



FINANCIAL ASSISTANCE LETTER

This Financial Assistance Letter is issued under the authority of the Senior Procurement Executives of DOE and NNSA

Subject: Use of Community Benefits Plan (CBP) in Financial Assistance Programs, Funding Opportunity Announcements and Awards

References:

- Executive Orders (EO):
 - EO 13985, *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*, January 20, 2021;
 - EO 14008, *Tackling the Climate Crisis at Home and Abroad*, January 27, 2021;
 - EO 14091, *Further Advancing Racial Equality and Support for Underserved Communities Through the Federal Government*, January 16, 2023;
 - EO 14096, *Revitalizing Our Nation's Commitment to Environmental Justice For All*, April 26, 2023
- OMB Memorandum M-21-28, *Interim Implementation Guidance for the Justice40 Initiative*, issued 7-20-2021.
- Comprehensive Justice40 Technical Guidance issued 1-21-2022.
- Equity, Labor, and Economic Prosperity Guiding Principles & Framework for BIL Implementation, issued by the Bipartisan Infrastructure Law (BIL) Equity, Labor, and Economic Prosperity Group on 3-23-2022.
- Technical Guidance on Incorporating Jobs, Workforce, and Labor Considerations into BIL Program Design, issued by Equity, Labor, and Economic Prosperity Working Group on 3-22-2022.
- Department of Energy General Guidance for Justice40 Implementation, issued 7-25-2022, updated 7-24-2023.

When is this Financial Assistance Letter (FAL) effective?

This FAL is effective upon issuance.

When does this FAL expire?

This FAL remains in effect until canceled or superseded.

Who is the point of contact?

For questions regarding the environmental justice priorities, the Community Benefits Plan (CBP) or the Equity, Labor, and Economic Prosperity (ELEP) Guiding Principles & Framework, please send an email to cbp-help@hq.doe.gov.

For questions regarding the Justice40 Initiative, please send an email to energyjustice@hq.doe.gov.

For questions regarding BIL and IRA implantation, please send an email to BILbusiness@hq.doe.gov.

For questions related to the programmatic applicability of CBP requirements, consult with cognizant Program Office(s).

For DOE acquisition questions please contact the Contract and Financial Assistance Policy Division at [DOE OAPMPolicy@hq.doe.gov](mailto:DOE_OAPMPolicy@hq.doe.gov).

For NNSA acquisition questions contact NNSA at (505) 845-5639.

Who is the intended audience?

Department of Energy (DOE) and National Nuclear Security Administration (NNSA) Contracting and Grants Officers. Any reference in this guidance to Contracting Officer (CO) should be understood to include Grants Officer (GO). Any reference in this guidance to the DOE should be understood to include the NNSA, unless otherwise indicated.

What is the purpose of this FAL?

The purpose of this FAL is to provide information regarding the applicability of ELEP's CBP requirements to financial assistance programs, funding opportunity announcements and awards.

What is the background?

The Biden Administration issued four Executive Orders (EO) related to environmental justice (EJ): EO 13985, *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*, January 20, 2021; EO 14008, *Tackling the Climate Crisis at Home and Abroad*, January 27, 2021; EO 14091, *Further Advancing Racial Equality and Support for Underserved Communities Through the Federal Government*, January 16, 2023; and EO 14096, *Revitalizing Our Nation's Commitment to Environmental Justice For All*, April 26, 2023.

One of the four E.O.s, E.O. 14008,¹ known as Justice40, is distinguishable from the other three EJ-related EOs because it requires Federal agencies to direct 40 percent of certain Federal investments to disadvantaged communities, as defined by the White House Climate and Economic Screening Tool (CEJST).² To define certain Federal investments under Justice40, the White House requested that each agency identify programs, based upon seven identified Administration goals,³ where 40 percent of the Federal investment should flow to disadvantaged communities. Investments is defined as benefits and include both financial and nonfinancial benefits.

The Director of the Office of Management and Budget (OMB), working with the Council on Environmental Quality (CEQ), the National Climate Advisor, and the White House Environmental Justice Advisory Council (WHEJAC), issued OMB Memorandum M-21-28 to provide interim guidance to executive branch agencies on how certain Federal investments might be made toward a goal that 40 percent of the overall benefits of such investments flow to disadvantaged communities pursuant to section 223 of Executive Order 14008 and in support of the Administration's comprehensive approach to advancing EJ priorities and equity for all in line with Executive Order 13985.

The Infrastructure Investment and Jobs Act (IIJA), also referred to as the Bipartisan Infrastructure Law (BIL), and the Inflation Reduction Act (IRA) contain language related to EJ, including community/public engagement or collaborative engagement with stakeholders. DOE established the ELEM working group to implement the Administration's EJ priorities, specifically for BIL and IRA funded financial assistance programs and awards/projects. The ELEM working group created the CBP and CBP related requirements as a tool to be used in BIL/IRA funded financial assistance Funding Opportunity Announcements (FOAs) and awards, when applicable, to meet the objectives of the Administration's overall EJ goals.

For Research, Development, Demonstration, and Deployment (RDD&D) financial assistance projects funded through BIL/IRA, CBPs are based on a set of four core policy priorities: investing in America's workforce; engaging communities and labor; advancing diversity, equity, inclusion, and accessibility; and implementing Justice40 to "ensure

¹ Executive Order 14008, sec. 223(a) ("Within 120 days of the date of this order, the Chair of the Council on Environmental Quality, the Director of the Office of Management and Budget, and the National Climate Advisor, in consultation with the Advisory Council, shall jointly publish recommendations on how certain Federal investments might be made toward a goal that 40 percent of the overall benefits flow to disadvantaged communities.") (<https://www.whitehouse.gov/briefing-room/statements-releases/2021/01/27/fact-sheet-president-biden-takes-executive-actions-to-tackle-the-climate-crisis-at-home-and-abroad-create-jobs-and-restore-scientific-integrity-across-federal-government/>)

² In a memorandum, *Subject: Addendum to the Interim Implementation Guidance for the Justice40 Initiative, M-21-28, on using the Climate and Economic Justice Screening Tool (CEJST)*, for the heads of Executive departments and agencies, dated January 27, 2023, the White House required agencies to use the CEJST tool to identify DACs. CEJST (<https://toolkit.climate.gov/tool/climate-and-economic-justice-screening-tool>)

³ Executive Order 14008, sec. 223(a), Justice40 covered programs are related to the following seven areas: climate change, clean energy and energy efficiency; clean transit; affordable and sustainable housing; training and workforce development; remediation and reduction of legacy pollution; and development of critical clean water infrastructure.

project success, the efficient and effective use of taxpayer funds, timely implementation of projects, and the acceleration of private sector uptake in projects funded by BIL and IRA.”⁴ The ELEM working group has also developed a modified CBP requirement for Research and Development (R&D) and other non-RDD&D BIL/IRA funded financial assistance projects.

The current ELEM documents (*Comprehensive Justice40 Technical Guidance* issued 1-21-2022; *Equity, Labor, and Economic Prosperity Guiding Principles & Framework for BIL Implementation*, issued by the Bipartisan Infrastructure Law (BIL) Equity, Labor, and Economic Prosperity Group on 3-23-2022; *Technical Guidance on Incorporating Jobs, Workforce, and Labor Considerations into BIL Program Design*, issued by Equity, Labor, and Economic Prosperity Working Group on 3-22-2022; and the *Department of Energy General Guidance for Justice40 Implementation*, issued 7-25-2022, and updated 7-24-2023) are provided in attachments as references for procurement and program offices. Procurement and program offices should review these documents when engaging in or planning financial assistance activities authorized and funded by BIL or IRA.

Program offices may use these references to assist in their consideration for applying the CBP requirements more broadly to their programs and projects funded through award of financial assistance with annual base appropriations or non-BIL/IRA funds.

What is the instruction/guidance in this FAL?

A. Applicability

The CBP requirements are applicable to all DOE financial assistance programs authorized and funded under BIL and IRA.

Program Offices may incorporate CBPs in DOE financial assistance programs that are authorized and funded under annual base appropriations and/or other non-BIL/IRA appropriations such as the DOE programs covered by the Justice40 Initiative and the associated requirements. Please see <https://www.energy.gov/diversity/doe-justice40-covered-programs> for a list of covered DOE programs developed pursuant to OMB’s Memorandum M-21-28.

Program Offices may, as necessary, consult with ELEM subject matter experts, the CO, and General Counsel (GC) to assist with program design regarding possible application of CBP requirements in annual base appropriations and/or other non-BIL/IRA appropriations FOAs and resulting financial assistance awards.

⁴ Department of Energy, Clean Energy Infrastructure, Community Benefits Plan Webpage, <https://www.energy.gov/infrastructure/about-community-benefits-plans#:~:text=Community%20Benefits%20Plans%20are%20based,accessibility%3B%20and%20implementing%20Justice%2040.>

B. Overview

DOE is committed to supporting the development of more diverse, equitable, inclusive, and accessible workplaces to help maintain the nation's leadership in science and technology. The CBP and associated requirements, when applicable, incorporate the Administration's EJ priorities aimed at creating good jobs and training, benefits to disadvantaged communities and equitable access to opportunities in Federally funded financial assistance programs and project awards.

The CBP addresses the four core EJ objectives:

- Support of meaningful community and labor engagements;
- Investing in America's workforce (job quality and workforce continuity);
- Advancing diversity, equity, inclusion, and accessibility (DEIA); and
- Contributing to energy equity and the Justice40 Initiative.

To support these objectives applicable program offices should, as necessary, identify opportunities to develop, tailor and use CBP requirements that may be incorporated in the technical objectives of the program and project/awards. CBPs are intentionally flexible to generate the best approaches from program offices, applicants/recipients, and their partners regarding support of the four core EJ objectives above.

CBPs may address some or all of the following ELEM/Administration priorities:

- 1) Community and Labor Engagement: The solicitation of input from community partners, such as local and/or Tribal governments, labor unions, and community-based organizations that support or work with underserved or disadvantaged communities, including disadvantaged communities, to substantially reduce or eliminate stalls or slowdowns, litigation, and other risks associated with award project implementation.
- 2) Investing in America's Workforce: The consideration of long-term workforce impacts and opportunities that may be provided by the proposed project activity outcomes.
- 3) Diversity, Equity, Inclusion, and Accessibility (DEIA): The integration of DEIA into the goals, objectives and/or project teams of the award that identifies opportunities for people of all racial, ethnic, socioeconomic, and geographic backgrounds, sexual orientation, gender identity, persons with disabilities, and those re-entering the workforce from incarceration.
- 4) Energy Equity/Justice40 Initiative: The consideration of long-term equity implications of the proposed project activity outcomes and how the project integrates equity considerations into the project design to support equitable outcomes if the project objectives are successful.

The goal of the CBP is to allow the applicant/recipient to illustrate how their proposed project/objectives will benefit the American people and lead to broadly shared prosperity, including for workers and disadvantaged communities. The CBP should:

- Identify how the applicant/recipient proposes to achieve the stated CBP priorities (community engagement, the long-term workforce impacts of the project, incorporation of DEIA in the project technical objectives, and the equity implications of the project activities), and
- Provide Specific, Measurable, Assignable, Realistic, & Time-Based (SMART) milestones to measure progress on the proposed CBP actions.

If the application/project is selected the CBP will be incorporated into the terms and conditions of the award and the recipient will be required to implement the CBP as approved. DOE will evaluate the recipient's progress on CBP actions during administration of the award to ensure the recipient is meeting the milestones and requirements of the plan.

For additional information on Community Benefit Plans visit <https://www.energy.gov/infrastructure/about-community-benefits-plans>.

C. Implementation

Program Offices are required to include a CBP requirement for all BIL and IRA funded financial assistance RDD&D program activities, awards and FOAs where significant community impact is anticipated by recipients during performance under an award. Additionally, a modified CBP requirement for R&D and other non-RDD&D BIL/IRA funded financial assistance projects may be required in similar circumstances.

For additional guidance, training, FOA and CBP templates, and other resources to support the implementation of CBP requirements in BIL and IRA funded RDD&D programs or the modified CBP requirement for R&D and other non-RDD&D BIL/IRA funded financial assistance projects/awards contact the cognizant Program Office's ELEM Liaison and/or the BIL and IRA implementation point of contact at BILbusiness@hq.doe.gov.

At this time, Program Offices are not required to include a CBP requirement in base appropriations or other non-BIL or IRA funded FOAs and financial assistance awards but are encouraged to include the requirement where applicable. Program Offices have the discretion to include a requirement for a CBP and tailor the requirements accordingly. Program Offices may consult with ELEM and cognizant GC for non-BIL/IRA program and/or FOA design. Email **cbp-help@hq.doe.gov** for ELEM coordination or if you have questions regarding CBP requirements.

The CBP FOA provisions and award terms used in base appropriations or other non-BIL or IRA funded FOAs and awards (see Attachments 1, 2 and 3) are tailorable and should be tailored based on the Program Office mission requirements, and type of FOA and financial assistance

award. When included in a FOA, the CBP provision must clearly state the requirements that the applicant must address and include in its CBP. The CBP requirements and the applicants' CBP must have a direct nexus to the program's objectives in the FOA and the applicants' proposed projects. The FOA should also include merit review criteria that clearly describe how DOE will evaluate the applicant's CBP. The CO should ensure that the FOA and award term language have been approved for use by the Program Office, and GC, if necessary, prior to issuing.

The following attachments provide samples and additional information:

See Attachment 1 for sample FOA provision and review criteria language for CBP requirements for base appropriations or other non-BIL or IRA funded R&D activities.

See Attachment 2 for sample FOA provision and review criteria language for CBPs requirements for base appropriations or other non-BIL or IRA funded D&D activities.

See Attachment 3 for a sample Award Term and Condition for CBPs.

See Attachment 4 for Comprehensive Justice40 Technical Guidance issued by the Office of Economic Impact and Diversity on 1-21-2022.

See Attachment 5 for the Equity, Labor, and Economic Prosperity Guiding Principles & Framework for BIL Implementation, issued by the Bipartisan Infrastructure Law (BIL) Equity, Labor, and Economic Prosperity Working Group on 3-23-2022.

See Attachment 6 for the Technical Guidance on Incorporating Jobs, Workforce, and Labor Considerations into BIL Program Design, issued by Equity, Labor, and Economic Prosperity Working Group on 3-22-2022.

See Attachment 7 for the Department of Energy General Guidance for Justice40 Implementation, updated 7-24-2023.