

NOTICE OF INTENT

**Notice of Intent (No. DE-FOA-0002764) to Issue Formula Grant
Administrative and Legal Requirements (ALRD) Announcement No.
DE-FOA-0002736
Modification 000001**



**Grid Deployment Office
U.S. Department of Energy (DOE)**

**DOE'S IMPLEMENTATION PLAN FOR IIJA SECTION 40101(D) – FORMULA GRANTS
TO STATES AND INDIAN TRIBES FOR PREVENTING OUTAGES AND ENHANCING THE
RESILIENCE OF THE ELECTRIC GRID**

MODIFICATIONS

All modifications to the Notice of Intent (NOI) are highlighted in the body of the NOI.

Mod. No.	Date	Description of Modification
000001	5/4/2022	Modification 000001 was issued to revise the date that questions/comments are due. All changes are highlighted in yellow.

PURPOSE

The purpose of this NOI is to provide information on DOE's plans for implementation of Section 40101(d) of the Infrastructure Investment and Jobs Act (IIJA) of 2021.¹ DOE seeks input from all

¹ Infrastructure Investment and Jobs Act (Pub. L. 117-58) Section 40101(d) (codified at 42 U.S.C. 18711(d)), available at <https://www.congress.gov/bill/117th-congress/house-bill/3684/text>.

stakeholders, including States² and Indian Tribes,³ on the Department's Section 40101(d) implementation plan, including the application and award requirements, the award formula allocation, and the technical assistance approach as detailed within this NOI and supporting documents. The supporting documents include:

1. *Federal Register Notice on Formula Grants to States and Indian Tribes for Preventing Outages and Enhancing the Resilience of the Electric Grid*
2. *Draft Section 40101(d) Formula Grant Administrative and Legal Requirements Document (ALRD) and*
3. *Draft Allocation of Funds under the IIJA Section 40101(d) – Formula Grant Program*

All documents are available at: <https://netl.doe.gov/bilhub/grid-resilience/formula-grants>. In addition, DOE is requesting that interested parties respond to a set of questions presented within this document.

NOI questions/comments are due on: June 2, 2022, by 11:59 PM EDT.

DOE anticipates issuing the ALRD on or about July 1, 2022, with an open application period of 60 days.

BACKGROUND

The Infrastructure Investment and Jobs Act (IIJA) is a United States federal statute enacted by the 117th United States Congress and signed into law by President Joe Biden on November 15, 2021. The Act provides approximately \$1.1 trillion of key investments needed to improve and rebuild our Nation's infrastructure. DOE's portion of the funding includes more than \$62 billion for investments in energy infrastructure that can support a pathway to a clean and resilient and equitable, energy future. The funding includes \$14 billion in financial assistance⁴ to States, Indian Tribes, utilities, and other entities who provide products and services for enhancing the reliability, all-hazards resilience, and efficiency of the electric grid.

The goal of this financial assistance is to support the Administration's and Congress' objectives to (1) demonstrate measurable improvements in energy resilience to all hazards in the United States and mitigate climate-related risk, (2) invest in modernized grid infrastructure that can enable consumer access to lower-cost energy and accommodate increased electrification, increased penetrations of variable renewable electricity and distributed energy resources, and other evolving system needs over the coming decades, (3) invest in clean energy and

² The term "States" includes herein all 50 States, U.S. Territories, and the District of Columbia.

³ The term "Indian Tribe" herein "has the meaning given . . . in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304)." 42 U.S.C. 18701(2).

⁴ The \$14 billion in financial assistance (grants and cooperative agreements) is associated with the resilience-related provisions of the IIJA, specifically Sections 40101, 40103, and 40107. The formula grant program described herein is defined under Section 40101(d), however, efforts conducted by eligible applicants under the program will influence activities across the resilience-related provisions.

decarbonization solutions to achieve a carbon-free power sector by 2035 and net-zero greenhouse gas emissions economy-wide by 2050, and (4) create good-paying jobs with the free and fair choice to join a union. Multiple pathways exist for the United States to meet its infrastructure resilience and clean energy goals, but all require upgrading and expanding the Nation's transmission and distribution systems; significant investment in cost-effective new generation resources and energy storage; and efficiency, decarbonization, and demand flexibility investments in buildings, industry, and transportation. Resilience improvements may include upgrades of individual hardware components, software components, or both, as well as enhancements in operations or new configurations of the grid. Principles of equity and justice will guide implementation of this program, in alignment with the Administration's Justice40 Initiative. The Department commits to robust engagement and collaboration with States, U.S. Territories, and Indian Tribes, as well as with other interested stakeholders, including industry, unions, and local communities, for successful implementation of this program.

The formula grant program under Section 40101(d) will provide \$459 million annually over a period of five years to States and Indian Tribes (also termed herein as "eligible applicants") to improve the resilience of the electric grid against disruptive events.⁵ Eligible applicants may further allocate funds to "eligible entities" as defined by this section and discussed below.⁶ A draft application form, entitled Administrative and Legal Requirements Document, is available at: <https://netl.doe.gov/bilhub/grid-resilience/formula-grants>. The application form provides the requirements for applying to receive a grant under this program, as well as for administering funds once received. Eligible applicants will be required to submit applications each year, although grants may cover multiple-year periods of performance.

Under the Section 40101(d) Formula Grant Program, the Department will provide grants to eligible applicants to improve the all-hazards resilience of their electric grids. These grants offer a unique opportunity to advance the capabilities of States and Indian Tribes to address current and future all-hazards resilience needs. DOE is encouraging eligible applicants to undertake an objectives-led planning process to formulate strategies that address all-hazards resilience and lead to needed improvements in infrastructure, including necessary and supporting grid modernization investments in underserved communities, in line with the Administration's Justice40 Initiative⁷. This will also involve a coordinated effort by eligible applicants to include stakeholders in their processes for formulating objectives that can guide investment strategies for improving resilience. It is expected that a diverse set of populations, including underserved and disadvantaged communities, will participate in these efforts and will be provided equitable opportunities and the benefits that derive from them. In addition, DOE is committed to providing technical assistance, where appropriate, to support these efforts, including guidance on planning practices related to all-hazards resilience, energy justice (equity), workforce development and

⁵ The term "disruptive event" means "an event in which operations of the electric grid are disrupted, preventively shut off, or cannot operate safely due to extreme weather, wildfire, or a natural disaster." 42 U.S.C. 18711(a)(1).

⁶ The term "eligible entity" means – "(A) an electric grid operator; (B) an electricity storage operator; (C) an electricity generator; (D) a transmission owner or operator; (E) a distribution provider; (F) a fuel supplier; and (G) any relevant entity, as determined by the Secretary." 42 U.S.C. 18711 (a)(2).

⁷ Justice40 Initiative outlined in Executive Order 14008, Tackling the Climate Crisis at Home and Abroad.

quality job creation, grid modernization, and the integration and utilization of renewable and distributed energy resources (DERs).⁸

OVERVIEW OF SECTION 40101(d), FORMULA GRANT PROGRAM

The requirements of this formula grant program are defined within Section 40101(d) of the IJA; Section 40101, entitled *Preventing Outages and Enhancing the Resilience of the Electric Grid* encompasses a larger set of related activities. Section 40101(d) stipulates that DOE allocate funding annually through grants to eligible applicants according to a formula that includes such parameters as population, land area, and the historical precedence for experiencing disruptive events. The Department's proposed formula for allocating funds to eligible applicants is provided in draft document titled *Allocation of Funds under the IJA Section 40101(d) – Formula Grant Program* which is available at: <https://netl.doe.gov/bilhub/grid-resilience/formula-grants>.

To receive funding eligible applicants are required to apply to DOE annually with information, discussed in more detail below, conveying their approach for determining resilience investments and for allocating funding to eligible entities which may include:

1. an electric grid operator,
2. an electricity storage operator,
3. an electricity generator,
4. a transmission owner or operator,
5. a distribution provider,
6. a fuel supplier, and
7. any other relevant entity, as determined by the Secretary (i.e., by DOE)⁹

The types of resilience investments permitted under this program may range considerably according to the needs of respective applicants. They may include the hardening of assets, i.e., making them less vulnerable to threats, as well as the deployment of more sophisticated capabilities such as the real-time control and coordination of system assets, including inverter-based resources (DERs) and microgrids, so that they may quickly provide services under emergency situations. They may also include the provision of tools for supporting modeling and analysis efforts that can assist in the determination of solutions that would improve all-hazards resilience.

⁸ DERs are resources sited close to customers that can provide all or some of their electric power needs or can be used by the system to either reduce demand (such as energy efficiency) or provide supply to satisfy the energy, capacity, or ancillary service needs of the grid. The resources are small in scale, connected to the distribution system, and close to load. Examples of different DER types include solar photovoltaic (PV), wind, combined heat and power (CHP), energy storage, demand response (DR), grid-interactive buildings and other flexible loads, electric vehicles (EVs), microgrids, and energy efficiency (EE).

⁹ States and Indian Tribes may identify and provide funding to other relevant entities, subject to approval by DOE.

Section 40101¹⁰ identifies the types of resilience investments permitted under this program. They include:

- a) utility pole management,
- b) hardening of power lines, facilities, substations, of other systems,
- c) the undergrounding of electrical equipment,
- d) the replacement of old overhead conductors and underground cables,
- e) the relocation of power lines or the reconductoring of power lines with low-sag, advanced conductors,
- f) vegetation and fuel-load management,
- g) weatherization technologies and equipment,
- h) fire-resistant technologies and fire prevention systems,
- i) monitoring and control technologies,
- j) the use or construction of distributed energy resources for enhancing system adaptive capacity during disruptive events, including:
 - i. microgrids, and
 - ii. battery-storage subcomponents,
- k) adaptive protection technologies, and
- l) advanced modeling technologies.

Funding may also be used for the training, recruitment, retention, and reskilling of skilled and properly credentialed workers in order to perform the work required for the particular resilience measures listed above and described by the State or Indian Tribe in their Program Narrative, as described in more detail below in Section IV.B.ii.4.

The Department expects that the investments made under this program will result in the deployment of assets and capabilities that provide improved all-hazards resilience. For example, asset replacement, including for utility poles, should result in the deployment of equipment or systems that are designed to be more resilient than their predecessors to anticipated threats.

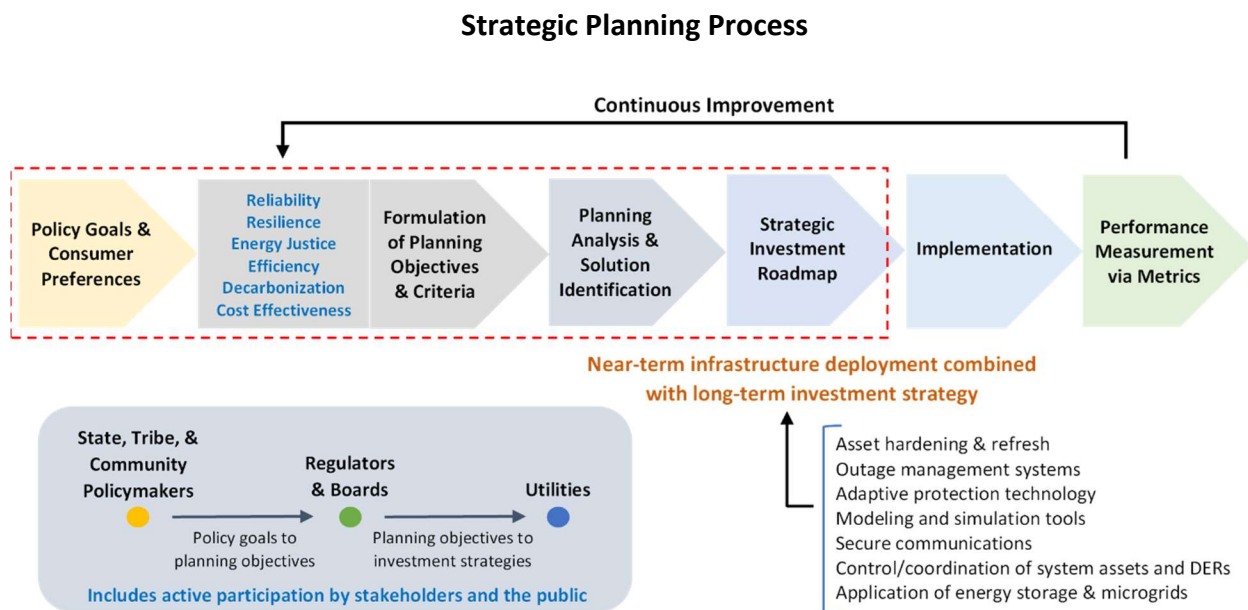
SECTION 40101(d) FORMULA GRANT PROGRAM GOALS AND APPROACH

The goal of this formula grant program is to support the efforts of States and Indian Tribes to improve the all-hazards resilience of the electric grid and prevent outages. This includes the determination and deployment of near-term solutions combined with a more strategic planning process that effectively engages stakeholders in the formulation of those solutions, including in crafting staged, “least-regrets” approaches for improving grid resilience to all hazards. The aim is to encourage States and Indian Tribes to undertake processes that address risks to infrastructure and communities resulting in forward-looking investment strategies that satisfy both near- and long-term needs.

¹⁰ 42 U.S.C. 18711(e)(1).

States and Indian Tribes that apply for formula grant funding through this provision are each expected to set objectives and metrics, as well as undertake a strategic planning process¹¹ that: a) identifies the highest-priority opportunities for improving resilience in the near-term, b) formulates strategies for determining investments needed over the long-term that align with objectives, and c) measures the progress and performance of IJIA investments through the establishment of metrics in addition to reporting required by DOE. Ideally, the long-term, strategic planning process should inform near-term investment opportunities through an annual planning cycle.

A conceptual depiction of a strategic planning process is shown below and includes the formulation of objectives representing policy goals and consumer preferences, as well as the development and implementation of a coherent, forward-looking roadmap for infrastructure investments. Where advanced grid capabilities are needed for providing resilient solutions, the planning process will need to consider grid modernization efforts that include how to apply smart grid infrastructure.¹² For example, advanced monitoring, communication, and control technology is required to coordinate and utilize distributed energy resources. Reference documents on best and emerging practices for undertaking strategic, integrated planning and grid modernization are located at: <https://netl.doe.gov/bilhub/grid-resilience/formula-grants>.



¹¹ Eligible applicants who do not have regulatory oversight over electric grid planning and operations should identify and deploy resilience measures that best serve the objectives of their respective jurisdictions, for example, providing back-up power to critical facilities.

¹² Smart grid infrastructure consists of sensing, communication, control, data management, and computing systems that work with physical assets to advance the functionality of the electric grid and improve decision-making for both planners and operators.

To receive a grant under Section 40101(d), a State or Indian Tribe shall submit an application to DOE that includes the following information (termed herein as the Program Narrative):¹³

1. A description of the criteria, methods, and intended outcomes benefiting the public that will be used by the State or Indian Tribe to award grants to eligible entities,
2. Evidence of a notice and public hearing on the criteria and methods proposed by the State or Indian Tribe, and
3. A description of the proposed funding distributions and recipients of the grants to be provided by the State or Indian Tribe.

Appendix A provides a list of questions that comprise what is required in the Program Narrative. The criteria and methods provided by applicants should address the following:

1. The criteria used by the applicant for selecting and determining awards provided to eligible entities. At a minimum, the criteria should address specific requirements set in Section 40101(d) which include that:
 - a) Priority should be given to projects that will generate the greatest community benefit (whether rural or urban) in reducing the likelihood and consequences of disruptive events,
 - b) The percentage made available to eligible entities that sell not more than 4,000,000 megawatt hours of electricity per year should not be less than the percentage of all customers in the State or Indian Tribe that are served by those eligible entities, and
 - c) Awards should be provided to eligible entities for projects within the State or on the land of the Indian Tribe.
2. The formulation of objectives and associated metrics set by the applicant for guiding planning and subsequent investment decisions and for measuring their outcomes. At a minimum, the applicant should provide objectives and metrics for resilience, strong labor standards and protections and workforce engagement, and energy justice that are additional to reporting required by DOE.
3. Methods used for soliciting, awarding, distributing and leveraging funds. These might include several options, including the use of competitive solicitations, direct awards, and the use of financial institutions, such as Green Banks.

Planning objectives and metrics should reflect the policy goals of a jurisdiction and the preferences and expectations of its people. Setting objectives is critical for guiding a planning process which may entail a rigorous engineering analysis that sets both near-term and long-term strategies for deploying infrastructure consisting potentially of advanced grid components and systems. Without clear objectives, it becomes difficult to assess whether resulting plans are responsive and if key stakeholders will accept them.

¹³ See 42 U.S.C. 18711(d)(2).

For resilience the outcomes should be as concrete as possible and should relate to public benefits as directly as possible, for example by containing/reducing outages resulting from extreme events and/or other causes, by reducing restoration times from such outages, or by reducing risks to health and safety for the affected community.

For strong labor standards and protections and workforce engagement, the applicant should (1) address how the project will use strong labor standards and protections (including for direct employees, contractors, and sub-contractors), such as through the use of project labor agreements, local hire agreements, and (2) outline of a plan to attract, train, and retain an appropriately skilled workforce (i.e., through registered apprenticeships and other joint labor-management training programs that serve all workers, particularly those underrepresented or historically excluded); plans to partner with a training provider (labor, community college, etc.); and the use of an appropriately credentialed workforce (i.e., requirements for appropriate and relevant professional training, certification, and licensure).

Ensuring IJJA programs improve opportunities and include high labor standards and the free and fair choice to join a union is a key priority of this Administration, as expressed within Executive Order 14052, *Executive Order on Implementation of the Infrastructure Investment and Jobs Act*. Incorporating strong labor standards and protection and workforce engagement into program planning and implementation will promote effective and efficient delivery of high-quality projects and support the economic recovery through strong employment opportunities for workers. Such practices will reduce likelihood of potential project challenges like work stoppages or safety accidents, while ensuring a reliable supply of skilled labor and minimizing disruptions, such as those associated with labor disputes or workplace injuries. That will, in turn, promote on-time and on-budget delivery.

The Department understands that the formulation of objectives and metrics for guiding infrastructure investment decisions involves a complex process with a high level of participation among a variety of stakeholders, including the public. This complexity is especially true for addressing all-hazards resilience and energy justice, for which accepted objectives and metrics are not yet formally established across the electric industry. For applicants who have not yet instituted such a process, the Department strongly encourages the applicant to provide a preliminary set of objectives and metrics, plus a commitment reflected within the applicant's notice and public hearing to undertake an effort to establish formal objectives and metrics.

It is important to note that fostering energy justice is a principal goal of this Administration, as expressed within Executive Order 14008, *Tackling the Climate Crisis at Home and Abroad*,¹⁴ and it should be considered as a key planning objective, in addition to all-hazards resilience, under this provision. As the Nation undergoes a transition to a more clean and resilient energy future, it will be important to ensure that underserved and disadvantaged communities be provided

¹⁴ *Tackling the Climate Crisis at Home and Abroad*, Executive Order 14008, 86 Fed. Reg. 7619 (Feb. 1, 2021), available at: <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/27/executive-order-on-tackling-the-climate-crisis-at-home-and-abroad/>.

equitable access to the benefits that a modern electric grid can provide. Ensuring equity includes that communities, including those historically underrepresented, can fully participate in decision-making processes shaping planning objectives and investment strategies. **Appendix B** provides guidance on identifying “disadvantaged communities.”

Several States have developed objectives for guiding their grid infrastructure planning processes. These objectives address such principles as customer enablement, reliability and all-hazards resilience, cyber-physical security, system efficiency, distributed energy resource integration and utilization, cost-effectiveness and affordability, technology innovation and economic development, planning process transparency and accessibility, and equity. Examples of policy goals, objectives, and metrics, as well as methods for incorporating all-hazards resilience, equity, and grid modernization into integrated planning processes are available at: <https://netl.doe.gov/bilhub/grid-resilience/formula-grants>.

The Section 40101(d) Formula Grant Program sets the stage for setting objectives and establishing a strategic planning process that will affect infrastructure investments proposed under other IIJA sections, most notably Section 40101 (awards for grid resilience projects), Section 40103 (awards supporting grid resilience and reliability research, development, and demonstration), and Section 40107 (qualified investments for improving smart grid functionality). Through this Program, DOE intends to have States and Indian Tribes develop and apply objectives and performance metrics based on their particular needs and policies for reliability, resilience, quality jobs, and equity that are additional to DOE reporting requirements. DOE believes that setting such objectives will most effectively guide the formulation of holistic strategies for determining near-term and longer-term grid investments.

In addition, the efforts undertaken under the Formula Grant Program should have alignment with the State Energy Security Plans developed by States¹⁵ per Section 40108 of the IIJA for an all-hazards approach to grid resilience. For example, the risk assessment effort required for State Energy Security Plans, and other Plan contents, can be leveraged or modified to inform the grid investment strategy. **Appendix C** provides additional information on these IIJA sections.

GRANT APPLICATION, AWARD, AND EXECUTION PROCESS

In making awards under the Section 40101(d) Formula Grant Program, DOE will comply with applicable law, including regulations contained in [2 CFR Part 200](#), as amended by [2 CFR Part 910](#). The process for applying for grants and executing awards is described within the Section 40101(d) Administrative and Legal Requirements Document (ALRD), available at: <https://netl.doe.gov/bilhub/grid-resilience/formula-grants>. The draft ALRD outlines the objectives and scope of the financial assistance opportunity, as well as the application and subsequent grant requirements.

¹⁵ Only States are required to produce State Energy Security Plans although Indian Tribes may participate.

DOE anticipates receiving questions and comments on the draft ALRD through the NOI process. Once these are addressed, DOE will issue the final ALRD for the purpose of soliciting an application for a grant award from each, interested eligible applicant permitted under Section 40101(d). Following the issuance of the ALRD, an applicant must submit to DOE a grant application package within **60 days** to be eligible to receive a grant award for the first year, i.e., Fiscal Year 2022. This will include a letter from the “Head of Government” of a State or Indian Tribe (e.g., a State Governor or Tribal Leader) designating the specific organization within their government as the single recipient to receive and administer the grant agreement. The grant application package shall include the following, described in more detail within the draft ALRD:

1. Designation letter from the “Head of Government”
2. The Program Narrative
3. A SF-424 Form: Application for Federal Assistance
4. A SF 424A Form: Budget Information
5. A Budget Justification File
6. An Environmental Questionnaire
7. A SF-LLL Form: Disclosure of Lobbying Activities (if applicable)

DOE will award a single grant agreement to each State and Indian Tribe. Upon receiving a complete grant application package, DOE will initiate discussions with the applicant with the purpose of making an award. Upon receipt of the award, the recipient will have access to the DOE-provided funding and will be permitted to begin work per a Statement of Project Objectives (SOPO). DOE has developed a prescribed SOPO to be used in all grant agreements. The SOPO describes the scope, objectives, tasks, and deliverables for the grant. A copy of the draft, prescribed SOPO can be found at: <https://netl.doe.gov/bilhub/grid-resilience/formula-grants>.

The grant agreement will cover multiple years, as needed, with one-year budget periods. The scope for each budget period may be adjusted to include activities proposed in successive-year grant applications. Throughout the term of the grant agreement, a recipient is required to submit sub-award packages for approval by DOE that describes the work to be done by each eligible entity within the guidelines of Section 40101(d). In addition, a recipient is required to provide a Project Management Plan (PMP) during the initial phases of the grant agreement, followed by quarterly progress reports. The quarterly reports will provide information required by DOE, including the following information and data:

1. The costs of the projects for which grants are awarded to eligible entities,
2. The types of activities, technologies, equipment, and hardening measures funded by those grants and the location of funded activities,
3. The set of objectives and metrics developed by the State or Indian Tribe and applied by the eligible entities, including revisions to them, and
4. The extent to which the grants have enhanced all-hazards resilience and equity, as measured through the application of performance metrics, including metrics that relate directly to those objective

5. The tracking and evaluation of community engagement, stakeholder engagement, and community benefits as defined by the applicant, in line with Administration priorities.
6. For projects receiving \$5 million or more in funding (based on expected total cost), a detailed project workforce continuity plan, or, in lieu of such plan, a certification that the project either will use a unionized workforce or includes a project labor agreement.

The ALRD also contains information pertaining to the following additional terms and conditions that will be contained in the grant agreement:

1. Davis-Bacon Act Requirements,
2. Requirements Pertaining to Foreign Nationals,
3. Buy-American Act Requirements,
4. National Energy Policy Act (NEPA) Requirements, and

TECHNICAL ASSISTANCE AND ADMINISTRATIVE EXPENSES

Of the amounts made available to a State or Indian Tribe under the Section 40101(d) Formula Grand Program, a State or Indian Tribe may use not more than 5 percent annually for:

1. Providing technical assistance and facilitating the distribution and sharing of information to reduce the likelihood and consequences of disruptive events, and
2. Administrative expenses associated with the program.¹⁶

In addition, the IJA permits DOE to set-aside \$50 million per year (covering Fiscal Years 2022 through 2026) to provide technical assistance to those receiving funding under Section 40101.¹⁷ The Department plans to work collaboratively with recipients of these funds to develop and share best practices on a variety of topics that the recipients may find useful, and welcomes input from eligible entities on how DOE may best serve their need for technical assistance.

Toward this end, DOE will utilize subject matter experts from both private and public organizations, including the National Laboratories, to advance our collective understanding of how to address specific issues, and doing so in partnership with States, Indian Tribes, utilities, technology developers, and other stakeholders. Approaches for providing technical assistance may include:

1. Establishing a resource library at: <https://netl.doe.gov/bilhub/grid-resilience/formula-grants>,
2. Delivering modeling and analytical support,
3. Conducting workshops on technical issues,
4. Providing targeted training and information briefs on key topics, and

¹⁶ See 42 U.S.C. 18711(d)(7).

¹⁷ See 42 U.S.C. 18711(g)(2)

5. Hosting peer-to-peer conferences where grant recipient and eligible entities can work with subject matter experts to advance understanding, share best practices, and identify continuing issues.

The Department acknowledges that advancements are needed in several key areas and would like to establish working groups among funding recipients and subject matter experts. Examples of areas include:

1. Methods for undertaking threat-based risk assessments.
2. Approaches for hardening assets and instituting asset management strategies.
3. Best practices for setting objectives and metrics, particularly relating to improvements in all-hazards resilience and energy justice.
4. Integrated grid planning methods that may include:
 - a) Methods for forecasting customer load, the adoption of DERs (including electric vehicles), and future weather and climate-related impacts,
 - b) Grid modernization,
 - c) Resource adequacy determination, and
 - d) Cost-effectiveness and evaluation approaches for grid infrastructure investments.
5. Application of DERs, including energy storage and microgrids.

MATCHING FUNDS

Each State and Indian Tribe shall be required to match 15 percent of the amount of each grant provided to the State or Indian Tribe under Section 40101(d).¹⁸

Any eligible entity that receives a subgrant under this program shall be required to match 100 percent of the amount of the subgrant.¹⁹ However, if the eligible entity sells 4,000,000 megawatt hours of electricity or less per year, the required match will be one-third of the amount of the subgrant.²⁰

SMALL UTILITY SET-ASIDE

A State or Indian Tribe receiving a grant under the program shall ensure that, of the amounts made available to eligible entities, the percentage made available to eligible entities that sell not more than 4,000,000 megawatt hours of electricity per year is not less than the percentage of all customers in the State or Indian Tribe that are served by those eligible entities.²¹

REQUEST FOR INFORMATION

¹⁸ See 42 U.S.C. 18711(d)(8)

¹⁹ See 42 U.S.C. 18711(h)(1).

²⁰ See 42 U.S.C. 18711(h)(2).

²¹ See 42 U.S.C. 18711(d)(6).

DOE seeks input in the form of questions and comments from all stakeholders, including States and Indian Tribes, on the Department's Section 40101(d) implementation plan, including on application and award requirements, the award formula, and the technical assistance approach as detailed within this NOI and supporting documents. In addition, the Department would appreciate receiving responses from interested parties to the following questions:

1. What are the specific challenges you anticipate with regard to providing the Program Narrative outlined in Appendix A?
2. What are the areas in which you would most appreciate receiving technical assistance? In addition, what approaches for providing technical assistance would be most helpful to you?
3. What additional data sources are you aware of that may help DOE prepare the award formula?

SUBMITTAL OF QUESTIONS AND COMMENTS

NOI questions/comments are due on: June 2, 2022, by 11:59 PM ET

Interested parties should submit questions/comments to the following:

E-mail Address: 40101formulagrants@hq.doe.gov

OR

Postal Address:

Grid Deployment Office
U.S. Department of Energy
1000 Independence Avenue, SW
Washington DC 20585

(postmarked no later than June 2, 2022)

DOE encourages interested parties to send comments to the e-mail address.

SUBMISSION AND REGISTRATION REQUIREMENTS FOR FULL APPLICATION

If the ALRD is released, it will be posted at FedConnect (<http://www.fedconnect.net>). Entities interested in applying for awards under the ALRD are strongly encouraged to register at FedConnect to receive notification of announcements regarding the ALRD. If DOE decides to issue the ALRD, applications can only be submitted through FedConnect.

There are several one-time actions an applicant must complete before submitting an application

in response to this Administrative and Legal Requirements Document (ALRD) (e.g., register with the System for Award Management (SAM), obtain a Unique Entity Identifier (UEI), and register with FedConnect.net). It is vital that applicants address these items as soon as possible, as some may take several weeks.

- **SAM** - Applicants must register with the SAM at <https://www.sam.gov/> prior to submitting an application in response to this ALRD. Designating an Electronic Business Point of Contact (EBiz POC) and obtaining a special password called an MPIN are important steps in SAM registration. The applicant must maintain an active SAM registration with current information at all times during which it has an active Federal award or an application under consideration. More information about SAM registration for applicants is available at:
https://www.fsd.gov/gsafsd_sp?id=gsafsd_kb_articles&sys_id=650d493e1bab7c105465eaccac4bcbbb.

NOTE: If clicking the SAM links do not work, please copy and paste the link into your browser.

- **UEI** - Applicants must obtain an UEI from the SAM to uniquely identify the entity. The UEI is available in the SAM entity registration record.

NOTE: Subawardees/subrecipients at all tiers must also obtain an UEI from the SAM and provide the UEI to the award Recipient before the subaward can be issued.

- **FedConnect.net** - Applicants must register with FedConnect to submit applications in response to the ALRD, to submit questions, and to receive the award. FedConnect website: www.fedconnect.net. For more information regarding registration with FedConnect review the FedConnect Ready, Set, Go! Guide at

https://www.fedconnect.net/FedConnect/Marketing/Documents/FedConnect_Ready_Set_Go.pdf.

- **Electronic Signatures** - Acknowledgement of award documents by the Grantee's authorized representative through electronic systems used by the Department of Energy, including FedConnect, constitutes the Grantee's acceptance of the terms and conditions of the award. Acknowledgement via FedConnect by the Grantee's authorized representative constitutes the Grantee's electronic signature.

DISCLAIMER

This NOI is issued so that interested parties are aware that DOE may issue an ALRD on this topic. Any information contained in this NOI is subject to change.

No Applications are being accepted at this time.

APPENDIX A – PROGRAM NARRATIVE REQUIREMENTS

Eligible applicants are expected to provide responses to the following questions in their grant application packages. DOE requests that applicants limit their responses to no more than ten (10) typed pages in total. DOE may reject applications and require revisions if it determines that the program narrative lacks sufficient detail or does not comply with stated requirements.

Program Narrative Questions:

1. Describe the criteria used for selecting and determining the awards to eligible entities. At a minimum, the criteria should address specific requirements set forth in Section 40101(d), which include that:
 - a. Priority should be given to projects that will generate the greatest community benefit (whether rural or urban) in reducing the likelihood and consequences of disruptive events;
 - b. The percentage made available to eligible entities that sell not more than 4,000,000 megawatt hours of electricity per year should not be less than the percentage of all customers in the State or Indian Tribe that are served by those eligible entities; and
 - c. Awards should be provided to eligible entities for projects within the State or on the land of the Indian Tribe.
2. List 3-5 objectives that the applicant intends to apply for guiding their all-hazards resilience investment decisions. At a minimum, they should address (1) all-hazards resilience and energy justice concerns, including reducing the frequency and duration of outages in disadvantaged communities, (2) how the project will use strong labor standards and protections (including for direct employees, contractors, and sub-contractors), such as through the use of project labor agreements, local hire agreements, and (3) outline of a plan to attract, train, and retain an appropriately skilled workforce (i.e., through registered apprenticeships and other joint labor-management training programs that serve all workers, particularly those underrepresented or historically excluded); plans to partner with a training provider (labor, community college, etc); and the use of an appropriately credentialed workforce (i.e., requirements for appropriate and relevant professional training, certification, and licensure). In addition, provide the metrics that will accompany the objectives to measure outcomes associated with improving resilience, creating good-paying jobs with the free and fair choice to join a union, and advancing energy justice. Indicate whether the objectives and metrics are provisional pending further discussion and consideration by the State or Indian Tribe with its stakeholders. DOE expects that recipients will establish a formal set of objectives and metrics in order to receive Year 2 formula funding. Examples of objectives and metrics and approaches for establishing them are available at <https://netl.doe.gov/bilhub/grid-resilience/resources-library>
3. Provide a description of the methods the applicant anticipates using for soliciting, awarding, and distributing funds. These might include several options, including the use

of competitive solicitations, direct awards, and the use of financial instruments, such as Green Banks, to leverage the funds through 40101(d).

4. Section 40101(d)(5) requires a State or Indian Tribe to give priority to projects that would generate the greatest community benefit (whether rural or urban) in reducing the likelihood and consequences of disruptive events. The applicant should provide an explanation of how it made such a determination for the projects that will be receiving funding and should include information on how the projects go beyond measures that are already being undertaken through current resilience planning by the State or Indian Tribe.
5. Section 40101(d) requires that eligible applicants give notice and undertake a public hearing to review the criteria and methods they anticipate using to grant awards to eligible entities. The applicant should use the public hearing to also share the approach envisioned for setting objectives and metrics. Provide a brief description of the notice and public hearing process, including the number and types of organizations that attended. Also, report on the outcome of the public hearing, e.g., approaches for engaging stakeholders for establishing formal objectives and metrics and for implementing strategic planning processes. Provide a copy of the notice.
6. Provide a description of the proposed funding distributions and recipients of the grants to be provided to eligible entities. It is acceptable to indicate a general plan for distributing funds if eligible entities are not yet specified. Also, indicate preferences for eligible entities if they do not explicitly appear on the list provided in Section 40101.
7. Provide a description of how the applicant intends to utilize up to 5 percent of Federal grant funds for project administration and technical assistance.

APPENDIX B – IDENTIFYING DISADVANTAGED COMMUNITIES

The Justice40 Initiative within DOE includes a collaborative effort with the Office of Management and Budget (OMB) and various federal agencies to establish policy goals and programs for better serving disadvantaged communities. The Section 40101(d) Formula Grant Program requires that eligible applicants establish objectives and metrics to involve disadvantaged communities, e.g., low income, vulnerable, and underserved communities, within their respective planning processes so that they may receive equitable benefits that derive from them.

Eligible applicants should consider using appropriate data, indices, and screening tools, including the Department’s Energy Justice Dashboard²², to determine whether a specific community²³ is disadvantaged based on a combination of variables that may include, but are not limited to, the following:

- Low income, high and/or persistent poverty
- High unemployment and underemployment
- Racial and ethnic residential segregation, particularly where the segregation stems from discrimination by government entities
- Linguistic isolation
- High housing cost burden and substandard housing
- Distressed neighborhoods
- High transportation cost burden and/or low transportation access
- Disproportionate environmental stressor burden and high cumulative impacts
- Limited water and sanitation access and affordability
- Disproportionate impacts from climate change
- High energy cost burden and low energy access
- Jobs lost through the energy transition
- Access to healthcare

²² <https://www.energy.gov/diversity/energy-justice-dashboard-beta>

²³ Community is defined as “either a group of individuals living in geographic proximity to one another, or a geographically dispersed set of individuals (such as migrant workers or Native Americans), where either type of group experiences common conditions.”

APPENDIX C – RELEVANT OTHER IIJA SECTIONS

The efforts undertaken by eligible applicants under the Section 40101(d) Formula Grant Program will affect strategies for infrastructure investments pursued through federal assistance efforts associated with the remainder of Section 40101,²⁴ as well as Sections 40103 and 40107, and they should have alignment with the Energy Security Plans being developed by States per Section 40108 of the IIJA. These provisions and their related requirements are described here.

Section 40101(c) – Grants to Eligible Entities on Preventing Outages and Enhancing the Resilience of the Electric Grid:

Under Section 40101(c), DOE will provide up to \$500 million in financial assistance awards to eligible entities over the period of Fiscal Years 2022 through 2026. These awards will be made annually through a competitive solicitation process, to fund projects that reduce the likelihood and consequence of impacts to the electric grid due to extreme weather, wildfire, and natural disasters. Eligible entities include:

1. An electric grid operator,
2. An electricity storage operator,
3. An electricity generator,
4. A transmission owner or operator,
5. A distribution provider,
6. A fuel supplier, and
7. Any other relevant entity, as determined by a State or Indian Tribe with the approval of DOE.

Eligible entities are expected to match at least 100 percent of the amount of the federal award, although that matching requirement is reduced to one-third (1/3) of the amount of the federal award to those utilities that sell not more than 4,000,000 megawatt hours of electricity per year.

Section 40103 – Electric Grid Reliability and Resilience, Research, Development, and Demonstration:

Under Section 40103(b), DOE will establish the “Program Upgrading Our Electric Grid and Ensuring Reliability and Resiliency” by which it will provide financial assistance on a competitive basis to eligible entities, in coordination and collaboration with electric sector owners and operators, to demonstrate:

1. Innovative approaches to transmission, storage, and distribution infrastructure to harden and enhance resilience and reliability, and

²⁴ The U.S. Congress has appropriated to DOE \$5 billion for the period of fiscal years 2022 through 2026 (\$1 billion annually, to be available until expended) to carry out the entirety of Section 40101.

2. New approaches to enhance regional grid resilience, implemented through States by public and rural electric cooperative entities on a cost-shared basis.

DOE is authorized to provide \$5 billion over the period of Fiscal Years 2022 through 2026 (\$1 billion annually) to eligible entities, which may include:

1. A State,
2. A combination of 2 or more States,
3. An Indian Tribe,
4. A unit of local government, and
5. A public utility commission.

Cost-sharing per Section 988 of the Energy Policy Act of 2005 ([42 U.S.C. 16352](#)) applies to federal financial assistance provided under the program. In general, a 20 percent cost-share is required for research and development projects, while a 50 percent cost-share is required for demonstration projects or commercial application activities.

In addition, under Section 40103(c), DOE is authorized to ensure that \$1 billion of the financial assistance over the period of Fiscal Years 2022 through 2026 (\$200 million annually) is provided to rural or remote areas of the United States to improve:

1. The resilience, safety, reliability, and availability of energy, and
2. Environmental protection from adverse impacts of energy generation.

Under this section, a rural or remote area means a city, town, or unincorporated area that has a population of not more than 10,000 inhabitants.

Section 40107 – Deployment of Technologies to Enhance Grid Flexibility (expansion of the Smart Grid Investment Matching Grant Program):

Under Section 40107, DOE is authorized to provide \$3 billion over a 5-year period beginning in fiscal year 2022 (to remain available through September 30, 2026) for a wide variety of smart grid investments that are based upon, and expand, the set of qualifying investments established under Section 1306(a) of the Energy Independence and Security Act of 2007 ([42 U.S.C. 17386](#)). Recipients that receive funds under this federal financial assistance program are expected to provide 50 percent of the total funding for the proposed, qualified investment.

Section 40107 provides the list of qualified investments which in general are focused on improving the smart grid functionality for appliances, equipment, and the electric grid that results in improvements in efficiency and resilience.

Section 40108 – State Energy Security Plans:

Under Section 40108, States are required to develop and revise State Energy Security Plans, in consultation with owners and operators of energy infrastructure, to:

1. Assess the existing circumstances in the State.
2. Propose methods to strengthen the ability of the State to:
 - a) Secure the energy infrastructure of the State against all physical and cybersecurity threats,
 - b) Mitigate the risk of energy supply disruptions to the State,
 - c) Enhance the response to, and recovery from, energy disruptions, and
 - d) Ensure that the State has reliable, secure, and resilient energy infrastructure.

In addition, a State Energy Security Plan shall:

1. Address all energy sources and regulated and unregulated energy providers.
2. Provide a State energy profile, including an assessment of energy production, transmission, distribution, and end-use.
3. Address potential hazards to each energy sector or system, including:
 - a) Physical threats and vulnerabilities, and
 - b) Cybersecurity threats and vulnerabilities.
4. Provide a risk assessment of energy infrastructure and cross-sector interdependencies.
5. Provide a risk mitigation approach to enhance reliability and end-use resilience.
6. Address:
 - a) Multi-State and regional coordination, planning, and response, and
 - b) Coordination with Indian Tribes with respect to planning and response.
7. To the extent practicable, encourage mutual assistance in cyber and physical response plans.

State Energy Security Plans are to be administered through the State Energy Office. Efforts undertaken to support the State energy security planning process, e.g., the risk assessment activity, should inform the grid resilience planning process under Section 40101(d).