



## **Notice of Intent No.: DE-FOA-0003055**

DISCLAIMER: The “Notice of Intent to Issue” is for informational purposes only; the Department of Energy is not seeking comments on the information in this notice and applications are not being accepted at this time. Any information contained in this notice is subject to change.

### **This is a Notice of Intent to Issue: Funding Opportunity Announcement No.: DE-FOA-0003056**

#### **Technical Assistance for the Adoption of the Latest and Zero Building Energy Codes or Standards Funding Opportunity Announcement**

The Office of State and Community Energy Programs (SCEP) intends to issue a Funding Opportunity Announcement (FOA) entitled “Technical Assistance for the Adoption of the Latest and Zero Building Energy Codes or Standards Funding Opportunity Announcement.”

SCEP anticipates funding state and local efforts to update building energy codes, or equivalent standards, and to develop effective code workforce, training, compliance and enforcement programs. This Notice of Intent (NOI) describes a preliminary plan that will evolve during the FOA development process.

#### **Statutory Authority**

On August 16, 2022, President Joseph R. Biden signed the Inflation Reduction Act (IRA) into law, making the single largest investment in addressing climate change through clean energy technologies. Recognizing all facets of our economy contribute to the climate crisis, investments needed for a clean energy future must be broad and deeply impactful. Through *Section 50131* of the IRA, *Assistance for Latest and Zero Building Energy Code Adoption*, the 117<sup>th</sup> U.S. Congress appropriated \$1 billion to facilitate the adoption and implementation of the latest model energy codes (i.e., 2021 International Energy Conservation Code (IECC) and ANSI/ASHRAE/IES Standard 90.1-2019<sup>1</sup>)<sup>2</sup>, zero energy building codes, or equivalent code or standard throughout the country. This IRA funding will support states and local governments in this effort through September 30, 2029. Specifically, this provision makes the following investments to assist states and units of local government with authority to adopt building codes:

- **\$330 million** to adopt the latest building energy code that meets or exceeds the energy savings in the 2021 International Energy Conservation Code (IECC) for residential buildings and the ANSI/ASHRAE/IES Standard 90.1–2019 for commercial buildings; and
- **\$670 million** to adopt a building energy code that meets or exceeds the zero energy provisions in the 2021 IECC code or an equivalent stretch code.

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<sup>1</sup> The IECC is developed by the International Code Council (ICC). Standard 90.1 is an American National Standards Institute (ANSI) standard developed jointly by the American Society of Heating, Refrigerating and Air-conditioning Engineers (ASHRAE) and the Illuminating Engineering Society (IES).

<sup>2</sup> This Notice of Intent refers to the 2021 IECC and ASHRAE Standard 90.1-2019 collectively as “the latest codes.”



**Cost Share:** The state cost share requirement that applies to traditional State Energy Program funding does not apply to this IRA funding.

To ensure adopted codes are successfully implemented, Section 50131 also specifies that each jurisdiction receiving grant funds must implement a plan to achieve full compliance in new and renovated residential and commercial buildings. This compliance plan must include active training and enforcement programs and measurement of the rate of compliance each year.

| <b>TABLE 1 – SUMMARY OF ANTICIPATED PROGRAM SCOPE</b>   |   |
|---|---|
| <b>Anticipated DOE Funding Amount:</b>  | <b>Projects:</b>  |
| \$317M <sup>3</sup>   | <ul style="list-style-type: none"> <li>Adoption of the Latest Codes (2021 IECC for residential buildings and 2019 ASHRAE Standard 90.1 for commercial buildings) or code or standard which will achieve equivalent or greater energy savings.</li> </ul>  |
| \$633M  | <ul style="list-style-type: none"> <li>Adoption of Zero Energy Codes: A code which meets or exceeds the zero energy provisions of the 2021 IECC for residential and commercial buildings, or a code or standard which will achieve equivalent or greater energy savings.</li> </ul>   |
| <b>Eligibility:</b>   | <b>Program Priorities:</b>  |
| <p><b>States</b></p> <ul style="list-style-type: none"> <li>State Energy Offices</li> </ul> <p><b>Localities</b></p> <ul style="list-style-type: none"> <li>Units of local government that have authority to adopt building codes</li> </ul> <p><b>Partnerships</b></p> <ul style="list-style-type: none"> <li>A state and one or more units of local government</li> <li>A state or one or more units of local government and capacity building organizations</li> </ul> | <ul style="list-style-type: none"> <li>Latest Building Energy Code Adoption</li> <li>Zero Energy Code Adoption</li> <li>Adoption of Equivalent Building Energy Standards</li> <li>Workforce Training</li> <li>Compliance Support</li> <li>Tools and Analysis</li> <li>Education and Outreach</li> <li>Implementation Support</li> </ul> |

## Background

Building energy codes establish minimum levels of energy efficiency for new and existing residential and commercial buildings. Model energy codes, such as the 2021 IECC and ASHRAE Standard 90.1-2019, are developed and updated through national consensus processes. States and local governments ultimately implement building energy codes, which is handled through various adoption, compliance, and enforcement processes and can vary widely across the United States. The implementation of building energy codes also depends on a significant number of stakeholders, including state and local government jurisdictions, building and safety departments, builders, contractors, and design professionals, as well as a number of affected community interests. Successful implementation of the latest building and zero energy

<sup>3</sup> Congress provides that DOE can use up to \$50M of the IRA funds for the administrative expenses.



codes and standards is critical to ensuring their benefits are realized in American homes and businesses.

Projects funded through the anticipated FOA are expected to:

- Improve residential and commercial new construction and major renovations through adoption of the latest building energy codes and zero energy codes
- Improve residential and commercial existing buildings through the adoption of building performance standards or other innovative building codes or standards that provide equivalent or greater energy savings
- Begin transitioning the existing building stock to more-efficient, decarbonized buildings through enforceable energy codes and building performance standards
- Increase code effectiveness through compliance monitoring, workforce training, and code enforcement
- Increase building performance standards effectiveness through consistent benchmarking, reporting, enforcement, compliance, and verified performance
- Provide capacity building support at the state and local levels to help sustain updated building energy codes and standards into the future
- Educate jurisdictions about the benefits of updated building energy codes and standards
- Improve the resilience of buildings through improved construction
- Provide meaningful benefits to communities nationwide including in disadvantaged communities

## Implementation Approach

This FOA is expected to make available up to a total of approximately \$950M in IRA funds through financial assistance for competitively selected projects spanning multiple years. Any remaining funding that is not awarded through this FOA would be released through other competitive mechanisms addressing high priority gaps and jurisdiction priorities in FY2025 or later.

Roughly one-third of the Section 50131 funds (\$317M) will support adoption of the latest codes with the remainder (\$633M) supporting zero-energy codes. Generally, IRA funds may provide technical assistance for adoption of the latest building energy code, a zero-energy code, or equivalent building codes and standards; building performance standards; workforce training; assistance with compliance and enforcement; implementation support; development of tools and analysis; and for education and outreach. The specific funding ranges for each topic area will be defined in the FOA.

It is anticipated that this FOA will use two different competitive strategies to award the funds for the latest codes and the zero-energy codes.

First, smaller awards for a limited number of pre-determined topics will be made through a streamlined competitive process. While this may not represent an exhaustive list, these awards could be limited to:

- Development of plans for adoption, implementation and compliance of building energy codes/policies with DOE Technical Assistance
- Adoption of latest codes without modification (with required implementation plans)
- Adoption of stretch codes or programs that have equivalent or greater energy savings with required implementation plans



- Adoption of latest codes with decarbonization provisions (e.g., electric-ready provisions) with required implementation plans

Applications will be required to address the requirement to implement a plan for the jurisdiction to achieve full compliance with the Latest Codes or Zero Energy Codes, as applicable, which shall include active training and enforcement programs and measurement of the rate of compliance each year. Proposals for this funding would be required to address the requirement for a compliance plan.

Second, DOE anticipates making traditional competitive awards for the following:

- Support adoption of innovative alternatives to traditional codes, such as stretch codes
- Encourage existing building approaches to reach energy savings equivalent to or greater than 90.1-2019 or 2021 IECC
- Facilitate modifications to the latest energy code or zero-energy code provisions, or similar codes and standards, to drive additional and more persistent energy savings or lead to more inclusive or equitable outcomes
- More recent versions of the code without modification (IECC 2024 and ASHRAE Standard 90.1-2022) after DOE has issued an affirmative determination of energy savings<sup>4</sup>.
- Support Building Performance Standards for existing buildings that drive energy savings verified through benchmarking

These proposals will require DOE evaluation to ensure that the proposal will provide equivalent energy savings as required by the statute. DOE anticipates that these proposals could address innovative code approaches such as:

- Building Performance Standards
- Zero-Energy policies other than the 2021 IECC Zero Energy Code Appendices
- Modifications to IECC 2021 or ASHRAE Standard 90.1-2019
- Other Innovative Building Energy Codes and Standards

Adopting a new energy code or standard in a state or local jurisdiction typically requires several steps, such as selecting a code version for adoption, engaging the applicable code making body, understanding the code changes, conducting a public review process, evaluating the potential impacts, and drafting new code language for adoption. This process can take anywhere from 6 to 18 months and requires resources to educate the decision makers and public on the proposed changes and their impacts. With this reality, DOE anticipates that a state or local jurisdiction will be eligible for an initial amount of funding by proposing a plan to adopt a qualifying code or equivalent code or standard (i.e., latest model code, zero energy code, or BPS). For the fully competitive funds (i.e., not a “pre-approved” pathway), the jurisdiction would need to provide information to show that the adopted code or standard is equivalent to qualifying codes identified in the IRA in terms of energy savings or will generate more energy savings.

A jurisdiction will be required to demonstrate progress on a regular basis to obtain continued funding and that the implementation of the statutorily required compliance plan to achieve full compliance will be required concurrent with code adoption.

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<sup>4</sup> See <https://www.energycodes.gov/determinations>



DOE anticipates the full funding would coincide with compliance with the newly adopted code or standard and that there would be a funding incentive toward the end of the process to help support states and local jurisdictions during the entire code development, adoption, and implementation cycle.

The IRA requires that a jurisdiction implement a plan to achieve “full compliance” with the adopted energy code or equivalent standard. This provision does not refer to the stringency of the code adopted by a state or local government; instead, this refers to the degree to which that jurisdiction ensures buildings comply with the adopted code. DOE notes, also, that the jurisdiction must *implement* the compliance plan or standards – not simply develop one. Applications must provide steps the jurisdiction will take to develop and implement the compliance plan. The jurisdiction must then *implement* the compliance plan within the term of the award. The compliance plan must include active training and enforcement programs and measurement of the compliance rate each year.<sup>5</sup> In the case of BPS, benchmarking and energy performance data could be a streamlined process to achieve compliance. In addition, DOE regularly assesses the impacts of state code updates, and has established means of evaluating state and local energy codes, including relative to the model codes. States and local governments are encouraged to review these procedures and should plan to work with DOE to evaluate the impact of their adopted codes or standards.<sup>6</sup> DOE has requested information regarding aspects of the compliance plans for development of the FOA in a contemporaneous Request for Information.<sup>7</sup>

DOE envisions that the FOA will solicit applications that present plans with detailed timetables. DOE anticipates that only the first 1-2 years will be funded initially for selected applicants and additional funding for subsequent phases will be released based on successful completion of Go/No-Go decisions. DOE will review and evaluate progress and deliverables against expected milestones. Projects may be discontinued during or at the end of any phase at the sole discretion of DOE if the Go/No-Go criteria, project, or program requirements are not met.

More details on activities and deliverables likely expected to be completed in each phase will be provided in the FOA or during pre-award and pre-phase negotiations. Phase lengths and specific scope may be adjusted based on the readiness and status of the proposed project and applicant team, as well as the project specifics (e.g., retrofit versus new construction).

Achieving DOE’s broad end goals will necessitate review and evaluation of proposed project characteristics that include cost, schedule, and scope; technology; energy reductions; environmental; business; market; financial; management; community support; or other factors. Each funded project must address how the rate of compliance will be measured on an annual basis and must include an active training and enforcement program to be implemented upon code adoption. Projects will be structured to ensure that technical and non-technical project risk is adequately and appropriately managed throughout DOE’s engagement.

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<sup>5</sup> See [Technical Assistance for the Adoption of Building Energy Codes | Department of Energy](#) contemporaneous RFI discussion on Implementation Plan and Full Compliance.

<sup>6</sup> <https://www.energycodes.gov/state-portal>

<sup>7</sup> [Technical Assistance for the Adoption of Building Energy Codes | Department of Energy](#)



## Topic Areas

### Eligible entities

The State Energy Offices for the 50 states, the District of Columbia, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands are eligible to apply for these IRA funds. In addition, units of local government that have authority to adopt building codes may apply for these IRA funds. Any unit of local government applying for funds will be required to provide, as part of its application for funds, a declaration of the applicant's authority to adopt building codes. In addition, DOE encourages partnerships amongst states, local governments, and other supporting entities that enable building code adoption. While partnerships are not required as part of the IRA funding, DOE does understand their value to states and local governments.

### Equivalent codes

States may apply for funds to adopt codes other than the latest codes enumerated in the IRA; however, codes either must provide equivalent or greater energy savings to the latest codes or must be "an equivalent stretch code" to the zero energy provisions of the 2021 IECC. Codes may be traditional energy codes, building energy standards, or building performance standards that meet the statutory criteria for energy savings. To qualify, a "code or standard" must be implementable, verifiable, and able to be enforced. Voluntary standards or policy goals will not qualify.

Codes can apply to new or existing buildings (residential and commercial). When evaluating equivalency of a code for an existing building, DOE would consider the energy savings from updating new buildings to the latest energy codes (e.g., 2021 IECC for residential buildings and Standard 90.1-2019 for commercial buildings) along with the applicable new construction floor space to which that new code would have applied. An innovative building code that includes existing building or building performance standard would need to require modifications to existing building stock that achieved the equivalent or greater energy savings.

State and local governments are often referred to as "laboratories of democracy," and they are often leaders in policy innovation. They provide ideal test beds for small-scale implementation of untried methodologies allowing widespread implementation once proven. Improvements in existing building performance saves consumers money and makes living environments more comfortable and healthier and reduces emissions. Local entities with authority to adopt building codes and standards can serve as a catalyst for zero energy buildings, with cities and other local governments historically leading the way on innovative codes, like zero-energy stretch codes, building performance standards (BPS), and others. For example, Denver, Colorado committed to net-zero homes and commercial buildings by 2024 and 2027, respectively, through regular updates to their energy code. Additionally, local governments are helping to pave the way to decarbonize our existing building stock through BPS. Thirty-eight (38) local governments and three states have joined the National BPS Coalition with a commitment to adopt a BPS by Earth Day 2024.<sup>8</sup> Accordingly, DOE encourages eligible entities, particularly local governments, to consider innovative approaches to improving the efficiency of existing building stock.

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<sup>8</sup> <https://nationalbpscoalition.org/>





## Program Priorities

Section 50131 of the IRA is intended to assist states and units of local government that have authority to adopt building codes to:

- Adopt the latest building energy code or a zero-energy code (or equivalent energy code or standard)  
AND
- Ensure that every project funded implements a plan to achieve full compliance with that code through active training and enforcement programs and annual measurement of compliance

In addition to these priorities, programmatic considerations for evaluating applications may include several standard components and criteria which are typical of the federal financial assistance process, including **technical merit and sustainable impact, workplan, project team and partners, and a community benefits plan.**

To support the goals of building a clean and equitable energy economy, DOE will require applications to address how the jurisdiction will:

- Support meaningful community and labor engagement;
- Invest in America's workforce and support good jobs;
- Advance diversity, equity, inclusion, and accessibility; and,
- Contribute to the President's goal that 40% of the overall benefits of certain federal investments flow to disadvantaged communities (the Justice40 Initiative)<sup>9</sup>

All applicants are encouraged to partner with experts in technical engineering support or analysis, lifecycle analysis, and/or community benefits if none exist within the applicant's team.

Additional details on Selection Criteria will be provided in the FOA.

## Submission and Registration Requirements for Full Application

SCEP envisions awarding multiple financial assistance awards in the form of cooperative agreements or grants. The FOA will be released on or about October 2023.

This Notice is issued so that interested parties are aware of SCEP's intention to issue this FOA in the near term. All the information contained in this Notice is subject to change. **SCEP will not accept questions at this time regarding issuance of the potential FOA. Details on how to submit questions and comments will be provided in the FOA, when issued.**

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<sup>9</sup> The Justice40 initiative, established by section 223 of EO 14008, sets a goal that 40% of the overall benefits of certain federal investments flow to disadvantaged communities. Pursuant to E.O. 14008 and the Office of Management and Budget's Interim Justice40 Implementation Guidance M-21-28, DOE has developed a definition and tools to locate and identify DACs. These resources can be located at <https://energyjustice.egs.anl.gov/>. DOE will also recognize DACs as defined and identified by the White House Council of Environmental Quality's Climate and Economic Justice Screening Tool (CEJST), which can be located at <https://screeningtool.geoplatform.gov/>. DOE's Justice40 Implementation Guidance is located at <https://www.energy.gov/sites/default/files/2022-07/Final%20DOE%20Justice40%20General%20Guidance%20072522.pdf>.

**This is a Notice of Intent only. SCEP may issue a FOA as described herein, may issue a FOA that is significantly different than the FOA described herein, or may not issue a FOA at all.**



SCEP plans to issue the FOA via the Clean Energy Infrastructure (S3) Funding Opportunity eXCHANGE website <https://infrastructure-exchange.energy.gov/>. If applicants wish to receive official notifications and information from SCEP regarding this FOA, they should register in S3 eXCHANGE. When the FOA is released, applications will be accepted only through S3 eXCHANGE.

In anticipation of the FOA being released, applicants are advised to complete the following steps, which are required for application submission:

- Register and create an account in S3 eXCHANGE at <https://infrastructure-exchange.energy.gov/>. This account will allow the user to apply to any open S3 and SCEP FOAs that are currently in S3 eXCHANGE.

To access S3 eXCHANGE, potential applicants will be required to have a [Login.gov](https://login.gov/) account. As part of the eXCHANGE registration process, new users are directed to create an account in [Login.gov](https://login.gov/). Please note that the email address associated with Login.gov must match the email address associated with the eXCHANGE account. For more information, refer to the eXCHANGE Multi-Factor Authentication (MFA) Quick Guide in the [Manuals section](#) of eXCHANGE.

It is recommended that each organization or business unit, whether acting as a team or a single entity, use only one account as the contact point for each submission. Questions related to the registration process and use of the S3 eXCHANGE website should be submitted to: [InfrastructureExchangeSupport@hq.doe.gov](mailto:InfrastructureExchangeSupport@hq.doe.gov)

- Please note that potential applicants must create an account in S3 eXCHANGE even if the organization has already registered for an S3 eXCHANGE account. It is recommended that each organization or business unit, whether acting as a team or a single entity, use only one account as the contact point for each submission.

Questions related to the registration process and use of the S3 eXCHANGE website should be submitted to: [InfrastructureExchangeSupport@hq.doe.gov](mailto:InfrastructureExchangeSupport@hq.doe.gov)

- Register with the System for Award Management (SAM) at <https://www.sam.gov>. Designating an Electronic Business Point of Contact (EBiz POC) and obtaining a special password called a Marketing Partner Identification Number (MPIN) are important steps in SAM registration. Please update your SAM registration annually. Upon registration, SAM will automatically assign a Unique Entity ID (UEI).
- Register in FedConnect at <https://www.fedconnect.net/>. To create an organization account, your organization's SAM MPIN is required. For more information about the SAM MPIN or other registration requirements, review the FedConnect Ready, Set, Go! Guide at [https://www.fedconnect.net/FedConnect/Marketing/Documents/FedConnect\\_Ready\\_Set\\_Go.pdf](https://www.fedconnect.net/FedConnect/Marketing/Documents/FedConnect_Ready_Set_Go.pdf)
- Register in Grants.gov to receive automatic updates when amendments to a FOA are posted. However, please note that applications will not be accepted through Grants.gov. <http://www.grants.gov/>. All applications must be submitted through S3 eXCHANGE.