

TECHNICAL GUIDANCE ON INCORPORATING JOBS, WORKFORCE, AND LABOR CONSIDERATIONS INTO BIL PROGRAM DESIGN

Equity, Labor, and Economic Prosperity Working Group

[updated 3-22-22]

“GOOD JOBS” INTRO LANGUAGE FOR NOIs, RFIs, and FOAs

Strengthening prosperity – by expanding good, safe union jobs and supporting job growth through investments in domestic manufacturing – are key goals set by President Biden, discussed in depth in his Executive Orders on Ensuring the Future Is Made in All of America by All of America's Workers (EO 14005), Tackling the Climate Crisis at Home and Abroad (EO 14008), Worker Organizing and Empowerment (EO 14025), Boosting Quality of Federal Construction Contracts (EO 14063), and Promoting Competition in the American Economy (EO 14036).

In keeping with the administration's goals, and as an agency whose mission is to help strengthen our country's energy prosperity, the Department of Energy strongly supports investments that expand union jobs, improve job quality through the adoption of strong labor standards, support responsible employers, improve job access, foster safe, healthy, and inclusive workplaces and communities, and develop a diverse workforce well-qualified to build and maintain the country's energy infrastructure and grow domestic manufacturing.

The Department intends to use the [XXXX] program to support [XXX specific goals e.g., good-paying jobs with the free and fair choice to join a union and the incorporation of strong labor standards and training and placement programs, especially registered apprenticeship.]

Applicants to this FOA are encouraged to include information about how their project will support these goals, and specifically:

- [list relevant items from menu of good jobs/labor standards provisions]
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MENU OF GOOD JOBS/LABOR STANDARDS

KEY

Symbol	Dollar Threshold	Symbol	Mechanism	Symbol	Sector/Funded Activity
\$	Any project size	Q	Requirement	C	Construction
\$\$	>\$2k	MP	Merit Points	M	Manufacturing
\$\$\$	>\$1 M	CP	Certified Payroll Reporting Required*	R&D	Research & Development or Pilots

\$\$\$\$	>\$5M	R	Other Reporting Required	A	All project types
\$\$\$\$\$	>\$25M	S	Self-Certify		
		V	Voluntary		

*Data gathered via certified payroll will feed into job quality and DEIA-related jobs metrics

For specific labor standards, expand the category below by clicking on the black arrow (downloaded version only) or scroll down for a table with the same information.

Job Creation (Domestic Supply Chain)

Job creation happens when money is spent and ripples through the economy. How will the funded project grow support for domestic production of raw and manufactured materials, thereby amplifying those ripple effects and growing jobs?

Made-in-America Provisions. Buy America provisions require that public funds use American-made products on government-funded projects, thus ensuring the development of domestic supply chains for new technologies. \$ R A

Job Quality

How will the project support the creation of good-paying jobs with the free and fair choice to join a union, protect against worker misclassification, and incorporate strong labor standards?

Davis-Bacon Prevailing Wage Standards. The Davis-Bacon and Relates Acts require that prevailing wages be paid for certain federally funded or assisted projects, thus diminishing labor rates from the competitive bidding process. Weekly electronic reporting of certified payrolls is required. Waivers for electronic payroll submissions granted when necessary \$\$ Q, CP C

***Skilled and Trained Standards.** Skilled and Trained Workforce (STW) requirements are qualifications for the building and construction workforce, specifying the percent (typically 60%) of workers enrolled in or graduated from a registered apprenticeship. \$\$\$ Q or MP, CP C

*Error! Reference source not found.*Error! Reference source not found.*Project labor agreements promote pre-hire agreements between contractors and labor unions to ensure appropriate skills, labor availability, adequate training, and labor peace during project construction. A Community Workforce Agreement (CWA) is a project labor agreement that includes local hire goals and local community goals, such as a targeted hire provision designed to encourage low-income workers into construction careers. \$\$\$\$ Q or MP C

***Labor-Management Partnerships.** A negotiated collective agreement between a union and an employer that results in a joint strategy in which the workforce is involved in decision making around organizational change and learning. Joint labor-management training programs help workers to develop in-demand skills and meet employers' workforce needs. \$\$\$\$ PP M, R&D

Firm/Employer Responsibility

What assurances will recipients of federal funds provide to ensure that taxpayer funding is supporting firms that honoring the rights of workers, responsive to the surrounding community, and exercising environmental and social responsibility?

****Responsible Employer Screens.** Firms that are pattern violators of OSHA, EPA/DEP, wage and hour provisions, or those that have been debarred by the federal government or any state government, are ineligible for funding. \$ Q, S A [GC-61]

***Protect Against Worker Misclassification.** Misclassification is the practice of incorrectly classifying workers as independent contractors, rather than employees. This practice allows employers to avoid basic legal responsibilities and obligations to employees, such as paying unemployment and other taxes on workers, and from covering them on workers compensation and unemployment insurance. Preference for firms that have an employee-based business model instead of independent contractor model. \$ PP A

*Error! Reference source not found.. An agreement by a contractor or grantee not to participate in or request or otherwise seek to influence, either in writing or orally, the decision of its employees to be represented or not to be represented by a labor organization. \$ Q A

***Community Benefits Agreement/Good Neighbor Agreements.** Good Neighbor Agreements are legally enforceable agreements in labor- and environmentally-sensitive industries and projects necessary for the low-carbon transition, such as mining, industrial sites, or multi-state high voltage direct transmission lines. GNA's provide community input and social buy-in for environmentally sensitive projects. \$\$\$\$ MP or Q M,C

Work Sites

What assurances will recipients of federal funds provide to ensure that taxpayer funding is supporting the highest standards of workplace health and safety?

***Occupational Safety and Health Act.** Employers subject to the Occupational Safety and Health Act have a general duty to provide work and a workplace free from recognized, serious hazards and ensure an employer cannot retaliate by taking "adverse action" against workers who report injuries, safety concerns, or other protected activity. \$ Q A

Error! Reference source not found. **and Health Management Program.** Workplace safety and health management systems that include management leadership and employee involvement, worksite analysis, hazard prevention and control, and safety and health training. \$\$\$ PP A

OSHA 30-hour Training. The 30-hour Occupational Health and Safety Act course is a comprehensive program designed for anyone involved in general industry, covering resources and tools to create or enhance an effective safety and health management system, a review of the OSHA Act, and highlights of the General Industry Safety and Health Standards. \$\$\$ Q C

*Error! Reference source not found.. Specific federal, state, and OSHA labor laws that should be posted in workplaces informing workers of their rights. \$ Q A

***Anti-Harassment Measures.** Training for worksites on anti-harassment and other strategies to prevent harassment based on race, gender, ethnicity or other factors. \$ Q A

Workforce Development

How will the project support career-track, broad occupational training that leads to transferable industry-recognized credentials and ensure such quality training is accessible to individuals and communities under-represented in the occupation and facing barriers to quality training and employment?

*Error! Reference source not found.s. Registered Apprenticeship is the term used for apprenticeship programs, approved by the Department of Labor. Typically, they are privately funded by employers and labor unions. Registered apprenticeships provide earn-as-you-learn on-the-job training from an experienced mentor and related classroom instruction on the technical and academic aspects of the job. When individuals successfully complete a Registered Apprenticeship program, they receive a national credential that is recognized anywhere in the industry. These programs help companies successfully recruit, develop and retain a highly-skilled workforce for the jobs they need filled. \$\$\$ Q or MP C

***Registered Apprentice Utilization.** An agreement that the project will utilize registered apprentices on projects in specified ratios (e.g. 20-50%) \$\$\$ MP, CP C

*Error! Reference source not found.. Quality pre-apprenticeship programs offer a starting point toward a successful career path for under-represented job seekers. Programs help individuals meet the entry requirements for apprenticeship programs, provide broad support services, ensure they are prepared to be successful in their apprenticeship. \$\$\$\$ MP C

***Local or Targeted Recruitment.** To ensure equitable access to employment opportunities, local and targeted recruitment agreements specify staffing targets (e.g. 25-50%) or “first-source” commitments to interview workers from low-income communities, workers with disabilities, veterans, individuals from particular zip codes, or those enrolled in specified quality pre-apprenticeship or other training programs. \$\$\$ MP and CP C [OMB]

***Documenting Job Competencies.** Job competencies include the technical knowledge, skills, and abilities (KSAs) required successfully complete the roles and functions of a job. Documenting KSAs required for emerging technology and pilot project success is important for developing industry-recognized training standards to align future workforce development activities broader deployment goals. \$\$\$\$ V, R R&D

***Labor Management Training Partnerships.** A negotiated collective agreement between a union and an employer that results in a joint strategy in which the workforce is involved in decision making around organizational change and learning. Joint labor-management training programs help workers to develop in-demand skills and meet employers’ workforce needs. \$\$\$\$ PP M, R&D

Diversity, Equity, Inclusion and Access

What assurances will recipients of federal funds provide to ensure that disadvantaged communities have access to and are well-represented in the training, work, and advancement opportunities?

DEIA Plan. When there are openings, prioritize recruitment of underrepresented workers. \$\$\$ MP M, R&D

For guidance on workforce-related diversity, equity, inclusion, and access goals beyond what is provided above, including business diversity, see DOE’s Justice40 Guidance

Additional Technical Guidance

[Comprehensive Guidance on Jobs, Labor, and Workforce Considerations - February 2022.docx](#) provides definitions and examples of the above standards and suggestions. It also links to Executive Orders, labor engagement guidance, labor market information, and describes the legal parameters related to implementation of the above standards.

Category	Standard	Threshold	Mechanism	Sector/ Activity	FOA Language (link)
Job Creation (Domestic Supply Chain) <i>How will the funded project grow support for domestic production of raw and manufactured materials, thereby growing jobs in the domestic supply chain?</i>	Made-in-America Provisions. Buy America provisions require that public funds use American-made products on government-funded projects, thus ensuring the development of domestic supply chains for new technologies.	\$	Q	A	Guidance on BIL Buy American Implementation 2.14.22.docx
Job Quality <i>How will the project support the creation of good-paying jobs with the free and fair choice to join a union, protect against worker misclassification, and incorporate strong labor standards?</i>	Davis-Bacon Prevailing Wage Standards. Davis-Bacon requires that prevailing wages be paid for federal government-funded projects, thus diminishing labor rates from the competitive bidding process. Weekly electronic reporting of certified payrolls is required. Waivers for electronic payroll submissions granted when necessary	\$\$	Q, CP	C	TBD
	Skilled and Trained Standards. Skilled and Trained Workforce (STW) requirements are qualifications for the building and construction workforce, specifying the percent (typically 60%) of workers enrolled in or graduated from a registered apprenticeship.	\$\$\$	Q or MP, CP	C	
	Error! Reference source not found. Error! Reference source not found. Project labor agreements promote pre-hire agreements between contractors and labor unions to ensure appropriate skills, labor availability, adequate training, and labor peace during project construction. A Community Workforce Agreement (CWA) is a project labor agreement that includes	\$\$\$\$	MP	C	

	local hire goals and local community goals, such as a targeted hire provision designed to encourage low-income workers into construction careers. These agreements are enforced by the NRLB.				
	Labor-Management Partnership. A negotiated collective agreement between a union and an employer that results in a joint strategy in which the workforce is involved in decision making around organizational change and learning. Joint labor-management training programs help workers to develop in-demand skills and meet employers' workforce needs.	\$\$\$\$	MP	M, R&D	
Responsible Firms/ Employers <i>What assurances will recipients of federal funds provide to ensure that taxpayer funding is supporting firms that honoring the rights of workers, responsive to the surrounding community, and exercising environmental and social responsibility?</i>	Responsible Contractor Screen. Contractors and subcontractors that are pattern violators of OSHA, EPA/DEP, wage and hour provisions, or those that have been debarred by the federal government or any state government, are ineligible for funding.	\$	Q, S	A	
	Protections Against Worker Misclassification. Misclassification is the practice of incorrectly classifying workers as independent contractors, rather than employees. This practice allows employers to avoid basic legal responsibilities and obligations to employees, such as paying unemployment and other taxes on workers, and from covering them on workers compensation and unemployment insurance. Preference for firms that have an employee-based business model instead of independent contractor model	\$	MP	A	
	Error! Reference source not found.. An agreement by a contractor or grantee not to participate in or request or otherwise seek to influence, either in writing or orally, the decision of its employees to be represented or not to be represented by a labor organization.	\$	Q, S	A	

	Community Benefits Agreements & Good Neighbor Agreements. Good Neighbor Agreements are legally enforceable agreements in labor- and environmentally-sensitive industries and projects necessary for the low-carbon transition, such as mining, industrial sites, or multi-state high voltage direct transmission lines. GNA's provide community input and social buy-in for environmentally sensitive projects.	\$\$\$\$	MP or Q	M,C	
Work Sites <i>What assurances will recipients of federal funds provide to ensure that taxpayer funding is supporting the highest standards of workplace health and safety?</i>	Occupational Safety and Health Act. Employers subject to the Occupational Safety and Health Act have a general duty to provide work and a workplace free from recognized, serious hazards and ensure an employer cannot retaliate by taking "adverse action" against workers who report injuries, safety concerns, or other protected activity.	\$	Q	A	
	Workplace Safety and Health Management Programs. Workplace safety and health management systems include management leadership and employee involvement, worksite analysis, hazard prevention and control, and safety and health training.	\$\$\$	MP	A	
	OSHA 30-hour Training. The 30-hour Occupational Health and Safety Act course is a comprehensive program designed for anyone involved in general industry, covering resources and tools to create or enhance an effective safety and health management system, a review of the OSHA Act, and highlights of the General Industry Safety and Health Standards.	\$\$\$	Q	C	
	Error! Reference source not found.. Specific federal, state, and OSHA labor laws that should be posted in workplaces informing workers of their rights.	\$	Q	A	

	Anti-Harassment Measures. Training for worksites on anti-harassment and other strategies to prevent harassment based on race, gender, ethnicity or other factors.	\$	Q	A	
Workforce Development <i>How will the project support career-track, broad occupational training that leads to transferable industry-recognized credentials and ensure such quality training is accessible to individuals and communities under-represented in the occupation and facing barriers to quality training and employment?</i>	Error! Reference source not found.. Registered Apprenticeship is the term used for apprenticeship programs, approved by the Department of Labor. Typically, they are privately funded by employers and labor unions. Registered apprenticeships provide earn-as-you-learn on-the-job training from an experienced mentor and related classroom instruction on the technical and academic aspects of the job. When individuals successfully complete a Registered Apprenticeship program, they receive a national credential that is recognized anywhere in the industry. These programs help companies successfully recruit, develop and retain a highly-skilled workforce for the jobs they need filled.	\$\$\$	MP	C	
	Registered Apprentice Utilization. An agreement that the project will utilize registered apprentices on projects in specified ratios (e.g. 20-50%)	\$\$\$	MP, CP	C	
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Diversity, Equity, Inclusion and Access <i>What assurances will recipients of federal funds provide to ensure that disadvantaged communities have access to and are well-represented in the training, work, and advancement opportunities?</i>	DEIA Plan. When there are openings, prioritize recruitment of underrepresented workers.	\$\$\$\$	MP	R&D, M	

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