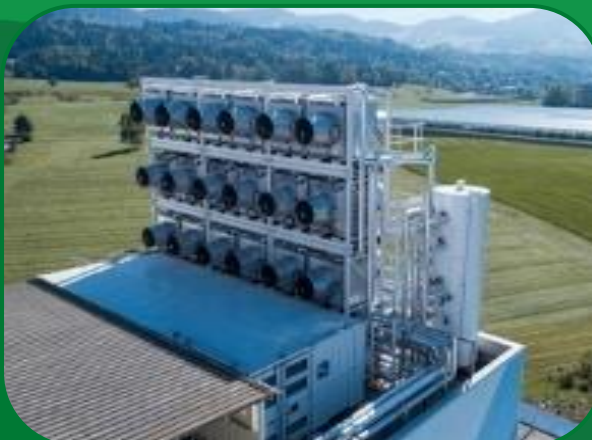**U.S. DEPARTMENT OF ENERGY**

Fossil Energy and Carbon Management

Community Benefit Plans: Demonstration and Deployment Projects

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Disclaimers

This webinar and related materials are not rules or regulations, and the recommendations it contains may not apply to a particular situation based upon the individual facts and circumstances. Additionally, although this webinar and related materials were prepared by the Fossil Energy and Carbon Management (FECM) office within the Department of Energy (DOE), this is intended to be generalized guidance and is not specific to any funding opportunity announcement within FECM, or any other DOE program office.

This webinar and related materials include general information about the relationship between community benefits programs (CBPs) and DOE Tribal Consultation requirements, as well as DOE policies on effective inclusion of Tribes in CBPs. However, different and/or additional Tribal consultation or engagement rules and policies may apply to your situation if other Federal agencies, such as the Environmental Protection Agency, are involved in the implementation of your program.

If you have specific Community Benefits Plans (CBPs) guidance questions, please refer to the funding opportunity announcement for each specific program. For additional information, please visit the "About Community Benefits Plans" page on the Department of Energy's website: https://www.energy.gov/infrastructure/about-community-benefits-plans

Agenda

What are Community Benefit Plans (CBPs)?

What do CBPs include?

How are CBPs evaluated?

CBP process and timeline

DOE CBP resources

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What are Community Benefit Plans (CBPs)?

Key concepts

Environmental Justice (Executive Order 14096)

Just treatment and **meaningful involvement** of all people in agency decision-making and other Federal activities that affect human health and the environment.

- Protection from **disproportionate and adverse human health and environmental effects** (including risks) and hazards.

- Have **equitable access** to a healthy, sustainable, and resilient environment.

Equity (Executive Order 14091)

Consistent and **systematic treatment** of all individuals in a fair, just, and impartial manner, including **individuals who belong to communities that often have been denied such treatment**.

CBP Objectives

- To help ensure **broadly shared prosperity**—particularly for historically underserved communities—in the clean energy transition.

- Successful implementation means:
  - Maximized benefits (technical, environmental, economic, social)
  - Ensured long-term success
  - Building durable support for implementation

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CBPs aim to...

- **Decrease** project risks and delays due to community or labor opposition

- **Decrease** health and safety risks to workers and communities

- **Increase** participation of affected stakeholders in decision-making

- **Increase** opportunities for two-way communication

- **Increase** accountability to affected workers and communities

- **Increase** benefits and broadly shared prosperity from place-based projects

What do CBPs include?

CBP Priorities:

Community and Labor Engagement
>Meaningful engagement with community, labor, and tribal partners leading to formal agreements with accountability to affected stakeholders

Investing in Quality Jobs
>Create good-paying jobs to attract and retain skilled workers and ensure workers have a voice on the job over decisions that affect them

Diversity, Equity, Inclusion, and Accessibility
>Equitable access to wealth-building opportunities (partnerships, good jobs, inclusive recruitment and workforce development investments, business and contracting opportunities, etc.)

Justice40
>Goal that at least 40% of the benefits of certain federal investments flow to disadvantaged communities as determined by CEJST, including Tribes.

To promote transparency and accountability, the DOE will strive to release CBP commitments to the public when available.

Community & Labor Engagement

Investing in Quality Jobs

Justice40

DEIA

Community Benefits Plan Template

Each Funding Opportunity Announcement applicant is encouraged to use the CBP template to aid in the submission of the CBP portion of the application.

The CBP Template provides instructions on the type of information that an applicant should include so that they can submit a Community Benefits Plan that addresses all four priorities identified in the Community Benefits Plan portion of the Funding Opportunity Announcement.

We will focus on requirements and best practices for the Demonstration and Deployment version of the template. Please reference the specific FOA for all FOA requirements, templates, waivers, guidance, etc. for your specific application.

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How are CBPs evaluated?

CBPs in the funding opportunity process

New requirement for all BIL/IRA-funded FOAs. CBPs are reviewed by subject matter experts and count for *up to 20% of an applicant's final score*.

If the project is selected:

- DOE will incorporate the **CBP commitments** into the award and the recipient will be **required** to implement the CBP **as negotiated**.

- During the life of the award, DOE will **evaluate** the recipient's progress.

What makes an effective CBP?

Specific:

- **SMART Milestones** with clear metrics to measure success.
- Impacted communities are **clearly identified and located** (name, zip, and Census Tract served using the Climate and Economic Justice Screening Tool).

Actionable:

- **Sufficient resources** (money, people, expertise, and time) to achieve tasks.
- **Tangible, well-defined** goals, outcomes, and implementation.
- **Specifies** what groups will be engaged, when, how, and to what purpose.

Connected:

- **Aligned with** CBP templates (including Justice40 and other DOE priorities) and **responds to** the specific FOA topic.
- Explains how community **engagement will impact** project decisions.
- Considers possible impacts on **communities, workers, and Tribes*.**
- Substantive **analysis of community benefits** and when/how/to whom they will flow.
- Thoroughly models, monitors, and/or ameliorates **environmental impacts.**

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SMART milestones and adequately resourced

Specific, **M**easurable, **A**chievable, **R**elevant, and **T**ime-bound

Personnel and budget to ensure successful implementation

One-Way Engagement vs. Two-Way Engagement

Format	Project leaders "inform" or "educate" the public		Project leaders and communities have a **collaborative dialogue**
Goal of engagement	Secure acceptance		Identify **"win-win"** options
Defining success	Success = community understanding of the project		Success = **mutual understanding** of priorities, concerns, and limitations
Defining impacts and benefits	Project leaders determine impacts and benefits		Project leaders and communities **work together** to identify impacts and benefits
Designing a project	Project leaders assume communities aren't interested in data or research, just site impacts and benefits		Project leaders and communities talk about site impacts and benefits **and also** look for opportunities to produce data and research together

Can CBPs fulfill Tribal Consultation requirements?

CBPs <u>do not</u> fulfill the requirements for formal Tribal consultation.

- Tribal consultation is a government-to-government process between DOE and the Tribal government in recognition of Tribal sovereignty. Award recipients are required to supply project information to DOE that may be used to *support* Tribal consultation.

Tribes have a right to formal consultation <u>with DOE</u> if all the following occur:

- An Indian Tribe could be impacted by a project.
- The impacted Indian Tribe is Federally recognized, including Alaska Native Regional and Village Corporations.
- The Indian Tribe is not a party to the grant application (or other relevant activity). A letter of support from the Tribe or involvement in a CBP does not determine whether a Tribe is a party to an action.

If an <u>applicant</u> determines a Tribe will be impacted by their project:

- The applicant must provide information on the project location, potential impacts, and how the applicant will engage with Tribe(s) during and, if necessary, after the end of the agreement.

Need Help? Direct questions to the Tribal Energy Steering Committee: tribalconsultation@hq.doe.gov.

Effective inclusion of Tribes in a CBP

Meaningful engagement

Analysis to determine which Tribes may be impacted

All appropriate Tribes are engaged

Community meetings are accessible to Tribes

Mechanisms for incorporating feedback from Tribes

Bi-lateral agreements (Tribal agreements, MOUs, CBAs, PLAs)

Transparency and Accessibility

Cultural resources monitors and community leaders have access to sites and processes

Community has access to environmental monitoring data or support to conduct their own monitoring.

Status updates are provided to the community

Protection of Resources

Buffers are provided for sensitive plants, sacred sites, and other cultural resources

Equity

Workforce Development and education opportunities for Tribal members.

Opportunities to include Indigenous Knowledge in project design, monitoring plans, and mitigation measures.

Common areas for quality CBPs

- Do not reflect an understanding of local context, history

- Only include an institutional DEIA plan not specific to project

- DEIA plan focuses on early career stage only, not leadership

- Narrow focus on certain stakeholder types

- Rely on one-way information sharing

- Inadequate resources dedicated to implementation

- Commitments to engagement and DEIA lack specificity and accountability (e.g., not referring to specific communities or Tribes)

- Commitment or benefit is not clearly related to the FOA or proposed project

Community and Labor Engagement:
Examples of Effective Commitments

1. Commitment to negotiate Collective Bargaining Agreements, Community Benefits Agreements,Tribal Agreements, Community Workforce Agreements, and/or Good Neighbor Agreements. (MOU outlining the conditions for negotiation at DOE negotiation stage)

2. Identification of benefits provided to affected stakeholders and local community (e.g., the number of local jobs to be created and wages paid), timelines, and remedies for non-compliance

3. Establishment of Community Advisory Councils including labor, Tribal, and environmental justice representatives

Job Quality and Workforce Continuity:
Examples of Effective Commitments

Operations Phase Jobs

- Commitments to support worker organizing and collective bargaining, such as:
  - Pledge to remain neutral during any union organizing campaigns
  - Pledge to permit union recognition through card check (as opposed to requiring union elections)
  - Pledge to enter into binding arbitration to settle first contracts
  - Pledge to allow union organizers access to appropriate onsite non-workspaces (e.g., lunchrooms)
  - Pledge to refrain from holding captive audience meetings
- Commitments to provide high-quality jobs, such as:
  - 75th percentile wages or above for industry and relevant production occupations + competitive benefits
  - Paid training plus tuition reimbursement for additional training
  - Establishment of health and safety committees with participation and training of hourly production workers

Job Quality and Workforce Continuity:
Examples of Effective Commitments

Construction-Phase Jobs

1. Commitments to negotiate Project Labor Agreements for large construction activity associated with project. (An MOU can spell out the process by which PLAs would be negotiated)
2. Commitments to utilize registered apprentices, such as a ratio 15-20% of work hours
3. Commitments to local hire, such as 50% of jobs
4. Commitments to skilled and trained/credentialed workforce with a national journey-card credential
5. Wages above required Davis-Bacon prevailing wages

DEIA:
Examples of Effective Commitments

- Identifies MWDBE (Minority, Women, and Diverse Business Enterprise) firms and MSIs (Minority Serving Institutions) as planned contractors/partners.

- Identifies workforce training organizations serving disadvantaged communities, underrepresented, or marginalized populations as partners for recruiting, training and/or retaining workers.

- Identifies robust and inclusive workforce development investments, including critical supportive services.

- Commitments to support apprenticeship readiness and registered apprenticeships.

- Commitments to partner with or recruit from HBCUs (Historically Black Colleges and Universities), TCUs (Tribal Colleges and Universities), and other MSIs for research and development opportunities.

- Specific milestones, goals, and/or metrics related to the above.

What is Justice40?

Justice40 is a presidential initiative that seeks to address environmental and social injustice by ensuring that at least 40% of the benefits of climate-related federal funding go to Disadvantaged Communities.
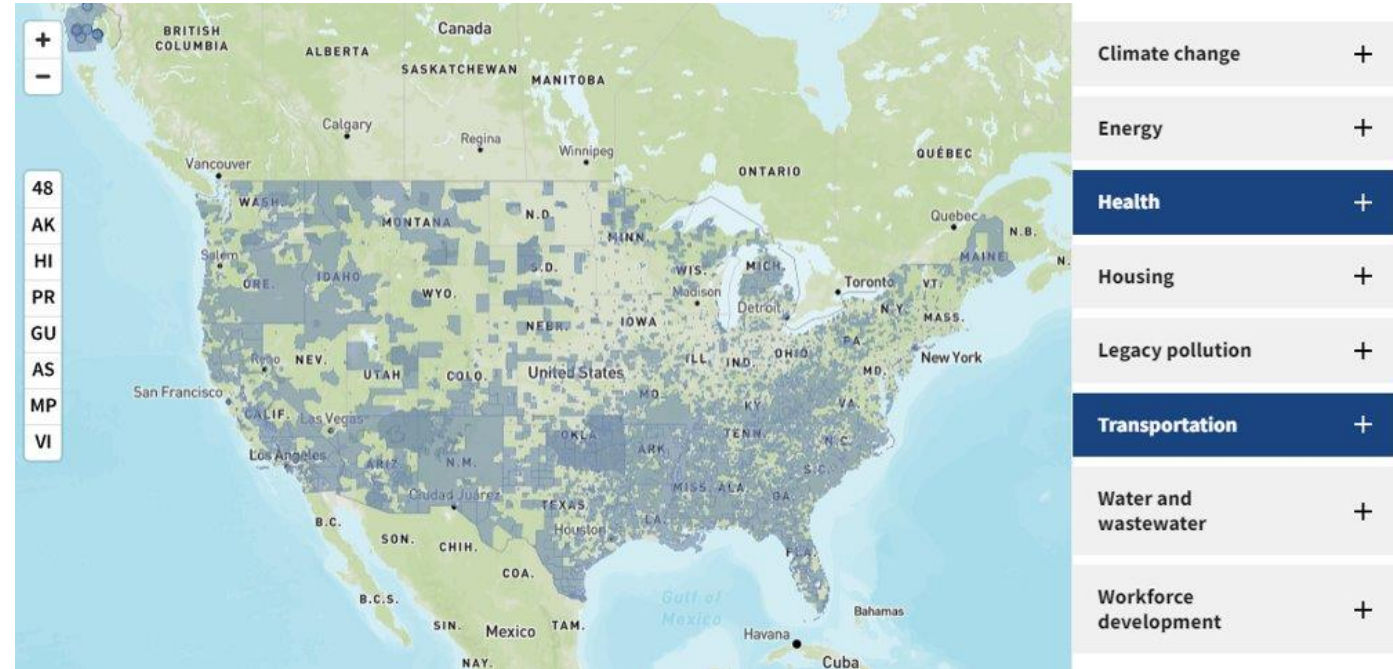
- **November 2022,** CEQ CJEST v1.0 Released

- **27,248 census tracts** as disadvantaged (36.8% total U.S. census tracts)

- **~28% of the total U.S. population** lives in a CEJST disadvantaged community

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Justice40 Initiative:
Examples of Effective Commitments

The **Justice40 Initiative** section must include:

- Identification of **applicable disadvantaged communities** where the anticipated project benefits will flow and how those communities are characterized (CEJST, DOE DAC reporter, state tools, other).

- Identification of applicable benefits that are **quantifiable**, **measurable**, and **trackable**, including, at a minimum, a discussion of the relevance of each of the **eight DOE Justice40 Policy Priorities**.

- A description of **how** and **when** anticipated benefits are **expected to flow to disadvantaged communities**.

- A discussion of anticipated **negative** and **cumulative impacts** on disadvantaged communities.
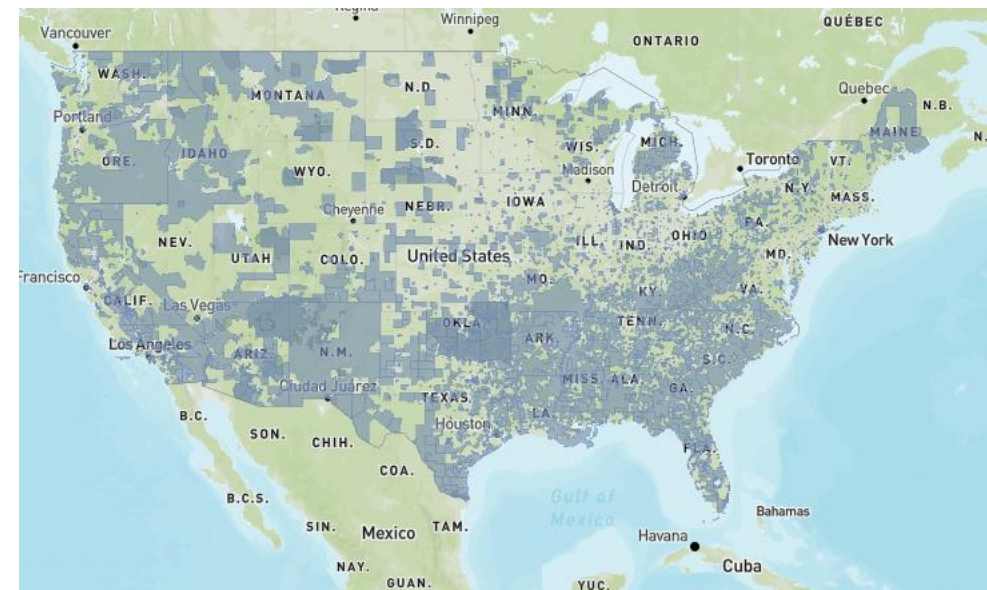
[Climate and Economic Justice Screening Tool (CEJST)](#)

CBP process and timeline

CBP Timeline

FOA Application

Applicants submit CBPs as part of their application.

Applications are then scored and awardees selected.

Varies by FOA

Negotiation

DOE works with selectee to strengthen CBP commitments & review CBP budget.

Community Benefits Outcomes and Objectives (CBOO) and Community Benefits Reporting (CBR) are created and incorporated as part of the award.

Varies by FOA, usually 2-6 months

Project Management

Applicants submit quarterly reporting.

Reports on Go/No-Go milestones, continuing applications.

Applicants make changes to CBOO and CBR as needed.

Life of the project

CBP Template

Community Benefits Plan

What is it: Application document consisting of up to 4 sections: Community and Stakeholder Engagement, Investing in Quality Jobs, DEIA, J40 and contains commitments, milestones, dates, names, and metrics.

Why is it needed: supports **applicants** in documenting commitments, standard template supports **merit review evaluation** process.

CBOO

Community Benefits Outcomes and Objectives

What is it: high level **summary** of the 4 sections addressed in the CBP. Contains **high-level commitments, general timeframes, and SMART milestones.**

Why is it needed: The CBOO establishes clear **accountability** for progress of CBP **goals and milestones** as part of the agreement with the Selectee.

CBR

Community Benefits Reporting

What is it: Excel **reporting** template that contains **specific dates, names, and metrics.**

Why is it needed: machine-readable format that can feed into a dashboard and track **progress** of **planned and actual** commitments/milestones and associated metrics.

Community Benefits Outcomes & Objectives (CBOO)

- A **publicly releasable** executive summary of the negotiated community and labor commitments that explains how the commitments, milestones, and metrics align with and contribute to the project objectives.

- A summary table of the sections addressed in the CBP Template and contains high-level commitments, general timeframes, and SMART milestones.

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Community Benefits Reporting (CBR):

- Reporting template that covers 4 CBP sections.
- Allows DOE to easily track the flow of benefits from 4 CBP sections.
- Use will minimize duplication of data entry and streamline data requests.
- Along with the CBOO, assists project staff with progress review and reporting (quarterly, annual, continuation application, project phases).

DOE and FECM CBP resources

Questions

Where can I find FECM funding opportunities?

- [FECM Solicitations and Business Opportunities](#)
- [NETL Solicitations and Business Opportunities](#)

Questions on specific funding opportunities?

- Create an account on FedConnect ([FedConnect.net](#)) to view the Q&A and submit additional questions for that Funding Opportunity Announcement (FOA).
- Q&As are updated regularly.

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Contacts

For FECM projects and programs

- FECM engagement staff: FECM_engagement@hq.doe.gov
- Emily Brooks Emily.brooks@hq.doe.gov
- Natenna Dobson Natenna.dobson@hq.doe.gov

For Tribal engagement

- Tribal Energy Steering Committee: tribalconsultation@hq.doe.gov

For CBPs at DOE in general

- DOE CBP email: cbp-help@hq.doe.gov

Additional Resources

DOE Resources

- About Community Benefit Plans

- DOE Justice40 General Guidance

- Community Workforce Readiness Accelerator for Major Projects | Department of Energy

- Office of Community Engagement Homepage | Department of Energy

- Community Benefit Agreement (CBA) Toolkit | Department of Energy

- Harnessing Hydrogen and Community Benefits Public Forums | Department of Energy

FECM Resources

- Planning for Societal Considerations and Impacts in FECM Projects

External Resources

- The Environmental Justice Thriving Communities Technical Assistance Centers Program | US EPA

- Workshop on Leveraging Community Benefit Frameworks I NASEM