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Grid Deployment Office  
U.S. Department of Energy  
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Washington DC 20585

**Comments of the National Rural Electric Cooperative Association  
on the  
Notice of Intent (no. DE-FOA-0002764) to Issue Formula Grant Administrative and Legal Requirements Document  
(ALRD) Announcement No. DE-FOA-0002736**

The National Rural Electric Cooperative Association (“NRECA”) appreciates the opportunity to submit these comments on DOE’s Notice of Intent (NOI) and draft Administrative and Legal Requirements Document (ALRD).

NRECA is the national trade association representing nearly 900 local electric cooperatives and other rural electric utilities. America’s electric cooperatives are owned by the people that they serve and comprise a unique sector of the electric industry. From growing regions to remote farming communities, electric cooperatives power 1 in 8 Americans and serve as engines of economic development for 42 million Americans across 56 percent of the nation’s landscape. Electric cooperatives operate at cost and without a profit incentive. NRECA’s member cooperatives include 63 generation and transmission (G&T) cooperatives and 831 distribution cooperatives. The G&Ts generate and transmit power to distribution cooperatives that provide it to the end of line co-op consumer-members. Collectively cooperative G&Ts generate and transmit power to nearly 80 percent of the distribution cooperatives in the nation. The remaining distribution cooperatives receive power directly from other generation sources within the electric utility sector. Both distribution and G&T cooperatives share an obligation to serve their members by providing safe, reliable, and affordable electric service.

Electric cooperatives stand to contribute significantly to increased resilience and reduced number of outages to the extent they are given appropriate and equitable access to the funds in question. We look forward to partnering with DOE and the States and Indian Tribes to devise administratively efficient and fair programs to increase resilience of the grid and to reduce outages.

As an initial matter, we commend DOE’s efforts to produce the documents underlying the NOI. The speed with which DOE has promulgated the drafts is a testament to the Department’s dedication to deploying the IIJA funding to reduce outages and increase grid resilience. We applaud DOE for this accomplishment.

Below we discuss some of the recommendations we offer to ensure that the Administration and DOE goals are met in implementing section 40401(d) of the IJJA<sup>1</sup>.

## 1. Timeline

We are **very** concerned about the timeline envisioned by the NOI. Given the MANY programmatic requirements States and Indian Tribes will have to fulfill, we don't believe that a 60-day window<sup>2</sup> is sufficient. For example, the development of objectives and metrics as part of a strategic planning process is a month's long process under the best of circumstances with sufficient resources. We simply do not see how the States and Indian Tribes can accomplish this in DOE's proposed 60-day application timeline. We recommend **at least** a 6-month window for applications.

Examples of other time intensive requirements include:

- the formulation of planning objectives, criteria, and proposed methods;
- the public hearings on the criteria and methods;
- the development of evaluation criteria and priorities to be used by the States and Indian Tribes to evaluate projects proposed by eligible applicants; and
- identifying and developing the methods to be used for leveraging funds.

All these activities require time and expertise, and we are concerned that if the States and Indian Tribes are required to do this detailed technical time-consuming work in a short time frame, one of two things will happen: (1) States and Indian Tribes won't participate; or (2) programs will be executed in a way that won't meet the IJJA's and DOE's goals. Both would be unfortunate and unacceptable. Therefore, we urge DOE to expand the anticipated timeframe for States and Indian Tribes to respond to the final ALRD.

In addition to recommending a longer timeline, we also observe that many pieces of the process outlined by DOE are dependent on each other and will need to occur sequentially, not simultaneously. This sequencing argues for a longer time frame than that anticipated by the current draft. Examples include the process outline by DOE seemingly developing metrics for a project before the project has been defined and technical assistance is in place.

## 2. Definitions

There are several terms used in the draft documents that may cause confusion as they are ill-defined or subject to misinterpretation. Among these are:

### a. *Advanced*

This term is used throughout the drafts<sup>3</sup>. We recommend DOE not only define what it considers advanced, but also explicitly recognize that "advanced" may have different meanings to different communities. Rural communities in particular, that may lag other communities in terms of availability of advanced energy infrastructure, may view what is advanced in a different way than DOE does, given DOE's access to national lab work and cutting-edge projects. As DOE seeks to define what is considered advanced, the Department should carefully consider the unique characteristics of rural communities.

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<sup>1</sup> Infrastructure Investment and Jobs Act (Pub. L. 117-58).

<sup>2</sup> See Page 2 of the NOI.

<sup>3</sup> See, for example, Page 6 of the NOI.

b. *Least Regret*

This term is problematic in that it may be interpreted in very different ways by different stakeholders. What is “least regret” for a State may cause maximum regrets for owners of facilities that are ripe for increased resilience and fewer outages. For example, utility least regrets planning for capital projects is subject to many variables including growth rate uncertainty, regulatory changes, fuel costs, and growth of demand side resources, to name a few. We question whether State and Indian Tribal leaders consider any of those factors as they develop plans for projects. We recommend that DOE adopt an expansive definition of least regret to include impacts on all stakeholders.

3. Other Funding Institutions

The draft<sup>4</sup> mentions the use of green banks as a tool to leverage funding the States and Indian Tribes receive. We observe that green banks are not the only alternative for funding leveraging. Electric cooperatives have access to banking services from the U.S. Department of Agriculture’s Rural Utilities Service, the National Rural Utilities Cooperative Finance Corporation (“CFC”) and CoBank. We recommend that DOE recognize other financing alternatives in addition to green banks.

4. Engineering Analyses

The draft ALRD contemplates engineering analyses as a basis for States and Indian Tribes proposing projects to DOE. To the extent electric power system resilience and outage reductions projects are prioritized by DOE and the States and Indian Tribes, the drafts should recognize that the State or Indian Tribe in most cases won’t own any of the systems to be analyzed. Thus, it would seem more practical for the draft to recognize the administrative and logistical challenges with the State or Indian Tribe performing analyses on assets they do not own. We recommend that DOE contemplate allocating funding to the asset owners to be used to perform engineering analyses.

5. Technical Assistance

We are very concerned about some of the underlying assumptions the draft appears to make about Technical Assistance. First, it appears that DOE is reserving Technical Assistance solely for the States and Indian Tribes. It would be far more efficient to allocate some Technical Assistance funding to eligible entities. Second, the eligible entities should have some say in the choice of providers of Technical Assistance. Electric cooperatives have business relationships with technical providers and these providers understand the unique attributes of co-op systems. While we understand the need for oversight and fiscal prudence, we view it as inefficient for DOE and/or the State or Indian Tribe to insert themselves into a pre-established business process that in most cases has worked very well. To the extent the Technical Assistance is assumed to be provided by one of the national labs, we ask DOE to be cognizant that some smaller utilities have not always had positive experiences working with the national labs.

6. Environmental Requirements

We are very concerned that the environmental requirements may create an unreasonable time delay for implementing projects selected for funding. We urge DOE to leverage all tools that are available to efficiently meet environmental requirements, including: 1) utilizing any applicable categorical exclusions under the National Environmental Policy Act (NEPA) related to proposed projects, including any categorical exclusions that can be used if a project will be in the same footprint or is within a previously disturbed or developed area; 2) adopting prior NEPA reviews or incorporating by reference material into a NEPA review; and 3)

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<sup>4</sup> See, for example, Page 3 of the draft ALRD under point 3.

collaborating with States and Indian Tribes to the fullest extent possible to reduce duplication of processes and documents. These and other efficiency practices reflect the spirit of the Administration's recently announced Permitting Action Plan – that is, to accelerate and deliver infrastructure projects, not delay them unnecessarily.

The draft ALRD is confusing in that, as currently drafted, it contains two sections on environmental requirements. Page 15 of the draft ALRD contains Section 5 – Environmental Questionnaire. The link provided for the questionnaire takes the reader to an instrument that appears to be part of a NEPA review. Then, at page 22 of the draft ALRD Paragraph O of Section V – Award Administration Information sets forth the requirements for “Environmental Review in Accordance with National Environmental Policy Act (NEPA)”. It may be helpful to applicants to have all the environmental requirements included in Section 5 and repeated in Section V, so as to avoid the implication that there are two sets of environmental requirements.

## 7. Miscellaneous Comments

- a. On page 6 of the draft ALRD, we recommend that DOE make clear the statement following the phrase: “(U)nder the Program, the Department will provide grants to eligible applicants to improve the resilience of their electric grids.” Few if any States or Indian Tribes own electric grids and we thus recommend that the language be changed to: “Under the Program, the Department will provide grants to eligible applicants to improve the resilience of electric grids located within their jurisdiction.”
- b. On page 9 of the draft ALRD, we appreciate DOE's recognition of longer time periods that may be needed to complete projects and thus support “Awards may be extended to span the amount of time necessary for Recipients to complete all subaward project effort, up to 10 years.”
- c. On Page 13 of the draft ALRD, we are concerned about the second paragraph under Point 3 (Budget Justification). We are not clear on how it is possible for a State to know the planned dollar value of a project whose Subrecipients/Contractors are not known. This dilemma underscores the timing issue we discuss earlier in our comments. We strongly recommend that the process include sufficient time for States and Indian Tribes to identify projects that eligible entities will propose to meet the program's goals. By allowing sufficient time to identify and develop supporting cost data, DOE will increase the likelihood that the States and Indian Tribes can file defined, cost supported budget justifications.

## Responses to DOE's Request for Information

1. What are the specific challenges you anticipate with regard to providing the Program Narrative outline in Appendix A?

Appendix A to the NOI states at page 15, paragraph 2: “Indicate whether the objectives and metrics are provisional pending further discussion and consideration by the State or Indian Tribe with its stakeholders.” This illustrates our concern with the timeframe proposed by DOE. We don't see how any objectives and metrics can be developed in such a short period of time that *aren't* provisional. If DOE adheres to the proposed timetable, we are concerned that funds will be awarded on incomplete information, to the detriment of the goals of the IJA.

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?

Please see our comments above on Technical Assistance. At a minimum, we encourage DOE to develop a process for delivering Technical Assistance in developing planning objectives and metrics in conjunction with eligible entities or their representatives. We reiterate that it is very inefficient to have objectives and metrics for projects that will be executed by utilities developed without input from and partnership with those utilities.

3. What additional data sources are you aware of that may help DOE prepare the award formula?

No response provided.

### **Summary and Conclusions**

We appreciate the opportunity to submit comments on DOE's Notice of Inquiry and draft Administrative and Legal Requirements Document. We applaud the speed with which DOE has produced a lot of very helpful information to inform the thinking and planning by the States and Indian Tribes, and eligible entities such as electric cooperatives. Nevertheless, we are very concerned that the timeline proposed by DOE presents a threat to successful execution of the program.

Respectfully Submitted,



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