Bipartisan Infrastructure Law - SECTION 40101(d)

PREVENTING OUTAGES AND ENHANCING THE RESILIENCE OF THE ELECTRIC GRID

NOTICE OF FUNDING OPPORTUNITY – SECOND ROUND

Program Background and Description:
The purpose of this Notice of Funding Opportunity is to provide guidance to eligible entities listed below for preparation of subgrant applications to be submitted to the Kansas Corporation Commission (KCC) in response to Section 40101(d) of the Infrastructure Investment and Jobs Act (IIJA), also known as the Bipartisan Infrastructure Law (BIL). Under this Program, the Department of Energy (DOE) provides grants to States to improve the resilience of their electric grid against disruptive events. A disruptive event, as defined by the Program, is "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."

The primary goals of the Program are to demonstrate measurable improvements in energy resilience, with a focus to necessary and supporting grid modernization investments in rural, underserved and disadvantaged communities, to invest in modernized grid infrastructure and to create good-paying jobs.

The KCC's allocation from the DOE will total $6,489,249 for the fiscal year 2024. The KCC may approve for execution subgrant awards for resilience projects that in its determination will generate the greatest community benefit in reducing the likelihood and consequences of disruptive events to the electricity grid serving the State's jurisdiction. **The KCC must submit its approved projects to the DOE for further review. The KCC cannot execute a proposed project or issue subawards for projects without DOE review and written determination of adequacy of the project. No work may begin on a proposed project prior to receipt from DOE of written determination of adequacy.** Upon DOE's written determination of adequacy, the KCC shall execute the resilience project and issue subawards, monitor performance of the awardee, collect necessary information to provide measurable progress towards completion, and collect necessary information to verify to the DOE the extent to which objectives are being realized. Buy American, Build America (BABA) and Davis Bacon Act (DBA) provisions will be applicable. Links to these required provisions can be found on the KCC's website.

Awarded recipients will be required to report at least quarterly. Reports required by DOE and/or the KCC may include by project location measurable improvements of resilience, transmission capacity upgraded, expanded, or built, electricity storage capacity installed, budgeted expenditures, funding leveraged, stakeholders engaged, value of contracts or agreements with minority owned business for supplies, services, or equipment. Reports will also include accountability toward meeting project milestones. The Project Management Plan/Quarterly Progress Report and the Annual Program Metrics and Impact Report templates that DOE requires of the KCC, and which the KCC will gather information from the awardees to make such reporting, are linked on the KCC website.

The KCC's approved original application to the DOE included a Program Narrative intended to apply for each year for the five year award period. The Narrative included objectives and metrics that the KCC intends to apply for guiding resilience investment decisions, criteria to be used for selecting and determining awards to eligible entities, and methods anticipated for awarding and distributing funds. A link to the Program Narrative is provided on the KCC website for review. Applications for approval of funding by the KCC and the DOE must adhere to the approved Program Narrative.

The KCC is seeking applications from eligible entities for subawards for projects that meet the criteria set out herein.

Timeline:
- October 9, 2024 – Notice of Funding Opportunity announced and application guidance issued.
- January 9, 2025 – Application submission deadline.
- No earlier than February 28, 2025 – Notice of project acceptance by KCC for further filing and determination of adequacy from DOE.

Eligible Entities:
Eligible entities for funding under this DOE Program include electric grid operators, electricity storage operators, electricity generators, transmission owners or operators, distribution provider and fuel suppliers or other entities determined by the DOE. However, the KCC shall give preference to only entities that deliver electricity to the public.

In its original application with the DOE, the KCC stated the possibility that a statewide organization or association representing small Kansas cities, cooperatives or other public or not-for-profit agencies involved in the ownership and/or operation of small utilities may collectively and collaboratively present projects to the KCC for review and funding. If such a project is contemplated by an organization, association or agency, the KCC must first request a determination of "eligible entity" status from DOE. The eligible entity status request form link is provided on the KCC website.

Section 40101(d)(6)) requires the KCC ensure that of the amounts made available to eligible entities, the percentage made available to entities that sell not more than 4,000,000 MWh per year is not less than the percentage of all customers in Kansas that are served by those eligible entities (Small Utilities Set Aside). The KCC has estimated that percentage to be 36.3%, therefore the KCC must fund at least 36.3% of the total funds distributed to these smaller entities. KCC intends to fund first the small utility class entity approved projects. The DOE has provided a list of entities that it recognizes as eligible entities qualifying for the small utility class using 2023 data collected and reported by the Energy Information Agency (EIA). However, many small municipality or cooperative utilities in Kansas are not listed. Therefore, DOE requires that all utilities that did not sell more than 4,000,000 MWh in 2023 must submit a formal letter certifying that the entity is part of the Small Utilities Set Aside class.

Eligible Projects:
Resilience measures to receive funding provided by DOE may include;
     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 (modification, refurbishing or replacement of old components that does not increase output but is needed to ensure weatherization/resilience), including:
          1. Microgrids; and
          2. Battery-storage subcomponents;
     i) Adaptive protection technologies;
     j) Advanced modeling technologies;
     k) Hardening of power lines, facilities, substations, of other systems; and

l) The replacement of old overhead conductors and underground cables.

Resilience measures that are not allowed include:
      a) Construction of a new –
            1) Electric generating facility; or
            2) Large-scale battery-storage facility that is not used for enhancing system adaptive capacity during disruptive events; or
      b) Cybersecurity.

The KCC will accept for review any of the above approved eligible projects but will give preference to the following projects; c) monitoring and control technologies, e) utility pole management, k) hardening of power lines, facilities, substations and of other systems, and l) the replacement of old overhead conductors and underground cables. If the applying entity desires to fund multiple eligible projects, or the same project in multiple locations, the entity must submit a separate application for each project and/or location. The KCC reserves the right to limit the number of applicant projects to be approved or the dollar amount to be awarded per project.

The KCC will review all complete project applications and supporting data and will prioritize for award those projects that will generate the greatest community benefit in reducing the likelihood and consequences of disruptive events. Metrics will be key to project approval. Eligible entities are required to provide historical measurements of resilience and reliability for the targeted areas of each proposed project and provide expected changes to the historical data as a result of each proposed project. Eligible entities must also provide historical measurements of resilience and reliability for their entire system to determine whether the project is in an area that has, on average, more frequent or longer duration outages. Age of system or line segments to be replaced or repaired, type of equipment that failed, and number of annual outages for the project area should be reported. Number of protective devices (fuses or breakers) that have operated more than once in a rolling 12 month period should be reported. Number of customers impacted by project and percentage to total customers served in Kansas must be identified. Descriptions of efforts to attract, train, and retain a skilled workforce must be identified and jobs created must be estimated. Any plans to partner with training providers to support workforce development must be identified. Any other metric that indicates potential community benefit should be provided in the application.

Eligible projects must not be one currently being funded or not already under consideration for funding. Desirable projects to be advanced are those that have either been deferred due to lack of funding or projects that are in the early planning stage. Certification and verification of such status to the extent possible must be provided.

The KCC will prioritize projects located in rural, underserved and/or disadvantaged communities.

Cost Matching:
Cost matching for the non-federal share is calculated as a percentage of the federal funds only, not the total project cost. The KCC is required to match 15% of the amount of each grant provided under the Program. For those eligible entities in the small utility set aside class, their required match will be one-third of the amount of the subaward. All larger eligible entities that receive a subaward under this Program are required to match 100% of the amount of the subaward. In addition, the KCC will require that all subgrant recipients provide excess cost match funds to cover the KCC's requirement to match 15% of the total Federal grant allocation provided.

Program Period:
Awards may be extended to span the amount of time necessary for recipients to complete all subaward project effort, up to ten years.

Other Information:
NEPA Environmental Questionnaire is required.
Buy America Requirements do apply.
Davis Bacon Act Requirements do apply.

Application Checklist:
- Entity name and address
- Project manager and contact information
- SAM.gov UEI Number
- FEIN
- IRS Form W-9
- Latest financial statement and financial statement audit
- Verification of Eligible Entity Size
- Provide documentation of annual sales in 2023. If qualified for the small utility class please provide a formal letter certifying that the entity is part of the Small Utilities Set Aside class.
- Award amount requested
- Matching funds to be provided. No in-kind (non-cash) contributions are eligible for match. Match funds must be verified money in the bank ready to spend.
- Project description and scope
    - Detailed explanation of the grant funds to be utilized. Certification that project is not one currently being funded.
- Project funding need
    - Explanation of the applicant's ability to finance the project itself and the resulting impact to its overall financial condition. Describe whether the project funds will be used in rural and/or disadvantaged and underserved communities (communities whose residents would be negatively impacted by large utility project costs, or whose access to service, supplies or a work force or limited). Identify disadvantaged communities using Climate and Economic Justice Screening Tool and the Energy Justice Tool.
    - Provide historical and post project estimated interruption frequency and duration data if known.
    - Provide pro rata customer impact of total project cost.
    - Provide number of customers to be impacted by project and percentage of impacted customers to total customers in the disadvantaged or underserved community.
- Project budget and narrative
    - Provide a detailed budget with expected expenditures required for the success of the project. Include information regarding matching funds and timeline for their use.
- Project timeline
    - Provide a detailed timeframe with milestones toward completion of the project.
- Project bids and estimates
    - Attach bids and/or estimates received for project. Attach engineering reports that are relevant for the project as well as quotes for services.
- Community Benefit
    - Provide historical measurements of resilience and reliability for the targeted areas of each proposed project.
    - Provide expected changes to the historical data as a result of each proposed project.
    - Provide historical measurements of resilience and reliability for the entire system to determine whether the project is in an area that has, on average, more frequent or longer duration outages.
    - Provide age of system or line segments to be replaced or repaired, type of equipment that failed, and number of annual outages for the project area.

o   Provide number of protective devices (fuses or breakers) that have operated more than once in a rolling 12 month period.
o   Provide number of customers impacted by project and percentage to total customers served in Kansas.
o   Descriptions of efforts to attract, train, and retain a skilled workforce.
o   Provide estimate of jobs created.
o   Any plans to partner with training providers to support workforce development must be identified.
o   Any other metric that indicates potential community benefit should be provided.

Scoring Matrix:
- Project Description and Scope: 20 points
- Need for Funding: 20 points
- Complete Budget and Narrative: 10 points
- Project Timeline: 15 points
- Bids and Estimates: 10 points
- Community Benefit: 25 points

How to Apply:
Applications and all required documentation must be submitted online using the Kansas Infrastructure Hub no later than 5 p.m. CT on January 9, 2025. The "Submittable Portal" is an online application-based program that simplifies the grant application and submission process and manages applicant profiles and proposals across a variety of Kansas state agency funding opportunities. An "Application Guide" and a link to the Submittable Portal can be found on the KCC's website.

References:
All Program and Application references or links mentioned above, and others that may be useful in the application process, can be found on the KCC website. Also on the KCC website will be a posting of Frequently Asked Questions, updated as necessary.