

# Frequently Asked Questions (FAQ)

## Grid Resilience Formula Grants to States and Indian Tribes

### IIJA Section 40101(d)

**May 5, 2023**

*Recent changes (May 2023) to the FAQs have been highlighted in grey. Past changes (March 2023) have been highlighted in yellow.*

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#### **ALRD 006 Update:**

- **What changes were made under the latest ALRD update (Amendment 6)?**

The U.S. Department of Energy (DOE) issued an amendment to the Administrative and Legal Requirements Document (ALRD) for the Grid Resilience State and Tribal Formula Grants Program to increase allocations for certain Indian Tribes. Changes were also made to separate allocations for specific Tribal bands to reflect guidance from the Bureau of Indian Affairs (BIA) regarding sub-governmental tribal entities. No allocations to Tribes, States, or Territories have been reduced. Additionally, the application deadline for FY22 and FY23 allocations has been extended to August 31,

2023 at 11:59 pm ET for federally recognized tribes, Alaska Native Village Corporations, and Alaska Native Regional Corporations. The application deadline for States and Territories remains unchanged: May 31, 2023 at 11:59 ET.

- **Why were only certain Tribes impacted?**

DOE made changes to certain Tribe allocations for one of two reasons:

1. To reflect the improved use of available disaster data to better account for the probability of disruptive events on Tribal lands. Probability of disruptive events is one of five factors considered in the formula to determine allocations. A total of 243 Indian Tribe allocations increased as a result of this modification.
2. To provide certain Tribes that have bands recognized as separate entities with individual allocations for FY22 and FY23. DOE made these modifications in response to feedback from Tribes and guidance from the Bureau of Indian Affairs (BIA).

- **Why was the deadline extended for Tribes?**

The deadline extension responds to feedback from Indian Tribes that more time is needed to prepare applications. It also allows more time for DOE to notify Indian Tribes about the changes to their allocations.

- **Why do allocations change each year?**

The Infrastructure Investment and Jobs Act, also known as the Bipartisan Infrastructure Law, requires that allocations for the Grid Resilience State and Tribal Formula Grants are updated annually based on the most recent and accurate datasets. DOE invites Tribes and other entities to provide information that can help improve the allocation development process going forward.

- **Do Tribes with updated allocations have to accept the additional funding if they cannot provide the required cost match?**

No, a Tribe does not have to accept the additional funding. Furthermore, while in the grant application recipients must commit to providing the cost match on the federal allocation provided with the grants, the cost match is provided as federal funds are expended during the course of project execution and as drawdown of federal funds occurs. The cost match is only provided on federal funds that are expended.

- **What actions should a Tribe take if the Tribe has already applied for their formula grant allocation, but the allocation has now increased?**

The National Energy Technology Laboratory (NETL), which is helping the Grid Deployment Office (GDO) administer the Grid Resilience Formula Grant program, will contact the Tribe and work with the applicant to ensure the required forms and documentation are updated.

- **How does the Office of Management and Budget Controller Alert CA-23-04 “Waiving Matching Fund Requirements for Insular Areas” affect cost match requirements for the Grid Resilience Formula Grant program?**

DOE is currently reviewing the guidance in CA-23-04 regarding waiving certain requirements for local matching funds for grants to the four insular areas, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, to determine how it applies to the Grid Resilience Formula Grant program. The Grid Deployment Office will provide the insular areas with additional information about cost match requirements as it becomes available.

- **Now that the application deadline has been extended, does this mean that awards will have to wait until after the new deadline?**

DOE will process applications and award grants on a rolling basis as they are received. Awards may move forward prior to the August 31, 2023 deadline.

#### **Application:**

- **Some Tribes have difficulties with internet. Is there any way a Tribe can submit a hard copy application?**

A mail-in option is available for Tribes with limited internet connectivity. The mail-in address is listed on the Administrative Legal Requirements Document (ALRD) and applications must be postmarked by the deadline. Tribes can reach out to [GDOTribalAssistance@hq.doe.gov](mailto:GDOTribalAssistance@hq.doe.gov) if additional flexibilities are required.

- **Should I submit one application for Year 1 and Year 2? Or should I submit two separate applications?**

DOE strongly recommends that applicants submit a single application, as it will simplify the application process. Since allocations vary between years, the application should request the sum of Year 1 and Year 2 allocations in the SF-424 Form.

- **Two or more Indian Tribes are interested in using their own grant funding to collaborate on a project, by combining some or all of their funding and cost match, to execute a resilience project that mutually benefits all participating Indian Tribes? For example, could five Indian Tribes collaborate on a project**

**that increases energy resilience of a regional healthcare facility that serves all five Indian Tribes and its members?**

Yes. Multiple tribes can award funding to eligible entities that collaborate on a resilience project by combining allocations and the required cost match as long as each Tribe finds that project provides the greatest community benefit in reducing the likelihood and consequences of disruptive events and aligns with the objectives of the Grid Resilience Formula Grant program.

In addition, the Tribes should track and report costs to DOE in a manner that verifies that work and costs have been charged that precludes any double payment for work done on the full project effort.

- **Can multiple Tribes conduct a single public notice and hearing?**

Yes, as long as the public notice and hearing are inclusive of all the Tribes in question.

- **Can IIJA funding be used for the acquisition of land and is it an allowable cost under the grant?**

Acquisition of land or easements is not allowed. Improvements to real property for the purpose of grid hardening or resilience is not considered acquisition of real property for the purpose of this grant program.

- **As stated in the IIJA, an eligible entity may not submit an application for a grant provided by the Secretary under subsection (c) and a grant provided by a State or Indian Tribe pursuant to subsection (d) during the same application cycle. Can DOE provide more clarity and guidance on this issue.**

An eligible entity is not allowed to submit the same application for a grant under IIJA Section 40101(c) and Section 40101(d) in the same application cycle. DOE considers a "grant" to have a specific scope (i.e., a unique project). Accordingly, an eligible entity may not submit a grant application with the same scope under both Sections 40101(c) and 40101(d) in the same application cycle. Eligible entities can submit proposals to both Sections 40101(c) and 40101(d) in the same application cycle as long as they are separate scopes of work that address different resilience measures.

- **Do applicants need to provide detailed information for the subaward resilience projects, such as a detailed budget, when we submit the application for the grant?**

Aside from the information required in the Program Narrative, applicants should NOT provide detailed resilience project subaward information (e.g., budget) in the initial application to DOE. After the issuance of the grant to the State or Indian Tribe, the State or Indian Tribe, may, at any time, provide the

specific budget and other information to DOE in accordance with **ALRD Section V.G – Resilience Project and Subaward/Subcontract Notification**.

- **If an eligible applicant does not submit an application what happens to the funds, i.e., if funds aren't used in one fiscal year, will they roll over into the next year?**

Unallocated funds (unused funding for an eligible applicant) in one allocation year will transfer into the subsequent allocation year's pool of available funds and be re-distributed to applicants based on that subsequent year formula allocation.

- **How will my state allocate its funds?**

Each State or Indian Tribe will determine its own process for allocation of funds to eligible entities by preparing a plan that will be adopted after notice and a public hearing and described in the Program Narrative, as described in section 40101(d)(2)(B). State or Indian Tribes shall give priority to projects that, in the determination of the State or Indian Tribe, will generate the greatest community benefit (whether rural or urban) in reducing the likelihood and consequences of disruptive events.

- **Can states use their technical assistance funds to provide technical assistance for tribes during the application process?**

Of the amounts made available to a State or Indian Tribe under the program each fiscal year, the State or Indian Tribe may use up to 5 percent for providing technical assistance and administrative expenses associated with the program. Section 40101(d) does not include instructions on how or for whom the technical assistance must support. Further, as long as the technical assistance is within the scope of the ALRD and grant agreement as well as supports both the State and Indian Tribe, it is likely an allowable cost for the State.

#### **Program Narrative and Public Notice & Hearing:**

- **Do States and Indian Tribes need to identify the specific subrecipients (i.e., eligible entity name) in the Program Narrative?**

The Program Narrative submitted with the application should address the objectives, criteria and methods for formulating, selecting and executing resilience projects. At a minimum, it should address the anticipated categories of eligible entities the State or Indian Tribe anticipates carrying out these projects through subawards, and the process for selecting those eligible entities. The DOE recognizes

that each State and Indian Tribe has internal processes it must adhere to in making these selections and resulting subawards, and that the solicitation and award process for these subawards will likely occur after the grant is awarded by DOE to the State or Indian Tribe. Accordingly, after the issuance of the grant to the State or Indian Tribe, the State or Indian Tribe, may, at any time, provide the specific budget and other information to DOE in accordance with **ALRD Section V.G – Resilience Project and Subaward/Subcontract Notification** for approval to proceed with the proposed resilience project carried out by a specific eligible entity.

- **Must a State or Indian Tribe conduct a public hearing every year? Is the public hearing held prior to the submission of the application or post-submittal?**

A State or Indian Tribe must submit an initial application for the first year of grant funding and an allocation request thereafter to the Department of Energy each year to receive its annual funding allocation. The initial grant application must include a Program Narrative that describes the current criteria and methods for selecting and implementing Section 40101(d) projects, including the proposed funding distributions and grant recipients. The Program Narrative must be adopted following notice and a public hearing. However, there is no requirement to update the Program Narrative annually, or to conduct an annual public hearing unless the Program Narrative has been revised. DOE advises that if the Program Narrative is intended to apply to more than one year, that the Program Narrative indicate that, and it be communicated to the public during the public notice and hearing.

- **Must the public notice and hearing be conducted prior to submitting the application?**

The public notice and hearing must be completed prior to submitting the application and must be documented in the Program Narrative submitted with the application.

- **What must the public notice and hearing address?**

The purpose of the public hearing is to foster comments from diverse stakeholders on the criteria and methods being considered by a State or Indian Tribe for undertaking the Section 40101(d) formula grant program. The criteria pertain to the approach proposed for selecting and determining awards to eligible entities; the ALRD specifies a minimum set of required criteria. The methods are those proposed for soliciting, awarding, distributing and leveraging funds and they may include several options, including the use of competitive solicitations, direct awards, and the use of financial institutions, such as Green Banks. The State or Indian Tribe may alter or refine its proposed criteria and methods based on stakeholder comments, and each has full discretion in determining and modifying what criteria and methods it chooses to apply, as long as minimum requirements are met, as noted above.

DOE understands that States and Indian Tribes may not have completely formulated their criteria and methods, especially within the first year of the formula grant program. In such cases, a State or Indian

Tribe may use the public hearing to engage in a discussion on an appropriate set of criteria and methods. The outcome of these discussions should result in a set of proposed or preliminary criteria and methods which would then be reported within the Program Narrative provided within the applicant's application. The level of detail provided on the criteria and methods should reflect the extent to which they can be articulated. For example, the methods proposed for soliciting, awarding, distributing, and leveraging funds do not have to be specific, but minimally provide the direction and options being considered. This approach also applies to the formulation of criteria. However, if the criteria and methods are more rigorously defined in subsequent years of grant funding then a new notice and public hearing will have to be conducted prior to submitting the amended Program Narrative to DOE.

In addition, DOE is interested having applicants formulate objectives and associated metrics for guiding planning and subsequent investment decisions and for measuring their outcomes. At a minimum, DOE would like applicants to provide within their respective Program Narratives objectives and metrics for resilience, strong labor standards and protections, workforce engagement, and energy justice. Applicants may use the public hearing to obtain comments from stakeholders on their approach for formulating such objectives and metrics, as well as on strategies for achieving and enabling them.

#### **Allowable Activities:**

- **Is an emergency generator on an essential facility or critical facility eligible?**

IIJA Section 40101(e)(2)(A) prohibits eligible entities from using grant funds to construct any new electric generating facilities or any large-scale battery storage facility that is not used for enhancing system adaptive capacity during a disruptive event. Therefore, grant funds or cost match may not be used to purchase and install an emergency generator. ***This is an important update and modification to previous FAQs and should be noted.*** However, a large-scale battery storage facility installed to continue to supply electricity where needed during disruptive events would be an allowable project.

- **Would construction of new distribution or transmission lines for the purposes of providing redundancy during disruptive events be considered an eligible use of funds?**

Section 40101(e)(2) states a grant under Section 40101 may be given to an eligible entity for "activities, technologies, equipment, and hardening measures to reduce the likelihood and consequences of disruptive events" and provides examples of permitted activities in section 40101(e)(1)(A)-(L). If it is determined that a new distribution power line, below 69kV, reduces the likelihood and consequence of disruptive events by providing redundancy or fail-over capability, then it is an eligible use of a Section 40101 grant. Section 40101 funds may not be used for new transmission lines. However, undergrounding of existing distribution and transmission lines is an eligible use of Section 40101 funds.

- **Can you please clarify whether or not the construction of new solar generation in support of a microgrid - built to provide clean power for the “community facilities” on tribal trust lands - is an allowable cost.**

No, construction of new solar generation is not an allowable cost for Section 40101 grant funds. However, other costs outside of new generation associated with building out a microgrid may be allowable. IIJA Section 40101(e)(2)(A) prohibits eligible entities from using grant funds to construct 1) any new electric generating facilities or 2) any large-scale battery storage facility that is not used for enhancing system adaptive capacity during a disruptive event. Therefore, a State and Indian Tribe may not use 40101(d) grant funds or associated cost match to construct new solar generation within a microgrid on tribal trust lands. ***This is an important update and modification to previous FAQs and should be noted.***

- **Weatherization is one of the allowable uses. Could tribes use the funds to weatherize tribal facilities or Indian housing facilities? That way when they have a power disruption – which for some tribes happens weekly – at their homes and tribal facilities will stay warm.**

Applicants need to demonstrate how a project or in this case a weatherization concept can reduce the likelihood and consequences of disruptive events. Weatherization in context of this BIL is focused on grid components and systems and not weatherization of a facility or building.

- **Can the funds be used to provide individual households with backup energy resources that can be used during outages?**

IIJA Section 40101(d)(5) requires States and Indian Tribes to give priority to projects that, “in the determination of the State or Indian Tribe, will generate the greatest community benefit (whether rural or urban) in reducing the likelihood and consequences of disruptive events.” While the criteria and rationale for resilience projects are described in the Program Narrative and evaluated on a case-by-case basis, generally, projects for individual benefit (i.e., individual houses) are not allowable under this program. Also, refer to the question regarding the prohibition against using grant funds to purchase or install an emergency generator for an essential facility.

- **What is meant by “the use or construction of distributed energy resources for enhancing system adaptive capacity during disruptive events?”**

System adaptive capacity is the ability of the electrical grid to continue to supply electricity where needed during disruptive events. A range of distributed energy resources, including energy storage devices (e.g., batteries) and microgrids, can be used to provide electrical energy during disruptions and, therefore, provide system adaptive capacity.



- **Can Grid Resilience Formula grant funding be used to replace fuel tanks if it would provide grid resilience benefits to the Indian Tribe?**

Yes. New fuel tanks, either to replace old or faulty tanks or to increase fuel storage capacity would be an allowable project under this program if it provides resilience benefits for the grid serving the Indian Tribe.

- **Could a recipient use their 40101d funding to install EV charging stations and/or to pay for operations and maintenance costs for those EV charging stations? Alternatively, would snow removal equipment to protect wind turbines be an applicable use of funds? What about building management systems?**

Applicants **do not** need to identify specific resilience projects in their program narratives. GDO encourages applicants to keep their program narratives high-level and omit project specifics, to encourage post-award flexibility. Upon receipt of award, the Recipient must demonstrate the resilience benefits of their proposed investments, consistent with the rationale provided and identified metrics within the program narrative of the application. The primary purpose of the Grid Resilience Formula Grant program is to reduce the likelihood and consequences of disruptive events.

Specifically for the EV charging question, a justification would need to be provided on how the EV charging stations reduce the likelihood and consequences of disruptive events. Other non-competitive federal funding is available to Tribes and could potentially be used for EV charging stations, including the Energy Efficiency and Conservation Block Grant (EECBG@hq.doe.gov). Other relevant federal funding opportunities for Tribes can be found at: [Rural EV Infrastructure Funding Matrix | US Department of Transportation](#)

- **Can equipment acquired through BIL funds for the Grid Resilience Formula Grants be used only during disruptive events or can equipment be used during normal operations as well as disruptive events?**

Equipment acquired through the Grid Resilience Formula Grant program can be used during normal operations, but the expectation is that these technologies, systems, etc. will be used to reduce the likelihood and consequences of disruptive events.

- **Can any of the funding beyond the 5% allowed for technical assistance and administrative activities be used for studies?**

Formula grant funding can be used for different types of studies. The scope and cost of the studies will be reviewed on a case-by-case basis.

Generally, if the study being performed is more exploratory and studying different options, then of the federal allocation, only the technical assistance and administrative allowance could be used (capped at

5% of the federal funding received). Applicants may also use some or all of their required cost match (15%) to fund planning/scoping studies.

However, if the study is focused on a specific project to determine project viability, performance specifications, bill of materials, etc. then it could be considered part of project implementation (and not subject to the 5% TA cap) or technical assistance. Additional detail regarding the applicability if different types of studies can be found in the table below.

Study Phase	Description	Phase/Category	Performer
<b>Planning/Scoping Studies</b>	General studies not focused on a specific project; but instead used to explore feasibility of alternative approaches, develop general plans, strategies, etc.	Section 40101(d) Technical Assistance and subject to 5% cap on Federal allocation	Grant Recipient or TA contractor
<b>Feasibility Studies</b>	A study <i>focused on a specific project</i> to determine project viability, performance specifications and estimated cost	Part of Project Implementation or Technical Assistance and subject to 5% cap on Federal allocation	Eligible Entity (subject to required cost match) if part of project implementation. Grant Recipient or TA contractor if part of 5% TA allowance
<b>Environmental Studies</b>	Studies focused on environmental impacts of specific projects, needed to comply with NEPA, permitting requirements, etc.	Part of Project Implementation or Technical Assistance and subject to 5% cap on Federal allocation	Eligible Entity (subject to required cost match) if part of project implementation. Grant Recipient or TA contractor if part of 5% TA allowance
<b>Preliminary Designs</b>	A more detailed planning design to refine project costs design components, performance specifications and approximate cost	Part of Project Implementation or Technical Assistance and subject to 5% cap on Federal allocation	Eligible Entity (subject to required cost match) if part of project implementation. Grant Recipient or TA contractor if part of 5% TA allowance

<b>Final Design</b>	Plans and specifications needed for contract solicitation, materials/equipment specifications, construction drawings, etc.	Part of Project Implementation or Technical Assistance and subject to 5% cap on Federal allocation	Eligible Entity (subject to required cost match) if part of project implementation. Grant Recipient or TA contractor if part of 5% TA allowance
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**Eligible Entities:**

- **If small utilities do not utilize funds provided in the set-aside, can those funds be rolled up into the bigger pot and made available to other eligible entities?**

IIJA Section 40101(d)(6) states that the funds must be made available to eligible entities that meet the IIJA definition of a small utility (i.e., sell not more than 4,000,000 megawatt hours of electricity per year). If small utilities do not avail themselves of the opportunity, the funds may be made available to other eligible entities. Although to satisfy the “set aside” requirement, the funds would need to be first made available to only eligible entities that meet the definition of a small utility.

- **Does the set aside have to go directly to small utilities – or could it benefit communities served by small utilities?**

IIJA Section 40101(d)(6) states that the funds must be made available to eligible entities that meet the IIJA definition of small utility.

- **Would wholesale energy providers qualify?**

If the wholesale energy provider is not explicitly one of the types of eligible entities identified in the statute, the eligibility determination would need to be requested by the applicant on a case-by-case basis. If the wholesale energy provider is an eligible entity and sells less than 4,000,000 MW hours of electricity per year, then it would qualify as a small utility.

- **Can DOE provide more information on how the Secretary will determine what other entities can and will be considered eligible entities?**

Section 40101(a)(2)(G) provides the Secretary the authority to designate additional eligible entities for the Section 40101(d) program. States and Indian Tribes are required to submit a Program Narrative to the Secretary, which describes the criteria and methods it will use to award grants to eligible entities. DOE recommends that State and Tribes should not include specific entities in the program narrative. Note that acceptance of a Program Narrative submitted with the grant application does not

constitute the Secretary’s approval of any entity mentioned in the Program Narrative as being an eligible entity. Moreover, identifying a specific entity in the program narrative may cause delay, because if a specific proposed eligible entity is identified as completing a specific project and DOE denies the request for an entity to be deemed eligible for Section 40101 funding, the State or Indian Tribe may be required to amend its Program Narrative and conduct a new public notice and hearing in order to comply with Section 40101(d)(2)(B)(ii)

After a grant has been awarded to a State or Indian Tribe, but prior to selecting an entity for a subaward, the State or Indian Tribe must request the Secretary make an eligible entity determination for a proposed entity not identified in Section 40101(a)(2). The State or Indian Tribe must indicate how this proposed eligible entity will generate the greatest community benefit (whether rural or urban) in reducing the likelihood and consequences of disruptive events as required by Section 40101(d)(5). The request for a determination by the Secretary would be initiated by the State or Tribe grant recipient by submitting the request to the Federal Project Officer for the grant agreement. The Federal Project Officer can advise the State or Indian Tribe on the process and information requirements for making the request.

- **Can an eligible entity submit the same ideas to multiple provisions?**

It is understood that there is some overlap in various provisions. An eligible entity could respond to multiple provisions that relate to a specific concept. However, there must be different scope for a given application submittal. In addition, note that, under Section 40101(e)(2)(C), “[a]n eligible entity may not submit an application for a grant provided by the Secretary under subsection (c) and a grant provided by a State or Indian Tribe pursuant to subsection (d) during the same application cycle.”

#### **Project Administration:**

- **How and when do States and Indian Tribes request and receive approval to proceed with resilience projects and associated subawards to eligible entities?**

Grant recipients may, at any time after they receive the grant, provide notification and documentation to DOE for resilience projects and subawards. This process is described in **ALRD Section V.G – Resilience Project and Subaward/Subcontract Notification**.

Be aware that review of the documentation and required written concurrence by DOE may take considerable time and will be impacted by factors such as National Environmental Policy Act (NEPA) considerations. Please allow for at least 45 days for this process from when you provide the required information to DOE.

- **Can tribes receive and accumulate multiple annual allocations until they have enough resources to do a larger project? Most tribes’ allocations are between \$30k - \$60k per year (e.g. shipping costs alone**

**could consume most of the funds). If funds could roll over, then by year five they would have enough funding to do a more meaningful project.**

It is DOE's intent for States and Indian Tribes to utilize grant funding to implement grid resilience projects as expeditiously as possible to achieve the objectives of Section 40101. However, if the Program Narrative, submitted with the annual allocation request, identifies a strategy that requires accumulating multiple year (e.g., 2 to 3 years) allocations to initiate and complete an identified project, then the State or Indian Tribe may accumulate the annual allocations until it has sufficient funds obligated to the grant agreement to successfully complete the project. The initial DOE award will have a Period of Performance of five years. Work must be performed within the Period of Performance of the grant agreement.

- **What are the National Environmental Policy Act (NEPA) requirements for the projects States and Indian Tribes propose under the grant?**

NEPA compliance for Section 40101(d) formula grants is being conducted in two phases. First, with the initial grant application, applicants must submit an Environmental Questionnaire (Form NETL Form 451.1-1/3) addressing only the technical assistance and administrative activities (identified as "Group A" activities in the Environmental Questionnaire) performed under the grant. Second, after the grant is awarded, the State or Indian Tribe must submit an Environmental Questionnaire for each proposed resilience project and subaward, in accordance with the Resilience Project and Subaward/Subcontract Notification Term in the ALRD (term will also be in the resulting grant agreements). If any projects are likely to require an environmental assessment (EA) or environmental impact statement (EIS), the DOE NEPA representative will provide further guidance. If DOE determines certain studies or records must be prepared to complete the NEPA review process (e.g., biological evaluations or environmental assessments), the costs to prepare the necessary records may be included as part of the project costs. Accordingly, if the resilience project that is being proposed is likely to have environmental impacts warranting additional studies and NEPA reviews prior to receiving DOE concurrence to proceed, States and Indian Tribes are advised to account for that in the implementation schedule for that project.

- **May applicants incur costs before the award of the grant and be reimbursed through the grant when it is awarded?**

**ALRD Section IV.F – Pre-Award Costs** addresses the allowance of pre-award costs. Pre-award costs are allowed for the technical assistance and administrative expenses; but there are restrictions and limitations that are addressed in this section of the ALRD.

- **Are States, U.S. Territories, and Indians Tribes required to apply 40 percent of their grant allocation towards benefiting disadvantaged communities?**

The Justice40 initiative, created by Executive Order 14008, establishes a goal that 40% of the overall benefits of certain federal investments should flow to disadvantaged communities (see: <https://www.whitehouse.gov/wp-content/uploads/2021/07/M-21-28.pdf>). This is a federal government goal and not a requirement of the IIJA Section 40101(d) Formula Grant program. However, DOE encourages States, U.S. Territories, and Indian Tribes to apply funding in a way that provides benefits to disadvantaged and underserved communities. Also, per IIJA Section 40101(d), 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.

#### Cost Match:

- **We intend for eligible entities to pay the 15% match on our behalf when those partners are chosen. However, we haven't selected a partner yet, as that is part of our work plan for the grant. Are we then required to pay the 15% match ourselves?**

If an applicant intends to require that the eligible entity pay the 15% cost match for the applicant, on top of their own cost match requirements of either 100% or 1/3 of the amount of the subgrant, this information should be included in the *Cost Match Information Sheet* submitted with the grant application. If the applicant has not chosen the eligible entity yet and no entities have confirmed their commitment to pay the cost match, a *Cost Match Commitment Letter* is not required at the time of application submission. The *Cost Match Commitment Letter* is only required with the initial grant application if and when a third party other than the applicant has committed to paying for all or a portion of the applicant's 15% cost match. DOE will require a *Cost Match Commitment Letter* from the eligible entity prior to the start of any resilience project, as noted in ALRD Section IV.G – Resilience Project and SubAward/Subcontract Notification. Cost match should be provided/dispensed as federal funds are expended during the course of project execution and drawdown of federal funds occurs.

Keep in mind that an applicant may use up to 5% of the federal funds for technical assistance and administrative purposes without subgranting these funds to an eligible entity. This portion of the funds will be subject to the applicant's 15% cost match. If this work is not subgranted to the eligible entity, then it may not require additional cost match from the eligible entity. The applicant will need to determine if the eligible entity will also provide the 15% cost match for the technical assistance and administrative funds that the applicant uses, or if the applicant will use other funding sources for this part of the 15% cost match. This information should be included in the *Cost Match Information Sheet*.

- **May a State or Indian Tribe elect to manage and execute the resilience project itself using the formula grant funds, rather than through a subaward, such as by procuring technologies or services directly from vendors? If yes, then how does the impact other issues such as the initial application process and the cost match requirements?**

To administer a program under Section 40101(d), States and Indian Tribes are required to match 15% of the amount of each grant provided to it by DOE under the program. Section 40101(d)(8).

Eligible entities that receive a grant under Section 40101 are required to match 100% of the amount of the project specific grant. Section 40101(h)(1). An eligible entity that is a small utility, as defined by Section 40101(h)(2), is required to match 1/3 of the amount of the grant.

State and Indian Tribes are not eligible entities as defined in Section 40101(a)(2). A State or Indian Tribe may request that DOE determine the State or Indian Tribe is an eligible entity. If DOE designates the State or Indian Tribe as an eligible entity, then it could execute a resilience project and own certain equipment (e.g. battery energy storage system). Upon designation as an eligible entity, the State or Indian Tribal entity would provide the cost match of 100% for the project specific award, unless it meets the definition of a small utility, as defined by Section 40101(h)(2), which is required to match 1/3 of the amount of the grant. This cost match would be in addition to the 15% cost match each State or Indian Tribe is required to submit to participate in the Section 40101(d) program.

- **Can the States and Indian Tribes pass the 15% match onto the eligible entities, in addition to the 100% or 1/3 match required of eligible entities?**

IIJA Section 40101(d)(8) requires “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 the program.” However, the law is silent on the source of the 15 percent match. Consequently, there is nothing in the grant requirements prohibiting a State or Indian Tribe from requiring an additional 15 percent match from the eligible entities receiving subawards and using that funding to meet the 15 percent cost match for the federal award from DOE.

- **Can States and Indian Tribes use American Rescue Plan Act (ARPA) funding for to meet the 15 percent cost match for the Section 40101(d) Grid Resilience grant?**

Yes, however, the amount of State and Local Fiscal Recovery Funds (SLFRF) issued under America Rescue Plan Act (ARPA) that can be used by a recipient is limited to an amount calculated based on reduced revenue as specified in the Treasury Final Rule, 31 CFR Part 35.

- **Can Indian Tribes use funds from the Local Assistance and Tribal Consistency Fund (LATCF) to meet the cost match for the Section 40101(d) Grid Resilience grant?**

Yes, per the Guidance for the Local Assistance and Tribal Consistency Fund (LATCF), issued by the U.S. Department of Treasury, Indian Tribes may use LATCF funds to meet the cost match requirements if it is consistent with the terms and conditions of the LATCF funds.

- **When do all applicants need to confirm they will have the cost match? State budgeting timelines might make it challenging for many states to commit to a state match in the short-term.**

States and Indian Tribes must agree that they will provide cost match, as part of the terms of the grant agreement. However, cost match should be provided/dispensed as federal funds are expended during the course of project execution and drawdown of federal funds. State and subrecipients may utilize in-kind contributions to meet cost match, where applicable. Refer to Section III.B of the ALRD.

- **Each State and Indian Tribe is required to match 15 percent of the amount of each grant provided to the State or Indian Tribe under the Program. So, is the 15% on the total grant amount, and in addition to the required subrecipient cost match?**

The State or Indian Tribe is required to provide a 15% cost match on the total Federal grant allocation. Additionally, subrecipients are required to match either 100% (an eligible entity) or 1/3 (an eligible entity that is a small utility pursuant to Section 40101(h)(2) of the IJA) of the subaward granted to it by the State or Indian Tribe.

- **Does the state have to match the entire amount or should 5% for TA be deducted first and then the 15% cost match applies?**

The 15% cost match applies to the ENTIRE federal allocation to the State. For example, DOE awards an Indian Tribe a \$100,000 grant, the Indian Tribe matches that with 15% (\$15,000) so the total amount available for projects would be \$115,000.

- **Can the State or Indian Tribe use up to 5% of the amount awarded for technical assistance and (TA) and administrative expenses?**

Section 40101(d)(7) states “Of the amounts made available to a State or Indian Tribe under the program each fiscal year, the State or Indian Tribe may use not more than 5 percent for – (A) providing technical assistance under subsection (g)(1)(A); and (B) administrative expenses associated with the program.” Therefore, the amounts made available under the program would be the federal funds provided by DOE. Therefore, up to 5% of the federal funds could be used for TA and administrative expenses combined. For example, DOE awards state X a \$100,000 grant, state X can use up to \$5,000 of that amount for TA and administrative expenses. In addition, state X must provide a cost match of 15% (\$15,000) on the total Federal allocation. The entire cost match of \$15,000 could also be used for TA and administrative expenses.

- **Can more information be provided on DOE’s cost match requirements and differences with cost sharing? Specifically, information pertaining to requirements associated with match type (i.e., cash vs in-kind) and funding source.**

The terms “cost sharing” and “cost matching” are often used synonymously. However, the term “cost sharing,” conveys the concept that non-federal share is calculated as a percentage of the **Total Project**



**Cost.** On the other hand, “cost matching” for the non-federal share is calculated as a percentage of the **federal funds only**, rather than the Total Project Cost. The applicable regulations appear at 2 C.F.R. § 910.130(d)(2).

The following costs are allowable in accordance with the applicable cost principles:

- (i) Cash;
- (ii) Personnel costs;
- (iii) The value of a service, other resource, or third party in-kind contribution determined in accordance with Subpart E - Cost Principles - of [2 CFR part 200](#). For recipients that are for-profit organizations as defined by [2 CFR 910.122](#), the Cost Principles which apply are contained in [48 CFR 31.2](#). See [§ 910.352](#) for further information;
- (iv) Indirect costs or facilities and administrative costs; and/or
- (v) Any funds received under the power program of the Tennessee Valley Authority (except to the extent that such funds are made available under an annual appropriation Act);

Exclude the following costs:

- (i) Revenues or royalties from the prospective operation of an activity beyond the time considered in the award;
- (ii) Proceeds from the prospective sale of an asset of an activity; or
- (iii) Other appropriated Federal funds.
- (iv) Repayment of the Federal share of a cost-shared activity under Section 988 of the Energy Policy Act of 2005 shall not be a condition of the award.

- **Is the state 15% cost match on the entire federal grant amount or just the amount the state spends? That is, does the state have to provide a 15% match for the federal amount sub-granted to other entities?**

Each State and Indian Tribe is required to match 15 percent of the total federal allocation provided to the State or Indian Tribe under the grant. If a State or Indian Tribe chooses to accept less than the formula allocated amount, they would only be responsible for cost match on the amount accepted.

- **Regarding the funding that can be used for technical assistance and administrative costs, is the 5% for TA and 5% for admin? Or 5% for both combined?**

The 5% is being applied for both technical assistance and administrative costs combined.

- **Can DOE provide (or direct) potential applicants to the data sources utilized to calculate the funding allocation and provide an example of the calculation?**

This information is posted online at the following link: [Section 40101\(d\) Formula Grants to States & Indian Tribes | netl.doe.gov](https://www.netl.doe.gov/Section-40101(d)-Formula-Grants-to-States-&-Indian-Tribes)

- **The ALRD indicates that cybersecurity resilience measures are not allowed under Sec 40101(d). Please explain why and does this apply to cost match?**

DOE realizes the importance of cybersecurity and wants to ensure that investments made through the Grid Resilience Grants will not exacerbate issues within the energy delivery system. It is expected that any concepts, technologies, or systems deployed will meet, at a minimum, any cyber requirements within the entity's energy infrastructure and further be in compliance with any corresponding standards. However, IJA Section 40101(e)(2)(A)(ii) states that "[a] grant awarded to an eligible entity under the program may not be used for . . . cybersecurity." Additionally, cybersecurity investments cannot be used as cost matching since financial assistance regulations treat government share and recipient share the same. Thus, since government funds cannot be used to support cybersecurity resilience measures, neither can recipient share be counted as part of the award.

- **May our Tribe, or its eligible entity receiving the subaward, use the design costs for a resilience project to meet the cost match for the resilience project? And if so, may these costs be incurred before the grant is awarded or the notification process (per Section V.G – Resilience Project and Subaward/Subcontract Notification) has been completed?**

Design costs are an eligible expense for allowable resilience projects, and the associated costs may be used as cost match towards a resilience project, if incurred after May 3, 2022. The design costs incurred must meet the cost match requirements set forth in the ALRD (refer to ALRD Section IV.F – Pre-Award Costs) and 2 CFR 200.306 as amended by 2 CFR 910.130. Additionally, the resilience project will be subject to Section V.G – Resilience Project and Subaward/Subcontract Notification of the ALRD. However, incurring design costs prior to a grant being awarded, or a subsequent resilience project completing the notification process, places the grant recipient and its subawardee at financial risk should the project or subaward not be deemed allowable pursuant to the notification process. Additionally, the DOE is not obligated to reimburse costs: (1) in the absence of appropriations; (2) if an award is not made; or (3) if an award is made for a lesser amount than the Applicant anticipated.

- **If a utility begins a resilience project (such as AMI upgrades for the purpose of resilience), and the project begins implementation prior to being selected as a sub-awardee OR prior to receiving any 40101(d) funds, would that AMI project still be eligible through our state's anticipated program if "construction" began already? Furthermore, could the utility spend some of their 1/3 cost match on the project prior to receiving notification as a sub-awardee?**

While the ALRD does allow pre-award costs for technical assistance and administrative activities (see the FAQ response above and refer to ALRD Section IV.F – Pre-Award Costs), pre-award costs (using Federal

grant funds or cost match) for resilience projects are most likely unallowable under the State's 40101d grant agreement. Resilience projects paid for by Federal grant funds and associated cost match must adhere to the Terms and Conditions contained in the DOE Grant Agreement with the State. These Terms and Conditions must flow down to subrecipients. In addition, costs incurred for resilience projects prior to the selection and/or receiving notification of the subawardee must also adhere to the State's rules and regulations.

### Forms:

- **Both the Pre-Award Info and the Environmental Questionnaire request a "Principal Investigator". Is there a specific definition for who this is for an applicant? Can the Principal Investigator be the same person as the authorized Representative on the Pre-Award Info form? Or the same as the Business Officer or Technical project Manager?**

The principal investigator is the same as the Technical Project Manager. The Technical Project Manager is the technical lead, or project manager, of the project. This person is responsible for all technical and project management aspects of the grant activities.

- **On the Pre-Award Information Sheet, B. 1. Information for Determining Cognizant Agency/Office, Federal contracts/awards- The applicant is asked to provide information for the "5 highest dollar award valued for current Federal contracts, grants or awards for which the organization receives funding (either as a prime or subcontract) directly from a Governmental agency." The applicant is an Alaska Native Regional Corporation and has a large subsidiary that has extensive government contracting. Would that subsidiary's Federal contracts be included here? Or just those held by the primary applicant.**

Only the federal awards that the prime applicant has should be included on the Pre-award information sheet, not their subsidiary. Generally, any agreements/contracts with the Federal Government under the same UEI as the prime applicant should be considered when listing the five highest dollar awards.

- **Are there any online resources or detailed instructions available to help in filling out the required application forms?**

Yes. There is a slide deck available that provides instructions on preparing and submitting your application. Among other things, the instructions walk through each of the required forms. You can access that document at the following link:

<https://netl.doe.gov/sites/default/files/2023-02/40101d%20Formula%20Grant%20Application%20Assistance%203-1-23.pdf>

- **What date should I use for the Project Start and End dates on the SF-424, Section 17?**

You may leave those fields blank. The project start date will be the date the DOE Contracting Officer executes the grant agreement, and the end date will be five years after the start date.

- **DUNS numbers are no longer used. The UEI number will not fit into the SF-424 field for the DUNS number. What should I do?**

If you are using an older version of the SF-424, the SF-424 might not accept the UEI number in the DUNS field (8c). If this happens either use a more recent version of the form or leave that field blank and include the UEI in the Pre-Award Information Sheet submitted with your application.

- **How do I fill out the SF-LLL (Disclosure of Lobbying Activities)?**

Prime recipients and subrecipients may not use any federal funds to influence or attempt to influence, directly or indirectly, congressional action on any legislative or appropriation matters.

Prime recipients and subrecipients are required to complete and submit SF-LLL, "Disclosure of Lobbying Activities" to ensure that non-federal funds have not been paid and will not be paid to any person for influencing or attempting to influence any of the following in connection with the application:

- An officer or employee of any federal agency;
- A Member of Congress;
- An officer or employee of Congress; or
- An employee of a Member of Congress.

If the applicant does not lobby and has no lobbyist, fields in Section 10 may be marked "not applicable."

- **Do the application forms need to be electronically signed?**

The signatures on the application forms may be signed electronically or they may be printed, signed by pen/ink and then scanned.

- **How and when do States and Indian Tribes request and receive approval to proceed with resilience projects and associated subawards to eligible entities?**

Grant recipients may, at any time after they receive the grant, provide notification and documentation to DOE for resilience projects and subawards. This process is described in **ALRD Section V.G - Resilience Project and Subaward/Subcontract Notification**.

Be aware that review of the documentation and required written concurrence by DOE may take considerable time and will be impacted by factors such as National Environmental Policy Act (NEPA) considerations. Please allow sufficient time for this process from when you provide the required information to DOE.

- **How do I fill out the Environmental Questionnaire?**

The NEPA Environmental Questionnaire you submit with your grant application will address only the technical assistance and administrative activities.

- The initial award will only authorize the technical assistance and administrative activities
- Resilience projects and associated subawards must be approved individually post-award and will require separate Environmental Questionnaires.
- Technical assistance and administrative activities are “Group A” activities.

For the initial grant application, once you complete Section II Questionnaire, you may check the Group A box, then proceed directly to Section III Certification by Proposer and sign the form.

- **If our Tribe does not have a cognizant federal agency, how should I fill out the “Information for Determining Cognizant Agency/Office” section of the Pre-Award Information Sheets?**

If the Tribe does not have a cognizant federal agency (an agency that an entity works with to develop their indirect rates/accounting information), then you can put N/A for the Agency and the DOE Office and leave the remainder of those sections blank.

#### **Definitions:**

##### **Allocation**

BIL Section 40101(d) prescribes a formula to allocate funds to States and Indian Tribes. The formula includes five factors based on population, land area, probability of disruptive events, economic impact of past disruptive events, and amount of expenditures spent to mitigate likelihood and consequence of disruptive events. The resulting allocations are the amount a State or Indian Tribe may receive during each of the five years of grant funding. Annual allocation amounts will be determined each year based on available BIL Section 40101(d) funding and annual updates to the data relating to the five factors.

##### **ALRD**

An Administrative and Legal Requirements Document (ALRD) is the instrument the government uses to announce and describe a financial assistance opportunity, such as a formula grant. It is similar to a Funding Opportunity Announcement (FOA), except that an ALRD is typically used for a non-competitive grant program whereas a FOA is typically used for a competitive financial assistance opportunity. The ALRD provides the administrative and legal requirements of the formula grant program and instructs eligible applicants on the process and documents needed to apply for the grant.

**Applicant** An Applicant is a State, U.S. Territory, District of Columbia or Indian Tribe (normally referred to as “State and Indian Tribes” for the purpose of BIL Section 40101(d)) eligible to receive a formula grant under Section 40101(d) Formula Grant Program of the [Bipartisan Infrastructure Law \(BIL\)](#).

**Application** There are two definitions for an application, depending on the stage of the award process:

**Grant Application**

States and Indian Tribes must submit a grant application to the U.S. Department of Energy to receive a formula grant under BIL Section 40101(d). Section 40101(d) requires that applications include a plan (referred to as the Program Narrative) that describes the criteria and methods that will be used by the State or Indian Tribe to award grants to eligible entities; be adopted after notice and a public hearing; and describe the proposed funding distributions and recipients of the grants to be provided by the State or Indian Tribe. In addition to the Program Narrative, the ALRD Sections IV.A and IV.B require additional information and documents needed to apply for and receive a grant.

**Allocation Application**

States and Indian Tribes must submit an annual allocation application to request and receive their annual funding allocations (this is after receipt of their initial award). The allocation request for Year 1 is considered to be part of the initial grant application. Additionally, the U.S. Department of Energy will be releasing the Year 2 formula allocation amounts by January 2023. States and Indian Tribes may request both Year 1 and Year 2 allocation amounts in the initial grant application. Or, if a State or Indian Tribe submits an application prior to the release of the Year 2 allocations, requesting only the Year 1 allocation, they must submit a separate Year 2 allocation application prior to March 31, 2023 in order to receive the Year 2 allocation. The Grant Agreement will contain instructions on the requirements and process for annual allocation application submittals. Annual allocations will be obligated to the same grant agreement awarded in Year 1, thereby increasing the grant amount with each annual allocation.

**Cost Match** Cost Match under BIL Section 40101(d) is the amount of non-Federal funding a State or Indian Tribe must provide to match the amount of Federal funds awarded under a Section 40101(d) formula grant. Under the Section 40101(d) each State and Indian Tribe is required to match 15 percent of the amount provided to it under the program. Further, an Eligible Entity that receives a subaward under this program is required to match 100 percent of the amount of the subaward as required by Section 40101(h)(1). However, if the Eligible Entity sells not more than 4,000,000 megawatt hours of electricity per year (i.e., is a Small Utility), the required match will be one-third of the amount of the subaward as required by Section 40101(h)(2).

**Eligible Entity** States and Indian Tribes may use BIL Section 40101(d) formula grant funds to issue subawards to Eligible Entities for the purpose of implementing eligible resilience measures that achieve the objectives of Section 40101(d). An Eligible Entity is defined by Section 40101(d) as

- 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 other relevant entity, as determined by the Secretary (of the U.S. Department of Energy).

**Formula Grant** A formula grant is a type of financial assistance award in which the government awards grants to eligible applicants, with the grant amount being based on a prescribed formula. BIL Section 40101(d) prescribes a formula to allocate Section 40101(d) funds to States and Indian Tribes. The formula includes five factors based on population, land area, probability of disruptive events, economic impact of past disruptive events, and amount of expenditures spent to mitigate likelihood and consequence of disruptive events.

**GDO** The Grid Deployment Office (GDO) is the programmatic office within the U.S. Department of Energy responsible for implementing the BIL Section 40101(d) and other BIL grid resilience programs. Information about GDO is available here: [Grid Deployment Office | Department of Energy](#)

**Grant Agreement** A grant agreement is the contractual financial assistance instrument in which a State or Indian Tribe and the Department of Energy enter into for the purpose of the Department of Energy making available funds to the applicant to achieve grant objectives. The grant agreement contains the Terms and Conditions the State or Indian Tribe must adhere to when utilizing grant funds. The U.S. Department of Energy will award Section 40101(d) grant agreements with an initial Period of Performance of five years.

<b>NETL</b>	The National Energy Technology Laboratory (NETL) is administering the BIL Section 40101(d) and other BIL grid resilience programs on behalf of the U.S. Department of Energy Grid Deployment Office (GDO) and will provide administrative and technical oversight over the formula grants. NETL will assign Federal Project Officers, Award Administrators, and Contracting Officers to negotiate, award, monitor and administer the BIL Section 40101(d) formula grants to States and Indian Tribes. Information about NETL is available here: <a href="https://netl.doe.gov">https://netl.doe.gov</a> .
<b>New Generation</b>	BIL Section 40101 prohibits a grant awarded to an Eligible Entity under the program being used for construction of a new electric generating facility. In this context, new generation is defined as construction of a facility that produces electricity, including emergency back-up generation, solar generation or any other electric generation unit or facility.
<b>Power Line</b>	The term “power line” includes a transmission line or a distribution line, as applicable. Distribution power lines are considered to be below 69kV.
<b>Program Narrative</b>	<p>The Program Narrative is a critical part of the grant application. Section 40101(d) requires that applications include a plan (referred to as the Program Narrative) that as describes the criteria and methods that will be used by the State or Indian Tribe to award grants to eligible entities; be adopted after notice and a public hearing; and (iii) describe the proposed funding distributions and recipients of the grants to be provided by the State or Indian Tribe. The ALRD provides additional requirements for the Program Narrative, which include”</p> <ul style="list-style-type: none"> <li>• Objective and metrics</li> <li>• Criteria</li> <li>• Methods</li> <li>• Funding distribution</li> <li>• Equity Approach</li> <li>• Technical assistance and administration</li> <li>• Public notice and hearing</li> </ul>
<b>Section 40101(d)</b>	Section 40101(d) of the <a href="#">Bipartisan Infrastructure Law (BIL)</a> authorizes the U.S. Department of Energy to award formula grants to States and Indian Tribes to improve the resilience of their electric grids.
<b>Small Utility</b>	As defined in BIL Section 40101(h)(2) for the purpose of this grant program, a Small Utility sells not more than 4,000,000 megawatt hours of electricity per year.



**Weatherization**

Technologies or equipment that can be used to enhance reliability and resiliency of electric grid components in preparation for extreme weather conditions.