



CREATING GOOD JOBS, A CLEAN ENVIRONMENT, AND A FAIR AND THRIVING ECONOMY

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**Response to the U.S. Federal Highway Administration’s Request for Comment on the National Electric Vehicle Infrastructure Formula Program Notice of Proposed Rulemaking**

**Docket Number: FHWA-2022-0008**

The BlueGreen Alliance unites America’s largest labor unions and environmental organizations to solve today’s environmental challenges in ways that create and maintain quality jobs and build a stronger, fairer economy. Our partnership is firm in its belief that Americans don’t have to choose between a good job and a clean environment—we can and must have both. We appreciate the opportunity to comment on the Notice of Proposed Rulemaking for the National Electric Vehicle Infrastructure (NEVI) Formula Program. The NEVI Formula Program represents a historic federal investment in curbing greenhouse gas and local air pollution from motorized transportation. We hope to see a successful NEVI Formula Program rollout that contributes to a safe, reliable, and nationwide network of union-made, installed, and maintained charging infrastructure that maximizes benefits for workers and disadvantaged communities. We look forward to supporting FHWA in its efforts to guide state-level deployment of funds through our comment on this rulemaking, and through any other future opportunities to shape the NEVI Formula Program.

**Strong Labor Provisions in the NPRM for the NEVI Formula Program**

Earlier this year, BGA published a report, [\*The National Electric Vehicle Infrastructure Program: Recommendations for State EV Infrastructure Deployment Plans\*](#), which urges State Departments of Transportation to codify robust labor provisions into their State

EV Infrastructure Deployment Plans.<sup>1</sup> The report lays out how building a safe, reliable, equitable, and accessible network of EV chargers necessitates a robust and diverse workforce that is compensated with good wages and benefits, is well-trained, and has the free and fair choice to join a union. Our report demonstrates that protecting and uplifting the workers who will make the NEVI Formula Program a physical reality is not at odds with rapid deployment and installation of EV charging infrastructure, but a precursor to it. This report, which has been circulated widely among State Departments of Transportation, is also included in our comment submission. Moreover, its recommendations on how states can support workers in the deployment of the NEVI Formula Program closely dovetail with those laid out in the NEVI Formula Program Guidance and this NPRM.

In particular, BGA is pleased to see FHWA's commitment to workers made explicit through the following proposed rules and recommendation in the NPRM:

- The application of strict Buy America requirements with judicious use of waivers for EV charging projects;
- The requirement that, with the exception of apprentices, all electricians installing, maintaining, and operating EV charging infrastructure be certified through the Electric Vehicle infrastructure Training Program (EVITP);
- The requirement that states make proper use of apprentices who are enrolled in Registered Apprenticeship Programs; and
- The recommendation that states expand pre-apprenticeship programs with an emphasis on recruitment from disadvantaged communities and communities historically underrepresented in the trades.

The importance and feasibility of these rules and recommendations are discussed below.

### ***Buy America***

The NPRM's emphasis on the use of American-made charging infrastructure is consistent with Office of Management and Budget (OMB) implementation guidance on the Bipartisan Infrastructure Law's Build America, Buy America Act, which confirmed that U.S.-made components must constitute 55% of the total cost of each BIL-funded

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<sup>1</sup> BlueGreen Alliance, "The National Electric Vehicle Infrastructure Program: Recommendations for State EV Infrastructure Deployment Plans," July 2022. Available Online: <https://www.bluegreenalliance.org/resources/the-national-electric-vehicle-infrastructure-nevi-program-recommendations-for-state-ev-infrastructure-deployment-plans/>.

EV charger, and that final assembly must occur in the United States.<sup>2</sup> This emphasis is also consistent with guidance and messaging for other BIL-funded transportation programs, including the U.S. Department of Transportation (DOT) Multimodal Project Discretionary Grant Program guidance, which states that all recipients are “expected to be able to complete their project without needing a [Buy America] waiver.”<sup>3</sup> Moreover, the Biden administration has emphasized the importance of deploying domestically manufactured EV charging infrastructure as one pathway by which federal dollars can create and protect good union jobs manufacturing the technologies of the future.<sup>4</sup> It is clear that agencies and the White House alike are aligned in their efforts to establish a robust domestic supply chain for EV charging infrastructure. Strict state enforcement of Buy America requirements helps strengthen this domestic supply chain by creating reliable demand for U.S.-produced goods that will support critical transportation infrastructure, such as EV chargers, well into the future.

EV charging manufacturers are already responding to this clear messaging from the federal government by working to make their technologies Buy America compliant. EV charger manufacturers and providers including Tritium, FreeWire, Blink Charging, and JuiceBar have all claimed their products and services’ compliance with Buy America requirements; and the availability of Buy America compliant EV chargers will only continue to grow with increased demand. FHWA should support State DOTs to capitalize on this opportunity to help build a resilient domestic supply chain for EV chargers—and create good manufacturing jobs—by using their NEVI Formula Program funds to purchase Buy America compliant EV charging infrastructure. Beyond the significant employment benefits for the workers who will build the technology, and the economic benefits to the communities where chargers are built, establishing a robust domestic supply chain for EV chargers reduces U.S. vulnerability to global supply chain disruptions; by buying U.S.-made chargers, states will be able to secure the charging infrastructure they need quickly and reliably, to their particular needs and specifications. The COVID-19 pandemic’s catastrophic impact on globalized supply chains has made the

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<sup>2</sup> White House Office of Management & Budget, “Interim Implementation Guidance for the Justice40 Initiative,” 2021. Available Online: <https://www.whitehouse.gov/wp-content/uploads/2021/07/M-21-28.pdf>

<sup>3</sup> US Department of Transportation, “Notice of Funding Opportunity for the Department of Transportation’s Multimodal Project Discretionary Grant Opportunity,” 2022. Available Online: [https://www.transportation.gov/sites/dot.gov/files/2022-03/FY22%20Multimodal%20Project%20Discretionary%20Grant%20-%20NOFO\\_final\\_0.pdf](https://www.transportation.gov/sites/dot.gov/files/2022-03/FY22%20Multimodal%20Project%20Discretionary%20Grant%20-%20NOFO_final_0.pdf).

<sup>4</sup> White House, “Executive Order on Ensuring the Future Is Made in All of America by All of America’s Workers,” January 2022. Available Online: <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/25/executive-order-on-ensuring-the-future-is-made-in-all-of-america-by-all-of-americas-workers/>.

benefits of localized supply chains starkly clear.<sup>5</sup> Strengthening EV charger domestic supply chains can increase the reliability and speed of obtaining parts needed for EV charging station installations and repairs. By obtaining important EV charging infrastructure domestically, EV charging station installers can rely on U.S. manufacturers to produce necessary parts and components for repairs and maintenance.

### ***The Electric Vehicle Infrastructure Training Program (EVITP)***

EVITP builds on the existing knowledge of experienced electricians and trains them to safely install, maintain, and operate EV charging infrastructure.<sup>6</sup> By requiring the use of EVITP-certified electricians, states can ensure that a qualified workforce is installing and maintaining critical transportation infrastructure that more and more drivers will rely on for their mobility needs, and that NEVI Formula Program funds are promoting quality, high-skill jobs.

EVITP is the only training program supported by automakers, unions, utilities, and the EV charging industry to provide the necessary knowledge to safely install EV charging infrastructure; as of the time of this writing, there are no equivalents in scale or industry buy-in. Crucially, it is a brand-neutral, non-profit organization that uses registration fees to cover the costs of running the training. Barriers to accessing the program are extremely low once an electrician has been licensed or received equivalent certification. The program is readily available to all licensed electricians, or electricians with over 8,000 hours of experience, in all 50 states. The fee to participate in the program is \$275 per person—a cost often absorbed by the contractors who themselves require the training—and entails 18-20 hours of coursework and a final exam.<sup>7</sup> In California, where the training program is already required for electricians installing state-funded infrastructure, EVITP is available asynchronously online.<sup>8</sup> By prioritizing safe installation and creating a demand for EVITP certified electricians, California’s state EVITP requirement has made it feasible for EVITP to offer the training online, further increasing accessibility for electricians across the state. The staff at EVITP have the capacity to

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<sup>5</sup> White House, “Biden-Harris Administration Issues Proposed Buy American Rule, Advancing the President’s Commitment to Ensuring the Future of America is Made in America by All of America’s Workers,” July 2021. Available Online: <https://www.whitehouse.gov/cea/written-materials/2021/06/17/why-the-pandemic-has-disrupted-supplychains/>.

<sup>6</sup> California Energy Commission, “NECA Comments on EVITP,” August 2020. Available Online: <https://efiling.energy.ca.gov/GetDocument.aspx?tn=234198&DocumentContentId=67038>.

<sup>7</sup> CALeVIP, “Learn How to Get Certified for Electric Vehicle Charger Installations Webinar,” October 2021. Available Online: <https://go.energycenter.org/CALeVIP-SDC-EVITP-webinar-2020-10.html?source-medium=CALeVIP-outrreach>.

<sup>8</sup> California State Legislature, “Assembly Bill No. 841,” October 2020. Available Online: [https://leginfo.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200AB841](https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB841).

expand EVITP training, including the online component, to other states, but have only done so in California due to the state requirement. Finalizing the NPRM's EVITP requirement may make this virtual option possible in more states.

### ***Proper Use of Apprentice Electricians***

Apprenticeships provide electricians with the paid on-the-job training and hands-on experience needed to effectively and safely perform their work—all under the guidance of one or more experienced electricians. They also ensure a reliable pipeline of trained workers who will be ready to service the critical transportation infrastructure of the future.<sup>9</sup> Without a specific effort to develop and support strong apprenticeship programs, states are more vulnerable to workforce shortages. Registered Apprenticeship Programs serve to mitigate the numerous risk factors associated with skilled craft labor shortages in the immediate and long terms, which helps ensure that EV drivers have reliable, frequent, and continuous access to EV charging infrastructure no matter where they are driving.

Moreover, the proper utilization of Registered Apprenticeship Programs can support diversity in the EV workforce. One study found that over half of surveyed EV industry stakeholders in California highlighted access to apprenticeship and training as an important pathway by which high quality EV infrastructure jobs could be created in priority communities. Many also noted that collaborating with unions to develop these training pathways supported having a diverse trained workforce to support new EV charging infrastructure.<sup>10</sup> Communities see stronger job growth from investments in local and customized job training programs.<sup>11</sup> The NEVI Formula Program provides an opportunity for states to build up localized workforces that will be ready to service the EV charging infrastructure funded by the program, as well as all the future EV charging infrastructure that will be needed as more drivers and fleets adopt EVs. By directing program funding to contractors who are making proper utilization of Registered Apprenticeship Programs, states help ensure that the employment benefits from the

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<sup>9</sup> Council of State Governments, "The Future of Apprenticeship: Inclusion, Expansion, and the Post-Pandemic World of Work," September 2021. Available Online: [https://seed.csg.org/wp-content/uploads/2021/10/Accessible-Apprenticeships\\_FINAL.pdf](https://seed.csg.org/wp-content/uploads/2021/10/Accessible-Apprenticeships_FINAL.pdf).

<sup>10</sup> Electric Transportation Community Development Corporation, "Workforce Projections to Support Battery Electric Vehicle Charging Infrastructure Installation," 2021. Available Online: <https://etcommunity.org/assets/files/Workforce-ProjectionstoSupportBatteryElectricVehicleChargingInfrastructureInstallation-Final202106082.pdf>.

<sup>11</sup> Center on Budget and Policy Priorities, "Helping Manufacturing-Intensive Communities: What Works?" May 2018. Available Online: <https://www.cbpp.org/research/full-employment/helping-manufacturing-intensive-communities-what-works>.

NEVI Formula Program are reaching local workforces and disadvantaged communities that are often targeted for recruitment by Registered Apprenticeship Programs.

States that require proper utilization of apprentices have already begun to realize the long-term benefits of such commitments to diverse and unionized workforces.

- In Spokane, Washington, 15% of labor hours on public works projects costing over \$600,000 need to be completed by apprentices, and 10% of apprentices should be veterans, women, minorities, and residents of empowerment communities the city has identified. The 15% apprentice utilization requirement also applies to subgrantees of over \$100,000.<sup>12</sup>
- In California, the apprentice utilization rate for such projects is 20%.<sup>13</sup> Public works projects in Los Angeles require that 50% of apprentice hours are completed by local residents. The city has also identified target zip codes with lower median incomes and higher unemployment rates for local hires.<sup>14</sup>
- The Construction Career Pathways Project in Oregon also recommends a minimum of 20% of total work hours in each apprenticeable trade shall be performed by state registered apprentices.<sup>15</sup>

Despite their vast presence across the country, Registered Apprenticeship Programs are largely oversubscribed by aspiring electricians seeking the long-term stability and benefits of this lucrative career. The programs only accept students according to the availability of confirmed jobs and contracts on which they can train; more contracts that require the proper use of apprentice electricians means that Registered Apprenticeship Programs can immediately expand their enrollment capacity to accommodate more students. The NPRM requirement of the use of at least one apprentice electrician per project requiring more than one electrician is a clear way to build a deep pipeline of skilled electrical workers while ensuring that Registered Apprenticeship Programs can connect their students with real on-the-job learning opportunities.

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<sup>12</sup> Spokane City, "Public Works Apprentice Program." Available Online: <https://my.spokanecity.org/business/bid-and-design/apprentice-program/>.

<sup>13</sup> California Labor Code, Section 1777.5. Available Online: [https://leginfo.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=LABandsectionNum=1777](https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=LABandsectionNum=1777).

<sup>14</sup> City of Los Angeles Department of Public Works, "Targeted Hiring Guidelines for Contractors," 2020. Available Online: <https://bca.lacity.org/Uploads/hiring/Targeted%20Hiring%20Guidelines%20For%20Contractors.pdf>.

<sup>15</sup> University of Oregon Labor Education and Research Center, "Constructing a Diverse Workforce: Examining Union and Non-Union Construction Apprenticeship Programs and Their Outcomes for Women and Workers of Color," 2021. Available Online: [https://www.oregon.gov/odot/equity/Documents/Research%20Report%20LERC%20Report%20Constructing\\_A\\_Diverse\\_Workforce.pdf](https://www.oregon.gov/odot/equity/Documents/Research%20Report%20LERC%20Report%20Constructing_A_Diverse_Workforce.pdf).

## ***Pre-Apprenticeship Programs***

For youths and adults looking to build careers as electricians, quality pre-apprenticeships provide an opportunity to build the skills and baseline knowledge needed to prepare for a Registered Apprenticeship Program, as well as the opportunity to connect with one. Quality pre-apprenticeship programs are linked to union registered apprenticeship programs and can be particularly useful tools for diversifying the clean transportation workforce, particularly when they are embedded within disadvantaged communities and developed in partnership with local community organizations.<sup>16</sup> As highlighted in the NPRM, pre-apprenticeship programs are often designed, developed, and sited with the particular intention to increase career opportunities for disadvantaged and underrepresented communities.

Particularly when formally connected with Registered Apprenticeship Programs, pre-apprenticeship programs are stepping stones that set young people and adults making professional transitions on long-term and stable career pathways. States looking to establish a reliable and diverse pipeline of workers ready to build, install, and maintain EV charging stations should support the development of these pre-apprenticeship programs. FHWA urges states to consider these benefits, and encourage the expansion of pre-apprenticeship programs. We support this advisement, and urge FHWA to work with the Joint Office to ensure that states utilization of quality pre-apprenticeship programs (or lack thereof) is noted in the State EV Infrastructure Deployment Plan review process. Where appropriate, the Joint Office should point states to opportunities to integrate pre-apprenticeship programs into their workforce training and community outreach efforts.

### **Opportunities to Firm Up the NEVI Formula Program's Labor Provisions**

BGA has also identified opportunities where the FHWA NPRM could stretch further to support the workers who will bring the NEVI Formula Program online. These recommendations strengthen the NPRM reporting requirements on workforce impacts and community engagement:

- Require states to annually submit workforce impact assessments that measure longitudinal workforce information on number of jobs, quality of jobs, wages and

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<sup>16</sup> United States Department of Labor, "Explore Pre-Apprenticeship." Available Online: <https://www.apprenticeship.gov/employers/explore-pre-apprenticeship>.

benefits, union status, utilization of project labor agreements/community benefits agreements/community workforce agreements, utilization of training and Registered Apprenticeship Programs, utilization of diverse hiring practices, etc.

- Apply minimum standards to community engagement outcomes reports to ensure that states interweave workforce opportunities into their community engagement/public participation/demonstration efforts.

### ***Workforce Impact Assessments***

Procurement requirements represent one of the main policy levers states may creatively utilize to both ensure successful implementation of the NEVI Formula Program, and track its workforce and economic impacts over time. Given the significant potential workforce impact of the NEVI Formula Program, through its reporting requirements, FHWA should require contractors utilizing NEVI Formula Program funds to provide robust longitudinal workforce information on, at minimum:

- Number of jobs created, supported, or eliminated by the NEVI Formula Program
- Job quality metrics
- Wages and benefits
- Union status
- Utilization of project labor agreements/community benefits agreements/community workforce agreements
- Utilization of training and Registered Apprenticeship Programs
- Description of diverse hiring practices

Workforce impact assessments should be supplied to FHWA and the Joint Office at least annually.

By requiring all contractors to report workforce information, states can make more informed assessments in selecting contractors according to their projected impact on the local workforce and economy. These workforce impact assessments may particularly support state efforts to fulfill the Justice40 Initiative requirements – and FHWA and the Joint Office’s efforts to enforce them. Moreover, this data would be a valuable addition to the public EV charging database required by the Bipartisan Infrastructure Law.



Pursuant to robust annual workforce impact assessments, FHWA and the Joint Office may propose the following compilation of sample questions for states to include in their contract processes and requests for funding proposals (RFPs).<sup>17</sup>

- Has your project secured a CBA or PLA?
- Please describe any CBA or PLA your project has secured or will secure.
- Does your project ensure that all workers manufacturing, installing, maintaining, and operating the charging equipment have a free and fair choice to join a union?
- Will your workforce be paid a prevailing hourly wage rate?
- Please describe the new jobs being created by your project.
- Please describe the share of your workforce that includes apprentices or skilled journeypersons, veterans, and residents of disadvantaged communities as determined by the Justice40 initiative.
- Will the project be built and maintained under a Responsible Contractor Policy that includes affirmative performance, labor, environmental, and safety standards along with transparency and whistleblower protections?
- Will jobs created by the project offer pay, benefits, and career opportunities consistent with area standards for conventional internal combustion engine (ICE) vehicle jobs?
- Will the developer and Engineering, Procurement, and Construction (EPC) contractor partner with Registered Apprenticeship Programs to train and employ workers who work in conventional energy and/or come from environmental justice communities?
- Will the developer and Engineering, Procurement, and Construction (EPC) contractor work with local stakeholders, including labor unions, to maximize use of the local workforce to build and maintain the project?

### ***Workforce Opportunities & Community Engagement***

FHWA requires states to annually submit community engagement outcomes reports to illustrate efforts to seek input from and educate communities on the progress of the NEVI Formula Program in their state. Strong community engagement efforts are critical: EV chargers funded by the NEVI Formula Program may represent many communities' first experiences with EV charging infrastructure, particularly in low-income and rural

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<sup>17</sup> Clean Power Alliance, "Appendix K: Qualitative Selection Criteria Questionnaire," 2020. Available Online: <https://cleanpoweralliance.org/request-for-offer-rfo/>.

regions with limited EV penetration.<sup>18</sup> For these communities, the workforce opportunities that come with the deployment of EV charging infrastructure may also be new. This makes community engagement that incorporates workforce outreach of utmost importance to ensure that states are maximizing public awareness of the availability of EV chargers, and seeding a localized workforce for the installation and maintenance of those chargers. As states are offering demonstrations, planning sessions, and other public and stakeholder events, they should capitalize on these opportunities to showcase employment and workforce development potential. For example, New York City is working with community partners to offer free introductory training on EV charging stations. This training does not replace Registered Apprenticeship Programs or EVITP, but is an introduction to EV charging stations and can expose residents to career options working on EV charging infrastructure.<sup>19</sup>

There is a wide array of jobs that community members can work in to support the NEVI Formula Program; efforts to connect community members with these jobs should be documented by states and submitted to FHWA and the Joint Office as a critical component of community engagement outcomes reports. Collecting this information will contribute to deepening local workforce pipelines for states, encourage state interagency collaboration and engagement with labor organizations, and allow the Joint Office to collect best practices for workforce development based on reported outcomes.

**We strongly encourage FHWA to finalize these critical rules and recommendations.**

The task of rolling out the NEVI Formula Program has placed state DOTs on a steep learning curve. As their staffs balance a range of considerations, requirements, and coordination needs falling outside of their typical purview, they will look to FHWA and the Joint Office for guidance, including on how they can quickly build a reliable, trained, and local workforce to support the rapid deployment of a relatively nascent infrastructure technology.

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<sup>18</sup> Clean Energy Transition Institute, “Ensuring an Equitable Electric Vehicle Future,” September 2019. Available Online: <https://www.cleanenergytransition.org/post/ensuring-an-equitable-electric-vehicle-future>.

<sup>19</sup> Canary Media, “EV chargers down? ChargerHelp is training a diverse workforce to fix them,” February 2022. Available Online: <https://www.canarymedia.com/articles/ev-charging/ev-chargers-down-chargerhelp-is-training-a-diverse-workforce-to-fix-them>.