

CDP & FINANCIAL ASSISTANCE FREQUENTLY ASKED QUESTIONS

Contents

GENERAL CDP QUESTIONS:	4
1. How do I get the funds that have been designated for my Congressionally Directed Project?	4
2. When will the financial assistance award be made? Is the award date linked to the project approval/review process or to a specific targeted date?	4
3. Under what circumstances will a CDP be administered as a grant instead of a cooperative agreement?	4
4. How can I accelerate my CDP award?	4
ADMINISTRATIVE PROCEDURE QUESTIONS:	5
5. What steps apply in the process of obtaining the award?	5
6. How do I obtain the application forms?	5
7. Is the submittal of applications via the web, or by email to the project offices? How can the applications be submitted?	5
8. Are there other special registration requirements to receive federal funds?	5
9. Are there other certifications that the CDP recipients must meet?	6
PROJECT QUESTIONS:	6
10. How are CDPs identified? Will DOE provide assistance in defining scope that is in alignment with their program goals?	6
11. When a project is an ongoing effort and previously managed under the Office of Science (or other DOE office), will the previous Project Officer be contacted by the subsequent one? .	6
12. Is there an opportunity to include the previous Project Manager in the initial meeting with the subsequent Project Manager?	6
13. Can specific DOE individuals outside of the National Energy Technology Laboratory or the Golden Field Office be added to review panels?	7
14. What is the typical or standard length of a CDP project?	7
15. What are the requirements of a "statement of project objectives"? Are they more elaborate than the Technical summary?	7
16. If a project involves several tasks, what level of detail do you want in the proposals?	7
17. Does NEPA apply to my award, and if so, what do I need to do?	7
SUBRECIPIENT QUESTIONS:	8
18. How are subrecipients handled in the application?	8

CDP & FINANCIAL ASSISTANCE FREQUENTLY ASKED QUESTIONS

19. Is there a need to have subrecipients and subcontractors competitively bid? If a subrecipient or subcontractor is named in the proposal, does the subrecipient or subcontractor have to be competitively bid if the proposal is accepted as written with them identified in the proposal?	8
20. In the work plan/budget, how does one disclose the use of a consultant's lump sum contract?	9
COST SHARE QUESTIONS:	9
21. Is cost sharing required for my project, and if so, how much is required?.....	9
22. Please explain the difference between cost sharing and matching.....	9
23. How is cost share calculated?	10
24. What specifically qualifies for matching funds?	10
25. After DOE reviews the one-page project summary for cost share, can cost share be adjusted with the Project Manager, if a recipient can argue for a category with less cost share?	12
26. What money is excluded/included in the cost-share? Are there limitations on using other Federal funds or State funds as cost-share?	13
27. Are in-kind services allowed for cost share?	13
28. For projects involving construction of facilities, can the value of the land owned by the applicant be counted as part of the required cost share?	13
29. Are patent costs allowed? May patent costs be part of cost share?	13
FUNDING AND PAYMENT QUESTIONS:	13
30. Where do the CDP funds come from to pay for each CDP activity?	14
31. Will CDP awardees receive 100% of Congressionally appropriated funds?.....	14
32. At what point in time can expenditures be counted for reimbursement? Can expenditures including cost sharing now be used to match DOE CDP funds that may start in June 2010 (anticipated date of award)?	14
33. Is there a period of time within which educational institutions may obligate funds prior to the actual awarding of those funds?	14
34. Our CDP is for \$2 Million, which is a subset of a project that will total about \$20 million (funded from non-Federal sources). Are there any special issues in writing this type of proposal that we should know about? For example, should we try to define a 10% part that the DOE funds will be used for?	14
35. If we are planning a \$10 Million project and are still in the fundraising mode (State and local level), with a timeline of 2-3 years for completion, how do we incorporate CDP funds? .	15
36. a.) Can a piece of equipment be purchased with CDP funds? b.) If so, who owns this equipment?.....	15

CDP & FINANCIAL ASSISTANCE FREQUENTLY ASKED QUESTIONS

37. Who is the key decision-maker in year 2 and year 3? Does Congress or does DOE approve future funds?.....	15
38. Is it all right to have one tier instead of three-tier accounting?	15
39. How often can commercial organizations make requests for reimbursement?	16
40. Can you describe how advances are made (criteria, number/percent of award) for non-profit organizations, universities, and state and local governments?.....	16
41. Is filing for reimbursement done in conjunction with the written quarterly report?	16
INTELLECTUAL PROPERTY	16
42. Who owns intellectual property and patents as they relate to a small business with less than 500 employees?	16
43. Who owns intellectual property and patents as they relate to a large business?	17
44. Is the patent waiver application process identical for CDP vs. competitive bid?	17
45. Please provide a brief explanation of waiver rights in 10 CFR 784.	17
46. What protection does an applicant/recipient have regarding its proprietary data?	18
FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS (FFRDC)	18
47. What if a DOE FFRDC Participant is being proposed in an application (Laboratory Involvement)?	18
APPENDIX A.....	19
APPLICATION DELIVERABLES	19
APPENDIX B.....	20
SAMPLE COST SHARE CALCULATION FOR BLENDED COST SHARE PERCENTAGE ...	20

CDP & FINANCIAL ASSISTANCE FREQUENTLY ASKED QUESTIONS

GENERAL CDP QUESTIONS:

1. How do I get the funds that have been designated for my Congressionally Directed Project?

In order to receive federal financial assistance, there are many regulatory and statutory requirements that must be met before federal funds can be distributed. A CDP is not exempt from these requirements. You must submit an application to receive a financial assistance award. The application deliverables are listed in Appendix A. If you have any questions regarding the level of technical details required for your application, please contact the DOE Project Officer identified in your award notification letter. Contact the Contract Specialist for assistance in completing the other application requirements.

2. When will the financial assistance award be made? Is the award date linked to the project approval/review process or to a specific targeted date?

The award date (effective date) for CDP projects depends upon the project review, negotiations and approval process. All statutory and regulatory requirements must be met prior to DOE issuing an award. The target completion date will be 90 days after receipt of a complete, acceptable application. DOE would prefer to issue awards earlier, because projects can begin tasks upon the unconditional award of a grant or cooperative agreement.

3. Under what circumstances will a CDP be administered as a grant instead of a cooperative agreement?

The primary distinguishing feature between a grant and cooperative agreement is that a cooperative agreement anticipates substantial involvement by DOE with the recipient during the performance of the funded project. In a cooperative agreement, substantial Federal involvement in and contributions to the technical aspects of the effort are necessary for its accomplishment. Cooperative agreements are used in CDPs only in those situations where the Federal involvement provides programmatic benefits that the recipient would not otherwise have available to carry out the project.

4. How can I accelerate my CDP award?

Recipients should respond immediately to all requests for information from the Contract Specialist and Project Officer assigned to their project, and work closely with them to meet all requirements as indicated. These DOE personnel will respond immediately when the recipient information is obtained, thereby ensuring an award as soon as possible.

CDP & FINANCIAL ASSISTANCE FREQUENTLY ASKED QUESTIONS

ADMINISTRATIVE PROCEDURE QUESTIONS:

5. What steps apply in the process of obtaining the award?

Though Congressional directives set out which projects will be designated as CDPs, CDP applicants must comply with all statutory and regulatory requirements before funds are available for payment to the recipient. The application requirements are outlined in your CDP cost share determination letters and in Appendix A. If you have questions regarding the application process, please contact your Contract Specialist for guidance.

After submission of your application and DOE's initial review, we may request a face-to-face meeting with your principal project officials. Any application revisions resulting from the meeting should also be submitted as instructed by the Contract Specialist.

6. How do I obtain the application forms?

Application forms can be downloaded from the DOE/ NETL web site at <http://www.netl.doe.gov/business/forms-far.html>. Instructions for completion of all the forms are included at the website. If recipients still have questions about filling out the forms after reviewing the web instructions, then recipients are encouraged to contact the Contract Specialist and/or Project Officer assigned to their CDP project.

7. Is the submittal of applications via the web, or by email to the project offices? How can the applications be submitted?

CDP applications should be submitted by e-mail to CDP-PMC@netl.doe.gov. CDP applications are not submitted through the Grants.gov or DOE Industry Interactive Procurement System (IIPS) web sites because they are not solicited competitively.

8. Are there other special registration requirements to receive federal funds?

Any organization that receives federal funds must have:

- a. Valid Employer Identification Number from the IRS.
- b. A registered DUNS Number. If you do not have a DUNS number, one may be requested at: http://www.dnb.com/US/duns_update/index.html.
- c. Registration in the Central Contractor Registration (CCR) database. CCR registration is required to facilitate financial transactions, such as payments through electronic funds transfer. Registrants must update or renew their registration at least once per year to maintain an active status. To register in CCR, follow the processes described at: <http://www.ccr.gov/handbook.aspx>.
- d. The DOE uses the U.S. Department of Treasury's Automated Standard Application for Payments System (ASAP) as the standard civilian Federal award payment system. Recipients of federal funds should enroll in ASAP. Information provided in your application will be used by the DOE's Enrollment Initiator to enroll a Recipient in ASAP. An e-mail will be sent to Recipients with further instructions that will allow them to complete the enrollment process. It is imperative that Recipients adhere to these instructions, since ASAP is expected to be the payment method used for awards.

CDP & FINANCIAL ASSISTANCE FREQUENTLY ASKED QUESTIONS

e. Your organization must register with FedConnect to receive your award documents. It is imperative that you register as soon as possible. More information is available at: https://www.fedconnect.net/FedConnect/PublicPages/FedConnect_Ready_Set_Go.pdf. Questions pertaining to registration for FedConnect should be directed by e-mail to support@FedConnect.net or by phone to FedConnect Support at 1-800-899-6665.

9. Are there other certifications that the CDP recipients must meet?

Yes. Recipients must comply with federal certifications that are incorporated into the award terms and conditions. The required federal certifications may be viewed at the CDP/FA Resources Page: <http://www.netl.doe.gov/business/forms-far.html>

PROJECT QUESTIONS:

10. How are CDPs identified? Will DOE provide assistance in defining scope that is in alignment with their program goals?

Congressional reports to appropriations set out which projects are CDPs. In 2009, CDPs were identified through the Explanatory Statement to the Energy and Water Development Appropriations Act, 2009 for FY 2010. DOE Project Officers identified for your project can assist you in defining the scope of your project so that it best meets the overall goals of DOE programs. If you have questions regarding the scope of your project, please contact your Project Officer for guidance.

11. When a project is an ongoing effort and previously managed under the Office of Science (or other DOE office), will the previous Project Officer be contacted by the subsequent one?

DOE makes its best efforts to ensure continuity is maintained when there are renewals of prior year projects. In the case of a project being started by one DOE office and continued by another, the previous Project Officer may be requested to provide background information to the new Project Officer.

12. Is there an opportunity to include the previous Project Manager in the initial meeting with the subsequent Project Manager?

When you initially meet DOE staff members assigned to your project, you may request participation by other DOE staff members. DOE will make its best efforts to accommodate those requests. However, depending on the level of workload and staffing, there may be cases where accommodations may not be possible.

CDP & FINANCIAL ASSISTANCE FREQUENTLY ASKED QUESTIONS

13. Can specific DOE individuals outside of the National Energy Technology Laboratory or the Golden Field Office be added to review panels?

Generally, for competitive awards, merit review committees may have a mix of DOE, academic, and industry professionals who review applications according to criteria specified in solicitations for applications. CDP projects differ from competitive awards since they are congressionally designated projects. Reviews (technical, administrative, and legal) of CDP applications are done by DOE's awarding offices. Those agencies may elect to request assistance from other DOE offices or agencies at their discretion.

14. What is the typical or standard length of a CDP project?

Generally, CDP projects are one year projects. Depending on the project, a longer project period may be negotiated for the award. When funds are appropriated for a specific fiscal year, the award must obligate the funds during the specified fiscal year. Generally, if the scope of the project requires a multiple year project period, the award can be structured to allow a multiple year project period and the funds can be spent during the project period, as long as the funds were obligated in the specified fiscal year. Initial awards are not made for longer than five year project periods. There may be exceptions when appropriated funds are designated with specific timeframes for expenditure (e.g., two-year funds). If you have questions regarding the length or scope of your project, please contact your Project Officer for guidance.

15. What are the requirements of a "statement of project objectives"? Are they more elaborate than the Technical summary?

Yes, the requirements for the Statement of Project Objectives (SOPO) are more detailed than the technical summary. Download the template for the Statement of Project Objectives from the NETL web site at <http://www.netl.doe.gov/business/forms-far.html> for guidance on its submission. It is acceptable to provide a proposed SOPO in lieu of a technical summary, if the project is well defined and it can be provided by the date requested in your notification letter. If you have questions regarding the Statement of Project Objectives, please contact your Project Officer for guidance.

16. If a project involves several tasks, what level of detail do you want in the proposals?

The letter providing the cost share determination lists the application requirements, including the requirement for submission of a Statement of Project Objectives (SOPO) and budget explanation. If you have questions regarding the level of technical detail required for the SOPO, please contact the DOE Project Officer identified in the letter. Visit the NETL website for help with how to fill out the application forms by clicking on the "Forms PowerPoint". If you still have question about the forms after reviewing this PowerPoint, please Contact the Contract Specialist assigned to your project for assistance in completing the application requirements.

17. Does NEPA apply to my award, and if so, what do I need to do?

All projects receiving financial assistance from DOE must be reviewed under the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4332(2), 40 CFR parts 1500-1508). DOE

CDP & FINANCIAL ASSISTANCE FREQUENTLY ASKED QUESTIONS

is required by NEPA and DOE implementing regulations (DOE NEPA Rule, 10 CFR 1021) to consider the environmental effects resulting from federal actions, including providing financial assistance to recipient projects.

The first step in DOE's NEPA review process requires financial assistance recipients to submit information regarding the potential environmental impacts of the project receiving DOE funds. The Environmental Checklist can be found on the NETL website at:
<http://www.netl.doe.gov/business/forms-far.html>.

An EF1, must be completed and submitted to the following email address: PMCXreview@netl.doe.gov. The designated DOE NEPA Compliance Officer will review the recipient's NEPA submittal for technical and regulatory NEPA requirements and determine what level of NEPA review (categorical exclusion, Environmental Assessment, or Environmental Impact Statement) applies to the project. DOE will notify you of the results of this review and provide guidance on actions that may be required to ensure NEPA compliance. There may be recipient costs associated with further NEPA review.

SUBRECIPIENT QUESTIONS:

(Subrecipients are entities who substantially participate on the project and partner with the Prime Recipient. The term subrecipient is used interchangeably with "subgrantee" or "subawardee." A subrecipient differs from a subcontractor; a subcontractor typically provides goods or services and does not perform major elements of the project.)

18. How are subrecipients handled in the application?

For each subrecipient (or subawardee) who is expected to perform work estimated to be more than \$100,000 or 50 percent of the total work effort (whichever is less) provide: (1) separate SF424 A budget; (2) budget justification (PMC 123.1 form); (3) approved rate agreement or proposal; (4) letter of commitment stating their organization name, support provided, and cost share amount, and (5) description of work. These items must be provided if the subrecipient receives federal funds or provides cost share. For Vendors who provide commercial supplies or services used to support the project, provide the vendor name, a brief description of the supply or service provided, and the total estimated cost. If vendor costs are 20% of the total project costs or are over \$25,000 (whichever is greater), provide the basis for the costs (e.g., vendor quotes, invoices).

19. Is there a need to have subrecipients and subcontractors competitively bid? If a subrecipient or subcontractor is named in the proposal, does the subrecipient or subcontractor have to be competitively bid if the proposal is accepted as written with them identified in the proposal?

All procurement transactions should be conducted in a manner that promotes competition to the maximum extent practical and in a manner consistent with the applicable procurement standards of 10CFR600. The awarding office will provide specific guidelines on the level of support for proposed costs once the application and evaluation process begins for your project. (See related question 22)

CDP & FINANCIAL ASSISTANCE FREQUENTLY ASKED QUESTIONS

In your application, you must identify your subrecipients, their estimated budgets, and scope of work on the project. For each subrecipient (subawardee) who is expected to perform work estimated to be more than \$100,000 or 50 percent of the total work effort (whichever is less) provide: (1) separate SF424 A budget; (2) budget justification (PMC 123.1 form); (3) approved rate agreement or proposal; (4) letter of commitment stating their organization name, support provided, and cost share amount, and (5) description of work.

If the subrecipients were not selected competitively, you must provide a sole source justification to explain their selection. Sole source justifications are usually made in cases where specific expertise is required and the performing subrecipient has a proven track record of performance.

20. In the work plan/budget, how does one disclose the use of a consultant's lump sum contract?

Generally, consultant costs are included in the budget under the "Contractual" budget line item in the budget. If the consultant is a subrecipient of the award (i.e., they perform tasks necessary for completion of the project and they receive Federal funds or they provide cost share), then a complete budget, budget explanation, Statement of Project Objectives, and other application requirements, may be required for this subrecipient to be included in the project.

For each subrecipient (subawardee or consultant) who is expected to perform work estimated to be more than \$100,000 or 50 percent of the total work effort (whichever is less) provide: (1) separate SF424 A budget; (2) budget justification; (3) approved rate agreement or proposal; (4) letter of commitment stating their organization name, support provided, and cost share amount, and (5) description of work.

COST SHARE QUESTIONS:

21. Is cost sharing required for my project, and if so, how much is required?

Statutory cost sharing requirements may be applicable to your project (EPAAct 2005, §988). The amount of required cost sharing will depend on the scope and technological maturity of your project categories:

- Research and development projects - minimum 20% cost share
- Demonstration or commercial projects - minimum 50% cost share
- Outreach and educational projects - no minimum cost share
- Fundamental science projects - no minimum cost share

Some projects may contain elements of more than one of the categories shown above. Therefore, some projects may have a blended cost share.

22. Please explain the difference between cost sharing and matching.

CDP & FINANCIAL ASSISTANCE FREQUENTLY ASKED QUESTIONS

The terms “cost sharing” and “cost matching” are often used synonymously. Even the DOE Financial Assistance Regulations, 10 CFR Part 600, use both of the terms in the titles specific to regulations applicable to cost sharing. DOE almost always uses the term “cost sharing,” as it conveys the concept that the non-federal share is calculated as a percentage of Total Project Cost. An exception is the State Energy Program Regulation, 10 CFR Part 420.12, State Matching Contribution. Here, “cost matching” for the nonfederal share is calculated as a percentage of the federal funds only, rather than the Total Project Cost.

23. How is cost share calculated?

Following is an example of how to calculate cost sharing amounts for a project with \$1,000,000 in federal funds with a minimum 20% non-federal cost sharing requirement:

Formula: Federal share (\$) divided by Federal share (%) = Total Project Cost

Example: \$1,000,000 divided by 80% = \$1,250,000

Formula: Total Project Cost (\$) minus Federal share (\$) = Non-federal share (\$)

Example: \$1,250,000 minus \$1,000,000 = \$250,000

Formula: Non-federal share (\$) divided by Total Project Cost (\$) = Non-federal share (%)

Example: \$250,000 divided by \$1,250,000 = 20%

Appendix B has a sample cost share calculation for a blended cost share percentage.

24. What specifically qualifies for matching funds?

While it is not possible to explain what specifically qualifies for matching funds (DOE almost always use the words “cost sharing”) in one or even a couple of sentences, in general, if a cost is allowable under the cost rules applicable to the organization incurring the cost and is eligible for reimbursement under a DOE grant or cooperative agreement, then it is allowable as cost share. Conversely, if the cost is not allowable under the cost rules and not eligible for reimbursement, then it is not allowable as cost share. In addition, costs may not be counted as cost share if they are paid by the Federal Government under another award unless authorized by Federal statute to be used for cost sharing.

The rules associated with what is allowable cost share are specific to the type of organization that is receiving funds the grant or cooperative agreement, though are generally the same for all types of entities. The specific rules applicable to: Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations are found at 10 CFR600.123; State and Local Governments are found at 10 CFR600.224; For-profit Organizations are found at 10 CFR600.313.

In addition to the regulations referenced above, other factors may come into play such as timing of donations and length of the project period. For example, the value of ten years of donated maintenance on a project that has a project period of five years would not be fully allowable as cost share. Only the value for the five years of donated maintenance that corresponds to the project period is allowable and may be counted as cost share. Additionally, we generally don't allow pre-award costs for either cost share or reimbursement when these costs precede the signing of the appropriation bill that funds the award. More specifically, for 2010 Congressionally

CDP & FINANCIAL ASSISTANCE FREQUENTLY ASKED QUESTIONS

Directed Projects, we would not approve costs incurred prior to October 28, 2009 for any project authorized by the Energy and Water Development and Related Agencies Act, 2009.

Following is a link to the DOE Financial Assistance Regulations. You can click on the specific section for each regulatory reference mentioned above.

<http://www.netl.doe.gov/business/forms-far.html>

As stated above, the rules associated with what is allowable cost share are generally the same for all types of organizations. Following are the rules found to be common, but again, the specifics are contained in the regulations and cost principles specific to the type entity.

(a) *Acceptable contributions.* All contributions, including cash contributions and third party in-kind contributions, must be accepted as part of the recipient's cost sharing if such contributions meet all of the following criteria:

(1) They are verifiable from the recipient's records.

(2) They are not included as contributions for any other federally-assisted project or program.

(3) They are necessary and reasonable for proper and efficient accomplishment of project or program objectives.

(4) They are allowable under the cost principles applicable to the type of entity incurring the cost as follows:

(A) *For-profit organizations.* Allowability of costs incurred by for-profit organizations and those nonprofit organizations listed in Attachment C to OMB Circular A-122 is determined in accordance with the for-profit costs principles in 48 CFR Part 31 in the Federal Acquisition Regulation, except that patent prosecution costs are not allowable unless specifically authorized in the award document.

(B) *Other types of organizations.* Allowability of costs incurred by other types of organizations that may be subrecipients under a prime award is determined as follows:

(i) *Institutions of higher education.* Allowability is determined in accordance with

OMB Circular No. A-21 -- Cost Principles for Educational Institutions

(ii) *Other nonprofit organizations.* Allowability is determined in accordance with

OMB Circular A-122, Cost Principles for Non-Profit Organizations

(iii) *Hospitals.* Allowability is determined in accordance with the provisions of **45 CFR Part 74**, Appendix E, Principles for Determining Costs Applicable to Research and Development Under Grants and Contracts with Hospitals

(iv) *Governmental organizations.* Allowability for State, local, or federally recognized Indian tribal government is determined in accordance with

OMB Circular No. A-87, Cost Principles for State, Local, and Indian Tribal Governments

(5) They are not paid by the Federal Government under another award unless authorized by Federal statute to be used for cost sharing or matching.

(6) They are provided for in the approved budget.

(b) *Valuing and documenting contributions*

(1) *Valuing recipient's property or services of recipient's employees.* Values are established in accordance with the applicable cost principles, which means that amounts chargeable to the project are determined on the basis of costs incurred. For real property or equipment used on the project, the cost principles authorize depreciation or use charges. The full value of the item may be applied when the item will be consumed in the performance of the award or fully depreciated by the end of the award. In cases where the full value of a donated capital asset is to be applied as cost sharing or matching, that full value must be the lesser or the following:

(A) The certified value of the remaining life of the property recorded in the recipient's accounting records at the time of donation; or

CDP & FINANCIAL ASSISTANCE FREQUENTLY ASKED QUESTIONS

(B) The current fair market value. If there is sufficient justification, the contracting officer may approve the use of the current fair market value of the donated property, even if it exceeds the certified value at the time of donation to the project. The contracting officer may accept the use of any reasonable basis for determining the fair market value of the property.

(2) *Valuing services of others' employees.* If an employer other than the recipient furnishes the services of an employee, those services are valued at the employee's regular rate of pay, provided these services are for the same skill level for which the employee is normally paid.

(3) *Valuing volunteer services.* Volunteer services furnished by professional and technical personnel, consultants, and other skilled and unskilled labor may be counted as cost sharing or matching if the service is an integral and necessary part of an approved project or program. Rates for volunteer services must be consistent with those paid for similar work in the recipient's organization. In those markets in which the required skills are not found in the recipient organization, rates must be consistent with those paid for similar work in the labor market in which the recipient competes for the kind of services involved. In either case, paid fringe benefits that are reasonable, allowable, and allocable may be included in the valuation.

(4) *Valuing property donated by third parties.*

(A) Donated supplies may include such items as office supplies or laboratory supplies. Value assessed to donated supplies included in the cost sharing or matching share must be reasonable and must not exceed the fair market value of the property at the time of the donation.

(B) Normally only depreciation or use charges for equipment and buildings may be applied. However, the fair rental charges for land and the full value of equipment or other capital assets may be allowed, when they will be consumed in the performance of the award or fully depreciated by the end of the award, provided that the contracting officer has approved the charges. When use charges are applied, values must be determined in accordance with the usual accounting policies of the recipient, with the following qualifications:

(i) The value of donated space must not exceed the fair rental value of comparable space as established by an independent appraisal of comparable space and facilities in a privately owned building in the same locality.

(ii) The value of loaned equipment must not exceed its fair rental value.

(5) *Documentation.* The following requirements pertain to the recipient's supporting records for in-kind contributions from third parties:

(A) Volunteer services must be documented and, to the extent feasible, supported by the same methods used by the recipient for its own employees.

(B) The basis for determining the valuation for personal services and property must be documented.

25. After DOE reviews the one-page project summary for cost share, can cost share be adjusted with the Project Manager, if a recipient can argue for a category with less cost share?

Your project summary should provide a description of your project in enough detail for reviewers to determine the scope and type of project you are proposing. The focus of the project, whether research and development (R&D), demonstration, or commercial application, will determine the required percentage of cost share required from the recipient. In cases where an intended project will include activities for which there could be different cost share requirements, the summary should segregate these activities in the technical summary. If the recipient does not agree with the resulting cost share determination, the project summary may need additional clarification and this can be discussed with DOE officials. Categorization of the project is within

CDP & FINANCIAL ASSISTANCE FREQUENTLY ASKED QUESTIONS

the discretion of DOE and would be final.

26. What money is excluded/included in the cost-share? Are there limitations on using other Federal funds or State funds as cost-share?

Absent specific statutory authority, funds from other Federal sources cannot be counted as recipient cost share. Non-Federal sources include private, state or local Government, or any sources that were not originally derived from Federal funds. All costs claimed as either Federal or non-Federal cost share must meet the tests of allowability and allocability, which are contained in the applicable OMB Circulars or Federal Acquisition Regulation (FAR). For an explanation of cost share, please review the references listed in question 25.

27. Are in-kind services allowed for cost share?

In-kind contributions (e.g., contribution of services or property; donated equipment, buildings or land; or donated supplies) incurred as part of the project may be considered as part of the cost share during the project period. The value of in-kind contributions must be included in the budget justification in the application.

For each cost share contribution identified as an in-kind contribution, the recipient must identify the items, such as equipment or land, and describe how the value of the in-kind contribution was derived, to meet the satisfaction of the DOE Contracting Officer.

28. For projects involving construction of facilities, can the value of the land owned by the applicant be counted as part of the required cost share?

If an applicant wants to propose the value of land as part of their cost share, they must comply with the OMB circulars and provide the basis of the value of the land in their budget justification for DOE review. (See question 25 for OMB references. Also, see question 18 for NEPA requirements, which may affect construction activities.) Please consult your Contract Specialist for assist for consideration of land valuation for cost share.

29. Are patent costs allowed? May patent costs be part of cost share?

Allowability of patent costs depends on the type of patent costs, who has title, and the terms of the award. For example, patent costs where title or royalty-free license is required by the Federal Government to be conveyed to the Federal Government are allowable. However, if patent costs are not required by the award, they may not be allowable. See the applicable OMB circular (referenced in question 25) for further clarification of allowable costs.

FUNDING AND PAYMENT QUESTIONS:

CDP & FINANCIAL ASSISTANCE FREQUENTLY ASKED QUESTIONS

30. Where do the CDP funds come from to pay for each CDP activity?

Congress provided a specific appropriation for CDPs in the Energy & Water Development Appropriations Act, 2009.

31. Will CDP awardees receive 100% of Congressionally appropriated funds?

Yes, CDPs will receive 100% of the Congressionally appropriated funds. No Congressional reductions were specified in the Energy & Water Development Appropriations Act, 2009.

32. At what point in time can expenditures be counted for reimbursement? Can expenditures including cost sharing now be used to match DOE CDP funds that may start in June 2010 (anticipated date of award)?

Generally, pre-award costs for institutions of higher education, hospitals, non-profit, commercial, or for-profit organizations' research and development awards are allowed 90 days prior to the award date without prior approval or more than 90 calendar days with prior approval of DOE.

State and local government organizations may not incur pre-award costs prior to award, without prior approval of DOE. Since CDP projects are directed by Congress, the earliest date pre-award costs may be approved is October 28, 2009, the date the Energy & Water Development Appropriations Act, 2009 was enacted. Even with the approval, a recipient is working at their own risk and DOE is under no obligation to reimburse such costs if for any reason the recipient does not receive an award or if the award is less than anticipated and inadequate to cover such costs. In addition, recipients are restricted from taking any action using Federal funds, which would have an adverse affect on the environment or limit the choice of reasonable alternatives prior to DOE providing either a NEPA clearance or a final NEPA decision regarding a project.

33. Is there a period of time within which educational institutions may obligate funds prior to the actual awarding of those funds?

See comments regarding pre-award costs in question 35. Educational institutions are treated no differently than any other organizational types.

34. Our CDP is for \$2 Million, which is a subset of a project that will total about \$20 million (funded from non-Federal sources). Are there any special issues in writing this type of proposal that we should know about? For example, should we try to define a 10% part that the DOE funds will be used for?

Your application scope (SOPO) and budget should encompass the specific project elements funded by the Federal funds and your associated cost share at a minimum. In this example, if possible, the application should cover that portion of the project funded by the \$2 million Federal funds and the associated cost share requirement.

CDP & FINANCIAL ASSISTANCE FREQUENTLY ASKED QUESTIONS

Depending on the nature of the project and the scope of the work that requires application of the Federal funds and your cost share funds, your application may require additional information regarding the larger project that are funded by other entities. National Environmental Policy Act (NEPA) information would be an example where additional information regarding a larger project may be required. Please consult your Contract Specialist and Project Officer to assist in definition of your CDP project and application.

35. If we are planning a \$10 Million project and are still in the fundraising mode (State and local level), with a timeline of 2-3 years for completion, how do we incorporate CDP funds?

In the case of an award for which the total required cost share has not yet been committed, but is anticipated during the performance of the award, conditions may be included an award to permit performance of only those activities that already have committed cost share. Those conditions may be lifted when the additional cost share commitment is obtained, after DOE review and approval. See questions 25 and 33 for information.

36. a.) Can a piece of equipment be purchased with CDP funds? b.) If so, who owns this equipment?

a. Yes. Recipients may purchase equipment in whole or in part with Federal funds under an award. The recipient will be required to describe their plans to acquire equipment in the budget (SF 424A) and budget explanation (PMC 123.1) for review during the application process. If equipment items cost \$50,000 or more, a copy of a vendor quote, catalog price list, or past invoice must be provided to justify the budget. If the recipient has specific questions about equipment, they may address their questions to their Contract Specialist for the CDP project award.

b. Under 10CFR600, title to the equipment generally vests with the recipient, with conditions attached to title for equipment purchased with Federal funds. Depending on the entity who acquires the equipment, equipment acquired with Federal funds is managed under different sections of the regulations: Institutions of Higher Education and other Non-Profit: 10CFR600.133 through 600.135; State and Local Governments: 10CFR600.232; and For-Profit Organizations: 10CFR600.320 through 600.323.

37. Who is the key decision-maker in year 2 and year 3? Does Congress or does DOE approve future funds?

Congress appropriates funds for Federal programs. However, there are no guarantees that future funding will be appropriated for projects that may have previously received funds or that projects with past performance issues will receive on-going funding. It is also possible that congressional reductions are specified by appropriation laws that may affect funding of projects. Generally, projects funded by CDPs are only renewed through a CDP in a following year.

38. Is it all right to have one tier instead of three-tier accounting?

CDP & FINANCIAL ASSISTANCE FREQUENTLY ASKED QUESTIONS

To qualify for Financial Assistance, your Financial Management System must be in compliance with:

Higher Education, Hospitals, and Other Non-Profit Organizations: 10 CFR 600.121

State and Local Governments: 10 CFR 600.220(b)

For-Profit Organizations: 10 CFR 600.311

If there are questions regarding whether your financial management system complies with these standards, DOE may request that a financial management system audit be performed to ensure that your system meets the regulatory requirements.

39. How often can commercial organizations make requests for reimbursement?

For commercial entities, requests for reimbursements most likely will be made through the Automated Standard Application for Payments (ASAP) system. Under the reimbursement method, each request must be limited to the amount of disbursements made for the federal share of direct project costs and the proportionate share of allowable indirect costs incurred during that billing period. Under the advance method, advances should be limited to immediate cash flow needs.

40. Can you describe how advances are made (criteria, number/percent of award) for non-profit organizations, universities, and state and local governments?

Payments made in advance through ASAP are the preferred method of payment for non-profit organizations, state and local governments, and institutions of higher education. Requests for advances must be made through the ASAP system. You may submit requests as frequently as required to meet your needs to disburse funds for the Federal share of project costs. If feasible, you should time each request so that you receive payment on the same day that you disburse funds for direct project costs and the proportionate share of any allowable indirect costs. If same-day transfers are not feasible, advance payments must be as close as is administratively feasible to actual disbursements.

41. Is filing for reimbursement done in conjunction with the written quarterly report?

There is no relationship between payment requests (either advance or reimbursement) and the quarterly submission of financial reports. Financial reports are generally required on a quarterly basis, though the report submission timeframes are specified in the award (i.e., Reporting Requirements Checklist, which is an attachment to all awards). See questions 41 and 42 for more information on ASAP.

INTELLECTUAL PROPERTY

42. Who owns intellectual property and patents as they relate to a small business with less than 500 employees?

CDP & FINANCIAL ASSISTANCE FREQUENTLY ASKED QUESTIONS

For intellectual property developed under a project using Federal funds, the small business recipient has the right to use, release to others, reproduce, distribute, or publish such data first produced or specifically used by the recipient in the performance of the agreement, except to the extent such data may be subject to the Federal export control or national security laws or regulations, or unless otherwise specified in their award.

The Government will have unlimited rights to the data, since Federal funds have been expended on the project. For patents developed by a small business, nonprofit organization, or educational institution under a project using Federal funds, the recipient may retain the entire right, title, and interest throughout the world to each invention submitted for a patent subject to the provisions of the patent rights clause defined in the award and certain Government-retained rights as set forth in the patent rights clause, as mandated by 35 U.S.C. 200 et seq., including a Government-use license, march-in rights, and preference for U.S. manufacture of subject inventions. See the references below for more information regarding intellectual property. If you have questions regarding proprietary data, contact your Contract Specialist or the cognizant DOE Patent Counsel for clarification.

10CFR600.136, Intangible Property for Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations; 10CFR600, Subpart D, Appendix A, Patent and Data Provisions for For-Profit Organizations; For State and Local Governments, similar provisions to For-Profit organizations apply.

43. Who owns intellectual property and patents as they relate to a large business?

See 10 CFR 600, Subpart D, Appendix A, Patent and Data Provisions for For-Profit Organizations for more information regarding intellectual property. The Government owns title to all subject inventions made under the award pursuant to 48 U.S.C. 5908, unless that title is waived in favor of the awardee. Large business awardees may apply for a patent waiver using the form at <https://www.eere-pmc.energy.gov/forms.aspx>. If you have questions regarding proprietary data, contact your Contract Specialist or the cognizant DOE Patent Counsel for clarification.

44. Is the patent waiver application process identical for CDP vs. competitive bid?

Yes. For large businesses, the application for a patent waiver is the same for CDPs and competitive awards. For information regarding patent waivers, see 10CFR784. To submit a petition for Advance Waiver of Patent Rights Under 10 CFR Part 784, download the template from the DOE Project Management Center web site at: <https://www.eere-pmc.energy.gov/forms.aspx> and submit the request to the DOE Patent Counsel.

45. Please provide a brief explanation of waiver rights in 10 CFR 784.

A patent waiver does not change a Recipient's data rights. The Government will generally have unlimited rights to the data, since Federal funds have been expended on the project, regardless of cost sharing amounts. For data developed under a project using Federal funds, the recipient has the right to use, release to others, reproduce, distribute, or publish such data first produced or specifically used by the recipient in the performance of the agreement, except to the extent

CDP & FINANCIAL ASSISTANCE FREQUENTLY ASKED QUESTIONS

such data may be subject to the Federal export control or national security laws or regulations, or unless otherwise specified in their award.

A patent waiver changes a large business recipient's patent rights so that it has substantially the same rights as a small or nonprofit business. That is, the recipient may retain the entire right, title, and interest throughout the world to each invention submitted for a patent subject to the provisions of the patent rights clause defined in the award and certain Government-retained rights as set forth in the patent rights clause, as mandated by 35 U.S.C. 200 et seq., including a Government-use license, march-in rights, and preference for U.S. manufacture of subject inventions. In addition, the waiver requires compliance with a U.S.

Competitiveness clause, the text of which is set forth in the patent waiver application. If you have questions regarding patent waivers, please contact your Contract Specialist or the cognizant DOE Patent Counsel.

46. What protection does an applicant/recipient have regarding its proprietary data?

The data rights clause of your award, as set forth in 10 CFR 600.325 Appendix A, governs the treatment of all data specifically used in and generated under your award, including data contained in award applications. The Government will generally have unlimited rights to the data, since Federal funds have been expended on the project, regardless of cost sharing amounts. For data developed under a project using Federal funds, the recipient has the right to use, release to others, reproduce, distribute, or publish such data first produced or specifically used by the recipient in the performance of the agreement, except to the extent such data may be subject to the Federal export control or national security laws or regulations, or unless otherwise specified in their award.

Data contained in applications will be used only for evaluation purposes unless the information is generally available to the public or is already the property of the Government, pursuant to 48 CFR 52.227-23. At every stage of the award, from application to close-out, the Recipient must mark its data appropriately if it is to be protected from public disclosure. Detailed instructions regarding marking data are set forth in the data rights clause. Questions regarding data rights may be directed to your Contract Specialist or the cognizant DOE Patent Counsel.

FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS (FFRDC)

(FFRDCs are also known as government laboratories.)

47. What if a DOE FFRDC Participant is being proposed in an application (Laboratory Involvement)?

For DOE FFRDC Participants being proposed in an Application, the laboratory will need to provide a written authorization from the DOE contracting officer regarding the use of a DOE FFRDC contractor on the proposed project. The following wording is acceptable for this authorization.

CDP & FINANCIAL ASSISTANCE FREQUENTLY ASKED QUESTIONS

“Authorization is granted for the _____ Laboratory to participate in the proposed project. The work proposed for the laboratory is consistent with or complimentary to the missions of the laboratory, will not adversely impact execution of the DOE/NNSA assigned programs at the laboratory.” In addition, the laboratory will need to provide a Field Work Proposal, along with the FFRDC labor mix and hours, by category and FFRDC major purchases greater than \$25,000, including Quantity, Unit Cost, Basis of Cost, and Justification.

The written authorization, Field Work Proposal, and the labor mix, etc, will need to be submitted with your application. If it takes awhile to obtain, you may submit the rest of your application first and follow up with these items. DOE will provide funding directly to DOE FFRDC Participants; however, please include these dollars in your budget and budget justification totals. With DOE FFRDC involvement, the total allowable costs of the project is the sum of the Government share, including FFRDC contractor costs, and the Recipient share of allowable costs.

APPENDIX A

APPLICATION DELIVERABLES

An application package must include the following information and forms listed below, which can be downloaded from the NETL website at <http://www.netl.doe.gov/business/forms-far.html>. Many forms have been revised since last year, so it is imperative that the most current forms are downloaded and submitted.

1. Nonproprietary, one page summary description of CDP project, in electronic format;
2. Pre-Award Recipient and Financial Management Information Sheet, PMC 121.1/410.1;
3. Application for Federal Assistance, Standard Form (SF) 424;
(The list of Certifications and Assurances referenced in the SF 424, Field 21, can be found at <http://www.netl.doe.gov/business/forms-far.html>, By signing the SF 424, you will be certifying compliance with these certifications and assurances.)
4. Budget Information – Non Construction Programs, SF 424A;
5. Budget Justification Form, PMC 123.1;
6. Financial Information, PMC 410.1;
7. Disclosure of Lobbying Activities, SF-LLL (if applicable under 31 U.S.C., Section 1352)
8. Environmental Checklist, EF1. (This form should be completed and submitted to the following email address: PMCXreview@netl.doe.gov;
9. Statement of Project Objectives, PMC 134.1;
10. Copy of your approved Indirect Rate Agreement or a Rate Proposal, following the Sample Rate Proposal, PMC 400.2;
11. Commitment Letters from Third Parties Contributing to Cost Share;
12. Subrecipient/Subcontractor Information: for each subrecipient/subcontractor who is expected to perform work estimated to be more than \$100,000 or 50 percent of the total work effort (whichever is less) provide: (1) separate SF 424A budget; (2) budget justification; (3) approved rate agreement or proposal; and (4) description of work;
13. Name, organization name, organization address, and telephone number for the organization’s Designated Responsible Employee for compliance with national policies prohibiting discrimination (10 CFR 1040.5); and
14. Copy of the most recent A-133 audit (for non-profit, states and educational institutions, if applicable).

CDP & FINANCIAL ASSISTANCE FREQUENTLY ASKED QUESTIONS

15. A registered DUNS Number is required for all applicants. If you do not have a DUNS number, one may be requested at: http://www.dnb.com/US/duns_update/index.html.

16. Your organization must also be registered in the Central Contractor Registration (CCR) database. This is required in order to facilitate financial transactions, such as payments through electronic funds transfer. Registrants must update or renew their registration at least once per year to maintain an active status. To register in CCR, follow the processes described at: <http://www.ccr.gov/handbook.aspx>.

17. Your organization must register with FedConnect to receive your award documents. It is imperative that you register as soon as possible. More information is available at https://www.fedconnect.net/FedConnect/PublicPages/FedConnect_Ready_Set_Go.pdf.

Questions pertaining to registration for FedConnect should be directed by e-mail to support@FedConnect.net or by phone to FedConnect Support at 1-800-899-6665.

The Financial Assistance Regulations, found at <https://www.eere-pmc.energy.gov/forms.aspx>, and the OMB Circulars, found at <http://www.whitehouse.gov/OMB/circulars/index.html>, will assist you in understanding your requirements as an award recipient.

APPENDIX B

SAMPLE COST SHARE CALCULATION FOR BLENDED COST SHARE PERCENTAGE

Following shows the math for calculating required cost share for Projects using an example of a project with \$2,000,000 in Federal funds with four tasks requiring different non-federal cost share percentages:

Required Non-federal Task	Proposed Federal Share	Federal Share %	Cost Share %
Task 1 (R&D)	\$1,000,000	80%	20%
Task 2 (R&D)	500,000	80%	20%
Task 3 (Demonstration)	400,000	50%	50%
Task 4 (Outreach)	100,000	100%	0%
	\$2,000,000		

Federal share \$ divided by Federal share % = Task Cost
Each task must be calculated individually as follows:

Task 1

$\$1,000,000 / 80\% = \$1,250,000$ (Task 1 Cost)

Task 1 Cost minus federal share = Non-federal share

$\$1,250,000 - \$1,000,000 = \mathbf{\$250,000}$ (Non-federal Share)

Task 2

$\$500,000 / 80\% = \$625,000$ (Task 2 Cost)

Task 2 Cost minus federal share = Non-federal Share

$\$625,000 - \$500,000 = \mathbf{\$125,000}$ (Non-federal Share)

Task 3

$\$400,000 / 50\% = \$800,000$ (Task 3 Cost)

Task 3 Cost minus federal share = Non-federal Share

$\$800,000 - \$400,000 = \mathbf{\$400,000}$ (Non-federal Share)

Task 4

Federal share = \$100,000

CDP & FINANCIAL ASSISTANCE FREQUENTLY ASKED QUESTIONS

Non-federal cost share is not mandated for outreach = **\$0 (Non-federal Share)**

Non-federal share (\$775,000) divided by Total Project Cost (\$2,775,000) = 27.9% (Non-federal)
Federal share (\$2,000,000) divided by Total Project Cost (\$2,775,000) = 72.1% (Federal)