

Questions and Answers: 2024 Diesel Emissions Reductions Act (DERA) Tribal & Territory Grants (EPA-OAR-OTAQ-24-03)

Tuesday, May 7, 2024

The following Questions and Answers have been compiled for the benefit of entities considering applying for a grant under the above Notice of Funding Opportunity (NOFO).

- A. Applicant Eligibility
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 - B.i. Vehicle and Equipment Replacements
 - B.ii. Engine Replacements
 - B.iii. Cleaner Fuels and Additives
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 - B.viii. Miscellaneous
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- D. Application Process
- E. Project Administration
 - E.i. Competitive Procurement Requirements
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Please note that many questions are variations of each other so your exact question may not be listed; please look for similar questions.

A. Applicant Eligibility

A.1: *Are we eligible to apply if we have received DERA funding through another opportunity?*

Answer: Yes, you may apply for funding under this funding opportunity. Participation in one program does not preclude you from participating in others; however, an applicant may not accept funding from multiple programs for the same project.

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A.2: *How does the Notice of Funding Opportunity (NOFO) define Tribal agency and intertribal consortium?*

Answer:

Tribal agencies are defined as Federally Recognized Tribal governments, which are any Tribe, band, nation, or other organized group or community (including Native Villages) certified by the Secretary of the Interior as eligible for the special programs and services provided through the Bureau of Indian Affairs as well as any organization or intertribal consortium that represents Federally Recognized Tribes.

For the purposes of this NOFO, "intertribal consortium" is defined as a partnership between two or more Tribes that is authorized by the governing bodies of those Tribes to apply for and receive assistance under this program. Intertribal consortia are eligible to receive assistance under this program only if the consortium demonstrates that all members of the consortium meet the eligibility requirements for the program and authorize the consortium to apply for and receive assistance by submitting to the EPA documentation of (1) the existence of the partnership between Tribal governments, and (2) authorization of the consortium by all its members to apply for and receive the assistance.

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A.3: *Can multiple Tribes collaborate on a grant application?*

Answer: Yes, there are two ways Tribes can collaborate: 1) one eligible Tribe could apply with others as subrecipients/beneficiaries, and 2) the Tribes could form an intertribal consortium. For the purposes of this NOFO, "intertribal consortium" is defined as a partnership between two or more Tribes that is authorized by the governing bodies of those Tribes to apply for and receive assistance under this program. Please see Section III.A of the NOFO for additional information about intertribal consortia.

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A.4: Can individuals or private companies apply for funding under this competition?

Answer: No. Only eligible entities as defined in the NOFO are eligible to apply directly to the EPA for funding under this NOFO. However, both public and private fleets may benefit from program activities and the EPA encourages private fleet owners to partner with eligible entities for the implementation of diesel emission reduction projects. There are several ways that an eligible entity can provide funding/benefits to fleet owners, including subgrants, rebates, or other types of partnerships. Please see Section III.A of the NOFO for more information. For networking opportunities, you may wish to get involved with your local Regional Diesel Collaborative. More information is available at www.epa.gov/dera/epa-regions-diesel-collaboratives.

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A.5: Do applicants have to be located in areas with poor air quality to be eligible?

Answer: No. All eligible applicants, as defined in the NOFO, are eligible to apply for the DERA Tribal and Territory Grant Program, regardless of air quality in the project location. However, projects located in areas of poor air quality will be given priority as described in Section V.A of the NOFO. A list of priority areas for the 2024 Tribal and Territory NOFO can be found at www.epa.gov/dera/tribal-and-territory and in Appendix E of the NOFO.

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A.6: Are there specific entities that private companies in territories must partner with?

Answer: Although private fleet owners are not eligible to apply directly to the EPA for DERA funding, both public and private fleets can benefit from the programs implemented by eligible DERA grant applicants. Under this NOFO, territory government agencies are eligible to apply for funding for projects in the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

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A.7: Which territories are eligible?

Answer: For the purposes of this NOFO and as defined in 48 U.S Code §1469a, “territories” include the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

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A.8: How does the EPA define jurisdiction over transportation or air quality?

Answer: Jurisdiction is generally defined as the ability to make decisions which impact transportation and/or air quality. A Tribe/Native Village which owns or operates diesel vehicles and equipment is considered to have jurisdiction over transportation and/or air quality. Eligible entities should explain in their proposal how they fit the definition.

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B. Project Eligibility

B.i. Vehicle and Equipment Replacements

No questions at this time.

B.ii. Engine Replacements

No questions at this time.

B.iii. Cleaner Fuels and Additives

No questions at this time.

B.iv. Idle Reduction

No questions at this time.

B.v. Verified Retrofit Technologies

B.v.1: *Are retrofit technologies required to have EPA/California Air Resources Board (CARB) verification prior to proposal submission?*

Answer: The type of retrofit technology (e.g., diesel oxidation catalyst (DOC), diesel particulate filter (DPF), selective catalytic reduction (SCR), upgrade kit, etc.) proposed for funding must be verified by either the EPA or CARB for use on the specific vehicle/engine specified in the proposal at the time of proposal submission to the EPA. A list of eligible, EPA verified retrofit technologies is available at: www.epa.gov/verified-diesel-tech/verified-technologies-list-clean-diesel a list of eligible, CARB verified retrofit technologies is available at: www.arb.ca.gov/diesel/verdev/vt/cvt.htm. The actual retrofit technology used by the grant recipient must be specifically named on the EPA verified retrofit technologies list or CARB's Verified Exhaust Retrofit Technologies lists at the time of acquisition, and used only for the specific vehicle/engine for which it is verified.

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B.vi. Clean Alternative Fuel Conversions

B.vi.1: *Are alternative fuel conversions eligible?*

Answer: Yes. Funding can cover an eligible certified or compliant clean alternative fuel conversion. Eligible conversions are limited to those systems that have been certified by the EPA and/or California Air Resources Board (CARB), and those systems that have been approved by the EPA for intermediate-age engines. The EPA's lists of "Certified Conversion Systems for New Vehicles and Engines" and "Conversion Systems for Intermediate-Age Vehicles and Engines" are available at www.epa.gov/ve-certification/lists-epa-compliant-alternative-fuel-conversion-systems; CARB's list of "Approved Alternate Fuel Retrofit Systems" is available at www.arb.ca.gov/msprog/aftermkt/altfuel/altfuel.htm. To be eligible for funding, conversion systems for engine model years 2006 and earlier must achieve at least a 30% nitrogen oxides (NOx) reduction and a 10% particulate matter (PM) reduction from the applicable certified emission standards of the original engine. To be eligible for funding, conversion systems for engine model years 2007 and newer must achieve at least a 20% NOx reduction with no increase in PM from the applicable certified emission standards of the original engine.

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B.vii. Verified Aerodynamic Technologies and Tires

No questions at this time.

B.viii. Miscellaneous

B.viii.1: *May we expand our fleet with new vehicles without scrapping vehicles?*

Answer: No. New vehicle purchases must replace an existing, older, diesel-powered vehicle. Old vehicles must be scrapped to ensure emissions reductions are achieved.

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B.viii.2: *What are eligible and ineligible costs for electric vehicle charging stations in battery electric powered replacement projects?*

Answer: DERA funds cannot be used for "stand-alone" electric vehicle charging stations. If you are buying an electric vehicle with DERA funds, then DERA funds may also be used for the purchase and installation of one charging unit per vehicle, including the unit and charging cable, mount and/or pedestal. The charger should be installed where the DERA purchased vehicle will do most of its charging. Ineligible costs include power distribution to the pedestal, electrical panels and their installation, upgrades to existing electrical panels or electrical service, transformers and their installation, wiring/conduit and its installation, electricity, operation and maintenance, stationary energy storage systems that power the equipment (e.g., batteries) and their installation, and on-site power generation systems that power the equipment (e.g., solar and wind power generation equipment) and their installation.

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B.viii.3: What types of projects are eligible for a Tier 3 marine engine?

Answer:

Please see Table 1 in Section I.B.2 of the NOFO for marine engine project eligibility. Below 803 horsepower, there is no Tier 4 marine engine standard. Therefore, Tier 3 engines may be replaced with zero-emission power systems, or Tier 3 engines may be upgraded with a certified remanufacture system or a verified engine upgrade.

- Replacement: Tier 3 powered marine vessels are eligible for engine/vessel replacement with zero emissions options such as battery electric.
- Certified Remanufacture Systems: An EPA certified remanufacture system (i.e., kit) can be applied during an engine rebuild and involves the removal of certain parts on an engine and replacement with parts that cause the engine to perform like a newer engine. Engine remanufacture systems may not be available for all engines. To be eligible for funding, remanufacture systems for marine engines must be certified by the EPA at the time of acquisition. List of certified remanufacture systems are available at: www.epa.gov/compliance-and-fuel-economy-data/engine-certification-data, and additional information on remanufacture systems is available at: www.epa.gov/vehicle-and-engine-certification/remanufacture-systems-category-1-and-2-marine-diesel-engines.
- Verified Retrofit Technologies: Retrofit technologies are products that may be added to reduce emissions from existing engines such as diesel oxidation catalysts (DOCs) and diesel particulate filters (DPFs). The EPA and the California Air Resources Board (CARB) verify technologies that have demonstrated performance and have quantified the levels of emissions reductions the technology can achieve. A few marine engine upgrades have been verified as retrofits, however there are no currently verified upgrades that are applicable to Tier 3 engines. To be eligible for funding, verified retrofit technologies must be on the EPA's (www.epa.gov/verified-diesel-tech/verified-technologies-list-clean-diesel) or CARB's (www.arb.ca.gov/diesel/verdev/vt/cvt.htm) Verified Technologies lists at the time of acquisition, must be used only for the vehicle/engine application specified on the lists, and must meet any applicable verification criteria.

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B.viii.4: What project types are eligible under the DERA Tribal and Territory NOFO?

Answer: Eligible diesel emissions reduction solutions include vehicle and equipment replacements, engine replacement, remanufacture systems, verified idle reduction technologies, verified retrofit technologies, clean alternative fuel conversions, and verified aerodynamic technologies and low rolling resistance tires. Projects must utilize an EPA or California Air Resources Board (CARB) certified engine configuration and/or a verified technology. Please review the full text of the NOFO and supporting information for detailed project eligibility information: www.epa.gov/dera/tribal-and-territory.

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C. Vehicle, Equipment, and Engine Eligibility

C.1: *What are the eligibility requirements for qualifying nonroad equipment?*

Answer: Diesel powered nonroad engines, equipment and vehicles that are eligible for funding include, but are not limited to, those used in construction, handling of cargo (including at ports and airports), agriculture, mining, or energy production (including stationary generators and pumps). Eligible nonroad equipment also includes transport refrigeration units (TRUs). See Table 1 in Section I.B.2 for additional information.

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C.2: *Is there a minimum mileage requirement for highway vehicles under this NOFO?*

Answer:

Yes. The usage requirement depends on the applicant and vehicle type.

Tribal government (or intertribal consortia) and Alaska Native Village applicants:

- School buses must have accumulated at least 5,000 miles per year during the two years prior to upgrade.
- All other highway vehicles must have accumulated at least 5,000 miles per year during the two years prior to upgrade.

Territory government agency applicants:

- School buses must have accumulated at least 1,000 miles per year during the two years prior to upgrade.
- All other highway vehicles must have accumulated at least 1,000 miles per year during the two years prior to upgrade.

The mileage of two or more units may be combined to reach the thresholds above where two or more units will be scrapped and replaced with a single unit. The existing vehicle, engine, or equipment must be fully operational and in current, regular service.

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C.3: *Is there a time requirement for a company to have owned vehicles or equipment before they can be included in a project?*

Answer: Yes. Fleet owners must have owned and operated the vehicle during the two years prior to upgrade.

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C.4: *Are backup diesel generators eligible for funding under this NOFO?*

Answer: A backup diesel generator may qualify if it meets the minimum usage requirements, but most do not due to their limited use. Please see Section III.D.c of the NOFO for usage requirements. However, engine hours may be combined to reach the threshold where two or more engines will be scrapped and replaced with a single engine.

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C.5: *Is replacing the engine in a marine auxiliary generator to reduce emissions an eligible project?*

Answer: Yes, replacing the diesel engine in a genset without replacing the electric generator component is an eligible **engine replacement** project. Alternatively, replacing the entire genset (i.e., engine and generator) is an eligible **equipment replacement** project.

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C.6: *What are the nonroad, locomotive and marine usage requirements?*

Answer:

To be eligible, nonroad, locomotive and marine engines must meet these minimum operating requirements:

- Agricultural pumps: at least 250 hours per year during the two years prior to upgrade.
- All other nonroad engines: at least 300 hours per year during the two years prior.
- Locomotive and marine engines: at least 500 hours per year during the two years prior to upgrade.

The engine operating hours of two or more units may be combined to reach the thresholds above where two or more units will be scrapped and replaced with a single unit. The existing vehicle, engine, or equipment must be fully operational and in current, regular service.

Participating fleet owners must attest to the ownership, usage, and remaining life criterion in Section III.D.c.iii. of the NOFO in a signed eligibility statement which includes each vehicle's make, model, year, vehicle identification number, odometer/usage meter reading, engine make, model, year, horsepower, engine ID or serial number, and vehicle/equipment registration/licensing number and state. This documentation is not required at the time of application submittal to the EPA but is required as part of programmatic reporting to verify the eligible use of grant funds. A sample eligibility statement may be found at www.epa.gov/dera/tribal-and-territory.

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C.7: *Can eligible entities receive funding for fleets comprised of both Tribal and private fleet vehicles?*

Answer: Yes. Private fleet vehicles are eligible for funding as long as the applicant is an eligible entity. An eligible entity can provide funding/benefits to private fleet owners through subawards and rebates.

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C.8: *Is a vehicle used to transport passengers (e.g., shuttles, transit buses) eligible for replacement?*

Answer: Yes, per section I.B.2 of the NOFO, eligible transit buses include diesel powered medium-duty and heavy-duty transit buses as long as they are Class 5 or above vehicles and meet the ownership, usage, and remaining life requirements described in the NOFO.

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C.9: *Is diesel equipment that a Tribe owns in partnership with a federal agency eligible?*

Answer: No. While the Tribe does not need to own the equipment, equipment owned by a federal agency is not eligible for replacement or retrofit. As defined in 2 Code of Federal Regulations (CFR) Part 200, recipients and subrecipients of federal awards must be non-federal entities. Further, federal cooperative agreement funds may not be used to acquire property or services for the Federal Government's direct benefit or use.

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C.10: *Are vehicles leased with an intent to own eligible?*

Answer: No. In order to satisfy NOFO requirements, vehicles must be paid for in full before the end of the grant project period (typically 2-3 years). Therefore, current DERA policy does not allow vehicle leasing.

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C.11: *How do we demonstrate remaining life?*

Answer: Remaining life is the fleet owner's estimate of the number of years until the unit would have been retired from service if the unit were not being upgraded or scrapped because of the grant funding. The remaining life estimate is the number of years of operation remaining even if the unit were to be rebuilt or sold to another fleet. The remaining life estimate depends on the current age and condition of the vehicle at the time of upgrade, as well as things like usage, maintenance, and climate. Please provide your best estimate given these considerations.

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D. Application Process

D.1: *Do I have to include emissions reductions in my application?*

Answer: Yes, applicants must calculate the anticipated outputs and outcomes of the project and attach their emissions reduction calculations. If using the EPA's Diesel Emissions Quantifier (DEQ), attach a printout of the DEQ results spreadsheet showing DEQ results and inputs. If quantifying using an alternative method, please thoroughly describe and document your methods and results. The inputs used for emissions calculations should match the information provided by the applicant in the applicant fleet description.

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D.2: *Can a Tribe use their Clean Air Act (CAA) 103 and 105 air program grants funds to pay for the work associated with preparing a DERA application?*

Answer: DERA funding is authorized under the Diesel Emission Reduction Act of 2010, which means DERA programs can only fund eligible activities as defined by the authorization. CAA 103 and 105 funding is authorized under the Clean Air Act and may only be used for eligible activities under those programs.

To be allowed, grant costs need to be necessary and allocable for the performance of the award. Charging costs related to another program are not necessary and allocable for the performance of that grant. This means costs related to DERA, such as the preparation of a DERA application, cannot be charged to a CAA 103 or 105 grant. The one exception is GAP grants because these grants are for the development and establishment of environmental protection programs in Indian country. For more information on federal cost principles under

Subpart E of 2 Code of Federal Regulations (CFR) Part 200, please visit www.ecfr.gov/cgi-bin/text-idx?SID=cc20ffa7fe3162ff3977615f4a6e5fd7&mc=true&node=sp2.1.200.e&rqn=div6.

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D.3: Does DERA funding cover federal excise taxes (FET)?

Answer:

In general, taxes are eligible grant costs. Tax should be billed according to the organization's normal billing practices. Costs incurred for freight, express, cartage, postage, and other transportation services relating either to goods purchased, in process, or delivered, are allowable. When such costs can readily be identified with the items involved, they may be charged directly as transportation costs or added to the cost of such items.

DERA funds may be used for the federal share of the acquisition cost of eligible vehicles and equipment. Acquisition cost means the cost of the asset including the cost to ready the asset for its intended use. Acquisition cost for equipment, for example, means the net invoice price of the equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Ancillary charges, such as taxes, duty, protective in transit insurance, freight, and installation may be included in or excluded from the acquisition cost in accordance with the non-federal entity's regular accounting practices.

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D.4: Does the applicant fleet description need to include vehicle information on our entire fleet or only the vehicles in the fleet being proposed in the application?

Answer: The applicant fleet description should only contain information on the vehicles included in the project application. The purpose of the applicant fleet description is to describe in detail the specific vehicles and engines targeted for emissions reductions as well as the diesel emissions reduction solution(s) to be implemented under the proposed project. The information in the fleet description is used to calculate the emission benefits of the project.

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D.5: The application checklist does not include the scrappage statement and the eligibility statement. Should these be included in the application?

Answer: No, the eligibility statement and scrappage statement are not required at the time of application. If selected for funding, the statements are required to be submitted to document the eligible use of funds. In the workplan, applicants should state that all vehicles will meet the applicable eligibility requirements and that all vehicles will be scrapped.

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D.6: What is the applicant's mandatory cost share requirement?

Answer: No cost sharing/matching funds are required under this NOFO, but applicants may propose to provide voluntary cost share or leveraged resources.

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D.7: How many applications may be submitted?

Answer: Applicants may submit two (2) applications. Each application must be for a different project and must be submitted separately. An applicant cannot submit two (2) applications that both request funding for the same project (i.e., the same target fleet or group of fleets).

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D.8: What is the total amount of funding and maximum federal funding request under this NOFO?

Answer: The EPA anticipates awarding approximately \$9 million in DERA funding under this announcement. A total of \$8 million will be made available to Tribal governments (or intertribal consortia) and Alaska Native Villages, and \$1 million will be made available to territory governments. Tribal governments (or intertribal consortia) or Alaska Native Villages may request up to \$800,000 per application, and territory government entities may request up to \$400,000 per application.

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D.9: Where is the application for the grant program?

Answer: The NOFO contains all project eligibility and application submission information. The NOFO, as well as a project narrative sample template and an applicant fleet description template, are available at www.epa.gov/dera/tribal-and-territory. Applicants can download an application package, including required forms, from www.grants.gov under Funding Opportunity Number EPA-OAR-OTAQ-24-02. Applicants must upload the project narrative and all supporting documents to the application package in www.grants.gov. Applicants must then submit the full package through www.grants.gov. Please refer to the proposal submission checklist in Appendix B of the NOFO to ensure that all required information is included in your package.

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D.10: Will Information Session slides be available online?

Answer: The Information Session slides will be posted at www.epa.gov/dera/tribal-and-territory after the first information session. Questions and answers from these information sessions will also be posted in the questions and answers document located at www.epa.gov/dera/tribal-and-territory.

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E. Project Administration

E.i. Competitive Procurement Requirements

E.i.1: *Are grantees required to use competitive bidding for procurements?*

Answer: Yes, all recipients of EPA grant funds must compete contracts for services and products, and conduct cost and price analyses to the extent required by the procurement provisions of the regulations at 2 Code of Federal Regulations (CFR) Part 200, as appropriate. However, an existing contact may be utilized if the grantee or subgrantees can demonstrate that the vendor was selected through a competitive process that meets the requirements. Refer to the EPA's Best Practice Guide for Procuring Services, Supplies, and Equipment Under EPA Assistance Agreements for the EPA's policies on competitive procurements.

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E.ii. General

E.ii.1: *How can Tribal Volkswagen (VW) beneficiaries use funds towards the EPA's Tribal and Territory NOFO?*

Answer: If Tribal VW beneficiaries choose Eligible Mitigation Action (EMA) 10 (the DERA Option), Tribal entities can use VW mitigation trust funds as non-federal voluntary matching funds under this funding opportunity. For more information, see www.epa.gov/dera/vw-dera-option-tribes-supporting-documents.

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F. Build America, Buy America Act

F.1: *Does Build America, Buy America Act (BABA) apply to the 2024 DERA Tribal & Territory Grant Program?*

Answer: Yes, the 2024 DERA Tribal & Territory Grant Program is subject to the requirements of Section 70912(5) of BABA, which requires that applicants apply a Buy America preference to funding under this program. Pursuant to the Statute, the Buy America preference applies to all Federal financial assistance where funds are appropriated or otherwise made available and used for a project for infrastructure. 2 CFR part 184 clarifies that infrastructure encompasses, at a minimum, the "structures, facilities, and equipment" for projects including roads, highways, and bridges; public transportation; and utilities. Infrastructure also includes structures, facilities, and equipment that generate, transport, and distribute energy including electric vehicle (EV) charging.

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F.2: *Are school buses subject to BABA?*

Answer: No.

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