

## ***DEPARTMENT OF TRANSPORTATION***

**Office of the Secretary**

***Innovative Finance and Asset Concession Grant Program (IFACGP)***

**Docket Number:** DOT-OST-2024-0033

**AGENCY:** Build America Bureau (Bureau), U.S. Department of Transportation (USDOT or the Department)

**ACTION:** Notice of Funding Opportunity (NOFO), Assistance Listing #20.945

**SUMMARY:** The purpose of this notice is to solicit applications for the Innovative Finance and Asset Concession Grant Program (IFACGP or the Program). Up to \$57.72 million will be awarded on a competitive basis to Eligible Entities for technical assistance or expert services. The objective of the Program is to facilitate and evaluate public-private partnerships in which the private sector partner could assume a greater role in project planning, development, financing, construction, maintenance, and operation, including by assisting eligible entities in entering into Asset Concessions.

Eligible applicants for the Program are public entities that own, control, or maintain Existing Assets, and have the legal authority to enter a contract to transfer ownership, maintenance, operations, revenues, or other benefits and responsibilities for those Assets. Existing Assets are physical infrastructure, real property, or mineral/air rights to real property that could be improved utilizing Transportation Infrastructure Finance and Innovation Act (TIFIA) credit assistance. TIFIA-eligible Projects include highway, transit, passenger rail, certain freight facilities, certain port projects, airports, and transit-oriented development projects. (See Sections C.1, C.2, and C.3 below for additional information regarding applicant and project eligibility.)

**DATES:** Applications must be submitted electronically by 11:59PM Eastern Time on Friday, May 10, 2024. Late applications will not be accepted. The deadline to submit technical questions is Wednesday, April 10, 2024.

**ADDRESSES:** Applications must be submitted through <https://www.grants.gov/>.

**FOR FURTHER INFORMATION:** Please contact the Bureau via email at [InnovativeFinanceTA@dot.gov](mailto:InnovativeFinanceTA@dot.gov), or call Maritza Pechin at 202-941-7491. A telecommunications device for the deaf (TDD) is available at 202-366-2993. In addition, the Bureau will post answers to questions and requests for clarifications, as well as any briefings or webinars it may conduct on the IFACGP and award process, on the Bureau's website at <https://www.transportation.gov/buildamerica/innovativefinancegrants>.

**SUPPLEMENTARY INFORMATION:** Each section of this notice contains information and instructions relevant to the application process for the IFACGP. All applicants should read this notice in its entirety so that they have the information they need to submit eligible and competitive applications.

**NOFO Organization:** This NOFO is organized in the following sections.

Section	Content
A	Program Description
B	Federal Award Information
C	Eligibility Information
D	Application and Submission Information
E	Application Review Information
F	Federal Award Administration Information
G	Federal Awarding Agency Contacts
H	Other Information

**Definitions:** The table below contains terms and definitions applicable to this NOFO. For the purposes of this Definition table, terms that are *italicized* are defined in statute and the below definitions supplement the statutory definitions.

Term	Definition
Advisors	Firms or individuals with expertise in technical, financial, or legal issues related to Asset Concessions, innovative finance, or project development and delivery. Costs incurred for hiring or employing Advisors are eligible for reimbursement using IFACGP grant funds.
<i>Asset Concession</i>	A contract between an Eligible Entity and a Concessionaire under which the Eligible Entity agrees to enter into a concession agreement or long-term lease with the Concessionaire to deliver a TIFIA-eligible Project using an Existing Asset. As consideration for the agreement or lease, the Concessionaire agrees to provide the Eligible Entity one or more Asset Concession payments and to maintain or exceed the condition, performance, and service level of the Enhanced Asset (23 U.S.C. § 611(a)(2)).
<i>Asset Concession Payment</i>	A payment that is made by a Concessionaire to an Eligible Entity for fair market value that is determined as part of the Asset Concession and may be a payment made at the financial close of an Asset Concession, or a series of payments scheduled to be made for a fixed period or the term of an Asset Concession (23 U.S.C. § 611(a)(3)).
Asset Scan	For the purposes of the Program, an Asset Scan is an evaluation or inventory of Existing Assets. The purpose of the Asset Scan is to

	identify those Assets that possess potential for alternative utilization through Asset Concessions. This Asset Scan will generally include market studies, cost estimates, revenue projections, development authorities, zoning restrictions, and options for project delivery. In the event the Asset Scan reveals an Asset is not suitable for delivery utilizing Asset Concessions, the Asset Scan may evaluate other delivery methods for TIFIA-eligible Projects.
<i>Concessionaire</i>	A private individual or private or publicly chartered corporation, or other entity that enters into an Asset Concession with an Eligible Entity (23 U.S.C. § 611(a)(4)).
<i>Eligible Entity</i>	A State; Tribal government; unit of local government; agency or instrumentality of a State, Tribal government, or unit of local government; or a special purpose district or public authority that owns, controls, or maintains an Existing Asset and has the legal authority to enter a contract or transfer ownership, maintenance, operations, revenues, or other benefits and responsibilities for an Existing Asset (23 U.S.C. § 611(a)(5)).
Enhanced Asset	An Existing Asset as it would exist after an improvement is made.
Existing Asset	Physical infrastructure, real property, or mineral/air rights to real property that could be improved using TIFIA credit assistance. See Section C.2 below for a list of sample Existing Assets. The Existing Asset or group of Existing Assets must be owned, controlled, or maintained by an eligible public entity (23 U.S.C. § 611(a)(5)(A)(i)).
Historically Disadvantaged Community	Consistent with the Office of Management and Budget (OMB)'s Interim Guidance for the Justice40 Initiative and the 2023 Addendum to this Guidance, Historically Disadvantaged Communities include (1) certain qualifying census tracts identified as disadvantaged due to categories of environmental, climate, and socioeconomic burdens, and (2) any Federally Recognized Tribes or Tribal entities, whether or not they have land. Applicants should primarily use Climate & Economic Justice Screening Tool (CEJST) <sup>10</sup> , a new tool by the White House Council on Environmental Quality (CEQ), that aims to help federal agencies identify disadvantaged communities as part of the Justice40 initiative to accomplish the goal that 40% of benefits from certain federal investment reach disadvantaged communities. <a href="https://screeningtool.geoplatform.gov">screeningtool.geoplatform.gov</a> Applicants should use CEJST as the primary tool to identify historically disadvantaged communities (Justice40 communities). Applicants are strongly encouraged to use the USDOT Equitable Transportation Community (ETC) Explorer to understand how their community or area is experiencing disadvantage related to lack of transportation investments or opportunities. Through understanding how a community or area is experiencing transportation-

	related disadvantage, applicants are able to address how the benefits of a project will reverse or mitigate the burdens of disadvantage and demonstrate how the project will address challenges and accrued benefits. <a href="https://www.transportation.gov/priorities/equity/justice40/etc-explorer">https://www.transportation.gov/priorities/equity/justice40/etc-explorer</a> .
Proposed Activities	Effort and expenses proposed for funding under the Program.
TIFIA	The Transportation Infrastructure Finance and Innovation Act (TIFIA) program (codified at 23 U.S.C. §§ 601-609). See the Build America Bureau’s website describing the program here: <a href="https://www.transportation.gov/buildamerica/financing/tifia">https://www.transportation.gov/buildamerica/financing/tifia</a>
TIFIA-eligible Project	A project, as defined in 23 U.S.C. § 601(a)(12), to improve an Existing Asset. See Section C.3 below for a list of sample TIFIA-eligible Projects.

**A. Program Description**

**1. Overview**

Section 71001 of the Infrastructure Investment and Jobs Act (Pub. L. 117-58) (also referred to as the Bipartisan Infrastructure Law or BIL) established the IFACGP to provide grants to enhance the technical capacity of eligible public entities to facilitate and evaluate public-private partnerships. The BIL authorizes \$100 million over five fiscal years (FY 2022-2026) for the IFACGP. This NOFO announces the availability of \$57.72 million under the Program. The Build America Bureau, a functional unit of the USDOT Office of the Undersecretary of Transportation for Policy, will administer the IFACGP.

The objective of the Program is to facilitate and evaluate public-private partnerships in which the private sector partner could assume a greater role in project planning, development, financing, construction, maintenance, and operation, including by assisting eligible entities in entering into Asset Concessions. A significant focus of the IFACGP is to identify Existing Assets that have the potential to provide additional public benefits through asset concessions. Under the Program, Eligible Entities can procure Advisors, hire employees into a public agency, or both, to administer Proposed Activities.

The Department seeks to fund projects that advance the Departmental priorities of safety, equity, climate and sustainability, and workforce development, job quality, and wealth creation as described in the USDOT Strategic Plan, Research, Development and Technology Strategic Plan, and in executive orders. More specifically, the Department seeks to fund projects under the IFACGP that reduce greenhouse gas emissions in the transportation sector; incorporate evidence-based climate resilience measures and features; avoid adverse environmental impacts to air or water quality, wetlands, and endangered species; and address the disproportionate

negative environmental impacts of transportation on disadvantaged communities, consistent with Executive Order 14008, Tackling the Climate Crisis at Home and Abroad (86 FR 7619).

In addition, the Department seeks to award projects under the IFACGP that proactively evaluate whether a project will create proportional impacts to all populations in a project area and increase equitable access to project benefits, consistent with Executive Order 13985, Advancing Racial Equity and Support for Underserved Communities Through the Federal Government (86 FR 7009). Likewise, the Department intends to use the IFACGP to support the creation of good paying jobs with the free and fair choice to join a union and the incorporation of strong labor standards and training and placement programs, especially registered apprenticeships, in project planning stages, consistent with Executive Order 14025, Worker Organizing and Empowerment (86 FR 22829), and Executive Order 14052, Implementation of the Infrastructure Investment and Jobs Act (86 FR 64335). The Department also intends to use the IFACGP to support wealth creation, consistent with the Department's Equity Action Plan, through the inclusion of local inclusive economic development and entrepreneurship such as the utilization of Disadvantaged Business Enterprises or 8(a) firms. Applicants are encouraged to review the Strategic Plan and executive orders and incorporate them into the design of applications for the Program.<sup>1</sup>

## **2. Federal Assistance**

This is a competitive grant program and applications will be reviewed against the criteria listed in Section E below.

Application for the Program is voluntary. Participation does not obligate the recipient to apply for USDOT grants or loans in the future, nor does participation offer preferential treatment in any future applications. Projects that are part of the Program do not become federal-aid projects for the purposes of future funding, permitting, and administration requirements. Award of a grant does not obligate the Bureau or USDOT to provide additional financial assistance, nor does it constitute a commitment to provide federal credit assistance for the Existing Assets that are subject of this grant assistance.

## **3. Program Structure**

The Program has two types of grants—(1) Technical Assistance and (2) Expert Services—each with specific uses and conditions that support the overall IFACGP objective. Technical Assistance Grants (23 U.S.C. § 611(d)(1)) will provide funding for Eligible Entities to build organizational capacity and perform programmatic grant activities either by procuring Advisors, hiring employees into a public agency, or both. Expert Services Grants (23 U.S.C. § 611(d)(2)) will provide funding for Eligible Entities to procure Advisors to explore leveraging public and private funding in connection with the development of a specific Existing Asset.

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<sup>1</sup> [https://www.transportation.gov/sites/dot.gov/files/2022-04/US\\_DOT\\_FY2022-26\\_Strategic\\_Plan.pdf](https://www.transportation.gov/sites/dot.gov/files/2022-04/US_DOT_FY2022-26_Strategic_Plan.pdf) and <https://www.federalregister.gov/presidential-documents/executive-orders>

Proposed Activities under the Expert Services Grant must be used on specific projects (not programs). Expert Service Grants may be used to advance the development of more than one Existing Asset as long as the Proposed Activities pertain to specific projects and are not programmatic in scope. Applicants may request either type of grant but may not pursue both.

#### **4. *Conditions on Asset Concessions***

Statute and DOT policy place conditions on receiving awards under the Program. If the Proposed Activities include direct assistance for an Asset Concession, such as negotiating a concession agreement, the cooperative agreement will include the following conditions:

- a. the Asset Concession shall not prohibit, discourage, or make it more difficult for an Eligible Entity to construct new infrastructure, to provide or expand transportation services, or to manage associated infrastructure in publicly beneficial ways, along a transportation corridor or in the proximity of a transportation facility that was a part of the Asset Concession;
- b. the Eligible Entity shall have adopted binding rules to publish all major business terms of the proposed Asset Concession not later than the date that is 30 days before entering into the Asset Concession, to enable public review, including a certification of public interest based on the results of an assessment under subparagraph (d);
- c. the Asset Concession shall not result in displacement, job loss, or wage reduction for the existing workforce of the Eligible Entity or other public entities;
- d. the Eligible Entity or the concessionaire shall carry out a value-for-money analysis, or similar assessment, to compare the aggregate costs and benefits to the Eligible Entity of the Asset Concession against alternative options to determine whether the Asset Concession generates additional public benefits and serves the public interest;
- e. the full amount of any Asset Concession payment received by the Eligible Entity under the Asset Concession, less any amount paid for transaction costs relating to the Asset Concession, shall be used to pay infrastructure costs of the Eligible Entity; and
- f. the terms of the Asset Concession shall not result in any increase in costs under the asset concession being shifted to taxpayers the annual household income of whom is less than \$400,000 per year, including through taxes, user fees, tolls, or any other measure, for use of an approved infrastructure asset.
- g. Not later than three years after the date on which an Eligible Entity enters into an Asset Concession as a result of a grant under this section—
  - i. the Eligible Entity shall hire an independent auditor to evaluate the performance of the concessionaire based on the requirements described in subparagraphs (a) through (f); and

- ii. the independent auditor shall submit to the Eligible Entity, and make publicly available, a report describing the results of the audit under subparagraph (i).

## **B. Federal Award Information**

### **1. Total Funding Available**

The BIL authorized \$20,000,000 for each of fiscal years 2022 to 2026 for the Program, totaling \$100,000,000 through FY 2026. This NOFO makes available three fiscal years of funding (2022, 2023, and 2024), up to \$57,720,000.<sup>2</sup>

### **2. Award Size and Anticipated Quantity**

USDOT will make one cooperative agreement award per recipient. USDOT estimates it will award between 30 and 45 cooperative agreements under this NOFO, up to \$2 million for each award. The Department reserves the right to make more or fewer awards but will not make awards over \$2 million. No more than \$4 million in funding under the Program will be awarded to Eligible Entities located within a single state during any 3-year period. The Department reserves the discretion to alter award sizes upon receiving the full pool of applications and assessing the needs of the Program in relation to the Departmental priorities discussed in Section A.1.

### **3. Availability of Funds**

The IFACGP funds are available until expended. However, DOT expects and will consider during the application evaluation process the timeliness of grant award obligation and expenditure. Cooperative agreement funding obligation occurs when a selected applicant and the USDOT enter into a written agreement, after the applicant has satisfied applicable administrative requirements during the pre-award phase.

All awards will be administered pursuant to the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards found in 2 CFR Part 200, as adopted by USDOT at 2 CFR Part 1201. The IFACGP funds are available to the recipient for reimbursement as per 2 CFR 200.344(a). USDOT will not reimburse cooperative agreement recipients for costs incurred prior to the period of performance start date.

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<sup>2</sup> IJA authorized \$20 million per year to the IFACGP. However, the Program's funding for FY 2023 and FY 2024 were reduced by \$1.14 million to comply with the Balanced Budget and Emergency Deficit Control Act of 1985. Information on this budget sequestration may be viewed here: [https://www.whitehouse.gov/wp-content/uploads/2022/03/BBEDCA\\_251A\\_Sequestration\\_Report\\_FY2023.pdf](https://www.whitehouse.gov/wp-content/uploads/2022/03/BBEDCA_251A_Sequestration_Report_FY2023.pdf)

#### **4. Start Dates and Period of Performance**

The expected period of performance for a grant is up to 36 months. Each cooperative agreement will specify the period of performance.

After the period of performance begins, the recipient may begin incurring allocable costs. USDOT will reimburse allocable incurred costs not exceeding the cap specified in the cooperative agreement. The recipient must maintain a system for recording all costs. Invoices should be transmitted to USDOT for monthly reimbursement.

If indirect costs are included in the budget, the applicant must include documentation to support the indirect cost rate they are using (unless claiming the 10 percent de minimis indirect cost rate, discussed below). The applicant must submit a copy of its current, approved, and negotiated indirect cost rate agreement (NICRA). If the applicant does not have a current or pending NICRA, it may propose indirect costs in its budget; however, the applicant must prepare and submit an allocation plan and rate proposal for approval within ninety days from the award start date (unless claiming the 10 percent de minimis indirect cost rate, discussed below). See 2 C.F.R. part 200 Apps. III, IV, V, VI, VII for guidance. The allocation plan and the rate proposal shall be submitted to USDOT. The applicant should include a statement in its Budget Narrative that it does not have a current or pending NICRA and will submit an allocation plan and rate proposal to USDOT or the applicant's cognizant federal agency for approval.

In accordance with 2 CFR § 200.414(f), an applicant that does not have a current negotiated (including provisional) rate, may elect to charge a de minimis rate of 10 percent of modified total direct costs (subject to the exceptions of § 200.414(f)). No documentation is required to justify the 10 percent de minimis indirect cost rate; however, an applicant electing to charge a de minimis rate of 10 percent must include a statement in its Budget Narrative that it does not have a current negotiated (including provisional) rate and is electing to charge the de minimis rate.

If the applicant is a state or local unit of government (or an Indian Tribe) that receives less than \$35 million in direct federal funding per year it may submit any of the following:

- a Certificate of Indirect Costs from the Department of the Interior (DOI) or USDOT;
- an acknowledgment received from the Department of Interior (on behalf of USDOT) and a Certificate of Indirect Costs in the form prescribed at 2 C.F.R. pt. 200, app. VII; or
- a Negotiated Indirect Cost Rate Agreement (NICRA).

Other terms and conditions as well as performance requirements will be addressed in further communications with the recipient. The full terms and conditions may vary and are subject to discussions and negotiations.



In connection with any program or activity conducted with or benefiting from funds awarded under this notice, recipients of funds must comply with all applicable requirements of federal law, including, without limitation, the Constitution of the United States statutory, regulatory, and public policy requirements, including without limitation, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination; the conditions of performance, non-discrimination requirements, and other assurances made applicable to the award of funds in accordance with regulations of the Department of Transportation; and applicable federal financial assistance and contracting principles promulgated by the Office of Management and Budget. In complying with these requirements, recipients must ensure that no Concession Agreements are denied, or other contracting decisions made on the basis of speech or other activities protected by the First Amendment. If the Bureau determines that a recipient has failed to comply with applicable federal requirements, the Bureau may terminate the award of funds and disallow previously incurred costs, requiring the recipient to reimburse any expended award funds.

Additionally, Executive Order 13858 directs the Executive Branch Departments and agencies to maximize the use of goods, products, and materials produced in the United States through the terms and conditions of federal financial assistance awards. If selected for an award, recipients must be prepared to demonstrate how they will maximize the use of domestic goods, products, and materials, as applicable.

Pursuant to 2 CFR 200.340, a federal award may be terminated in whole or in part if the recipient fails to comply with the terms and conditions of the award or if USDOT determines the award no longer effectuates the program goals or agency priorities.

## **C. Eligibility Information**

### **1. Eligible Applicants**

Eligible applicants for the Program are States; Tribal governments; units of local government; agencies or instrumentalities of a State, Tribal government, or unit of local government, or special purpose districts or public authorities. In order to be eligible, the applicant must:

- own, control, or maintain an Existing Asset; and
- have the legal authority to enter into a contract to transfer ownership, maintenance, operations, revenues, or other benefits and responsibilities for an Existing Asset.
- Have authority to enter into contracts to procure any professional services that would be funded under the Program, or to employ full or part time staff to perform the activities described.

Eligible costs must comply with the cost principles set forth in 2 CFR Part 200, Subpart E, including the requirements set forth in 2 CFR § 200.317-327 and 2 CFR § 200.459 with respect to procurements and contracts for recipient-contracted advisors procured for Expert Services

cooperative agreements. The Bureau reserves the right to make cost eligibility determinations on a case-by-case basis.

Direct costs such as travel, materials, other direct costs, and indirect rates are eligible for reimbursement under the Program. Applicants should discuss anticipated direct costs in the budget proposal. Direct costs should be included in the total program budget.

## ***2. Cost Sharing or Matching***

The maximum value of cooperative agreements is \$2 million. Cooperative agreements of up to \$1 million are offered at 100 percent federal share (no required non-federal match). Amounts in excess of \$1 million are offered at 50 percent federal share (50 percent required non-federal match). For example, a cooperative agreement of \$2 million in federal aid would be matched by \$1 million of non-federal funds, supporting a \$3 million effort.

## ***3. Existing Assets***

Applicants must identify at least two Existing Assets to evaluate for potential Asset Concession opportunities under a Technical Assistance cooperative agreement, or at least one Existing Asset to develop by leveraging public or private funds under an Expert Services cooperative agreement. Existing Assets are physical infrastructure, real property, or mineral/air rights to real property that could be improved using TIFIA credit assistance. Examples of Existing Assets include:

- Bridges and tunnels
- Intercity passenger bus or rail facilities and vehicles, including those owned by Amtrak
- Public freight rail
- Private freight rail
- Intermodal freight transfer facilities
- An existing highway
- A street
- Vacant or underutilized parcels or right-of-way
- Airport terminal facilities and transportation infrastructure
- Inland ports
- Ports
- Public transportation facilities and infrastructure

## ***4. TIFIA-eligible Projects***

The Proposed Activities must explore developing an Existing Asset into an Enhanced Asset with a TIFIA-eligible Project. Applicants are encouraged to refer to 23 U.S.C. § 601(a)(12) for a list of TIFIA-eligible Projects and websites discussing TIFIA eligibility located on the Build America Bureau website at <https://www.transportation.gov/buildamerica/financing/tifia/tifia-credit-program-overview>. Award recipients are not required to use TIFIA financing for

construction or operation of infrastructure. Examples of TIFIA-eligible Projects that could improve an Existing Asset and convert it to an Enhanced Asset include:

- Highway construction projects, such as high-occupancy toll lanes, or highway improvement projects
- Roadway improvement projects
- Bridges and tunnels
- Intercity passenger bus or rail facilities and vehicles, including those owned by Amtrak
- Public freight rail projects
- Private freight rail projects that provide public benefit for highway users by way of direct highway-rail freight interchange
- Intermodal freight transfer facilities
- Projects providing access to, or improving the service of, the freight rail projects, and transfer facilities described above
- Surface transportation infrastructure modifications necessary to facilitate direct intermodal interchange, transfer, and access into and out of a port
- Acquiring, improving, and rehabilitating track, bridges, rail yards, buildings, and shops
- Preconstruction activities
- Positive train control
- Transit-oriented development projects that include public infrastructure
- Joint Development commercial and residential projects
- New rail or intermodal facilities
- Wildlife crossing projects
- Surface transportation projects at airports
- Airport terminal facilities and preconstruction activities
- Airport noise compatibility planning
- Conversion of ground equipment to low or no emission technology
- Inland ports
- A surface transportation project within the boundaries or functionally connected to an international border crossing that improves a facility owned by federal/state/local government and increases throughput efficiency
- A project for a marine highway corridor that is functionally connected to the National Highway Freight Network and is likely to reduce road mobile source emissions
- A public transportation project that is eligible for assistance under chapter 53 of title 49 or is a part of any of the project types described above

## ***5. Proposed Cooperative Agreement Activities***

Each cooperative agreement type has specific eligible activities.

### **a. Technical Assistance Cooperative Agreements**

Technical Assistance awards can be used to build the organizational capacity of the Eligible Entity to develop, review, or enter into Asset Concessions to advance TIFIA-eligible Projects, including for—

- i. Asset Scan: Technical Assistance Cooperative Agreements can be used to conduct assessments of multiple Existing Assets that are wholly owned by or under the jurisdiction of the applicant. (See definition for Asset Scan in the definition table.)
- ii. Program of Existing Assets: Technical Assistance Cooperative Agreements can be used to fund tasks related to advancing a Program of Existing Assets by conducting pre-construction tasks that consider innovative financing and delivery to achieve project goals, including:
  - soliciting and negotiating Asset Concessions, including hiring staff in public agencies;
  - conducting a value-for-money analysis, or a comparable analysis, to evaluate the comparative benefits of Asset Concessions and public debt or other procurement methods;
  - evaluating options for the structure and use of Asset Concession Payments;
  - evaluating and publicly presenting the risks and benefits of all contract provisions for the purpose of transparency and accountability;
  - identifying best practices to protect the public interest and priorities;
  - identifying best practices for managing transportation demand and mobility along a corridor, including through provisions of the Asset Concession, to facilitate transportation demand management strategies along the corridor that is subject to the Asset Concession; and
  - integrating and coordinating pricing, data, and fare collection with other regional operators that exist or may be developed.

To execute these activities, Technical Assistance Cooperative Agreements may be used to hire full- or part-time employees or procure the services of Advisors. Proposed Activities must expand the capacity of the recipient to advance a program of projects through innovative financing or innovative project delivery methods, including Asset Concessions.

Two or more Existing Asset must be bundled together for joint analysis using a Technical Assistance Cooperative Agreement. All such Existing Assets included in the bundle will be considered for a single cooperative agreement for the purposes of the Program.

The bullets below are illustrative examples of how recipients can use Technical Assistance Cooperative agreements:

- Procure a consulting firm to conduct an Asset Scan of roadway and transit infrastructure owned by the applicant. The Asset Scan would assess which—if any—Assets are suited for an Asset Concession. In the event the Asset Scan reveals an Existing Asset is not suitable for delivery utilizing an Asset Concession, the Asset Scan would evaluate other delivery methods.
- Hire a public employee to manage real estate Assets controlled by an applicant on or near airport, seaport, and public transit infrastructure. The employee would conduct or oversee Advisors conducting pre-construction activities to redevelop the Existing Assets. The tasks would include determining the suitability and approach for utilizing Asset Concessions for Existing Asset redevelopment. In the event the analysis reveals Asset Concessions are not a suitable delivery method, the employee would conduct analyses to identify innovative financing and delivery methods that achieve public goals. Further, the public employee would protect the public interest in the real estate properties and adjacent communities.

**b. Expert Services Cooperative Agreements**

Expert Services Cooperative Agreements provide funding to Eligible Entities seeking to leverage public and private funding in connection with the development of a specific Existing Asset. Expert Services Cooperative Agreements can include the development of alternative approaches to project delivery or procurement. Expert Services Cooperative Agreements may only be used to procure Advisors for project-level assistance. Expert Service Grants may be used to advance the development of more than one Existing Asset as long as the Proposed Activities pertain to specific projects and are not programmatic in scope. Services conducted under an Expert Services Cooperative Agreements may include:

- i. Project planning, feasibility studies, revenue forecasting, economic assessments and cost-benefit analyses, public benefit studies, value-for-money analyses, business case development, lifecycle cost analyses, risk assessment, financing and funding options analyses, procurement alternatives analyses, statutory and regulatory framework analyses, meaningful public involvement and other pre-procurement and pre-construction activities;
- ii. financial and legal planning (including the identification of statutory authorization, funding, and financing options);
- iii. early assessment of permitting, environmental review, and regulatory processes and costs;
- iv. assistance with entering into an Asset Concession;
- v. impact analysis of Existing Asset development on issues in the public interest, including worker displacement and equitable investment.

The below items are examples of how recipients can use Expert Service Cooperative Agreements:

- Procure the services of an outside finance expert to advise the recipient on value-for-money, financing options, contract negotiation, and underwriting of loans to construct highway express lanes.
- Procure a consultant to prepare analysis and reports required to secure permits for a transit-oriented joint development project located on public land adjacent to an existing light rail line.

## **D. Application and Submission Information**

### **1. Address to Request Application Package**

All application materials can be accessed at [www.grants.gov](http://www.grants.gov). Applicants must submit their application via [Grants.gov](http://Grants.gov) under the NOFO cited herein. General information for submitting applications through Grants.gov is available on that website, along with specific instructions for the forms required for submission. Potential applicants may also request paper copies of materials at:

Telephone: (202) 366-2414  
 Mail: Build America Bureau  
 1200 New Jersey Avenue SE  
 W12-425  
 Washington, DC 20590

### **2. Content and Form of Application Submission**

#### **a. Standard Forms**

All applicants must submit the following Standard Forms:

- i. Application for Federal Assistance (SF-424)
- ii. Budget Information for Non-Construction Programs (SF-424A)
- iii. Assurances for Non-Construction Programs (SF-424B)
- iv. Disclosure of Lobbying Activities (SF-LLL)

#### **b. Additional Information**

In addition to the Standard Forms, all applicants must provide an application narrative that conforms with the following instructions:

<b>Document(s)</b>	<b>Page Limit</b>
i. Key Information Table	N/A
ii. Proposal Narrative (Cooperative Agreement Plan)	10
- Proposal Overview	
- Type and Need	

- Workplan - Budget - Oversight and Staffing	
iii. Asset Information	4 per Asset

- i. **Key Information Table:** Applicants must provide the information requested in the below Key Information Table.

<b>Title</b>	<b>Instructions</b>
IFACGP Cooperative Agreement Name	Enter the same title used in the Grants.gov SF-424 submission and the application narrative.
Applicant Name	Enter the same name used in the Grants.gov SF-424 submission Question 8.a.
State	Indicate State or territory or District of Columbia in which applicant is located.
Applicant Unique Entity Identifier (UEI)	See Section D.3 below for information about obtaining a UEI from SAM.gov.
Eligible Entity Type	Enter the letter corresponding to the Eligible Entity type for your application: <b>A.</b> State; <b>B.</b> Tribal government; <b>C.</b> unit of local government; <b>D.</b> agency or instrumentality of a State, Tribal government, or unit of local government; or <b>E.</b> special purpose district or public authority.  Applicants should provide evidence of their qualification as an Eligible Entity.
Certification of Applicant's Authority to Transfer Benefits and Responsibilities for Relevant Assets	<b>Yes, Yes with limitations, or No</b>  Specify any limitations on authority
Certification of Applicant's Asset Ownership/Control	<b>Yes or No</b>
Name or Description of Existing Asset(s)	Narrative discussion that includes place names, extant facility names, mile markers, addresses, geo-location, or other identifying characteristics. The applicant should identify at least 2 Existing Assets for a Technical Assistance Cooperative Agreement and at least 1 Existing Asset for an Expert Services Cooperative Agreement.

Type of Grant Requested	Enter the letter corresponding to the grant type you are applying for: <b>A. Technical Assistance Cooperative Agreement</b> or <b>B. Expert Services Cooperative Agreement</b>
If Applying for a Technical Assistance Cooperative Agreement, Which Category of Funding Requested?	<b>Asset Scan or Program of Existing Assets</b> (Select One)
Was federal funding previously received for any Existing Asset in this cooperative agreement application?	<b>Yes or No</b>  <b>If yes</b> , indicate the amount of federal funding received and the relevant grant number and program.
Brief Application Description	Using no more than 250 words Please do not include detailed lists or describe background or alignment with the selection criteria in this field. Do not include classified, proprietary, or confidential information, as USDOT might publish this Brief Application Description. You may provide a longer, narrative description in the Proposal Narrative (see ii. below for Proposal Narrative instructions).  For Technical Assistance Cooperative Agreements, explain how grant funds will be used to build organizational capacity and the expanded capacity being sought.  For Expert Services Cooperative Agreements, explain how grant funds will be used to leverage public and private funding in connection with the development of a specific Existing Asset.
Funding Requested	Total dollar amount requested.  If requesting more than \$1 million, indicate amount and source of the 50 percent non-federal matching funds for the Proposed Activities.
Proposed Duration (in months)	Indicate requested cooperative agreement period of performance up to 36 months.



- ii. **Proposal Narrative (Cooperative Agreement Plan):** The Bureau recommends that the Cooperative Agreement Plan follow the outline below to address the Program requirements and assist evaluators in locating relevant information. The Cooperative agreement Plan should not exceed 10 pages; excluding cover page, Key Information Table, appendices/supporting materials, and Existing Asset Information. Evaluators will disregard information in excess pages. If supporting materials are submitted, applicants should clearly identify within the Narrative the location and relevance of each supporting document.

All documents must be submitted in PDF format.

The Department may share application information within the Department or with other federal agencies if the Department determines that sharing is relevant to the respective Program's objectives, or for evaluation purposes.

#### **A. Proposal Overview**

This section should provide an introduction of the Eligible Entity and its proposed use of funding under the Program. It should describe whether the applicant is applying for a Technical Assistance Cooperative Agreement (including if an entity is applying for either an Asset Scan or for a Program of Existing Assets) or Expert Services Cooperative Agreement and provide any background information that would be useful to understand the rest of the application.

- For Technical Assistance Cooperative Agreement, the overview should explain in depth how the cooperative agreement funds will be used to build organizational capacity, the expanded capacity being sought, and the goals the applicant expects to achieve by participating in the Program. These goals should align with the activities set forth in Section C.5(a) of this Notice.
- For Expert Services Cooperative Agreements, the overview should explain in depth how cooperative agreement funds will be used to explore leveraging public and private funding in connection with the development of at least one specific Existing Asset and the goals the applicant expects to achieve by participating in the Program. These goals should align with the activities set forth in Section C.5(b) of this Notice.

#### **B. Proposed Activities, Need, and Goals**

This section should introduce the Proposed Activities for which the applicant is seeking funding. Applicants should describe the need for the Proposed Activities (Technical Criterion #1) and the goals for the Proposed Activities (Technical Criterion #2). Additionally, the applicant should describe its approach to build

organizational capacity to advance early-stage TIFIA-eligible Projects by leveraging public and private funding (Technical Criterion #3). This includes a discussion of how the private sector can assume a greater role in project development, construction, maintenance, and/or operations. The applicant should also describe how the Proposed Activities align with the USDOT's strategic goals and priorities as described in Section A.1 (Policy Alignment Selection Consideration).

### **C. Work Plan**

The application should discuss the work plan of the Proposed Activities. The applicant should discuss the required labor hours to complete the Proposed Activities. This portion of the application narrative should include a discussion of plans to hire staff (Technical Assistance Cooperative Agreements only) or procure Advisors to complete the Proposed Activities. The applicant should include a timeline with key milestones to execute the Proposed Activities (Readiness Criterion #1). The timeline should also identify opportunities for the private sector to assume a role in project development, financing, construction, maintenance, and/or operations (Readiness Criterion #2).

The applicant should describe its public engagement and partnership activities in the work plan. The applicant's planning and evaluation activities should provide channels for potentially impacted communities to express their concerns and meaningfully influence infrastructure decision making (Readiness Criterion #1).

### **D. Budget**

This section should provide a budget plan that corresponds to and describes the information contained in the applicant's SF-424A. The budget plan should describe all planned activity costs and how they relate to the workplan (Readiness Criterion #4).

If the budget plan for a Technical Assistance Cooperative Agreement includes personnel costs eligible under Section C.5(a)(ii) of this NOFO, the applicant must include a complete breakdown of those costs, including personnel title/position, hourly rate, and the number of hours expected to be spent by each person on the proposed activity (Readiness Criterion #4)

The budget should show how different funding sources will share in each activity and present those data in dollars and percentages. The budget should identify other federal funds the applicant is applying for or has been awarded, if any, that the applicant intends to use. Funding sources should be grouped into

three categories: non-federal, IFACGP requested funds, and other federal with specific amounts from each funding source. Additional federal funds are not required to participate in the IFACGP. Budget spreadsheets may be included as an appendix and do not count against the page limitation.

If applicable, the non-federal share must be reflected in the budget section of the cooperative agreement application and must be utilized as indicated therein. If applicable, the non-federal share should be remitted directly to the organizations that provide technical assistance or expert services to the cooperative agreement recipient, with the federal cooperative agreement manager copied on all invoices and payment notices.

If indirect costs are included in the budget, the applicant must include documentation to support the indirect cost rate they are using (unless claiming the 10 percent de minimis indirect cost rate, discussed below). The applicant must submit a copy of its current, approved, and negotiated indirect cost rate agreement (NICRA). If the applicant does not have a current or pending NICRA, it may propose indirect costs in its budget; however, the applicant must prepare and submit an allocation plan and rate proposal for approval within ninety days from the award start date (unless claiming the 10 percent de minimis indirect cost rate, discussed below). See 2 CFR Part 200 Apps. III, IV, V, VI, VII for guidance. The allocation plan and the rate proposal shall be submitted to USDOT. The applicant should include a statement in its Budget Narrative that it does not have a current or pending NICRA and will submit an allocation plan and rate proposal to USDOT or the applicant's cognizant federal agency for approval. Documentation does not count against page limitation.

In accordance with 2 CFR § 200.414(f), an applicant that does not have a current negotiated (including provisional) rate, may elect to charge a de minimis rate of 10 percent of modified total direct costs (subject to the exceptions of § 200.414(f)). No documentation is required to justify the 10 percent de minimis indirect cost rate; however, an applicant electing to charge a de minimis rate of 10 percent must include a statement in its Budget Narrative that it does not have a current negotiated (including provisional) rate and is electing to charge the de minimis rate.

If the applicant is a state or local unit of government (or an Indian Tribe) that receives less than \$35 million in direct federal funding per year it may submit any of the following (does not count against page limitation):

- a Certificate of Indirect Costs from the Department of the Interior (DOI) or USDOT;

- an acknowledgment received from the Department of Interior (on behalf of USDOT) and a Certificate of Indirect Costs in the form prescribed at 2 C.F.R. pt. 200, app. VII; or
- a Negotiated Indirect Cost Rate Agreement (NICRA).

Other terms and conditions as well as performance requirements will be addressed in further communications with the recipient. The full terms and conditions may vary and are subject to discussions and negotiations.

In connection with any program or activity conducted with or benefiting from funds awarded under this notice, recipients of funds must comply with all applicable requirements of federal law, including, without limitation, the Constitution of the United States statutory, regulatory, and public policy requirements, including without limitation, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination; the conditions of performance, non-discrimination requirements, and other assurances made applicable to the award of funds in accordance with regulations of the Department of Transportation; and applicable federal financial assistance and contracting principles promulgated by the Office of Management and Budget. In complying with these requirements, recipients must ensure that no concession agreements are denied, or other contracting decisions made on the basis of speech or other activities protected by the First Amendment. If the Bureau determines that a recipient has failed to comply with applicable federal requirements, the Bureau may terminate the award of funds and disallow previously incurred costs, requiring the recipient to reimburse any expended award funds.

Additionally, Executive Order 13858 directs the Executive Branch Departments and agencies to maximize the use of goods, products, and materials produced in the United States through the terms and conditions of federal financial assistance awards. If selected for an award, cooperative agreement recipients must be prepared to demonstrate how they will maximize the use of domestic goods, products, and materials, as applicable.

Pursuant to 2 CFR 200.340, a federal award may be terminated in whole or in part if the recipient fails to comply with the terms and conditions of the award or if USDOT determines the award no longer effectuates the program goals or agency priorities.

## **E. Oversight and Staffing**

The applicant should detail the staffing and oversight of the Proposed Activities. This includes a discussion of proposed leadership, staff expertise required, expected levels of effort, institutional controls, and policies. The applicant should discuss its ability to carry out the proposed scope of work based on relevant and necessary expertise, and its capability to oversee and manage the procurement of expert services under the Program. Any previous experience with procuring expert services, public private partnerships, or use of credit markets should be included in the narrative and may be expanded upon in an appendix (Readiness Criterion #3).

## **F. Appendices**

One or more appendices may be included in the proposal. Applicants should reference and summarize appendices in the main application narrative.

### **1) Appendix I – Resumes**

Applicants should submit the abbreviated resumes of the key individuals and information on known expert service contractors who will be involved in the Proposed Activities. Applicants are encouraged to discuss backups to key personnel or discuss the method for replacement of key personnel (Readiness Criterion #3).

### **2) Other Appendices, as needed**

- iii. **Asset Information:** This section should provide information on the Existing Asset(s), the TIFIA-eligible Project(s) being considered, and the innovative project financing or delivery method being evaluated, and the Proposed Activity.

Entities applying for a Technical Assistance Cooperative Agreement should submit one completed form using the template below for a) each Asset being nominated for an Asset Scan, or b) each Asset and TIFIA-eligible Project being considered for a Program of Existing Assets (four pages maximum for each submitted form).

For Technical Assistance Cooperative Agreement applications with a large list of Existing Assets for evaluation, this information can be provided as an Appendix to the Cooperative Agreement Plan.

Entities applying for an Expert Services Cooperative Agreement should submit the completed form using the template below for the Existing Asset for which the Expert Services funding is being requested.

Existing Asset Information Template (2 page max per Existing Asset)	
Asset Name: _____	
Submission # ____ of _____	
Asset Location	Address, geo-location, or other identifying information for the Asset. Include the name of the jurisdiction where the Asset is located.
Asset Location Primary Census Tract Information	Identify the primary and any other census tracts that contain or adjoin the Asset.
Is the Asset located (entirely or partially) in, or adjacent to, an Historically Disadvantaged Community?	Yes or No  If yes, state which designation method are you using (see Definitions)
Asset Description	Describe the current condition, use, and operation of the Asset. Include any utilization or other descriptive and operational information available.
TIFIA-eligible Project Description	Provide project description, scope, cost, and other information, if known, sufficient to determine that the TIFIA-eligible project is a project as defined in 23 U.S.C. § 601(a)(12)  [Note: this is optional for entities applying for an Asset Scan.]
Innovative Finance or Delivery Methods being Considered	Describe the innovative financing or delivery method being evaluated to design, build, finance, operate, and/or maintain the Enhanced Asset, its governance structure, partnerships, and a brief explanation of why the applicant seeks to evaluate this approach.

### **3. Unique Entity Identifier (UEI) and System for Award Management (SAM)**

Each applicant is required to (1) be registered in SAM (<https://sam.gov/content/home>) before submitting its application; (2) provide a valid UEI in its application; and (3) continue to maintain an active SAM registration with current information at all times during which it has an active federal award or an application or plan under consideration by a federal awarding agency. The Department will not make a federal award to an applicant until the applicant has complied with all applicable UEI and SAM requirements and, if an applicant has not fully complied with the requirements by the time the Department is ready to make an award, the

Department may determine that the applicant is not qualified to receive an award and use that determination as a basis for making an award to another applicant.

#### **4. Submission Date and Times**

Applications must be submitted by 11:59 PM EST on May 10, 2024.

#### **5. Application**

Applicants must use the [Grants.gov](https://www.grants.gov) "Apply" function to apply. To submit an application through [Grants.gov](https://www.grants.gov), applicants must:

- Register in SAM at [www.sam.gov](https://www.sam.gov) and create a UEI;
- Create a [Grants.gov](https://www.grants.gov) username and password; and
- The E-business Point of Contact (POC) at the applicant's organization must also respond to the registration email from grants.gov and login at Grants.gov to authorize the POC as an Authorized Organization Representative (AOR). Please note that there can only be one AOR per organization.

Please note that the Grants.gov registration process usually takes 2-4 weeks to complete. For information and instructions on each of these processes, please see instructions at <https://www.grants.gov/applicants/applicant-faqs.html>. If interested parties experience difficulties at any point during the registration or application process, please call the Grants.gov Customer Service Support Hotline at 1(800) 518-4726, Monday- Friday from 7:00 a.m. to 9:00 p.m. EST.

Only applicants who comply with all submission instructions described in this notice and submit applications through Grants.gov will be eligible for award. Applicants are strongly encouraged to make submissions in advance of the deadline.

### **E. Application Review Information**

#### **1. Criteria**

This section discusses the criteria USDOT will use to evaluate and select applications for the IFACGP awards. These include Technical Merit Criteria, Readiness Criteria, and Policy Alignment Criteria. All criteria will be used in consensus meetings to reach a final rating for each application.

##### **a. Merit Criteria**

##### **i. Technical Merit Criteria**

Through the Technical Merit Criteria, USDOT will evaluate the extent to which the application describes a viable set of Proposed Activities that are in alignment with the goals and priorities of the Program and the Department. The Proposed Activities will be used to determine a rating for each criterion.

1. Technical Merit Criterion #1: Identification of Need. The application describes a clear and compelling need for expert services or technical assistance to enhance its capacity to facilitate and evaluate public-private partnership opportunities in which the private sector could assume a greater role in planning, development, financing, construction, maintenance, or operation through innovative financing and/or delivery methods, including through Asset Concessions.
2. Technical Merit Criterion #2: Desired Goals and Outcomes. The application clearly describes the desired goals and outcomes the applicant expects to achieve if awarded grant funding under the Program for technical assistance or expert services.
3. Technical Merit Criterion #3: Development Strategy. The application provides a well-defined strategy on how Program funds will be used to build organizational capacity to leverage public and private funding in connection with the development of at least one Existing Asset, including reasonable descriptions of implementation steps. Applicants should discuss how the public sector will be involved in the public-private partnership, including public sector oversight roles and protections in the public interest.

## ii. **Readiness Criteria**

Through the Readiness Criteria, USDOT will evaluate the extent to which the applicant will be able to substantially execute and complete the full scope of Proposed Activities in the Cooperative Agreement Plan within the period of performance (maximum 36 months). The Department retains the right to prioritize Grant Applications for selection that are most likely to proceed efficiently and be completed within the expected period of performance.

1. Readiness Criterion #1: Feasibility of Workplan. The application clearly describes a thorough and realistic workplan and procurement/hiring timeline (if applicable), demonstrates that the applicant has the ability to complete the Proposed Activities within the period of performance described. The workplan describes meaningful stakeholder engagement that provides channels for potentially impacted communities to express their concerns and meaningfully influence infrastructure decision making.
2. Readiness Criterion #2: Private Sector Investment Viability. The development of the proposed Enhanced Asset and Proposed Activities demonstrate opportunities for the private sector to assume a greater role in project development, financing construction, maintenance or operations. Private sector



involvement could occur within a time horizon no longer than five years. This criterion includes joint development viability.

3. Readiness Criterion #3: Capacity to Deliver Proposed Activities. The application demonstrates the applicant's ability to carry out the proposed scope of work based on relevant and necessary expertise and its capability to oversee and manage the procurement and management of expert services under the Program..
4. Readiness Criterion #4: Feasibility of Budget Plan. The application provides a reasonable and credible budget plan that corresponds to the proposed scope of the Cooperative Agreement Plan. If any eligible personnel costs are included in the budget, a full breakdown of the costs are provided.

#### **b. Selection Considerations: Policy Alignment**

After completing the merit review, DOT will prioritize applications that align with Administration policies and priorities related to safety, climate change and sustainability, equity, and workforce development, job quality, and wealth creation to the extent possible and consistent with law.

- i. Policy Alignment Selection Consideration: The application explains how the Proposed Activities proposed will advance USDOT strategic goals and priorities, including:
  - **Safety:** Applicants should address how their Proposed Activities and Enhanced Asset(s) provide safety benefits or assert that it will not negatively impact the overall safety of the traveling public.
  - **Climate Change and Sustainability:** Applicants should address how their Proposed Activities and Enhanced Asset(s) will consider climate change and environmental justice in the planning stage and in project delivery.
  - **Equity:** Applicants should address how their Proposed Activities and Enhanced Assets benefits will increase affordable transportation options, connect Americans to good-paying jobs, and/or improve access to resources and quality of life. Applicants should demonstrate how meaningful public engagement will occur throughout the infrastructure delivery life cycle. Applicants should address how disadvantaged communities will benefit from the Enhanced Asset and be protected from negative impacts.
  - **Workforce Development, Job Quality, and Wealth Creation:** Applicants should address how their Proposed Activities and Enhanced Asset(s) promotes community wealth building, local inclusive economic development, and entrepreneurship such as the utilization of Disadvantaged Business Enterprises, Minority-owned Businesses, Women-owned Businesses, or 8(a) firms.

**2. Review and Selection Process**

The IFACGP review and selection process will consist of an Eligibility Review, Merit Review, and Senior Review Team (SRT) review. The Under Secretary of Transportation for Policy will make the final selections for award.

**a. Eligibility Review**

For each application, an initial review will assess whether: (1) the applicant and Proposed Activities are eligible (based on eligibility information in Section C and Program Structure requirements in Section C.5(a) for Technical Assistance Grants and Section C.5(b) for Expert Services Grants); and (2) if the application contains all of the information requested in section D for a complete application. Eligible and complete applications received by the deadline will be reviewed for their merit based on the criteria and consideration in section E.1.

**b. Merit and Selection Consideration Review**

Teams comprised of Bureau staff, other USDOT staff, federal inter-agency partner staff, or contractor staff will review the Merit Criteria (Technical Merit Criteria and Readiness Criteria) and Selection Considerations (Policy Alignment Consideration) of all eligible and complete applications received by the deadline and assign ratings as described in the table below. For each criterion or consideration, the Bureau will consider whether the application narrative is responsive to the selection criterion focus areas which will result in a rating of ‘High,’ ‘Medium,’ ‘Low,’ or ‘Non-Responsive.’ In select circumstances, a criterion may be evaluated as ‘Not Applicable,’ which will not affect the overall rating in a positive or negative fashion.

<b>Rating Scale</b>	<b>High</b>	<b>Medium</b>	<b>Low</b>	<b>Non-Responsive</b>
Description	The application is substantively and comprehensively responsive to the criterion. It makes a strong case about advancing the Program goals as described in the criterion descriptions.	The application is moderately responsive to the criterion. It makes a moderate case about advancing the Program goals as described in the criterion descriptions.	The application is minimally responsive to the criterion. It makes a weak case about advancing the Program goals as described in the criterion descriptions.	The application is counter to the criterion or does not contain sufficient information. It does not advance or may negatively impact criterion goals.

Based on the eight criteria and consideration ratings, an overall application merit rating of ‘Highly Recommended,’ ‘Recommended,’ or ‘Not Recommended,’ will be assigned as a result of evaluation team consensus discussion. Applications must achieve the following criteria ratings to achieve the respective overall merit rating:

**Highly Recommended**

- At least three ‘High’ ratings, one of which is a ‘High’ rating on the Policy Alignment Consideration \,
- Zero ‘Low’ ratings, and
- Zero ‘Non-Responsive’ ratings

**Recommended**

- At least three ‘High’ or ‘Medium’ ratings,
- No more than two ‘Low’ ratings, and
- Zero ‘Non-Responsive’ ratings

**Not Recommended**

- Applications that do not meet the criteria for ‘Recommended’ or ‘Highly Recommended’ shown above

**c. Senior Review Team**

After every eligible and complete application has been assigned an overall rating based on the methodology above, all “Highly Recommended” applications will be included in a list of Applications for Consideration. The SRT will review whether the list of Applications for Consideration is sufficient to ensure that all legislative requirements such as state maximums can be met and Program funding would be fully awarded. “Recommended” applications may be added to the proposed list of Applications for Consideration until a sufficient number of applications are on the list to ensure that all the legislative requirements can be met and funding would be fully awarded. The SRT will consider the merit review of all applications when formulating the final list of recommended grant awards.

**d. Recommended Award List USDOT Under Secretary Review**

The SRT will present the list of Applications for Consideration to the Under Secretary of Transportation for Policy, either collectively or through a representative of the SRT. The SRT may advise the Under Secretary on any application on the list of Applications for Consideration, including options for reduced or increased awards, and the Under Secretary will make final selections. The Under Secretary’s selections identify the applications that best address Program requirements and merit criteria as described in this NOFO, as well as the benefits to Historically Disadvantaged Communities and Federally Recognized Tribes when selecting IFACGP awards.

## **F. Federal Award Administration Information**

### **1. Federal Award Notices**

Following the evaluation outlined in section E, the Secretary will announce selected applications by posting a list of recipients at <https://www.transportation.gov/buildamerica/innovativefinancegrants>. The posting of the list of selected award recipients will not constitute an authorization to begin performance. Following the announcement, the Department will contact the point of contact listed in the SF-424 to initiate negotiation of a grant agreement. The Department will also provide additional assistance and support resources to first-time USDOT funding recipients and those who request additional support, as appropriate.

The Bureau will notify applicants who are not selected for an award within 30 calendar days of the Department's final decisions on selections and offer a written or telephonic debrief to provide an explanation of, and guidance regarding, the reasons why the application was not approved.

The Bureau will offer an optional consultation to further explain federal requirements for subcontracting, including the 2 CFR Part 200 requirements associated with subcontracting. The consultation will assist the recipient in understanding federal subcontracting expectations and may offer valuable information for the recipient's subcontracting process.

### **2. Administrative and National Policy Requirement**

Performance under the cooperative agreement will be governed by and in compliance with the following requirements as applicable to the type of organization of the recipient and any applicable sub-recipients:

- a.** All awards will be administered pursuant to the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards found in 2 CFR § 200, Subpart F, as adopted by the Department at 2 CFR § 1201. All procurements and contracts for recipient-contracted Advisors must comply with the requirements set forth in 2 CFR § 200.317-327 and 2 CFR § 200.459, including 2 CFR Part 200 Appendix II. Written approval of the Bureau is required before any subcontract is signed. Failure to comply with the Part 200 requirements regarding contractors and failure to obtain written approval prior to subcontracting may result in costs being deemed ineligible for reimbursement. For grant recipients receiving an award, evaluation costs are allowable costs (either as direct or indirect), unless prohibited by statute or regulation, and such costs may include the personnel and equipment needed for data infrastructure and expertise in data analysis, performance, and evaluation. (2 CFR Part 200).

- b.** In connection with any program or activity conducted with or benefiting from funds awarded under this notice, recipients of funds must comply with all applicable requirements of federal law, including, without limitation, the Constitution of the United States statutory, regulatory, and public policy requirements, including without limitation, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination; the conditions of performance, non-discrimination requirements, and other assurances made applicable to the award of funds in accordance with regulations of the Department of Transportation; and applicable federal financial assistance and contracting principles promulgated by the Office of Management and Budget. In complying with these requirements, recipients must ensure that no concession agreements are denied, or other contracting decisions made on the basis of speech or other activities protected by the First Amendment. If the Department determines that a recipient has failed to comply with applicable federal requirements, the Department may terminate the award of funds and disallow previously incurred costs, requiring the recipient to reimburse any expended award funds.
- c.** Civil Rights and Title VI: As a condition of a grant award, grant recipients should demonstrate that the recipient has a plan for compliance with civil rights obligations and nondiscrimination laws, including Title VI of the Civil Rights Act of 1964 and implementing regulations (49 CFR § 21), the Americans with Disabilities Act of 1990 (ADA), and Section 504 of the Rehabilitation Act, all other civil rights requirements, and accompanying regulations. This should include a current Title VI plan, completed Community Participation Plan, and a plan to address any legacy infrastructure or facilities that are not compliant with ADA standards. USDOT's and the applicable Operating Administrations' Office of Civil Rights may work with awarded grant recipients to ensure full compliance with federal civil rights requirements.
- d.** Recipients and subrecipients are also encouraged to incorporate program evaluation including associated data collection activities from the outset of their program design and implementation to meaningfully document and measure their progress towards meeting an agency priority goal(s). Title I of the Foundations for Evidence-Based Policymaking Act of 2018 (Evidence Act), Pub. L. No. 115-435 (2019) urges federal awarding agencies and federal assistance recipients and subrecipients to use program evaluation as a critical tool to learn, to improve equitable delivery, and to elevate program service and delivery across the program lifecycle. Evaluation means "an assessment using systematic data collection and analysis of one or more programs, policies, and organizations intended to assess their effectiveness and efficiency." 5 U.S.C. § 311. Credible program evaluation activities are implemented with relevance and utility, rigor, independence and objectivity, transparency, and ethics (OMB Circular A-11, Part 6 Section 290).

### **3. Reporting**

This section discusses the reporting requirements for the IFACGP recipients.

#### **a. Reporting of Contractor Performance and Progress on Grant Activity**

Each applicant selected for grant funding must submit semi-annual Program performance reports using the Performance Progress Report (SF-PPR) and quarterly financial status using the Federal Financial Report (SF-425) to monitor progress and ensure accountability and financial transparency in the Program.<sup>3</sup>

Each applicant selected for funding must collect and report to the Department performance information on the advisory services received (if applicable). The specific performance information and reporting period will be determined on an individual basis and communicated at the kickoff meeting of the grant. It is anticipated that the Department and the grant recipient will hold quarterly progress meetings or calls during which the Department will review cooperative agreement activities, schedule, and progress toward mutually agreed upon performance targets.

#### **b. Reporting of Matters Related to Recipient Integrity and Performance**

If the total value of a selected applicant's currently active grants, cooperative agreements, and procurement contracts from all federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of this federal award, then the applicant during that period of time must maintain the currency of information reported to the SAM that is made available in the designated integrity and performance system (currently FAPIIS) about civil, criminal, or administrative proceedings described in paragraph 2 of this award term and condition. This is a statutory requirement under section 872 of Public Law 110-417, as amended (41 U.S.C. §2313). As required by section 3010 of Public Law 111-212, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance review required for federal procurement contracts, will be publicly available.

#### **c. Program Evaluation**

As a condition of grant award, grant recipients may be required to participate in an evaluation undertaken by USDOT or another agency or partner. The evaluation may take different forms such as an implementation assessment across grant recipients, an impact or outcomes analysis of all or selected sites within or across grant recipients, or a benefit/cost analysis or assessment of return on investment. USDOT may require applicants to collect data elements to aid the evaluation. As a part of the evaluation, as a

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<sup>3</sup> <https://www.grants.gov/forms/forms-repository/post-award-reporting-forms>

condition of award, grant recipients must agree to: (1) make records available to the evaluation contractor or USDOT staff; (2) provide access to Program records, and any other relevant documents to calculate costs and benefits; (3) in the case of an impact analysis, facilitate the access to relevant information as requested; and (4) follow evaluation procedures as specified by the evaluation contractor or USDOT staff.

## **G. Federal Awarding Agency Contacts**

For further information concerning this notice please contact the Bureau via email at [InnovativeFinanceTA@dot.gov](mailto:InnovativeFinanceTA@dot.gov), or call Maritza Pechin at 202-941-7491 no later than ten (10) business days prior to the NOFO closing. A TDD is available for individuals who are deaf or hard of hearing at 202-366-3993. In addition, the Bureau will post answers to questions and requests for clarifications on the Bureau's website at <https://www.transportation.gov/buildamerica/innovativefinancegrants>. To ensure applicants receive accurate information about eligibility or the Program, the applicant is encouraged to contact the Bureau directly, rather than through intermediaries or third parties, with questions. Bureau staff may also conduct briefings on the IFACGP and award process upon request.

## **H. Other Information**

### **1. Confidential Information**

All information submitted as part of or in support of any application shall use publicly available data or data that can be made public and methodologies that are accepted by industry practice and standards, to the extent possible. If the applicant submits information that the applicant considers to be a trade secret or confidential commercial or financial information, the applicant must provide that information in a separate document, which the applicant may cross-reference from the application narrative or other portions of the application. For the separate document containing confidential information, the applicant must do the following: (1) state on the cover of that document that it "Contains Confidential Business Information (CBI)"; (2) mark each page that contains confidential information with "CBI"; (3) highlight or otherwise denote the confidential content on each page; and (4) at the end of the document, indicate whether the CBI is information the applicant keeps private and is of the type of information the applicant regularly keeps private. USDOT will protect confidential information complying with these requirements to the extent required under applicable law. If the Bureau receives a Freedom of Information Act (FOIA) request for the information that the applicant has marked in accordance with this section, the Department will follow the procedures described in its FOIA regulations at 49 CFR §7. 29.

## ***2. Publication and Sharing of Application Information***

Following the completion of the selection process and announcement of awards, the Bureau intends to publish a list of all applications received along with the names of the applicant organizations and funding amounts requested. Except for the information properly marked as described in Section H.1, the Bureau may make application narratives publicly available or share application information within USDOT or with other federal agencies if USDOT determines that sharing is relevant to the respective program's objectives.

## ***3. Department Feedback on Application***

The Bureau strives to provide as much information as possible to assist applicants with the application process. The Bureau will not review applications in advance, but Bureau staff are available for technical questions and assistance with application submission.