

### **Why did DOE issue a DEC?**

DOE issued the DEC to more effectively promote U.S. manufacturing of new technologies developed under certain DOE funding agreements (e.g. cooperative agreements), a key objective of the Bayh-Dole Act.

### **What does the DEC do?**

It allows DOE to require all applicants, regardless of type, to submit U.S. manufacturing plans, use U.S. manufacturing plans to evaluate and select applications, and ensure compliance of U.S. manufacturing plans.

### **What is a U.S. manufacturing plan?**

A U.S. manufacturing plan is an applicant's measurable commitment to support U.S. manufacturing of the technologies related to their DOE funding agreement. The range of commitment may include, for example, manufacturing certain products in the U.S., investing in U.S. facilities or a licensing strategy aimed at supporting U.S. manufacturing. The commitments are proposed by the applicants, not by DOE.

### **How does the DEC support U.S. manufacturing plans?**

The DEC allows DOE to modify the standard patent rights clause in its DOE funding agreements for recipients in order to incorporate and enforce U.S. manufacturing plans. The standard patent rights clause will be modified to reflect any commitment in a U.S. manufacturing plan related to inventions made under a funding agreement. The standard patent rights clause may also be modified to make compliance with a U.S. manufacturing plan a condition for maintaining rights to the inventions made under the funding agreement by the recipient.

### **Does the DEC impact any other standard terms and conditions of DOE funding agreements beyond what is necessary to incorporate and enforce U.S. manufacturing plans?**

No. All other terms and conditions remain the same.

### **How will I know if the DEC applies to my funding agreement?**

The DEC may be applied to funding agreements involving renewable energy, energy efficiency, and advanced energy technologies. The Funding Opportunity Announcement, Request for Proposal, or similar document, should state that the DEC applies to funding agreements issued as a result of the announcement.

### **What is expected of applicants when the DEC is applied?**

For announcements that state the DEC will be applied, the announcement likely will require that applicants must submit a U.S. manufacturing plan with their applications. Any additional information regarding the plans will be provided in the announcement. Plans must set forth specific commitments to manufacturing in the U.S. Those commitments may and are expected to vary, based on the technology and its readiness level for the marketplace.

**How will the U.S. manufacturing plans be used during the evaluation and selection process?**

Evaluation and selection of applicants may be based, in part, on the U.S. manufacturing plans. Announcements will provide further details regarding the evaluation and selection process.

**How will the U.S. manufacturing plans be incorporated into the award?**

After selection and negotiations, the patent rights clause may be modified to include specific language regarding the U.S. manufacturing commitments. The patent clause may also be modified to include loss of patent rights in subject inventions if the recipient breaches its U.S. manufacturing commitments.

**What happens if a recipient finds that it needs to modify its U.S. manufacturing commitments after the funding agreement has been finalized?**

Recipients may seek to modify their U.S. manufacturing commitments after the agreement has been finalized. Recipients must show, to the satisfaction of DOE, that their existing commitments are not commercially feasible. To modify its commitments, the recipient must successfully negotiate any modification with DOE.

**Does the DEC have an expiration date?**

The DEC does not have an expiration date. DOE intends to review the circumstances supporting the DEC in the future to assess whether there is a continuing need for its use.