



Applicant Eligibility Guidance

This guidance provides information about applicant eligibility for the Department of Energy (DOE) Office of Clean Energy Demonstrations (OCED) Notice of Funding Opportunities (NOFO), including how an applicant can determine if it is eligible to apply to an OCED NOFO, how DOE determines eligibility, and entities that are generally eligible to apply.

Prior to applying to an OCED NOFO, an interested entity should determine that they are eligible to apply to avoid potentially wasting resources completing an application for an ineligible entity.

How can an entity determine if it is eligible to apply to an Office of Clean Energy Demonstrations NOFO?

When considering eligibility, entities can review the “Eligible Applicants” section of the published NOFO to determine what types of entities can apply and assess whether they fit within that NOFO eligibility criteria.

How will OCED determine eligibility?

Upon receipt of applications, the OCED Grants and Agreements Officer will determine whether the applicant meets the eligibility requirements outlined in the NOFO and is eligible for an award.

Applications that do not meet all the eligibility requirements of the NOFO will not be evaluated further.

What types of entities are generally eligible to apply to OCED NOFO?

The following entities are generally eligible to apply to OCED NOFO; however, please refer to eligibility requirements in the ‘Eligibility’ section of the relevant published NOFO for specific information.

1. Institutions of Higher Education
2. Nonprofit Organizations
3. For-Profit Entities
4. State and local governmental entities
5. Tribal Organizations
6. Indian Tribes
7. Incorporated Consortia
8. Unincorporated Consortia
9. Federally Funded Research and Development Centers

This guidance document does not supersede Federal laws and regulations. This OCED guidance document is for informational purposes only and is not a requirements document. If there are inconsistencies between this OCED guidance document and any specific program or project document, the specific OCED program or project document should be relied upon as it is the controlling document.

What is an Institution of Higher Education?

Institution of Higher Education is defined in [2 CFR § 200.1](#), referencing [20 USC § 1001](#), and means an educational institution in any State that:

1. admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, or persons who meet the requirements of [20 USC § 1091\(d\)](#);
2. is legally authorized within such State to provide a program of education beyond secondary education;
3. provides an educational program for which the institution awards a bachelor's degree or provides not less than a 2-year program that is acceptable for full credit toward such a degree, or awards a degree that is acceptable for admission to a graduate or professional degree program, subject to review and approval by the Secretary;
4. is a public or other nonprofit institution; and
5. is accredited by a nationally recognized accrediting agency or association, or if not so accredited, is an institution that has been granted pre-accreditation status by such an agency or association that has been recognized by the Secretary for the granting of pre-accreditation status, and the Secretary has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time.

What is a Nonprofit Organization?

A nonprofit organization is defined in [2 CFR § 200.1](#) as any organization that:

1. Is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;
2. Is not organized primarily for profit;
3. Uses net proceeds to maintain, improve, or expand the organization's operations; and
4. Is not an IHE.

However, [2 USC § 1611](#) provides that nonprofit organizations described in section 501(c)(4) of the Internal Revenue Code of 1986 ([26 USC § 501\(c\)\(4\)](#)) that engaged in lobbying activities after December 31, 1995, are not eligible for Federal funding constituting an award, grant, or loan.

What is a For-Profit Entity?

A for-profit organization is defined in [2 CFR § 910.122\(b\)](#) as one that distributes any profit not reinvested into the business as profit or dividends to its employees or shareholders.

What is a State?

A State is defined in [2 CFR § 200.1](#) as 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.

What is a Local Government?

A Local Government is defined in [2 CFR § 200.1](#) as any unit of government within a State, including a: (1) County; (2) Borough; (3) Municipality; (4) City; (5) Town; (6) Township; (7) Parish; (8) Local public authority, including any public housing agency under the United States Housing Act of 1937; (9) Special district; (10) School district; (11) Intrastate district; (12) Council of governments, whether or not incorporated as a nonprofit corporation under state law; and (13) any other agency or instrumentality of a multi-, regional, or intra-state or local government.

What is a Tribal Organization?

Per section 4 of the Indian Self-Determination and Education Assistance Act ([25 U.S.C. § 5304\(l\)](#)), a Tribal Organization is defined as the recognized governing body of any Indian Tribe; any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities; provided, that in any case where a contract is entered into, or a grant is made, to an organization to perform services benefitting more than one Indian Tribe, the approval of each such Indian Tribe shall be a prerequisite to the entering into or making of such contract, compact, or grant.

What is an Indian Tribe?

Unless otherwise specified in the NOFO, the definition of an Indian Tribe (per section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. § 5304(e)), 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 (85 Stat. 688) [43 U.S.C. § 1601, et seq.], which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians. Federally Recognized Indian Tribes are also considered disadvantaged communities for the purposes of Justice40 requirements in this NOFO per the [Addendum to the Interim Implementation Guidance for the Justice40 Initiative, M-21-28, on using the Climate and Economic Justice Screening Tool](#).

What are Federally Funded Research and Development Centers?

As defined in [Federal Acquisition Regulation section 35.017](#), Federally funded research and development centers (FFRDCs) are operated by universities, nonprofit organizations, or an industrial firm to fulfill certain long-term needs of the government that cannot be met as effectively by existing in-house or contractor resources. A list of FFRDCs can be found at <http://www.nsf.gov/statistics/ffrdclist/>.

Unless otherwise stated in a specific OCED program, DOE/National Nuclear Security Administration (NNSA) FFRDCs are eligible to apply for funding as a subrecipient but not as a recipient. Non-DOE/NNSA FFRDCs are eligible to participate as a subrecipient but are not eligible to apply as a recipient.

What is an Incorporated Consortium?

An Incorporated Consortium is a group made up of two or more individuals, companies, or governments that work together to achieve a common objective. Participants in a consortium combine their resources but are only responsible for the obligations specified in the consortium agreement. Every entity that is under the consortium, therefore, remains independent with regard to their normal business operations and has no control over another member's operations that are not related to the consortium.

Consortia participants should bring together manufacturers, small and medium businesses, researchers, and state and local governments to coordinate in high-priority technology areas. The technology areas that demonstration consortia specialize in are essential to clean energy manufacturing, industrial efficiency, and decarbonization. Each consortium must have an internal governance structure and a written set of internal rules. Upon request, the consortium must provide a written description of both to the DOE Grants and Agreements Officer.

If the consortium includes foreign members, the application must be accompanied by an explicit waiver of each foreign member's participation. Refer to the *Foreign Entity Participation and Performance of Work in the United States* document located on OCED's [What other information may be requested?](#) page for more information.

What is an Unincorporated Consortium?

An Unincorporated Consortium is one that is not required to organize as a separate legal entity. Instead, the unincorporated consortia are created by contract. The unincorporated consortia have no predetermined rules established by law or any preexisting paradigm between shareholders or owners, management, and the board. Consequently, any rules that govern issues concerning conflict of interests, shareholder governance or management of the unincorporated consortia must be spelled out in an agreement.

Unincorporated Consortia must designate one member of the consortium to serve as the recipient/consortium representative. The recipient/consortium representative must qualify as a domestic entity.

Upon request, unincorporated consortia must provide the DOE Grants and Agreements Officer with a collaboration agreement, commonly referred to as the articles of collaboration, which sets out the rights and responsibilities of each consortium member. This agreement binds the individual consortium members together and should include the consortium's:

- Management structure;
- Method of making payments to consortium members;
- Means of ensuring and overseeing members' efforts on the project;
- Provisions for members' cost sharing contributions; and
- Provisions for ownership and rights in intellectual property developed previously or under the agreement.

If the consortium includes foreign members, the application must be accompanied by an explicit waiver of each foreign member's participation. Refer to the *Foreign Entity Participation and Performance of Work in the United States* document located on OCED's [What other information may be requested?](#) page for more information.

Are Federal Agencies and Instrumentalities eligible to apply to OCED NOFOs?

Federal agencies and instrumentalities (other than DOE) are eligible to participate as a subrecipient but are not eligible to apply as a recipient, unless otherwise stated in a specific OCED program.

Are Foreign Entities eligible to apply to OCED NOFOs?

As stated above, proposed recipients and subrecipients must be domestic entities. To qualify as a domestic entity, the entity must be organized, chartered, incorporated (or otherwise formed) under the laws of a particular state or territory of the United States; have majority domestic ownership and control; and have a physical place of business in the United States. In limited circumstances, DOE may allow a foreign entity to participate as a recipient or subrecipient.

A foreign entity may submit an application to a NOFO, but the application must include a waiver to disclose the foreign entity's participation. Likewise, if the applicant seeks to include a foreign entity as a subrecipient, the applicant must submit a separate waiver for each proposed foreign subrecipient. Refer to the *Foreign Entity Participation and Performance of Work in the United States* document located on OCED's [What other information may be requested?](#) page for more information.

Are entities banned from doing business with the United States Government eligible to apply to OCED NOFOs?

Entities banned from doing business with the United States government such as entities debarred, suspended, or otherwise excluded from or ineligible for participating in Federal programs are not eligible to participate as either recipients or subrecipients. See [2 CFR § 200.214](#) and [2 CFR Part 180](#).

Census Data

In certain cases, OCED may have programs that rely on information derived from Census data to help define certain communities, such as county, population, place, and location.

An OCED NOFO, will provide any requirements which will be used in determining types of communities or disadvantaged areas.

What is an Incorporated Municipality?

An incorporated municipality is legally incorporated under state law, has a legally defined boundary, and has an active functioning governmental structure. Examples of incorporated municipalities include cities, towns, and villages. A single location cannot be part of both an incorporated place and a Census Designated Place (CDP).¹

What is an Unincorporated Area?

An “unincorporated area” refers to a CDP or similarly discrete and identifiable community that is not located within an incorporated municipality.

What is a Census Designated Place?

The U.S. Census Bureau defines a Census Designated Place (CDP) as a statistical geography representing closely settled, unincorporated communities that are locally recognized and identified by name. CDPs are statistical equivalents of incorporated places and represent unincorporated communities that do not have a legally defined boundary or an active, functioning governmental structure. Examples of CDPs include unincorporated communities, planned communities, military installments, university towns, and resort towns. A single location cannot be part of both an incorporated place and a CDP.

What is a Census County Division?

The U.S. Census Bureau defines a Census County Division (CCD) as an area delineated by the Census Bureau in cooperation with state, tribal, and local officials for statistical purposes. CCDs have no legal function and are not governmental units. CCD boundaries usually follow visible features and usually coincide with census tract boundaries. The name of each CCD is based on a place, country, or well-known local name that identify its location. The Census Bureau’s criteria for CCDs are that they should (1) have community orientation, (2) have visible and/or stable boundaries, (3) maintain relationships with census tract boundaries, and (4) have recognizable names.

Using U.S. Census Bureau Data to Determine Community Population

The U.S. Census Bureau records the population of incorporated and unincorporated communities. This information can be found on different locations within the U.S. Census Bureau website depending on the location of the community. The tips below may help you verify the population of the community that will benefit from the proposed clean energy project based on the name of that community.

¹ This definition is adapted from the [U.S. Census Bureau definition for Incorporated Place](#)

For incorporated communities located in the continental U.S., Hawai'i, Puerto Rico, or Alaska:

- Go to <https://data.census.gov/>
- In the search bar, enter the name of the city, town, or similar incorporated municipality and hit enter to look up the total population

For unincorporated communities located in the continental U.S., Hawai'i, Puerto Rico, or Alaska: check to see if your community is listed as a Census Designated Place (CDP), Census County Division (CCD), or similarly discrete and identifiable community using commonly known names.

- Go to <https://data.census.gov/>
- In the search bar, enter the commonly known names of the unincorporated community
- If a drop-down list appears, look for the name of the unincorporated community followed by "CDP", "CCD", or similar designation and the state. Click on this to look up the total population.

For incorporated and unincorporated communities located on an island territory, please use the following island-specific pages to locate the appropriate data for incorporated or unincorporated places:

- [American Samoa](#)
- [Commonwealth of the Northern Mariana Islands \(CNMI\)](#)
- [Guam](#)
- [U.S. Virgin Islands](#)

Note that the above methods required entry of the name of the incorporated or unincorporated place. If you do know this information, it may be possible to search for it on [U.S. Census Bureau Data](#) by searching for a five-digit zip code or county name. This may pull up the name of a CDP or CCD directly, or it may link to a map on which you can look for relevant incorporated or unincorporated places.

Please note that, while the zip code tabulation area (five-digit) (ZCTA5) and county may be useful for identifying the name of a relevant city, town, or unincorporated area, it may not be used to verify the 10,000 inhabitant's requirement. In addition, census tracts may not be used for verification.