as to determine what impact, if any, this requirement may have on the proposed project's budget.

## 5. Definitions

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

- **Construction materials** includes an article, material, or supply—other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives—that is or consists primarily of:
  - non-ferrous metals;
  - plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables);
  - glass (including optic glass);
  - lumber; or
  - drywall.
- **Infrastructure** includes, at a minimum, the structures, facilities, and equipment for, in the United States, roads, highways, and bridges; public transportation; dams, ports, harbors, and other maritime facilities; intercity passenger and freight railroads; freight and intermodal facilities; airports; water systems, including drinking water and wastewater systems; electrical transmission facilities and systems; utilities; broadband infrastructure; and buildings and real property. Infrastructure includes facilities that generate, transport, and distribute energy.

In addition to the above, the infrastructure in question must be publicly owned or must serve a public function; privately owned infrastructure that is solely utilized for private use is not considered “infrastructure” for purposes of Buy America applicability. The Agency, not the applicant, will have the final say as to whether a given project includes infrastructure, as defined herein. Accordingly, in cases where the “public” nature of the infrastructure is unclear, DOE strongly recommends that applicants complete their full application with the assumption that Buy America requirements will apply to the proposed project.
- **Project** means the construction, alteration, maintenance, or repair of infrastructure in the United States.

*b. Buy America Requirements for Infrastructure Projects (“Buy America” Requirements)*

In accordance with Section 70914 of the BIL, none of the project funds (includes federal share and recipient cost share) may be used for a project for infrastructure unless:

---

<sup>5</sup> See: <https://www.madeinamerica.gov> and <https://www.whitehouse.gov/omb/management/made-in-america/build-america-buy-america-act-federal-financial-assistance/>

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

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

(3) all construction materials<sup>6</sup> are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States. The Buy America requirements only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor do Buy America requirements apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project, but are not an integral part of the structure or permanently affixed to the infrastructure project.

These requirements must flow down to all sub-awards, all contracts, subcontracts, and purchase orders for work performed under the proposed project. For additional information related to the application and implementation of these Buy America requirements, please see OMB Memorandum M-22-11, issued April 18, 2022: <https://www.whitehouse.gov/wp-content/uploads/2022/04/M-22-11.pdf>.

### *c. DOE Submission Requirements for Full Application*

Within the activity file, applicants must provide a short statement on whether the project will involve the construction, alteration, and/or repair of infrastructure in the United States. The ultimate determination about whether a project includes infrastructure remains with DOE. However, the applicant's statement will assist project planning and integration of domestic preference requirements, which may impact the project's proposed budget.

### **Waivers**

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

- (1) applying the Buy America requirements would be inconsistent with the public interest;
- (2) the types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality;
- or,
- (3) the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent.

---

<sup>6</sup> Excludes cement and cementitious materials, aggregates such as stone, sand, or gravel, or aggregate binding agents or additives.

On July 28, 2023, DOE issued a General Applicability Public Interest Waiver that, among other things, waives Build America, Buy America requirements for any financial assistance agreements that are less than \$250,000. The waiver also waives Build America, Buy America Preference where covered products represent less than 5 percent of the total applicable project costs (up to a maximum of \$1 million).<sup>7</sup> Recipients with EECBG Program allocations under this threshold are covered by this waiver and therefore exempt from Build America, Buy America requirements.

If an applicant is seeking a waiver of the Buy America requirements, it must include a written waiver request with the Full Application. A waiver request must include:

- A detailed justification for the use of “non-domestic” iron, steel, manufactured products, or construction materials to include an explanation as to how the non-domestic item(s) is essential to the project
- A certification that the applicant or recipient made a good faith effort to solicit bids for domestic products supported by terms included in requests for proposals, contracts, and nonproprietary communications with potential suppliers
- Applicant /Recipient name and Unique Entity Identifier (UEI)
- Total estimated project cost, DOE and cost-share amounts
- Project description and location (to the extent known)
- List and description of iron or steel item(s), manufactured goods, and construction material(s) the applicant or recipient seeks to waive from Domestic Content Procurement Preference requirement, including name, cost, country(ies) of origin (if known), and relevant PSC and NAICS code for each.
- Waiver justification including due diligence performed (e.g., market research, industry outreach) by the applicant or recipient
- Anticipated impact if no waiver is issued DOE may require additional information before considering the waiver request.

DOE may require additional information before considering the waiver request. See [DOE Buy America Requirement Waiver Requests | Department of Energy](#)

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

## **5. Davis Bacon Prevailing Wage Requirements**

Projects awarded under this ALRD will be funded under Division D of the BIL. Accordingly, per section 41101 of that law, all laborers and mechanics employed by the applicant, subrecipients, contractors or subcontractors in the performance of construction, alteration, or repair work funded in whole or in part under this ALRD shall be paid wages at rates not less than those prevailing on similar projects in the locality, as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code commonly referred to as the “Davis-Bacon Act” (DBA).

By accepting an award as a result of this ALRD, the Applicant is acknowledging the DBA requirements above, and confirming that the laborers and mechanics performing construction, alteration, or repair work on projects funded in whole or in part by awards made as a result of this ALRD are paid or will be paid

---

<sup>7</sup> See: [https://www.energy.gov/sites/default/files/2023-07/DOE-Final-%20Public%20Interest-%20Sm%20Grant%20De%20Minimis%20Minor%20Component%20-%20Final%20for%20posting%207.26.23\\_0.pdf](https://www.energy.gov/sites/default/files/2023-07/DOE-Final-%20Public%20Interest-%20Sm%20Grant%20De%20Minimis%20Minor%20Component%20-%20Final%20for%20posting%207.26.23_0.pdf)

wages at rates not less than those prevailing on projects of a character similar in the locality as determined by subchapter IV of Chapter 31 of Title 40, United States Code (Davis-Bacon Act). Applicants acknowledge that they will comply with all of the Davis-Bacon Act requirements, including but not limited to:

- (1) Ensuring that the wage determination(s) and appropriate Davis-Bacon clauses and requirements are flowed down to and incorporated into any applicable subcontracts or subrecipient awards.
- (2) Ensuring that if wage determination(s) and appropriate Davis-Bacon clauses and requirements are improperly omitted from contracts and subrecipient awards, the applicable wage determination(s) and clauses are retroactively incorporated to the start of performance.
- (3) Being responsible for compliance by any subcontractor or subrecipient with the Davis-Bacon labor standards.
- (4) Receiving and reviewing certified weekly payrolls submitted by all subcontractors and subrecipients for accuracy and to identify potential compliance issues.
- (5) Maintaining original certified weekly payrolls for 3 years after the completion of the project and must make those payrolls available to the DOE or the Department of Labor upon request, as required by 29 CFR 5.6(a)(2).
- (6) Conducting payroll and job-site reviews for construction work, including interviews with employees, with such frequency as may be necessary to assure compliance by its subcontractors and subrecipients and as requested or directed by the DOE.
- (7) Cooperating with any authorized representative of the Department of Labor in their inspection of records, interviews with employees, and other actions undertaken as part of a Department of Labor investigation.
- (8) Posting in a prominent and accessible place the wage determination(s) and Department of Labor Publication: WH-1321, Notice to Employees Working on Federal or Federally Assisted Construction Projects.
- (9) Notifying the Contracting Officer of all labor standards issues, including all complaints regarding incorrect payment of prevailing wages and/or fringe benefits, received from the recipient, subrecipient, contractor, or subcontractor employees; significant labor standards violations, as defined in 29 CFR 5.7; disputes concerning labor standards pursuant to 29 CFR parts 4, 6, and 8 and as defined in FAR 52.222-14; disputed labor standards determinations; Department of Labor investigations; or legal or judicial proceedings related to the labor standards under this Contract, a subcontract, or subrecipient award.
- (10) Preparing and submitting to the Contracting Officer, the Office of Management and Budget Control Number 1910-5165, Davis Bacon Semi-Annual Labor Compliance Report, by April 21 and October 21 of each year. Form submittal will be administered through the iBenefits system (<https://doeibenefits2.energy.gov>) or its successor system.

Recipients of funding under this ALRD will also be required to undergo DBA compliance training and to maintain competency in DBA compliance. The Contracting Officer will notify the recipient of any DOE sponsored DBA compliance trainings. The U.S. Department of Labor (“DOL”) offers free Prevailing Wage Seminars several times a year that meet this requirement, at <https://www.dol.gov/agencies/whd/government-contracts/construction/seminars/events>.

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

## **PART VI OTHER INFORMATION**

### **A. INTERGOVERNMENTAL REVIEW**

Program Subject to Executive Order 12372

This program is subject to [Executive Order 12372](#) (Intergovernmental Review of Federal Programs) and the regulations at [10 CFR Part 1005](#).

One of the objectives of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism. The Executive Order relies on processes developed by state and local governments for coordination and review of proposed Federal financial assistance.

Applicants should contact the appropriate State Single Point of Contact (SPOC) to find out about, and to comply with, the state's process under [Executive Order 12372](#). The names and addresses of the SPOCs are listed on the Web site of the Office of Management and Budget at Intergovernmental Review (SPOC List) ([whitehouse.gov](http://whitehouse.gov)) [Intergovernmental Review \(SPOC List\) \(whitehouse.gov\)](#).

### **B. GOVERNMENT RIGHT TO REJECT OR NEGOTIATE**

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

### **C. COMMITMENT OF PUBLIC FUNDS**

The Contracting Officer is the only individual who can make awards or commit the Government to the expenditure of public funds. A commitment by other than the Contracting Officer, either explicit or implied, is invalid.

### **D. LOBBYING RESTRICTIONS**

By accepting funds under this award, you agree that none of the funds obligated on the award shall be expended, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C. 1913. This restriction is in addition to those prescribed elsewhere in statute and regulation.

### **E. EXPENDITURE RESTRICTIONS**

By accepting funds under this award, you agree that none of the funds obligated on the award shall be expended, directly or indirectly, to support or oppose union organizing.

### **F. MODIFICATIONS**

Modifications to this ALRD will be processed and disseminated in the same manner as other EECBG Program Notices.

## **G. PROPRIETARY APPLICATION INFORMATION**

DOE will use data and other information contained in applications strictly for evaluation purposes. Applicants should not include confidential, proprietary, or privileged information in their applications unless such information is necessary to convey an understanding of the proposed project.

Applications containing confidential, proprietary, or privileged information must be marked as described below. Failure to comply with these marking requirements may result in the disclosure of the unmarked information under the Freedom of Information Act or otherwise. The U.S. Government is not liable for the disclosure or use of unmarked information and may use or disclose such information for any purpose.

The cover sheet of the application must be marked as follows and identify the specific pages containing confidential, proprietary, or privileged information:

Please be aware that all information provided to DOE (including confidential proprietary or confidential commercial information) is subject to public release under the Freedom of Information Act (FOIA). (5 U.S.C. § 552(a) (3) (A) (2006), amended by OPEN Government Act of 2007, Pub. L. No. 110175, 121 Stat. 2524). When a FOIA request covers information submitted to DOE by an applicant, and the cognizant DOE FOIA Officer cannot make an independent determination regarding the public releasability of this information, the cognizant DOE FOIA Officer will contact the submitter and ask for comment regarding the redaction of information under one or more of the nine FOIA exemptions. However, the cognizant DOE FOIA Officer will make the final decision regarding FOIA redactions. Submitters are given a minimum of 7 days to provide redaction comments and if DOE disagrees with the submitter's comment, DOE will notify the submitter of the intended public release no less than seven (7) days prior to the public disclosure of the information in question.” ([10 CFR Part 1004.11](#)).

## **H. PROTECTED PERSONALLY IDENTIFIABLE INFORMATION**

In responding to this ALRD, Applicants must ensure that Protected Personally Identifiable Information (PII) is not included in the application documents. PII is defined by the Office of Management and Budget (OMB) and DOE as:

Any information about an individual maintained by an agency, including but not limited to, education, financial transactions, medical history, and criminal or employment history and information that can be used to distinguish or trace an individual's identity, such as their name, social security number, date and place of birth, mother's maiden name, biometric records, etc., including any other personal information that is linked or linkable to an individual.

This definition of PII can be further defined as: (1) Public PII and (2) Protected PII.

Public PII: PII found in public sources such as telephone books, public websites, business cards, university listing, etc. Public PII includes first and last name, address, work telephone number, email address, home telephone number, and general education credentials.

Protected PII: PII that requires enhanced protection. This information includes data that if compromised could cause harm to an individual such as identity theft.

Listed below are examples of Protected PII that Applicants must not include in their application.

- Social Security Numbers in any form
- Place of birth associated with an individual
- Date of birth associated with an individual

- Mother's maiden name associated with an individual
- Biometric record associated with an individual
- Fingerprint
- Iris scan
- DNA
- Medical history information associated with an individual
- Medical conditions, including history of disease
- Metric information, e.g., weight, height, blood pressure
- Criminal history associated with an individual
- Employment history and other employment information associated with an individual
- Ratings
- Disciplinary actions
- Performance elements and standards (or work expectations) are PII when they are so intertwined with performance appraisals that their disclosure would reveal an individual's performance appraisal
- Financial information associated with an individual
- Credit card numbers
- Bank account numbers
- Security clearance history or related information (not including actual clearances held)



## **PART VII REFERENCE MATERIAL**

**IIJA EECBG Program Formula Allocations**

**IIJA EECBG Program Application Instructions**

**IIJA EECBG Program Formula Pre-Award Information Sheet**

**IIJA EECBG Program Energy Efficiency and Conservation Strategy Templates**

**IIJA EECBG Program NEPA Statements of Work**