

Sustainable Manufacturing, Advanced Research and Technology (SMART) Wind Consortium Eligibility Criteria for Foreign-Owned Companies

In consideration of goals of the Advanced Manufacturing Technology Consortia (AMTech) program with the U.S. Department of Commerce National Institute of Standards and Technology (NIST) as well as Congressional guidance in the Omnibus Trade and Competitiveness Act of 1988 (P.L. 100-418, codified in 15 U.S.C. 278n), as later amended by the American Technology Preeminence Act of 1991 (P.L. 102-245), the Distributed Wind Energy Association has established minimum requirements for non-U.S. headquartered OEMs interested in partnering in the SMART Wind Consortium and Roadmap development efforts. This policy applies to all foreign-owned companies, including companies incorporated or organized in the United States with a parent company incorporated in another country, in order to ensure net broad-based economic benefits to the United States.

In order to play an active role in SMART Wind Subgroup discussions and Roadmap development, a foreign-owned equipment supplier is expected to both be DWEA members ([Industry level](#) or higher) and have substantial U.S. domestic content, at least 40% of total installed costs with a goal of increasing above 50-60% through the project, to help open new opportunities and markets for U.S. component suppliers, installation and maintenance personnel.

For most suppliers U.S. content varies depending upon the location of the system (within the U.S. or outside the U.S.) since shipping, installation, commissioning, dealer/developer margins, and other soft costs represent a significant portion of the total installed costs seen by the end customer. DWEA is primarily concerned with the domestic content of systems installed in the U.S., but over time would like to see more parts sourced from the U.S. even for projects installed overseas.

In considering the national policies of the country in which a parent company is incorporated, in order to serve on the project's Steering Group, a foreign-owned company must demonstrate that its participation is in the economic interest of the U.S., including evidence that its country of incorporation provides:

- U.S.-owned companies opportunities in the foreign parent country comparable to those provided to any other company to participate in programs similar to AMTech. This requirement looks to whether similar programs to AMTech exist in the parent country and whether U.S.-owned firms are allowed to participate under the same conditions as domestic firms. Rules on eligibility and participation of U.S. firms may be considered.
- U.S.-owned companies local investment opportunities in the foreign parent country comparable to those provided to any other company. This requirement focuses on the opportunities for U.S.-owned companies to make investments in the parent country under the same conditions as domestic firms, including mergers, acquisitions, and other forms of investment in all sectors of the economy. Laws, regulations, and any informal barriers to entry may be considered.
- Adequate and effective protection in the foreign parent country of the intellectual property rights of U.S.-owned companies. This requirement pertains to whether the parent country adequately and effectively protects the intellectual property rights (i.e., patents, trademarks, copyrights) of U.S.-owned companies. Enforcement procedures and process for dispute settlement of infringement cases may be considered.

For reference, foreign eligibility for the NIST Advanced Technology Program is discussed at: <http://www.atp.nist.gov/eao/ir-6099/contents.htm>.