

**Public Hearing on IIJA Section 40101(d) Funding**  
***Preventing Outages and Enhancing the Resilience of the Electric Grid***  
***Formula Grants to States and Indian Tribes***

**Hearing Date:** Thursday, September 15, 2022

**Time Opened:** 1:01 p.m.

**Time Closed:** 2:47 p.m.

**Individuals Present:**

Joshua Elliott, NH Department of Energy (NHDOE)

Griffin Roberge, NHDOE

Michael Jennings, NH Electric Cooperative (NHEC)

Patrick Taylor, Unitil

Marco Cacasse, International Brotherhood of Electrical Works (IBEW)

Julie Desmet, Office of the Consumer Advocate (OCA)

Maureen Reno, OCA

Sandra Gagnon, Eversource

Michael Licata, Eversource

Michael Sheehan, Liberty Utilities

Huck Montgomery, Liberty Utilities

---

Joshua Elliott opened the meeting to discuss the latest guidance from the US Department of Energy (USDOE) on [Section 40101\(d\) Formula Grants to States & Indian Tribes](#). This funding became available through the Infrastructure Investment and Jobs Act (IIJA). The USDOE extended the application deadline from September 30, 2022 to March 31, 2023. USDOE will be issuing a revised FAQ document by the end of September 2022 to give States and Indian Tribes information to prepare their applications.

Mr. Elliott discussed NHDOE's draft Program Narrative for its 40101(d) application. NHDOE intends to use the funding to meet four different objectives, which were derived from USDOE's 40101(d) Administrative and Legal Requirements Document (ALRD):

1. Investment in Disadvantaged Communities
2. Reduce the Frequency and/or Duration of Disruptive Events
3. Advance Resiliency Projects That Go Beyond Current Resilience Planning
4. Leverage Existing Workforce Development/Training Opportunities

NHDOE intended to stand up a competitive matching grant program with its 40101(d) funding allocation for two eligible entities under the 40101(d) ALRD: 1) a transmission owner or operator, and 2) a distribution provider. The program would effectively make NH's electric distribution utilities and municipal electric distribution utilities eligible for funding. NHDOE may expand the program in later years to other eligible entities but wanted to move conservatively in the first year to see how its program functioned.

Mr. Elliott took feedback from those present regarding other tools and metrics that NHDOE should consider in identifying “disadvantaged communities.” In its Program Narrative, NHDOE intended to use the [USDOE's Energy Justice Mapping Tool](#), which categorizes disadvantaged US census tracts, pursuant to President Biden’s [Executive Order 14008 - Tackling the Climate Crisis at Home and Abroad](#). Electric utilities felt using this tool may be overly restricting for potential projects. While utilities acknowledged the need to direct federal funds to needy communities, projects do not always easily fit within a given census tract. Additionally, the tool may only target disadvantaged census tracts within the service territories of certain electric utilities, leaving other electric utilities at a distinct disadvantage under NHDOE’s proposed scoring criteria. The utilities also raised concerns with the fact that the mapping tool may not encompass all of the economically disadvantaged communities. Several examples of towns were given that are generally thought to be economically disadvantaged, but did not score as such in the mapping tool. Utilities encouraged using other poverty metrics, such as percentage of students receiving free and reduced lunch.

Mr. Elliott took feedback on labor standards and protections. Mr. Cacasse of the IBEW mentioned that Project Labor Agreements would be a good way to accomplish this and went on to highlight the general workforce challenges in this sector. He also encouraged leveraging existing apprenticeship programs run by the IBEW. The utilities raised concerns with the use of Project Labor Agreements given the size of the funding stream but agreed that leveraging apprentice programs with the IBEW made sense and that they’ve have strong relationships with the IBEW on these programs. The utilities asked for clarification if this funding would require them to stand up new work force development programs. Mr. Elliott answered no, that existing programs could be utilized to meet the funding requirements, and that using existing and proven successful structures made more sense than spending time and money to ‘reinvent the wheel’ on creating new ones.

Mr. Elliott took feedback on how to better encourage applicants to undertake projects that go beyond current resilience planning. Mr. Elliott explained that any 40101(d) funding award should not replace or supplant an entity’s resilience spending, but should add to that spending to advance projects that may not take place for any extended period of time – ex. advancing a resilience project up three years and not reducing overall resilience planning. Those present agreed with the concept. Utilities are required to submit resilience plans to the State’s Public Utilities Commission (PUC) but wanted to be sure that any such plans may be deemed confidential, if risks arose in disclosing a utility’s infrastructure weaknesses. Some utilities expressed a willingness to share potential projects with NHDOE to give them an idea of projects that could be funded, but NHDOE stressed that any such information cannot detail specific future projects that may be the subject of future grant requests. Instead, it was encouraged to submit past completed projects. NHDOE would not want to give any utility an unfair advantage or give the perception that it is favoring certain projects over others.

Mr. Elliott asked if utilities would have the capacity and expertise to implement and administer 40101(d) award funding. Discussion emphasized that small utilities may have a difficult time administering 40101(d) funding as they do not have dedicated, full-

time staff to conduct federal compliance and monitoring. Additionally, capacity and expertise may vary based on the type of project that is awarded funding – can the project be completed with in-house staff or will there be a need to subcontract out the work? No municipal utility was present, but all agreed that municipal utilities would likely need assistance in administering any 40101(d) award. Concerns were raised about compliance with the federal program requirements, as utilities are not familiar with federal compliance since they do not typically use federal funds and do not have the existing staff or the expertise in this area.

A discussion took place about advertising project benefits. Those present asked if NHDOE had developed a social media presence to highlight funded projects. Mr. Elliott explained that it was something NHDOE was pursuing, but NHDOE is a new department and must meet guidelines from the NH Department of Information Technology. A broad discussion took place about installing signage at project sites similar to those funded with American Recovery and Reinvestment Act (ARRA) or offering presentations at local public body meetings.

A discussion on NHDOE's proposed funding distribution took place. NHDOE intends to develop a competitive matching grant program to distribute its entire 40101(d) funding allocation, minus an allowable 5% of the award for administrative expenses and technical assistance. NHDOE will set aside 28% to make available for small utilities per the Small Utilities Set Aside requirement under Section 40101(d)(6) of the IIJA. While those present felt the program would rightly require applicants to compete to get funding for the best project, there was some concern raised that those applicants with more resources and technical expertise may be in a better position to get funding than those who do not. If the same applicants continue to get awarded year after year, smaller applicants may look away from the program and not waste the time to apply.

Mr. Elliott closed the hearing and said that once the updated ALRD was released at the end of the month, the Department would determine next steps, but keep everyone informed.

GJR  
Date Meeting Minutes completed: September 19, 2022