



Pre-Award Support: Intellectual Property

This template is provided to the selectee (Recipient) as a convenient method for collecting in one document intellectual property information from all project team members which is necessary for OCED's pre-award review process. Prior to filling out this form, please watch the [OCED Data & Patent Overview video](#) (Password: HW.F\$u8?).

Intellectual Property Information

A Invention/Patent Rights

The rights to and ownership of inventions and patents resulting from an OCED award depend on the organization type of the Recipient, Subrecipient(s), and/or Contractor(s) and may differ between participants. Therefore, it is necessary to identify the organization type of the Recipient and each Subrecipient and Contractor. Improperly identifying a Recipient, Subrecipient, or Contractor may have negative impact on the ability of that organization to secure rights in any inventions made by it under the award. Depending on the organization type of each participant, it can often help to start at the top of the list and work down to identify the appropriate selection.

Organization types:

- ▶ **Domestic Small Business** is any for-profit organization that qualifies as a "small business" under the U.S. Small Business Administration Size Standards at <http://www.sba.gov/content/table-small-business-size-standards> and is incorporated or otherwise formed under the laws of a particular State or territory of the United States.
- ▶ **Domestic Large Business** is any for-profit organization that does **NOT** qualify as a "small business" under the SBA Size Standards at <http://www.sba.gov/content/table-small-business-size-standards> and is incorporated or otherwise formed under the laws of a particular State or territory of the United States.
- ▶ **Foreign Business** is any for-profit organization that does not qualify as a domestic large business or a domestic small business.
- ▶ **Nonprofit Organization** is any university or other institution of higher education, or an organization of the type described in Section 501(c)(3) of the Internal Revenue Code of 1954 ([26 USC 501\(c\)](#)) and exempt from taxation under Section 501(a) of the Internal Revenue Code ([26 USC 501\(a\)](#)).
- ▶ **State** is any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any agency or instrumentality thereof exclusive of local governments.
- ▶ **Local Government** is any unit of government within a state, including a County; Borough; Municipality; City; Town; Township; Parish; Local public authority, including any public housing agency under the United States Housing Act of 1937; Special district; School district; Intrastate district; Council of governments, whether or not incorporated as a nonprofit corporation under State law; and any other agency or instrumentality of a multi-, regional, or intra-State or local government.

This template is provided as a convenient method of gathering information from selectees that is required to continue the process for potential Office of Clean Energy Demonstrations (OCED) financial assistance awards. The use of the template is not required, but the data elements within the template are required to be provided to OCED.

- ▶ **Indian Tribe** is any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act ([43 USC Chapter 33](#)), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians ([25 USC 450b\(e\)](#)). See annually published Bureau of Indian Affairs list of Indian Entities Recognized and Eligible to Receive Services.
- ▶ **Other Not Listed**. If this is selected, please provide specific details of the entity and their relationship to the award.

In the table below, identify the organization type for the Recipient, Subrecipient(s) and Contractor(s).

Recipient / Subrecipient / Contractor Name	Organization Type

B Background Intellectual Property Produced Outside the Award

Please identify any technical data, software and other background intellectual property (“BIP”) the project team anticipates will be needed to carry out the work under the award. Identifying all background intellectual property at this time allows OCED to include appropriate protectionary instructions and provisions in the award terms and conditions. OCED also uses this information to determine whether the project team has secured the necessary intellectual property to carry out the work under the award. It may also be helpful in your preparation of the Intellectual Property Management Plan.

Categories of background intellectual property include:

- ▶ **Limited Rights Data (LRD)** is data developed at private expense that embody trade secrets or are commercial or financial and confidential or privileged.
- ▶ **Restricted Computer Software (RCS)** is computer software developed at private expense and that is a trade secret; is commercial or financial and confidential or privileged; or is published copyrighted computer software; including modifications of such computer software.
- ▶ **Copyrighted Work (CW)** is any design, schematic or other item protected by copyright, other than software, that was developed solely at private expense outside of any government contract or award.
- ▶ **Background Patent (BP)** is any pending U.S. or Patent Cooperation Treaty patent application or U.S. patent that covers an invention that was conceived and first actually reduced to practice outside of any government contract or award.

In the table below, briefly describe each background intellectual property with sufficient detail so that OCED can understand how it relates to the project. You must also list the applicable category for the background intellectual property and how the project team has rights to use it (e.g., name of project team member who owns the BIP, rights through a license from a third party, etc.). For any license from a third party, please identify the third party by name. It is recommended to keep this information at a high level and to avoid including any sensitive information. If sensitive information is included, please mark it according to the instructions in the corresponding funding opportunity announcement.

Description of Background Intellectual Property	BIP Category (LRD, RCS, CW, BP)	Project Rights to the BIP

Technical Data Produced Under the Award

OCED, pursuant to special statutory authority, has agreed to protect certain data (“Protected Rights Data”) produced under an award for ten years (“10-Year Data Protection (10YDP)”). PRD is technical, commercial or financial data first produced in the performance of the award which, if it had been obtained from and first produced by a non-federal party, would be a trade secret or commercial or financial information that is privileged or confidential under the meaning of 5 U.S.C. 552(b)(4). The period of protection starts from *when the data is first produced*. OCED may approve a data protection period greater than ten years for a limited set of data categories if the selectee can demonstrate to OCED that the nature of the information protected against dissemination could reasonably require an extended period of that protection *to reach commercialization* (“Extended Data Protection (EDP)”). As OCED awards typically relate to the demonstration of existing technologies (often at high Technology Readiness Levels), it should be expected that such requests may not typically be granted. Accordingly, such requests should be explicit as to a specific category(ies) of data and why more than ten years of protection *from when the data is first produced* is necessary to reach commercialization.

OCED has unlimited rights in all other data generated under the award that does not qualify under one of the previously described protected data categories and all PRD after the protection period expires (“Unlimited Rights (URD)”). OCED expects the selectee to identify certain categories of data as URD. This allows OCED to immediately disseminate a summary or overview of the project to the public while still supporting the selectee’s commercialization efforts.

In the table below, describe the different categories of technical data that the project team anticipates will be generated under the award, which team member will generate such data and the requested protection level for each category (e.g., URD, 10YDP, EDP). For any data in which an extended period of protection is being sought, provide the requested number of years of data protection for the particular data category. OCED is available to discuss the process for submitting a formal justification and request for EDP.

