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§ 18701. Definitions

In this division:

(1) Department

The term “Department” means the Department of Energy.

(2) Indian Tribe

The term “Indian Tribe” has the meaning given the term in section 5304 of title 25.

(3) Secretary

The term “Secretary” means the Secretary of Energy.

(Pub. L. 117–58, div. D, § 40001, Nov. 15, 2021, 135 Stat. 923.)

Editorial Notes

REFERENCES IN TEXT

This division, referred to in text, is div. D of Pub. L. 117–58, Nov. 15, 2021, 135 Stat. 923, which enacted this

chapter and enacted and amended numerous other sections and notes in the Code. For complete classification of div. D to the Code, see Tables.

Statutory Notes and Related Subsidiaries

WAGE RATE REQUIREMENTS

For provisions relating to rates of wages to be paid to laborers and mechanics on projects for construction, alteration, or repair work funded under div. D or an amendment by div. D of Pub. L. 117–58, including authority of Secretary of Labor, see section 18851 of this title.

SUBCHAPTER I—GRID INFRASTRUCTURE AND RESILIENCY

PART A—GRID INFRASTRUCTURE RESILIENCE AND RELIABILITY

§ 18711. Preventing outages and enhancing the resilience of the electric grid

(a) Definitions

In this section:

(1) Disruptive event

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.

(2) Eligible entity

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 other relevant entity, as determined by the Secretary.

(3) Natural disaster

The term “natural disaster” has the meaning given the term in section 5195a(a) of this title.

(4) Power line

The term “power line” includes a transmission line or a distribution line, as applicable.

(5) Program

The term “program” means the program established under subsection (b).

(b) Establishment of program

Not later than 180 days after November 15, 2021, the Secretary shall establish a program under which the Secretary shall make grants to eligible entities, States, and Indian Tribes in accordance with this section.

(c) Grants to eligible entities

(1) In general

The Secretary may make a grant under the program to an eligible entity to carry out activities that—

- (A) are supplemental to existing hardening efforts of the eligible entity planned for any given year; and
- (B)(i) reduce the risk of any power lines owned or operated by the eligible entity causing a wildfire; or

(ii) increase the ability of the eligible entity to reduce the likelihood and consequences of disruptive events.

(2) Application

(A) In general

An eligible entity desiring a grant under the program shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(B) Requirement

As a condition of receiving a grant under the program, an eligible entity shall submit to the Secretary, as part of the application of the eligible entity submitted under subparagraph (A), a report detailing past, current, and future efforts by the eligible entity to reduce the likelihood and consequences of disruptive events.

(3) Limitation

The Secretary may not award a grant to an eligible entity in an amount that is greater than the total amount that the eligible entity has spent in the previous 3 years on efforts to reduce the likelihood and consequences of disruptive events.

(4) Priority

In making grants to eligible entities under the program, the Secretary shall give priority to projects that, in the determination of the Secretary, will generate the greatest community benefit (whether rural or urban) in reducing the likelihood and consequences of disruptive events.

(5) Small utilities set aside

The Secretary shall ensure that not less than 30 percent of the amounts made available to eligible entities under the program are made available to eligible entities that sell not more than 4,000,000 megawatt hours of electricity per year.

(d) Grants to States and Indian Tribes

(1) In general

The Secretary, in accordance with this subsection, may make grants under the program to States and Indian Tribes, which each State or Indian Tribe may use to award grants to eligible entities.

(2) Annual application

(A) In general

For each fiscal year, to be eligible to receive a grant under this subsection, a State or Indian Tribe shall submit to the Secretary an application that includes a plan described in subparagraph (B).

(B) Plan required

A plan prepared by a State or Indian Tribe for purposes of an application described in subparagraph (A) shall—

- (i) describe the criteria and methods that will be used by the State or Indian Tribe to award grants to eligible entities;
- (ii) 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.

(3) Distribution of funds

(A) In general

The Secretary shall provide grants to States and Indian Tribes under this subsection based on a formula determined by the Secretary, in accordance with subparagraph (B).

(B) Requirement

The formula referred to in subparagraph (A) shall be based on the following factors:

(i) The total population of the State or Indian Tribe.

(ii)(I) The total area of the State or the land of the Indian Tribe; or

(II) the areas in the State or on the land of the Indian Tribe with a low ratio of electricity customers per mileage of power lines.

(iii) The probability of disruptive events in the State or on the land of the Indian Tribe during the previous 10 years, as determined based on the number of federally declared disasters or emergencies in the State or on the land of the Indian Tribe, as applicable, including—

(I) disasters for which Fire Management Assistance Grants are provided under section 5187 of this title;

(II) major disasters declared by the President under section 5170 of this title;

(III) emergencies declared by the President under section 5191 of this title; and

(IV) any other federally declared disaster or emergency in the State or on the land of the Indian Tribe.

(iv) The number and severity, measured by population and economic impacts, of disruptive events experienced by the State or Indian Tribe on or after January 1, 2011.

(v) The total amount, on a per capita basis, of public and private expenditures during the previous 10 years to carry out mitigation efforts to reduce the likelihood and consequences of disruptive events in the State or on the land of the Indian Tribe, with States or Indian Tribes with higher per capita expenditures receiving additional weight or consideration as compared to States or Indian Tribes with lower per capita expenditures.

(C) Annual update of data used in distribution of funds

Beginning 1 year after November 15, 2021, the Secretary shall annually update—

(i) all data relating to the factors described in subparagraph (B); and

(ii) all other data used in distributing grants to States and Indian Tribes under this subsection.

(4) Oversight

The Secretary shall ensure that each grant provided to a State or Indian Tribe under the program is allocated, pursuant to the applicable plan of the State or Indian Tribe, to eligible entities for projects within the State or on the land of the Indian Tribe.

(5) Priority

In making grants to eligible entities using funds made available to the applicable State

or Indian Tribe under the program, the State or Indian Tribe 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.

(6) Small utilities set aside

A State or Indian Tribe receiving a grant under the program shall ensure that, of the amounts made available to eligible entities from funds made available to the State or Indian Tribe under the program, 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.

(7) Technical assistance and administrative expenses

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.

(8) Matching requirement

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.

(e) Use of grants

(1) In general

A grant awarded to an eligible entity under the program may be used for activities, technologies, equipment, and hardening measures to reduce the likelihood and consequences of disruptive events, including—

- (A) weatherization technologies and equipment;
- (B) fire-resistant technologies and fire prevention systems;
- (C) monitoring and control technologies;
- (D) the undergrounding of electrical equipment;
- (E) utility pole management;
- (F) the relocation of power lines or the reconductoring of power lines with low-sag, advanced conductors;
- (G) vegetation and fuel-load management;
- (H) the use or construction of distributed energy resources for enhancing system adaptive capacity during disruptive events, including—
 - (i) microgrids; and
 - (ii) battery-storage subcomponents;
- (I) adaptive protection technologies;
- (J) advanced modeling technologies;
- (K) hardening of power lines, facilities, substations, of¹ other systems; and
- (L) the replacement of old overhead conductors and underground cables.

¹ So in original.

(2) Prohibitions and limitations

(A) In general

A grant awarded to an eligible entity under the program may not be used for—

- (i) construction of a new—
 - (I) electric generating facility; or
 - (II) large-scale battery-storage facility that is not used for enhancing system adaptive capacity during disruptive events; or
- (ii) cybersecurity.

(B) Certain investments eligible for recovery

(i) In general

An eligible entity may not seek cost recovery for the portion of the cost of any system, technology, or equipment that is funded through a grant awarded under the program.

(ii) Savings provision

Nothing in this subparagraph prohibits an eligible entity from recovering through traditional or incentive-based ratemaking any portion of an investment in a system, technology, or equipment that is not funded by a grant awarded under the program.

(C) Application limitations

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.

(f) Distribution of funding

Of the amounts made available to carry out the program for a fiscal year, the Secretary shall ensure that—

- (1) 50 percent is used to award grants to eligible entities under subsection (c); and
- (2) 50 percent is used to make grants to States and Indian Tribes under subsection (d).

(g) Technical and other assistance

(1) In general

The Secretary, States, and Indian Tribes may—

- (A) provide technical assistance and facilitate the distribution and sharing of information to reduce the likelihood and consequences of disruptive events; and
- (B) promulgate consumer-facing information and resources to inform the public of best practices and resources relating to reducing the likelihood and consequences of disruptive events.

(2) Use of funds by the Secretary

Of the amounts made available to the Secretary to carry out the program each fiscal year, the Secretary may use not more than 5 percent for—

- (A) providing technical assistance under paragraph (1)(A); and
- (B) administrative expenses associated with the program.

(h) Matching requirement

(1) In general

Except as provided in paragraph (2), an eligible entity that receives a grant under this sec-

tion shall be required to match 100 percent of the amount of the grant.

(2) Exception for small utilities

An eligible entity that sells not more than 4,000,000 megawatt hours of electricity per year shall be required to match $\frac{1}{3}$ of the amount of the grant.

(i) Biennial report to Congress

(1) In general

Not later than 2 years after November 15, 2021, and every 2 years thereafter through 2026, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report describing the program.

(2) Requirements

The report under paragraph (1) shall include information and data on—

- (A) the costs of the projects for which grants are awarded to eligible entities;
- (B) the types of activities, technologies, equipment, and hardening measures funded by those grants; and
- (C) the extent to which the ability of the power grid to withstand disruptive events has increased.

(j) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out the program \$5,000,000,000 for the period of fiscal years 2022 through 2026.

(Pub. L. 117–58, div. D, title I, §40101, Nov. 15, 2021, 135 Stat. 923.)

Statutory Notes and Related Subsidiaries

WAGE RATE REQUIREMENTS

For provisions relating to rates of wages to be paid to laborers and mechanics on projects for construction, alteration, or repair work funded under div. D or an amendment by div. D of Pub. L. 117–58, including authority of Secretary of Labor, see section 18851 of this title.

§ 18712. Electric grid reliability and resilience research, development, and demonstration

(a) Definition of Federal financial assistance

In this section, the term “Federal financial assistance” has the meaning given the term in section 200.1 of title 2, Code of Federal Regulations.

(b) Energy infrastructure Federal financial assistance program

(1) Definitions

In this subsection:

(A) Eligible entity

The term “eligible entity” means each of—

- (i) a State;
- (ii) a combination of 2 or more States;
- (iii) an Indian Tribe;
- (iv) a unit of local government; and
- (v) a public utility commission.

(B) Program

The term “program” means the competitive Federal financial assistance program established under paragraph (2).

(2) Establishment

Not later than 180 days after November 15, 2021, the Secretary shall establish a program, to be known as the “Program Upgrading Our Electric Grid and Ensuring Reliability and Resiliency”, to provide, on a competitive basis, Federal financial assistance to eligible entities to carry out the purpose described in paragraph (3).

(3) Purpose

The purpose of the program is to coordinate and collaborate with electric sector owners and operators—

- (A) to demonstrate innovative approaches to transmission, storage, and distribution infrastructure to harden and enhance resilience and reliability; and
- (B) to demonstrate new approaches to enhance regional grid resilience, implemented through States by public and rural electric cooperative entities on a cost-shared basis.

(4) Applications

To be eligible to receive Federal financial assistance under the program, an eligible entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a description of—

- (A) how the Federal financial assistance would be used;
- (B) the expected beneficiaries, and
- (C) in the case of a proposal from an eligible entity described in paragraph (1)(A)(ii), how the proposal would improve regional energy infrastructure.

(5) Selection

The Secretary shall select eligible entities to receive Federal financial assistance under the program on a competitive basis.

(6) Cost share

Section 16352 of this title shall apply to Federal financial assistance provided under the program.

(7) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out this subsection, \$5,000,000,000 for the period of fiscal years 2022 through 2026.

(c) Energy improvement in rural or remote areas

(1) Definition of rural or remote area

In this subsection, the term “rural or remote area” means a city, town, or unincorporated area that has a population of not more than 10,000 inhabitants.

(2) Required activities

The Secretary shall carry out activities to improve in rural or remote areas of the United States—

- (A) the resilience, safety, reliability, and availability of energy; and
- (B) environmental protection from adverse impacts of energy generation.

(3) Federal financial assistance

The Secretary, in consultation with the Secretary of the Interior, may provide Federal fi-