



# Environmental Justice Discussion

Sustainability is our business

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# Why are Social & Environmental Justice Topics Important Now?

Flying under the radar might no longer be an option. There also could be material losses and gains, and IT IS THE RIGHT THING TO DO!

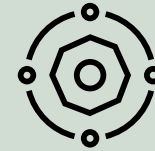
## Influence & Reach



Greater **access to information**, **increased ability to influence** projects through **technology** and **social media**.

- Rising concerns about public health effects and environmental impacts.
- Advocacy and activism has a broader reach.
- Increased public and investor scrutiny.

## Scope of Concern



Stakeholder concerns can be **outside the scope** of current regulations.

- Greater public expectations.
- Evolving state EJ guidelines.

## Material Risks



Stakeholder **concern and potential activism can create material risks**.

- Ability to obtain permits / licenses / NFAs / easements
- Ability to sell or transfer property and/or secure commercial contracts
- Reputation

# What are others thinking about EJ? Why is it important to them?

- What are landowners, nearby residents and others in the community thinking, talking about?
- Who are the influencers?
- What are the priorities elected and other public officials are trying to balance?
- What does the community need?
- What are regulators expecting?
- What is the social media chatter?
- Who is supportive/who is frustrated?
- What is their message?
- How can people get answers?



# EJ Guidelines – Gaining Traction, Changing

**Environmental justice (EJ) is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation and enforcement of environmental laws, regulations and policies.**

*United States Environmental Protection Agency*

- January 2022, U.S. EPA announced **increased scrutiny** around air and water quality regulation, as communities of color are **disproportionately impacted by pollution**.
- Since then, **attention to EJ issues has greatly increased** and agency approaches/expectations have continued to evolve and are being applied more broadly (to existing, not just new facilities).
- In some cases, **state regulations are moving at a faster pace** than federal legislation and implementation.
- Some states have introduced **mapping tools** to help identify environmental justice communities with their respective areas.
- States are **codifying environmental justice legislation**, and others have pending legislation.
- Communities, public officials, and investors are **connecting sustainability and climate change with inequities and accessibility issues**.
- Even **county and local governments** are providing public involvement guidance and implementing requirements.



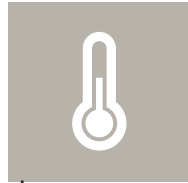
# Example Terminology for Describing Communities with Disproportionate Burden of Pollution



## Underserved Communities

“Populations sharing a particular characteristic, as well as geographic communities, that have been systematically denied a full opportunity to participate in aspects of economic, social, and civic life.”

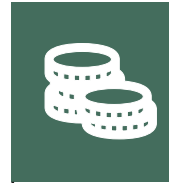
*Source: E.O. 13985*



## Vulnerable Communities

Communities that experience heightened risk and increased sensitivity to climate change and have less capacity and fewer resources to cope with, adapt to, or recover from climate impacts. These disproportionate effects are caused by physical (built and environmental), social, political, and/or economic factor(s), which are exacerbated by climate impacts. These factors include, but are not limited to, race, class, sexual orientation and identification, national origin, and income inequality.

*Source: Integrated Climate Adaptation and Resiliency Program (ICARP)*



## Disadvantaged Communities

Areas which most suffer from a combination of economic, health, and environmental burdens, including: poverty, high unemployment, air and water pollution, presence of hazardous wastes as well as high incidence of asthma and heart disease.

*Source: California Public Utilities Commission*



## Income-Qualified Communities

U.S. Department of Housing and Urban Development defines area median incomes (AMIs) for metropolitan areas and counties, and uses these to define income limits.

- Moderate-income <80% but >50% of AMI
- Low-income <50% of AMI

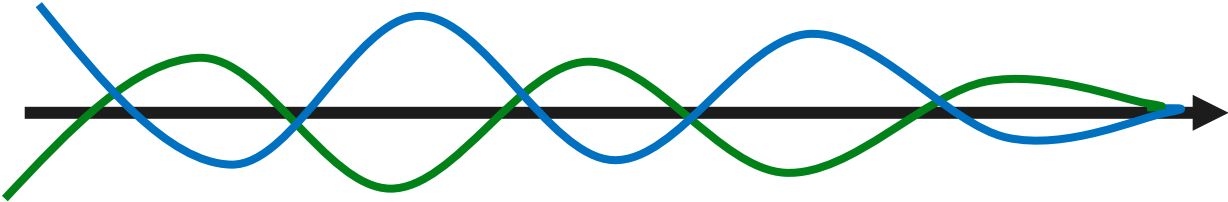
Many equity programs use these thresholds to identify income-qualified households and communities.

*Source: U.S. Department of Housing and Urban Development*

# Value Proposition for EJ Strategies and Outreach

## Objectives

## Value



**Identify & Address Concerns**  
early when solutions may be easier and concerns less entrenched

**Promote Understanding**  
and facilitate stakeholder involvement to inform, counter misinformation, gain acceptance

**Earn Trust**  
by listening, looking for common ground and being responsive in order to achieve mutual gains and right to complete work



Support meaningful consultation with people impacted by, and important to, project success



Gain insights, make connections, avoid surprises and reduce public concerns

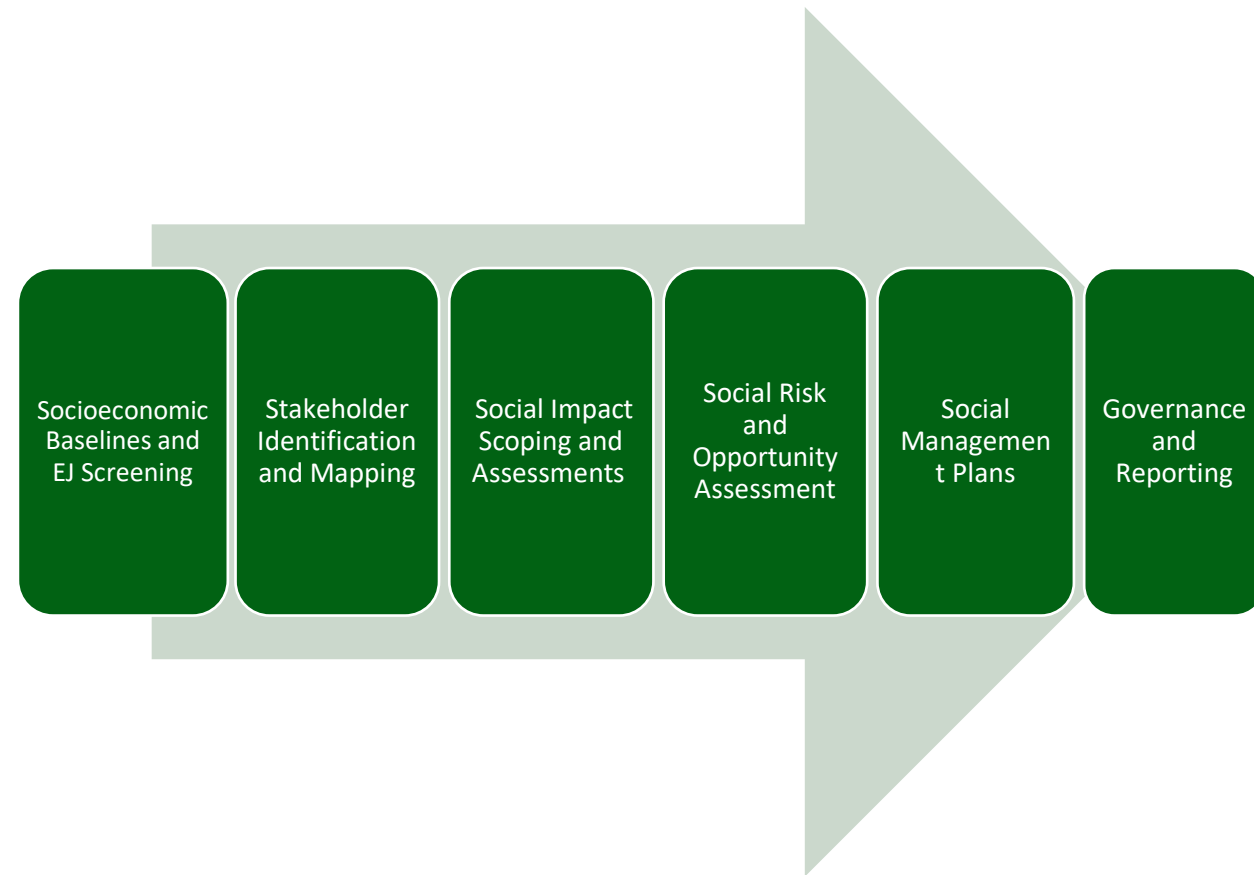


Mitigate social risks and maximize opportunities for community benefit



Meet community members where, when and how they want to be reached and are receptive to project messages

# Environmental Justice Engagement Components



## Assessment / Strategy / Engagement / Training

- **Stakeholder ID, EJ Screen and mapping**
- **Scoping** (desktop and on-the-ground activity, stakeholder surveys, etc.)
- **Socioeconomic baselines** (part of broader EA/EIS/ESIAs)
- **Cumulative Impacts Analysis (CIA)**
- **Risk assessments** (site-by-site due diligence and risk ID/ranking)
- **Accessibility planning** (virtual and in-person meetings, notifications considerations)
- **Community benefits planning** (funding application-related or best practice)
- **Trainings** (C-suite, mid-level managers, front-line employees/operators, communications, permit writers)
- **Tribal engagement**

# ERM Learnings from Recent Call with EPA

Common omissions and mistakes in applications: Inadequate analysis or narrative about how the EJ data intersects with the demographic narrative, environmental and/or cumulative impacts.

Communication plans need to show meaningful public involvement, or at a minimum an actionable plan.

Know your audience. Demonstrate you explain things in understandable terms.

How far are useful radii? 2-mile to 5-mile or whatever you need to see results. What are the closest communities, where is the next big metro area?

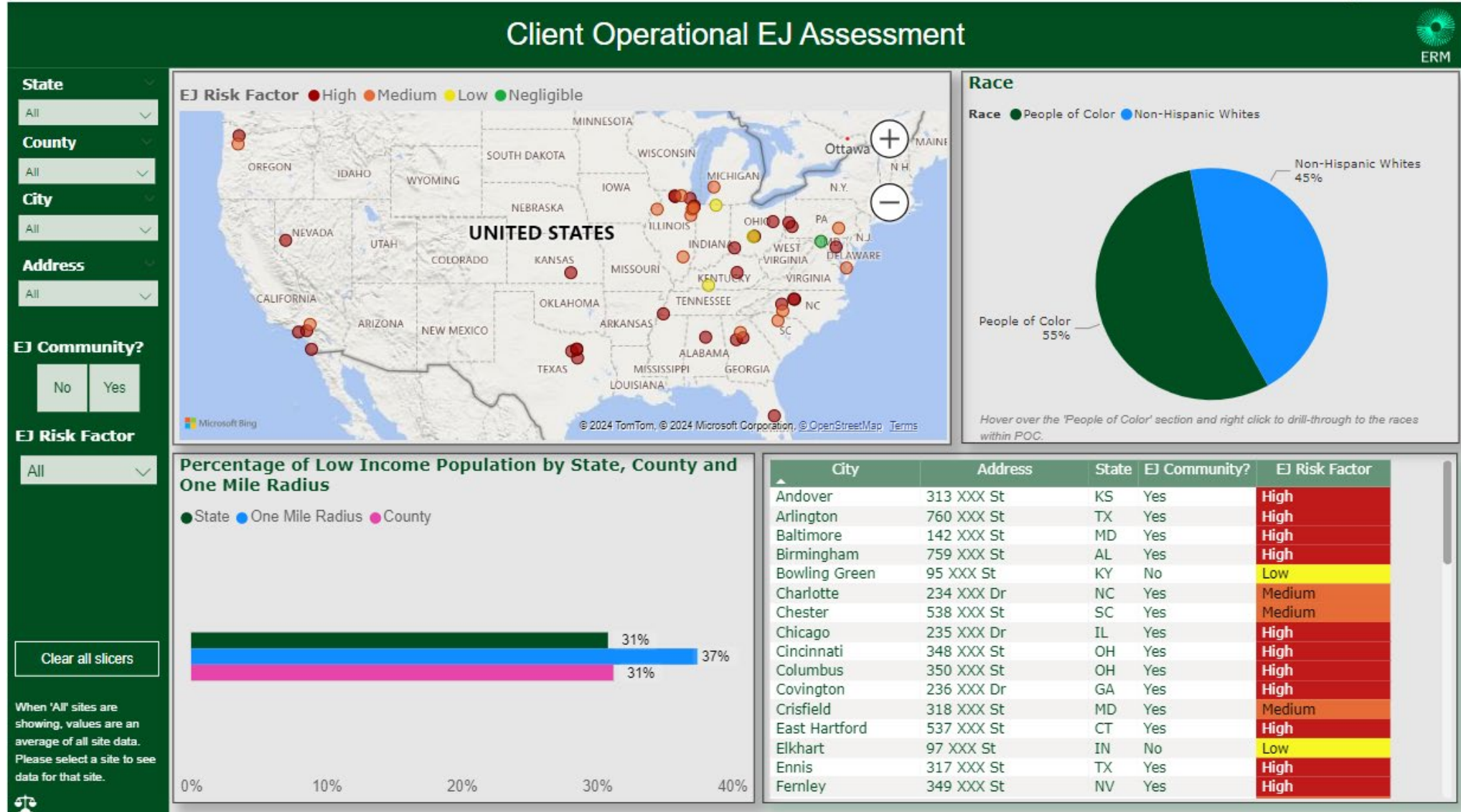
EPA would welcome calls in advance of submission. They would rather talk and front load information, rather than have an incomplete application.

**Key Takeaway = When you focus on EJ early, you save time later.**



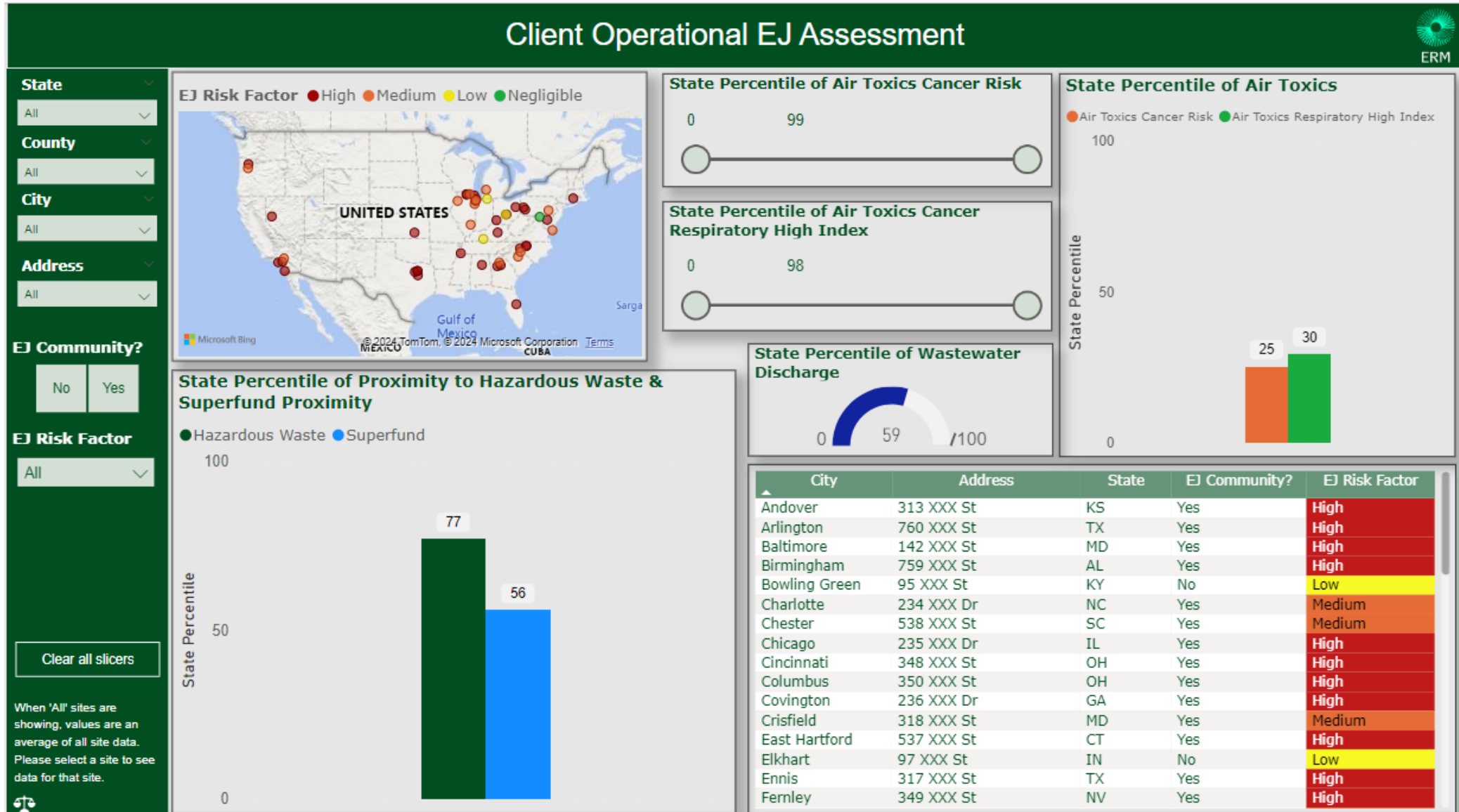
# Sample Dashboard Components

Homepage / Overview



# Sample Dashboard Components

## Environmental Burdens



# Sample Dashboard Components

## Regulatory/Policy Overview

Client Operational EJ Assessment

**State** ▼

All ▼

**County** ▼

All ▼

**City** ▼

All ▼

**Address** ▼

All ▼

**EJ Community?**

No  Yes

**EJ Risk Factor**

All ▼

EJ Law/Ordinance Summary Page

When 'All' sites are showing, values are an average of all site data. Please select a site to see data for that site.

State Law EJ Ordinance
● No ● Yes

State & EJ Mapper Link	State Regulation
AL	No
CA	<a href="#">AB 617</a>
CA	<a href="#">Assembly Bill No. 1329</a>
CA	<a href="#">CHAPTER 598</a>
CA	<a href="#">Final Designation of disadvantaged communities pursuant to Senate Bill 535</a>
CA	<a href="#">Gov. Code, § 65040.12, subd. (e)) - Amended by Stats. 2019, Ch. 360, Sec. 3. (AB 1628) Effective January 1, 2020</a>
CA	<a href="#">SB 115</a>
CA	<a href="#">SB 535 (2012): Greenhouse Gas Reduction Fund</a>
CT	<a href="#">CT SB01147</a>
CT	<a href="#">Public Act 22-18</a>
FL	<a href="#">Citation Fla. Stat. 376.78-80 Law</a>

EJ Law/Ordinance Summary

The state of Oregon has an environmental justice law that creates an Environmental Justice Council. Environmental justice is handled by the Department of Environmental Quality and the Department of Transportation.

Multnomah and Marion Counties do not have an environmental justice program.

The City of Portland has an environmental justice policy through their transportation agency.

The City of Woodburn does not have an environmental justice program.

County	City	Regulation
		Chapter 182.010
		No
	Andover	No
	Arlington	No
	Baltimore	<a href="#">Baltimore City Code Article 1 §.39 - 1</a>
	Bedford Heights	No
	Bowling Green	No
	Charlotte	No
	Chester	No
	Chicago	<a href="#">Executive Order No. 2023-3</a>
	Cincinnati	<a href="#">Ordinance No. 210-2009</a>
	Columbus	No
	Covington	No

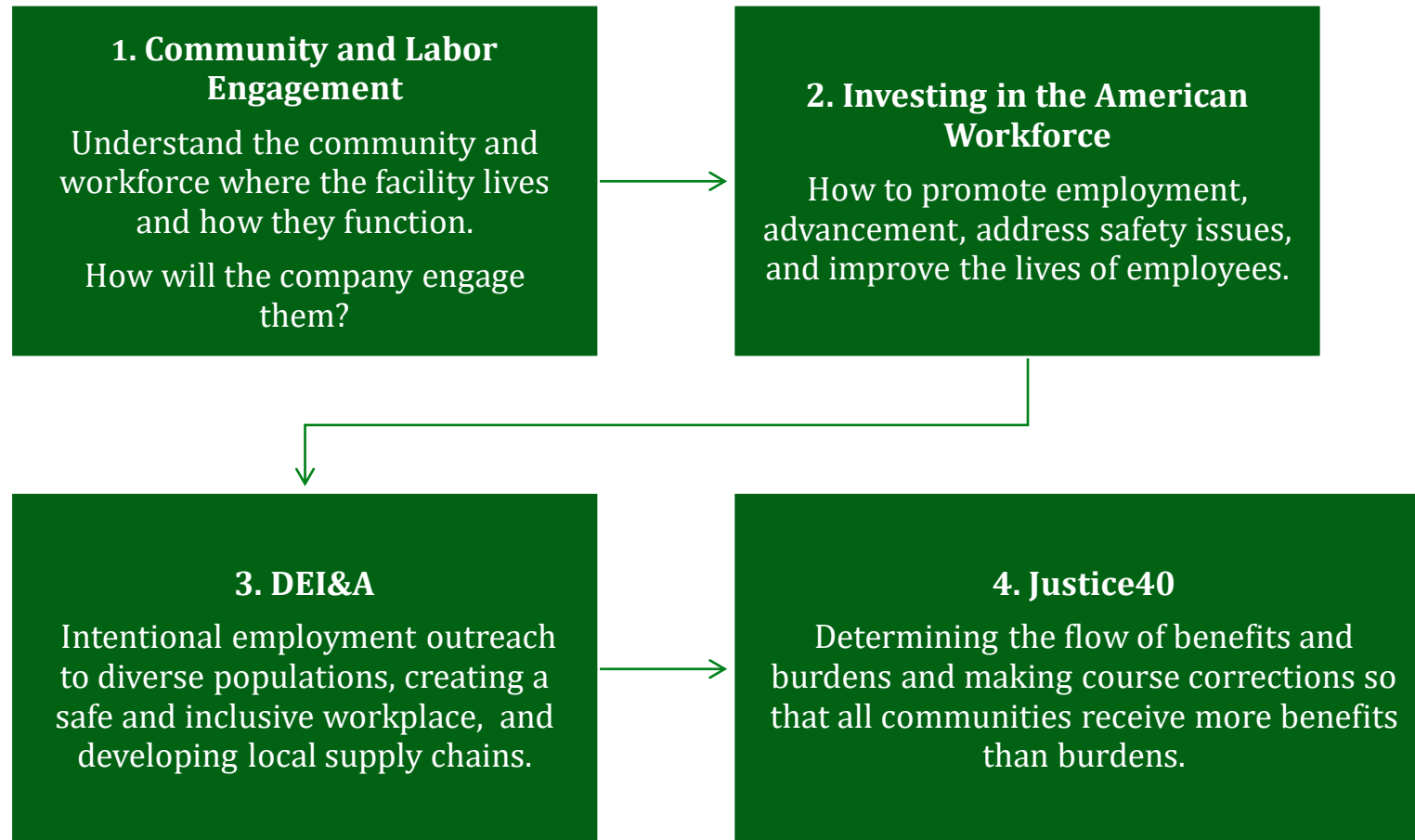
City/County EJ ... ● No ● Yes



# Community Benefits Plan



# Assembling the Story



# Initial Considerations

- The federal government is pushing companies to get community buy-in earlier than is commonly practiced and for it to be formalized.
- Signed agreements with community groups and unions are preferred, letters of support are accepted.
- The emphasis is on the project, not the company. For example, the company's DEI plan is not sufficient to meet the requirements for the DEI section in the CBP.
- DOE wants to know if the project is going to cause negative impacts and how the company will work to reduce them. Disclosing this is not a deal-breaker, hiding or downplaying it might be.
- If there are multiple sites, you must do analysis and discuss all sites while staying within the page limit.
- Mind the difference between philanthropy and community benefit. In this case, the community benefit is determined through the lens of CEJST burdens. If it doesn't fit the burden, don't put it in the plan. This doesn't mean you can't do it, just that it won't help you with scoring in this case. (Eg. Sample company gave \$100K to a housing foundation. This is a onetime gift and it's unclear what the overall benefit is to the community. The house burden as defined by CEJST is when a community is spending more than 30% of their income on housing. How would you help to relieve this burden?)
- Some of the template won't apply to your project. Look to the FOA first for guidance.
- Some FOAs do not have a section on CBP, but the elements likely are embedded elsewhere.

# Successful Community and Labor Engagement Requirements

- ✓ **Two-way Engagement Statement** – The company will agree to making changes to the project based on community concerns
- ✓ **Workforce & Community Agreement Statement** – Ideally, they are legal agreement whereby the community will accept the project in exchange for named benefits.
- ✓ **Stakeholder Analysis** – Who, where are they, what burdens do they carry.
- ✓ **Engagement Implementation & Evaluation Strategies** – Outcomes, milestones, costs.

# Investing in the American Workforce





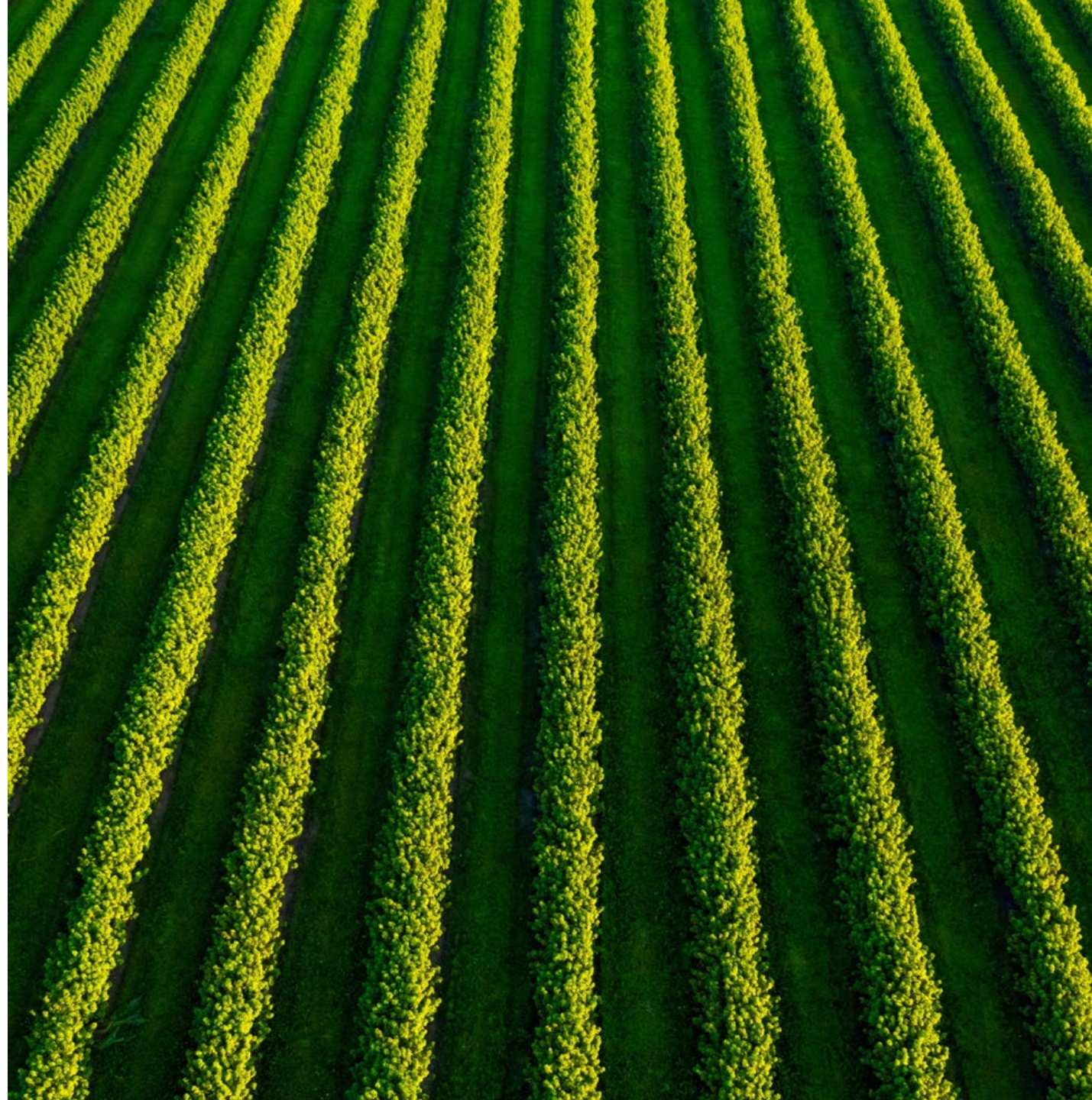
# Diversity, Equity, Inclusion, and Accessibility (DEIA)

REQUIRED COMPONENTS TO ACHIEVE SUCCESS

Incorporate DEIA  
Strategies, Milestones,  
Cost, Point Person,  
and Timelines

into

Project(s) and Supply  
Chain Diversification



# A Breakdown of the DEIA Planning Process

Phase /	Strategy	Milestone	Cost	Outcome	Point Person
Phase 1: Construction					
Phase 2: Project Development					
Phase 3: Build & Integrate					
Phase 4: Ramp-up & Operate					

# Example of Diversified Supply Chain Plan

Phase	Milestone	Outcome	Measure of success
<b>Phase I: Hiring procurement staff.</b> <b>Point person: HR director US Facility</b>	Create procurement staff job descriptions emphasizing supply chain diversification knowledge & experience	Job Description for procurement professional with a focus on fostering diverse supply chains	100% of procurement specialists complete training and actively seek out diverse suppliers
	Create workshop/training program to operationalize supply chain diversification. Create annual refresher course.	Training program that is replicable and required for all new procurement hires.	
	2 recorded Workshops/Trainings held annually.	100% of procurement specialists to complete workshops/training	
	Annual reviews and benchmarks set to foster diverse supply chain	Reviews updated to include fostering supply chains as approximately 15% of job.	
<b>Phase 2: Create Standard.</b> <b>Point person: HR Director US Facility</b>	Benchmark diverse supply chain policies	Standard created. Estimated cost: \$XK to include facilitation, food, childcare accommodations to facilitate	Standard is integrated into practice.
	Work with external stakeholders to create standard (3 meetings)		



# Justice40 Initiative

- **Intent - ~40% of the benefits of federal projects flow to disadvantaged communities.**
- Project benefits to disadvantaged communities
  1. Decrease in energy burden;
  2. Decrease in environmental exposure and burdens;
  3. Increase in access to low-cost capital;
  4. Increase in job creation, the clean energy job pipeline, and job training for individuals;
  5. Increases in clean energy enterprise creation and contracting (e.g., minority-owned or disadvantaged business enterprises);
  6. Increases in energy democracy, including community ownership;
  7. Increased parity in clean energy technology access and adoption;
  8. Increase in energy resilience



# Justice40 Guidance and Agencies Involved

In January 2023, the White House issued additional guidance to Federal agencies on how to use the **Climate and Economic Justice Screening Tool (CEJST)**, which is a mapping tool that helps identify disadvantaged communities. Disadvantaged communities, also known as Justice40 communities, include all Federally Recognized Tribes whether or not they have land.

**Covered Federal investments** include any grant or procurement spending, financing, staffing costs, or direct spending or benefits to individuals for a covered program in a Justice40 category.

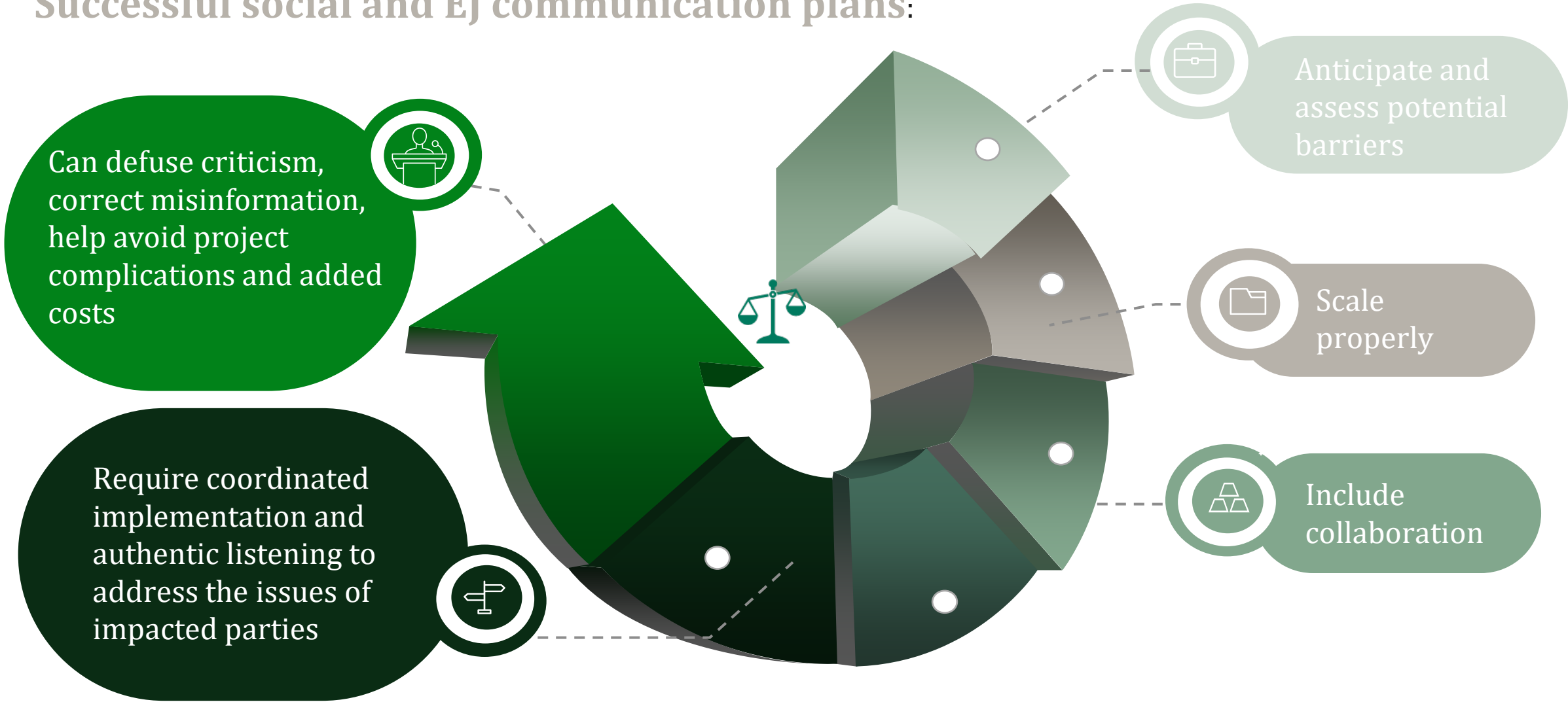
All Justice40 covered programs are **required to engage in stakeholder consultation** and ensure opportunities for local community members to be meaningfully involved in determining program benefits. Covered programs are also required to **report data on the benefits flowing to disadvantaged communities**.

**Agencies that have released their covered programs under the Justice40 Initiative include:**

<u>U.S Department of Agriculture</u>	<u>U.S Department of the Interior</u>
<u>U.S. Department of Commerce</u>	<u>U.S. Department of Labor</u>
<u>U.S. Department of Energy</u>	<u>U.S. Department of Transportation</u>
<u>U.S. Department of Health and Human Services</u>	<u>U.S. Department of Veterans Affairs</u>
<u>U.S. Department of Homeland Security/FEMA</u>	<u>U.S. Army Corps of Engineers</u>
<u>U.S. Department of Housing and Urban Development</u>	<u>U.S. Environmental Protection Agency</u>

# Conclusion

## Successful social and EJ communication plans:





# Case Studies



# ERM's Recent Environmental Justice Experience

- **Right-sized Approach for Multiple Remediation and New Facility Siting Projects:** Conducted EJ analyses and social risk and opportunity assessments to identify community concerns and perspectives; managed stakeholder inquiries and outreach, including documentation and reporting; repeated analysis to provide updates on key influencers, potential risks, and opportunities; and customized engagement activities to best fit the needs of the community, project, and project team. Delivered material and positive reputation results.
- **Confidential Energy Client, EJ Education and Assessment Framework Development:** Conducted EJ commitments peer-review to highlight what competitors are doing in the area of EJ; facilitated educational session with 300+ director/manager-level employees to highlight history and current EJ landscape, including state-by-state review of operating areas; and through collaboration with the client's internal ESG Working Group, ERM offers ongoing strategic counsel on corporate EJ guidance and related assessment templates.
- **Confidential Power Client, EJ Policy Benchmarking and Strategy:** ERM conducted a benchmark analysis on EJ policies of leading companies in the electric, oil & gas and other sectors by capturing key metrics and themes around external EJ policies, internal structure to support implementation of such policies, community engagement, and specific company initiatives. Recommendations included ways to engage communities to understand specific community EJ concerns, design solutions to address community-identified needs, and incorporate community input into infrastructure projects.



# Case study: Right-sized Approach to Multiple Projects

*11 states*

Multiple sites across the country in various stages of investigation and remediation dealing with many different contaminants of concern impacting various types of EJ communities.



## Approach

- ⋮ Conduct social risk assessment to identify community concerns and perspectives, inform project team and reduce impacts of non-technical risk.
- ⋮ Research and understand local stakeholder and EJ community context to develop and implement an appropriate engagement strategy.
- ⋮ Customize engagement activities to best fit the needs of the community, the project and project team.
- ⋮ Manage stakeholder inquiries and outreach, including documentation and reporting; freeing technical team to manage technical aspects.
- ⋮ Regularly repeat analysis to provide updates on key influencers, potential risks, and opportunities and associated issues, concerns and perspectives.



## Value

- ⊙ To date, largely avoided significant local opposition/activism/criticism in news and social media related to sites.
- ⊙ Built relationships with local stakeholders to support overall project and community goals.
- ⊙ Small, but meaningful outcome – reduced an elderly neighbor’s anxiety about dust by answering basic questions.
- ⊙ Huge outcome – proactive stakeholder engagement earned trust necessary to support site remediation strategy, resulting in reductions of schedule, cost and waste and significant land transaction meeting community’s need.

## Case study: DOE Application – Community Benefits Plan

### *Texas*

- Industrial Decarbonization Funding Opportunity
- Time-sensitive Community Benefits Plan Support, including on-the-ground stakeholder consultation
- Client shift from an anonymous project to a named project
- Client concerns that they were not adhering to the US stringent requirements

### **Situation**

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- A confidential international mining client had plans to pursue DE-FOA-0002936, Industrial Decarbonization and Emissions Reduction Demonstration-to-Deployment funding for a green briquettes manufacturing facility in Texas.
- The company had two sites (both rural and suburban) in Texas under review with no related US experience to date.
- Based on experience with ERM’s social performance team, the client invited ERM to lead the development of its Community Benefits Plan only six weeks prior to the August 2023 deadline.

### **Value**

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- ERM provided strategy to complete a robust CBP based on our experience in developing CBPs for a variety of clients, familiarity with US regulations and related community engagement considerations. ERM ultimately drafted the CBP and coached the client in preparation for their DOE interview.
- From two weeks of facilitating in-person consultation meetings, ERM garnered four letters of support.
- Strong social characterization findings, workforce development plans and a comprehensive CBP for submittal resulted from ERM’s desktop and on-the-ground research.
- CBP received only positive comments and the client was awarded the funding.

# Thank you

If further information is  
required, please contact:

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