



DEPARTMENT OF AGRICULTURE

Rural Utilities Service

[DOCKET #: RUS-23-ELECTRIC-0005]

Notice of Funding Opportunity for the Empowering Rural America (New ERA) Program

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice.

SUMMARY: The Rural Utilities Service (RUS or the Agency), a Rural Development (RD) agency of the United States Department of Agriculture (USDA), is soliciting Letters of Interest (LOI) for applications under the Empowering Rural America (New ERA) Program. In addition, the Agency is announcing the eligibility requirements, application process and deadlines, and the criteria that will be used by RUS to assess New ERA Applications. The New ERA Program provides RUS with \$9.7 billion in appropriated loan and grant funds under the Inflation Reduction Act (IRA) of 2022. In keeping with the statutory authority for the program, RUS will utilize the New ERA funds to assist Eligible Entities to achieve the greatest reduction in Greenhouse Gas (GHG) emissions while advancing the long-term resiliency, reliability, and affordability of rural electric systems. All Eligible Entities are responsible for any expenses incurred in developing their LOIs and New ERA Applications.

DATES: Letters of Interest can be submitted beginning at 11:59 p.m. Eastern Time (ET) on July 31, 2023, and until 11:59 p.m. ET on August 31, 2023. Letters of Interest will not be accepted after 11:59 p.m. ET on August 31, 2023.

Application Process: Applicants must submit an LOI in order to be considered for an Invitation to Proceed. An Eligible Entity that is invited by RUS to proceed will receive an Invitation to Proceed and will have sixty (60) days to complete and submit a New ERA Application beginning from the date the Invitation to Proceed is emailed to the Applicant. If the sixty (60)-day deadline to submit the completed application falls on Saturday, Sunday, or a Federal holiday, the application is due the next business day. RUS reserves the right, in its sole discretion, to extend the sixty (60)-day deadline upon the written request of the Applicant if the Applicant demonstrates to the satisfaction of the Administrator that exceptional circumstances exist to warrant the extension. New ERA Awards will be made as soon as possible following the submission of a New ERA Application, and all New ERA funds must be fully disbursed on or before September 30, 2031.

ADDRESSES:

Letters of Interest (LOI) Submissions. All LOIs must be submitted to RUS electronically through an RUS on-line application portal. The Agency will finalize the specific requirements of

submitting the LOI through the on-line application portal by separate notice in the Federal Register, the RUS website at <https://www.rd.usda.gov/programs-services/electric-programs/empowering-rural-america-new-era-program>, and Grants.gov on or before July 31, 2023.

Application Submissions. Eligible Entities selected to proceed with the New ERA Application must submit a completed New ERA Application package in accordance with the instructions that will be provided in the RUS Invitation to Proceed.

Other Information: Additional information, resources, and sample LOI are available at <https://www.rd.usda.gov/programs-services/electric-programs/empowering-rural-america-new-era-program>. The IRA Funding for Rural Development website is located at www.rd.usda.gov/inflation-reduction-act.

FOR FURTHER INFORMATION CONTACT: Christopher McLean, Assistant Administrator, Electric Program, Rural Utilities Service, Rural Development, United States Department of Agriculture, 1400 Independence Avenue, SW, STOP 1568, Washington DC 20250-1560; Telephone: 202-690-4492. Email to: SM.RD.RUS.IRA.Questions@usda.gov.

SUPPLEMENTARY INFORMATION:

Overview

Federal Awarding Agency Name: Rural Utilities Service (RUS)

Funding Opportunity Title: Empowering Rural America (New ERA) Program

Announcement Type: Notice of Funding Opportunity (NOFO)

Assistance Listing Number: 10.758

Dates: Letters of Interest can be submitted beginning at 11:59 p.m. ET on July 31, 2023, and until 11:59 p.m. ET on August 31, 2023. Letters of Interest will not be accepted after 11:59 p.m. ET on August 31, 2023. An Eligible Entity that is invited by RUS to proceed with the New ERA Application will have sixty (60) days to submit such a completed New ERA Application beginning from the date the Invitation to Proceed is emailed to the Applicant.

The Agency encourages Applicants to consider eligible Projects under this funding notice that achieve the greatest reduction of GHG as defined in Section A.3. The RD mission of the USDA aims to:

- Assist rural communities recover economically through more and better market opportunities and through improved infrastructure;
- Ensure all rural residents have equitable access to RD programs and benefits from RD funded projects; and
- Reduce climate pollution and increase resilience to the impacts of climate change through economic support to rural communities.

A. Program Description

1. *Purpose of the Program.* For nearly a century, rural electric cooperatives have been the backbone of power delivery for rural America, building the infrastructure necessary for economic development and a high quality of life. Owned by their members, cooperatives are a fundamental part of rural communities, employing residents, pushing progress, and providing leadership.

The Empowering Rural America (New ERA) Program provides financial assistance to Eligible Entities, as described in Section C, to achieve the greatest reductions in GHG emissions through the cooperatives' voluntary transformation of rural electric systems in a way that promotes resiliency and reliability of rural electric systems and affordability for their members.

With the Inflation Reduction Act, the Biden-Harris Administration and the United States Congress are making the greatest investment in rural electrification since the New Deal. The Biden-Harris Administration understands the transformative nature and special qualities provided by this appropriation. Energy produced will be clean, affordable, reliable, and owned by the people who live in rural America. As a result, this legislation and the funding opportunity here allows for a New ERA in rural communities.

2. *Statutory and Regulatory Authority.* The New ERA Program is authorized under the Inflation Reduction Act of 2022 (Public Law No. 117-169, "IRA"), subtitle C, section 22004, and will be administered by RUS. section 22004 amends 7 U.S.C. 8103 by adding subsection (j) to that section. Other regulations that apply to this Notice are 7 CFR parts 1710 through 1730, 1767, 1773, 1787, and 1970 (<https://www.ecfr.gov/current/title-7/subtitle-B/chapter-XVII>).

3. *Definitions.* The definitions applicable to this Notice are as follows:

Achievable Reductions Tool. A simple Excel spreadsheet tool developed by RUS. RUS will provide the Achievable Reductions Tool to the Applicant to input data related to its Portfolio of Actions, and estimate the reduction of GHG emissions from the Portfolio of Actions.

Administrator. The Administrator of the RUS, an agency under the RD mission area of the USDA.

Agency. The Rural Utilities Service (RUS).

Applicant. An Eligible Entity that has received an Invitation to Proceed to submit a New ERA Application..

Award. The financial assistance offered to an Applicant under this Notice.

Award Agreement. The agreement between RUS and the Applicant describing the terms and conditions of the Award.

Award Documents. All agreements and documentation to support and evidence the financial assistance and obligations of the Awardee, including the Award Agreement, loan or grant

agreements, promissory notes, mortgages, deeds of trust, indentures, and other security agreements executed in connection with the Award.

Awardee. An entity that has been awarded funding under the New ERA Program.

Carbon Capture and Storage Systems. Those systems that capture and permanently store carbon dioxide so that it will not enter the atmosphere. Any proposed Carbon Capture and Storage System must be commercially proven and be able to capture and permanently store carbon dioxide within the timeframe of this program . Qualifying systems must demonstrate that they are delivering public health and other co-benefits, including not increasing other air pollutants.

Commercially Available Technology. Equipment, devices, applications, or systems that have a proven, reliable performance and replicable operating history specific to the proposed application. The equipment, device, application, or system is based on established patented design or has been certified by an industry-recognized organization and subject to installation, operating, and maintenance procedures generally accepted by industry practices and standards. Service and replacement parts for the equipment, device, application, or system must be readily available in the marketplace with established warranty applicable to parts, labor, and performance. The technology must be designed and meant for the proposed use.

Commitment Letter. The notification issued by the Administrator to an Applicant containing the total Award, the acceptable security arrangement, and such controls and conditions on the Awardees' financial, investment, operational and managerial activities deemed necessary by the Administrator to adequately secure the Government's interest. This notification will also describe the accounting standards and audit requirements applicable to the Award.

Community Benefit Plan. The Applicant's description of how the proposed Project will benefit communities and residents within the Eligible Service Area as further described in Section D.2.ii.s.

Distressed and Disadvantaged Communities. A Disadvantaged Community is determined by the Agency by using the Council on Environmental Quality's Climate and Economic Justice Screening Tool (CEJST) (which is incorporated into the USDA look-up map) which identifies communities burdened by climate change and economic and environmental injustice. Further, all communities within the boundaries of Federally Recognized Tribes will be determined to be Disadvantaged Communities by the Agency, in addition to Alaska Native Villages. Distressed Community is determined by the Agency by using the Economic Innovation Group's Distressed Communities Index (which is incorporated into the USDA look-up map), which uses several socio-economic measures to identify communities with low economic well-being. To determine if your project is located in a Disadvantaged Community or a Distressed Community, please use

the following USDA look-up map:

<https://ruraldevelopment.maps.arcgis.com/apps/webappviewer/index.html?id=4acf083be4c44bb7864d90f97de0c788>.

Eligible Activity(ies). The purchase of Renewable Energy, Renewable Energy Systems, Zero-Emission Systems, and Carbon Capture and Storage Systems, the deployment of such systems, or the implementation of energy efficiency improvements to electric generation or transmission systems of Eligible Entity, and the combinations of any such activities, as more fully described in Section C.

Eligible Award Costs are defined in Section C.3.i.

Energy Storage System(s). A facility capable of accepting energy, storing the energy for a period of time and then later releasing the stored energy.

Eligible Entity(ies). An electric cooperative described in section 501(c)(12) or 1381(a)(2) of the Internal Revenue Code of 1986 and is or has been a RUS or Rural Electrification Administration (REA) electric loan borrower pursuant to the Rural Electrification Act of 1936 (RE Act) or is serving a predominantly Rural Area (or a wholly or jointly owned subsidiary of any the preceding listed such electric cooperatives).

Eligible Service Area. An area as described in Section C.1.iii. of this NOFO.

Energy Communities. A community as defined by the Department of Treasury and the Internal Revenue Service at <https://www.irs.gov/pub/irs-drop/n-23-29.pdf> or through future governmental guidance.

Environmental and Historic Preservation Requirements. The National Environmental Policy Act of 1969, as amended (NEPA) (42 U.S.C 4321, et seq), section 7 of the Endangered Species Act (16 U.S.C. 1531 et seq.), and section 106 of the National Historic Preservation Act (NHPA)(54 U.S.C. 300101 et seq.), as well as their implementing regulations at 7 CFR part 1970, Environmental Policies and Procedures (including Farmland Protection Policy Act Implementation Policy), 50 CFR part 402, Interagency Cooperation, and 36 CFR part 800, Protection of Historic Properties

Financial Feasibility. An Eligible Entity's ability, as determined by the Administrator, to generate sufficient revenues to cover its expenses, sufficient cash flow to service its debts and obligations as they come due, and meet the financial ratios set forth in the applicable Award Documents.

Greenhouse Gases (GHG). For purposes of this NOFO, GHG shall mean carbon dioxide, methane, and nitrous oxide.

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

Invitation to Proceed. A written notification issued by RUS to the Eligible Entity acknowledging that the LOI was received, reviewed, and inviting the Eligible Entity to submit a New ERA Application. The notification provides the Applicant instructions on how to submit the application package and details of the next steps in the application process.

Letter of Interest (LOI). A signed letter issued by an Eligible Entity notifying RUS of its intent to apply for an Award and addressing all the elements identified for a complete LOI in Section D.2.i. of this NOFO.

New ERA Application. An application containing all information required by RUS as identified in the Invitation to Proceed. The New ERA Application must be materially complete in form and substance satisfactory to RUS within the specified time as defined in section D of this NOFO.

Non-Federal Entities. As defined in 2 CFR 200.1, Non-Federal Entities are States, local governments, Indian Tribes, institutions of higher education, or nonprofit organizations. The definition of what constitutes a non-profit is also located in 2 CFR 200.1.

Off-taker. Shall mean: (1) The customers or members of the Applicant that purchase and receive electrical power and energy from the Applicant; or (2) the entity that has or will execute a Power Purchase Agreement (PPA) with the Applicant to purchase and receive electrical capacity and associated energy produced by the Project. The Off-taker may also be referred to in the PPA as the “Buyer”, “Customer”, “Purchaser”, or another name that describes the entity purchasing the power.

Portfolio of Actions. The combination of the Applicant’s proposed actions related to generation, transmission and distribution, including distributed energy resources, that will result in the reductions in GHG emissions and that support actions consistent with long-term resiliency, reliability, and affordability of rural electric systems.

Power Purchase Agreement (PPA). A binding agreement executed between the Applicant and an Off-taker under which the Off-taker agrees to purchase and receive from the Applicant the electrical capacity and associated energy produced by the Project at a pre-determined price and term. The PPA may include other transactions such as the selling and purchasing of environmental attributes or ancillary services such as voltage regulation and synchronization, and contingency reserves. Environmental attributes include all financial attributes that are created or otherwise arise from the Project’s generation of electricity from a Renewable Energy System or Zero-Emission System that include, but are not limited to, any environmental air quality credits, green credits, renewable energy credits (RECs), carbon credits, emissions reduction credits, emission rate credits, certificates, tags, offsets, allowances, etc.

Project. New facilities acquired or constructed after the effective date of the IRA and compliant with all other applicable requirements of this Notice used to generate electricity from a Renewable Energy System, and/or to facilities that store electricity that supports the types of Renewable Energy Systems that are eligible to be financed with New ERA Program loan funds, as provided in section 22004 of the IRA, which will result in the deployment of Renewable Energy generation or storage capacity.

Project Award. An Award secured by a security interest in the assets and revenues of the Project and supporting credit enhancements relating to the Project rather than by a security interest in all of the assets of the Applicant's electric system. Any Award to a Applicant that is not a current operating utility shall be a Project Loan.

Renewable Energy. The term "Renewable Energy" means energy derived from: (1) wind, solar, renewable biomass (as defined by 7 U.S.C. 8101(13)), ocean (including but not limited to tidal, wave, current, and thermal), geothermal, hydroelectric, or energy sources that are naturally replenished and do not run out; or (2) hydrogen derived from renewable biomass or water using an energy source described in subparagraph (1).

Renewable Energy Systems. For purposes of this NOFO, the term Renewable Energy Systems means a system that generates usable Renewable Energy, including but not limited to: (1) Distribution and transmission lines and components necessary to move the Renewable Energy from the point of its generation to the initial point of sale; (2) Other components and ancillary infrastructure of a system described in subparagraph (1), such as an Energy Storage System and system efficiency measures to the distribution and transmission lines and components; and (3) Mechanisms for dispensing the Renewable Energy at retail.

Rural Area. A Rural Area shall mean one or more of the following:

- Any area of the United States, its territories, and insular possessions (including any area within the Federated States of Micronesia, the Marshall Islands, and the Republic of Palau) other than a city, town, or unincorporated area that has a population of greater than 50,000 inhabitants, adjusted to exclude individuals incarcerated on a long-term or regional basis or the first 1,500 individuals who reside in housing located on a military base; or
- Communities where non-rural service is necessary and incidental to providing intended benefits to Rural Areas described above.

Secretary. The Secretary of the United States Department of Agriculture.

Substantially Underserved Trust Area (SUTA). An area defined under section 306F of the Rural Electrification Act (<https://www.rd.usda.gov/files/utprea36.pdf>).

System Awards. Awards where the Awardee will provide or has already provided RUS with a perfected senior lien in all its assets, both real and personal property, including intangible personal property and any property acquired after the date of the loan. Awards must be secured by all, or substantially all, of the system assets, including the Project to be financed with a System Award. System Awards are only available to operating electric cooperative utilities.

Transmission Energy Efficiency Improvements. Transmission Energy Efficiency Improvements to an Applicant's transmission system shall include measures that result in the demonstrable reduction of GHG emissions, including but not limited to: (1) Reduction in transmission energy line losses; (2) Investments that alleviate transmission congestion as it relates to the delivery of power generated from Renewable Energy Systems or Zero-Emission Systems; (3) Investments in technologies that increase the capacity and efficiency of existing transmission facilities or increase transmission capacity within existing rights-of-way, such as investments in advanced high-capacity conductor technologies or Grid-Enhancing Technologies; and (4) Construction of new transmission lines for the transmission of power generated from Renewable Energy Systems or Zero-Emission Systems.

Zero-Emission System. Any system that does not produce any GHG emissions when it is operated, including any infrastructure related to the deployment of such systems.

4. *Letters of Interest and Applications for Awards.* The Agency will review and evaluate the LOIs pursuant to the criteria described in Sections C, D.2.i, and E. The Agency will open an on-line application portal by notice in the *Federal Register*, the RUS website at <https://www.rd.usda.gov/programs-services/electric-programs/empowering-rural-america-new-era-program>, and Grants.gov on or before July 31, 2023. Letters of Interest must include data that estimates the reduction in GHG emissions that will result from their proposed Project(s).

At the LOI stage, the Agency will either: (1) allow the Eligible Entity to enter the data necessary to estimate the reduction of GHG emissions resulting from its Portfolio of Actions directly into the on-line submission portal (the "on-line estimator"); or (2) ask the Eligible Entity to submit a completed Achievable Reduction Tool in the on-line submission portal, estimating the reduction of GHG emissions resulting from its Portfolio of Actions. Both the on-line estimator and the Achievable Reduction Tool provide a single comparable method for the Eligible Entity to provide the necessary data the Agency will use to score the LOI utilizing the criteria listed in Section E.1.ii. of this Notice. The Eligible Entity may also provide the data that is required within the on-line estimator and the Achievable Reduction Tool by another method. The Eligible Entity's use of other methods, however, may impact the Agency's timeline for review of the LOI. An Eligible Entity that elects to use methods other than the on-line estimator and the Achievable Reduction Tool must demonstrate that its chosen method provides

comparable information as the on-line estimator or the Achievable Reduction Tool that will allow the Agency to score the Portfolio of Actions under the criteria listed in Section E.1.ii. of this Notice.

Upon review of the LOIs, RUS may issue an Invitation to Proceed to submit a New ERA Application to those Eligible Entities whose LOIs contain proposed Projects that the Agency determines are sufficiently strong in any of the criteria listed in Section E and advance the goals underlying the New ERA Program as described in this Notice.

The Agency will review and evaluate all New ERA Applications based on the information contained in the application and will utilize the same criteria that it utilized in evaluating the LOIs. The Applicant may utilize the same data it provided to the Agency with respect to the estimated GHG reduction stemming from the Portfolio of Actions that it provided in the LOI, if it certifies in the New ERA Application that the data is still accurate. The Agency advises all interested parties that the Eligible Entity bears the full burden and cost of preparing and submitting an LOI and, if invited, a New ERA Application in response to this Notice. RUS reserves the right to ask Applicants for clarifying information on, or additional information related to, the New ERA Application. The Agency reserves the right to offer an Applicant a financial package different than requested.

B. Federal Award Information

1. *Types of Awards:* Loans, Loan Modification, Loan/Grant Combination and Grants
2. *Fiscal Year Funds:* Congress appropriated the IRA funds in FY 2023 and section 22004 requires all IRA funds to be advanced before September 30, 2031.
3. *Available Funds:* Total appropriated funds in the amount of \$9.7 billion, through September 30, 2031.

RUS may, at its discretion, increase the total level of funding available in this Notice or in any category in this funding round from any available source, provided this Notice meets the requirements of the statute that made the funding available to the Agency.

A loan made pursuant to this Notice may not result in a disbursement of funds after September 30, 2031. A grant made pursuant to this Notice may not result in an outlay after September 30, 2031. Applicants are advised that the final advance date applied to individual Projects will be well in advance of September 30, 2031.

4. *Award Amounts:* As provided in section 22004 of IRA, no one Applicant may receive an amount equal to more than 10 percent of the total \$9.7 billion of budget authority appropriated under section 22004, which equals \$970 million. The Applicant's Portfolio of Actions may cost more than \$970 million as long as the funded application uses less than \$970 million in budget

authority. The section further limits the amount of a grant to no more than 25 percent of the total Eligible Award Costs of the Applicant in carrying out a Project utilizing a grant.

5. *System Awards, Project Awards and Financial Assistance*: The following types of Awards and financial assistance are available under the New ERA Program:

i. *System Awards and Project Awards*: System Awards and Project Awards will be offered to Eligible Entities under the New ERA Program to finance Projects in accordance with Section C. of this Notice.

a. System Awards may, at the discretion of the Administrator, finance a New ERA Award up to 100 percent of the Eligible Award Costs included in the application based on the risk profile of the Applicant and the proposed Project. At the discretion of the Administrator, RUS may release proceeds from a System Award to finance Projects for costs incurred during the construction of the facilities. System Awards are only available to operating electric cooperative utilities.

b. Project Awards are generally secured by a senior security interest in the Project assets and the revenues generated from the Project, although the Agency may require additional collateral for a Project Award based on the risk profile of the New ERA Application and/or the Project. Project Awards will require additional cash reserves. Further, to the extent that a PPA is in place between the Awardee and an Off-taker, the Awardee must collaterally assign the PPA to RUS as security and the Off-taker must consent to such assignment. RUS will finance up to 75 percent of the total capitalized cost of the Project in the loan component of a Project Award. The Awardee will be required to initially provide and maintain for the term of the Project Award at least 25 percent of the Project's total capitalized cost in the form of cash or an equity investment that does not include debt from any source. RUS may consider allowing Awardees to utilize the grant component of the Award for the required equity where RUS determines it to be financially feasible. Further, RUS may consider financing up to 100 percent of the capitalized cost of a Project if the Project benefits a SUTA eligible territory as provided in section 306F of the RE Act. The Agency may consider allowing the Applicant to utilize, as the required equity component, any investment tax credits or elective payments in lieu of investment tax credits that the Awardee is entitled to receive under the Internal Revenue Code, if permitted under applicable authorities. The Agency may also consider allowing the Applicant to utilize as the required equity component any grant, including the grant component of the New ERA Award or a grant from any other source, if permitted under applicable authorities. The Agency may require the Awardee to provide additional credit support pending the Awardee's receipt of the Investment Tax Credit or Direct Payment in lieu of the Investment Tax Credit.

c. Unless RUS, in its discretion, advances Award funds to an Awardee with a System Award as described above, RUS will only advance Award proceeds after commercial operation of the Project is achieved and subsequent successful testing of the Project is conducted to the satisfaction of RUS, but in no case will funds be advanced after September 30, 2031.

ii. *Types of Financial Assistance:* Applicants are invited to propose assistance from any single financial assistance product or a combination of such products, described below. The Agency reserves the right to offer an Applicant a financial package different than requested. The most competitive applications, i.e. those that propose achieving the greatest reductions in GHG emissions, will receive the best financial offerings in terms of grant amounts and interest rates as outlined in the product offerings below.

a. *Loan Only.* An Applicant may request an Award to finance any Project or combination of Projects in its application with a loan only award. The interest rate for a loan only award may be set at a fixed percent at 2 percent, zero percent, or at a rate tied to the Federal government's cost of money. Applicants may request interest rates as low as zero percent on loan only awards, the loan portion of a loan and grant combination, or a loan to refinance or modify existing debt where an eligible Project(s) contained in the New ERA Application: (1) will either replace a stranded asset; or (2) 40 percent or more of the population served by the proposed service area is located within Distressed Communities, Disadvantaged Communities, or Energy Communities; or (3) will serve SUTA communities as defined in section 306F of the RE Act; or (4) will serve a service area located in Puerto Rico, United States Virgin Islands (USVI), Guam, American Samoa or other U.S. territories or Compact of Free Association (COFA) states. Principal will be deferred for a period of two years from the date of the promissory note. The amortization period will be based on the term of the Award as defined in section F.

b. *Loan and Grant Combinations and Grant only Awards.*

1. *Loan and Grant Combination.* An Applicant may request to finance any Project or Projects in its application with a grant or grant/loan combination where the grant amount equals no more than 25 percent of the Eligible Award Costs. The interest rate and amortization for the loan component of the Award will be set as described in B.5.ii.a. above. Applicants may propose substituting cash for the loan component, or any portion of the loan component, at the time of application.

2. *Grant only Awards.* An Applicant may request an Award to finance any Project or combination of Projects in its application with a 100 percent grant. A 100 percent grant Award may finance no more than 25 percent of the total eligible Project costs. Grants, both as a part of a loan and grant combination Award or as a 100 percent grant Award, will be considered based on the estimated reduction in GHG emissions stemming from the Applicant's proposed Portfolio

of Actions as measured by the criteria outlined in Section E.1.ii. of this Notice. The grant portion of an Award must also be adequately secured, as determined by the RUS Administrator.

c. Loan Refinancing or Loan Modification. An Applicant may request to modify existing RUS or RUS guaranteed debt, or refinance debt from a third party, but only as such modification or refinancing relates to a stranded asset. The Applicant must demonstrate that it will utilize the benefits of such refinancing or modification to pay for or otherwise finance Eligible Activities. The interest rate on any new loan relating to a stranded asset loan refinancing or loan modification will be determined as provided in item B.5.ii.a. above. The term of the loan related to a stranded asset loan refinancing or loan modification will be based on overall Financial Feasibility as determined by the Agency and shall not exceed 35 years. Stranded asset loans may, where financially feasible and secure, be advanced upon execution of the applicable loan and security documents. If the Awardee does not perform its obligation described above it will be required to repay, in whole or in part, the refinancing or modification benefits to the U.S. Government for non-performance.

The amount of appropriated funds consumed by any individual funded New ERA Application will depend on the amount of grant used, which scores on a dollar-for-dollar basis, and the amount of loans, which scores at a subsidy rate related to the difference between the interest rate offered on the loan and prevailing treasury rates, portfolio risk, and other factors at the time of obligation. RUS will do this calculation before making an Award to ensure compliance with the statutory limitations described in Section B.4. The Agency further reserves the right to take into account when making Awards the cost effectiveness of the proposed Projects relative to the appropriated funds consumed.

6. *Anticipated Award Date:* Beginning March 1, 2024.

7. *Performance Period:* Five (5) years from the date of environmental clearance, but no later than September 30, 2031.

8. *Use of other governmental funds:* The Agency will generally allow the Awardee to combine the incentives contained in this Notice with other governmental benefits, provided such combinations are otherwise permitted by law or regulation.

9. *Renewal or Supplemental Awards:* None.

10. *Type of Assistance Instrument:* Loan and Grant Agreements.

C. Eligibility Information

1. *Eligible Entities, Projects, Service Areas and other Eligibility Factors.*

i. Eligible Entities are:

a. Electric cooperatives described in section 501(c)(12) or 1381(a)(2) of the Internal Revenue Code of 1986 who are currently or have been in the past a RUS electric loan borrower pursuant to the RE Act;

b. Electric cooperatives serving predominantly Rural Areas; or

c. Wholly or jointly owned subsidiaries of such electric cooperatives listed in a and b.

For the purposes of this program, the term “predominantly rural” as used in (b) in this paragraph shall mean a service territory that must include at least 50 percent Rural Areas.

ii. An eligible Project includes a Portfolio of Actions that will result in the reduction in GHG emissions and be consistent with long-term resiliency, reliability, and affordability of rural electric systems. Such actions include, but are not limited to:

a. The purchase or construction of:

1. Renewable Energy.

2. Renewable Energy Systems.

3. Zero-Emission Systems.

4. Carbon Capture and Storage Systems.

b. Activities that will enable the deployment of the aforementioned systems and/or improve energy efficiency and strategies to support these goals such as, but not limited to:

1. Grid-edge, microgrid solutions, and other distributed energy strategies.

2. Energy Storage Systems in support of GHG emission reductions or Renewable Energy Systems;

3. Software and hardware to enable the integration and/or the use of additions and upgrades.

4. Modifying or refinancing existing loans from RUS or refinancing non-RUS loans for retiring non-Renewable Energy assets on an accelerated basis with savings reinvested into clean energy investments.

5. Entering a long-term agreement to purchase power from a Renewable Energy System or Zero-Emissions System.

6. Upgrade of existing Renewable Energy Systems or Zero-Emission Systems or related transmission facilities that increase the operating energy efficiency of these systems.

7. Transmission improvements that can significantly enable Renewable Energy Systems and Zero-Emissions Systems, reduce congestion, and improve the efficiency of the system.

8. Activities that will significantly reduce energy demand and GHG emissions.

iii. Eligible Service Areas:

a. Electricity generated from or transmitted by facilities financed with New ERA funds shall be delivered and distributed to consumers located in Eligible Service Areas as defined in this Section.

b. The facilities to be financed with an Award to an Applicant that is not a current or former RUS/REA borrower must provide electric service to consumers located in those areas that are considered “predominantly rural.” RUS, in making a determination of whether a service area is predominantly rural will:

1. Identify the service territory where electricity from the facilities to be financed by the proposed Award will be delivered and consumed; and

2. Further identify those areas within the service territory that are in Rural Areas in comparison to those that are in non-rural areas. The ratio of the population located in the Rural Areas versus the population of the entire service territory is referred to as the “rural percentage” of the service territory. Meters served in lieu of population may be used as a proxy to determine rural percentage of the service territory. For purposes of this NOFO, a service territory that is determined to have a rural percentage equal to or greater than 50 percent is considered predominantly rural and is an Eligible Service Area. RUS will make the rurality determination by examining the shapefile the Eligible Entity submits with its LOI as provided in Section D.2.i.a.7. of this Notice.

c. The service areas of any existing or former RUS and former REA electric loan borrowers under the RE Act are deemed to be “100 percent rural” and therefore Eligible Service Areas under this NOFO.

iv. Other Eligibility Factors: Program Factors. In addition to the above eligibility factors, the Agency may consider the following in determining which LOIs to select to provide an Invitation to Proceed, and then in evaluating the full New ERA Application.

a. Reliability and Resiliency:

1. All proposals must promote the reliability and resiliency of rural electric systems.
2. Plans may include Energy Storage Systems, microgrid systems that reduce GHG emissions, and other strategies to ensure the reliable provision of energy; and
3. Plans may include transmission improvements to enable the transmission of the power generated from Renewable Energy Systems or Zero-Emissions Systems to the consumer, reduce congestion, and improve system efficiency.

b. Affordability:

1. All proposals must be affordable to the consumers in the Eligible Service Area who will be served by the Project in question.

2. The Administrator reserves the discretion to take consumer impact and the efficient use of program funds into account when ranking projects at the LOI and Award stages.

3. Plans may include, whether eligible to be funded or not, energy efficiency improvements and other strategies to minimize and reduce costs for rate payers.

c. **Geographic Diversity:** In making selections for full applications, the Administrator may take the geographic distribution of proposed Projects into account.

d. **Resources:** In making selections for full applications, the Administrator may take the New ERA funding requested for the proposed Eligible Award Costs into account relative to the total budgetary resources available to the New ERA Program. The Administrator reserves the right to reduce the dollar amount offered based on this consideration.

e. **SUTA Considerations:** For the purposes of this funding notice, SUTA provisions will be available to the Administrator as it would be in the existing RUS Electric Infrastructure Loan Program under the RE Act;

f. **Other Funds:** In making selections for full applications, the Administrator may take into account the New ERA funding requested for the proposed Eligible Award Costs relative to the Applicant's ability to utilize funds from other Federal programs, other than New ERA or Powering Affordable Clean Energy (PACE) Programs, to finance the cost of the Project; and

g. **Financial Feasibility:** The Financial Feasibility of the requested financial assistance by evaluating the cost of the Project relative to the Applicant's ability to repay the loan component of the Award.

2. Cost Sharing or Matching.

For Project loans, RUS will finance up to 75 percent of the total capitalized cost of the Project in the loan component of a Project Award. The Awardee will be required to initially provide and maintain for the term of the Project Award at least 25 percent of the Project's total capitalized cost in the form of cash or an equity investment.

As noted in B.5.i.b above, the Agency may where Financially Feasible allow an Awardee to utilize the grant component of the Award and/or any applicable tax credit that it expects to receive (including credit amounts expected to be received through Elective Pay elections under section 6417 of the Internal Revenue Code) toward the 25 percent equity requirement for a Project Award. Such financial equity may not come from the proceeds of any loan from any creditor, including insiders of the Awardee.

3. Eligible and Ineligible Costs.

Award funds must be used to pay only allowable, necessary, and eligible costs incurred post Award, except for approved pre-application expenses that are listed below. Eligible costs must

be consistent with the cost principles identified in 2 CFR part 200, Subpart E. Any request for an advance of funds under the Award that includes any ineligible costs will be rejected.

i. *Eligible award costs.* Award funds under this NOFO may be used to pay for the following costs:

a. To fund the construction or improvement or purchase of facilities, including buildings and land required to construct the facilities being financed with the Award and other allowable costs and expenses listed in 2 CFR part 200, Subpart E. Award funds may also be utilized for the construction of new linear facilities or the upgrade of existing linear facilities that are necessary to operate any new generation facility including, but not limited to, transmission or distribution facilities that are needed to export the power;

b. To fund reasonable pre-award expenses as provided in 2 CFR part 200, Subpart E. Pre-award expenses must be included in the first request for advance of Award funds.

c. To fund interest incurred during construction pursuant to 7 CFR 1710.106(a)(4); and

d. To refinance or modify existing debt as described in Section B of this NOFO.

ii. *Ineligible award costs.* Award funds under this part may not be used for any of the following purposes:

a. To fund operating expenses of the Awardee unless specifically outlined in the Applicant's Award Agreement;

b. To fund costs incurred prior to the date on which the application was submitted other than the eligible pre-award expenses under 2 CFR part 200, Subpart E;

c. To fund an acquisition of an affiliate, or the purchase or acquisition of any facilities or equipment of an affiliate. Note that if affiliated transactions are contemplated in the application, approval of the application does not constitute approval to enter into affiliated transactions or acceptance of the affiliated arrangements that conflict with the obligations under the Award Documents; and

d. Any other expense that is not allowed pursuant to 2 CFR part 200, Subpart E.

e. RUS will not approve funding under this Notice that violates the terms of an Applicant's existing wholesale power contract.

D. Application and Submission Information

1. *Address to Request Application Package.* Application information and samples concerning the New ERA Program are available at <https://www.rd.usda.gov/programs-services/electric-programs/empowering-rural-america-new-era-program>. If you require alternative means of communication for program information (e.g., Braille, large print, audiotope, etc.) please contact USDA's TARGET Center at (202) 720-2600 (voice and TDD) or the 711 Relay Service.

Letters of Interest and New ERA Applications must be submitted in accordance with the instructions provided in the ADDRESS section of this NOFO.

2. *Content and Form of Application Submission.*

The Agency will open an on-line application portal by notice in the *Federal Register*, the RUS website at <https://www.rd.usda.gov/programs-services/electric-programs/empowering-rural-america-new-era-program>, and Grants.gov on or before July 31, 2023. The application process for the New ERA Program will be conducted in two phases. Phase one will be submission of an LOI that includes sufficient information to determine a pool of prospective Applicants which advance the goals of the statute, achieve policy objectives, meet minimum requirements, and are within the funds allocated to the program. Those LOIs that meet the criteria will be issued an Invitation to Proceed to submit a full, complete New ERA Application (phase 2).

i. *Phase 1 - LOI Submission.* The LOI must include the following:

a. Eligible Entity's Profile and Point of Contact Information:

1. Legal name of the Eligible Entity and applicable organizational information. If the Eligible Entity is a subsidiary of one or more Eligible Entities the Eligible Entity must list its owners in the LOI.

2. Eligible Entity's address, principal place of business, and website.

3. Eligible Entity's tax identification number and its Unique Entity Identifier (UEI) number from the System for Award Management (SAM) registry.

4. Specify if the Eligible Entity (a) is an existing RUS borrower; (b) is a former RUS or REA borrower; or (c) has never been a RUS or REA borrower.

5. Name and title of Eligible Entity's manager and/or point of contact, including first name, last name, title/position, phone, email, and other relevant contact information.

6. A Project name.

7. Location of the Project and the applicable service area using a digital shapefile. If the application asserts that the Project or the applicable service area is within a SUTA eligible area, it must describe how such location, or such applicable service area, is a SUTA covered area as provided in 7 CFR 1700.105.

b. A statement as to whether the subsequent New ERA Application will provide a request for a Project Award or System Award.

c. Identify the value of its net assets and specify if the Eligible Entity has ever been placed in receivership, court mandated liquidation, under a workout agreement, or has declared bankruptcy or has had a decree or order issued for relief in any bankruptcy, insolvency, or other similar action.

1. If the Eligible Entity is a current RUS borrower, the Eligible Entity must not be in default and must be current on any of its obligations to RUS.
2. The Applicant must submit a copy of its audited balance sheet and income statements for the last three years.
3. If applicable, the Eligible Entity must provide the balance sheet and income statements for the last three years of the entity or entities providing equity or security for the Award together with an explanation of the legal relationship among the legal entities.
4. If the Eligible Entity is a wholly or jointly owned subsidiary of an electric cooperative, the Eligible Entity must provide a balance sheet and income statement of each of its members.
 - d. Identify the type and amount of financial assistance described in Section B.5. it will seek in its application if it receives an Invitation to Proceed. If the Eligible Entity intends to seek a combination of the types of financial assistance listed in Section B.5, it must state the amount it intends to seek for each type of financial assistance.
 - e. Disclose if any foreign entity or foreign person has an ownership interest, voting interest, management rights, or an equity interest in the Eligible Entity or any rights in the proposed project(s).
 - f. Estimate the proposed GHG reduction from the Portfolio of Actions as provided in Section A.4. of this Notice.
 - g. State the value of its Total Utility Plant (TUP) as of December 31, 2022.
 - h. Provide a technical description of the Project(s) it intends to finance if it receives an Award. The technical description must include the following:
 1. A description of other actions related to the Projects that will allow the Eligible Entity to reduce its total GHG emissions.
 2. The description of the Portfolio of Actions shall not exceed 1,500 words, and it must include a summary of the technical aspects of the various actions that will allow RUS to measure the reduction of GHG emissions resulting from the Portfolio of Actions.
 3. The Eligible Entity must provide the amount of GHG emissions reductions under the evaluation criteria listed in Section E that will result from the implementation of its proposed Project(s) in the LOI. This will be completed by using the RUS Achievable Reductions Tool or submission of comparable data. Use of other methods by Eligible Entities may impact the Agency's timeline for review of the application. Eligible Entities that choose to use other methods will need to demonstrate that their method provides comparable information for the Agency to adequately estimate the reduction of GHG emission reductions stemming from its proposed Portfolio of Actions.

4. The Eligible Entity must also provide sufficient detail for RUS to determine that the Portfolio of Actions satisfies the technical requirements for this program and is consistent with industry standards and prudent utility practices.

i. RUS reserves the right to ask Eligible Entities for clarifying information on, or additional information related to, the LOI.

ii. *Phase 2 – Application Submission.* Upon receiving an Invitation to Proceed, the Applicant must submit its application package within ninety (90) days of receipt of such invitation. The Applicant’s application package must contain the applicable information and documents required in 7 CFR part 1710, Subpart D as well as the following information and documentation:

a. *Cover Letter.* A signed cover letter from the Applicant’s general manager or highest-ranking officer requesting an Award under this NOFO and include a brief executive summary.

b. *Articles of incorporation and bylaws or other applicable governing and organizational documents.* The Applicant must provide its articles of incorporation or other applicable organizational documents currently in effect, as filed with the appropriate state office, setting forth its corporate purpose, and the bylaws or other governing documents currently in effect, as adopted by its governing body. Applicants that are active RUS borrowers may comply with this requirement by notifying RUS, in writing, that there are no material changes to the documents already on file with RUS.

c. *Environmental and Historic Preservation Requirements.* If the Applicant has not received written notice from RUS that the Project environmental review process is formally concluded as provided in 7 CFR 1970.11, it must submit documents that establish that a review is in progress and no ground disturbance activities have started prior to receiving notice that the Environmental and Historic Preservation Requirements have been completed. This requirement requires the Applicant to include a certification that construction has not started and that it will not start prior to obtaining written notice from RUS. The Applicant must further state the type of environmental review document it believes needs to be prepared in accordance with 7 CFR part 1970 (e.g., a Categorical Exclusion with an Environmental Report, an Environmental Assessment, or Environmental Impact Statement in accordance with subparts B, C, or D, respectively). The Applicant must provide a description of any potential environmental controversy or extraordinary circumstances, and the estimated timelines for completing the environmental process. Applicants are strongly advised that commencing construction prior to environmental or historic preservation clearance could make a Project ineligible for RUS financing.

d. *Financial Forecast.* In order to demonstrate that the loan is feasible as required in 7 CFR 1710.112, the Applicant must submit a financial forecast. For System Awards, the financial forecast must cover at least 10 years from the commercial operating date of the Project to be financed, and it must demonstrate that the Applicant's operation is economically viable and that the proposed loan is financially feasible. RUS may request projections for a longer period of time or additional information if RUS deems it necessary based on the financial structure of the Applicant and necessary to make a determination with respect to Financial Feasibility. For Project Awards, RUS may require that the financial forecast cover a period equal to the maturity period of the loan.

RUS will provide the Applicant with the specific information and data that must be included in the financial forecast in the Invitation to Proceed.

e. *Ratepayer Benefit:* The Award must provide demonstrable benefits to rate payers located in the service area. The Applicant must demonstrate in its New ERA Application that the consumer and financial benefits resulting from the Award will be shared between the Awardee and the Off-taker. This must be shown through a long-range financial forecast scenario that establishes that the revenue per kilowatt hour (KWh) the Applicant will receive from the sale of the power to the Off-taker would have been higher but for the Award. Additionally, a net present value calculation should be performed to demonstrate the financial benefit to the rate payer resulting from the Award versus business as usual. The Agency may also request additional ratepayer information over the course of the program.

f. *Power Purchase Agreement (PPA).* If the Applicant proposes to sell the energy generated from the Project to an Off-taker, the Applicant must provide an executed copy of the PPA with the Off-taker. If the Applicant is unable to execute a final PPA with the Off-taker prior to submitting its application, it must submit a draft of the PPA with its application and then submit the executed copy of the PPA when it is executed. RUS will not approve a New ERA Application that proposes to sell the energy to an Off-taker unless and until the Applicant submits an executed PPA with the Off-taker and RUS approves such PPA.

Further, if the Applicant proposes to sell power generated from the Project to an Off-taker under a PPA, the Applicant must provide a draft copy of the PPA with the Application, which must include two different rate schedules; one for the case without the provision of the Award and the other for the case with the provision of the Award. Because the PPA is essentially the mechanism by which consumers will benefit from the New ERA Program, all draft PPAs must be approved by RUS prior to being executed. RUS approval of the New ERA Application is predicated upon an executed PPA that has been approved by the Agency.

g. *Power Resources Owned, Co-owned or Leased.* If applicable, provide a discussion or table of the existing power resources available to the Applicant that includes generation facilities owned, co-owned or leased. The information provided should include: name of plant and unit; ownership interest (%); type of unit and fuel used; net peak capacity; and in-service date.

h. *Power Purchase Contracts.* If applicable, provide a discussion of the Applicant's power purchase contracts (with terms greater than two years) that describes the capacity and energy resources purchased. The information should include: type of contract (take-or pay, unit power purchase, parties to the contract, amount (capacity and energy); and term and expiration date.

i. *Power Sales Contracts.* If applicable, a description of any existing power supply arrangements, such as wholesale power contracts, between an Off-taker and its members including the type of agreements (e.g., all or partial requirements), the initial execution dates, and the dates the agreements expire. The Applicant must provide copies of the agreements if requested by the Agency.

j. *Engineering Report.* A signed, final engineering report or final engineering and power cost study must be provided with the New ERA Application or soon thereafter. The report must describe the purpose, design, costs, construction, and operation of the Project(s). A draft engineering report must be submitted for RUS approval prior to it being finalized and signed. RUS approval of the engineering report is required prior to the obligation of an Award; however, the Awardee may amend the engineering report with RUS' written approval after obligation. The finalized engineering report must be signed or approved by licensed professional engineer.

k. *Project Contracting.* The Applicant must provide a list of all engineering, procurement, and construction contracts it intends to use on the Project(s), with a brief description and cost estimate of each contract. At the Agency's discretion, any contracts selected by the Agency for review and approval must be submitted within the period-of-time requested by the Agency. In no event will Award funds be obligated prior to RUS approval and any necessary applicable government approval of the selected Project contracts.

l. *Interconnection Agreements.* Agreements required to interconnect a Renewable Energy System or Zero-Emission System or Energy Storage System or microgrid system to a distribution or transmission system must be included with the application. If the Applicant is unable to submit the necessary interconnection agreement prior to submitting its New ERA Application, it must submit a draft of the interconnection agreement with its application and then submit the executed copy of the interconnection agreement when it is executed. RUS must approve any interconnection agreement before an Award is obligated.

m. *System Impact Studies*. The status and summary of any related System Impact Studies, as they may relate to the interconnection of the Project with a distribution or transmission network, must be provided with the application. System Impact Studies must be conducted, as applicable, to include load flow studies, short circuit analysis, system stability analysis, and conclusions (e.g., identify voltage, overload, stability problems and proposed actions or contingencies; single contingency analysis of proposed facilities; transmission constraints; and system improvements needed). The nature of any required system upgrades and associated costs to be incurred by the Awardee, Off-taker or other entity must be identified. The Agency may request a copy of any System Impact Studies or links to review such studies. The Agency will not obligate an Award until the Applicant submits the System Impact Study.

n. *Transmission Service Agreement*. Transmission Service Agreements required to export, transmit or deliver the power from the Project to the Off-taker must be included with the application. These agreements must receive Agency approval and the Agency will not obligate an Award until it has approved all necessary Transmission Service Agreements.

o. *Other Major Agreements*. The Applicant must provide a list and a brief description of all other major agreements that will need to be executed for the Project. Such agreements, if applicable, include, but are not limited to operations and maintenance arrangements, joint ownership arrangements, fuel management, and fuel supply and transportation. Agreements selected for approval by the Agency should be submitted within the period of time requested by the Agency. RUS will not approve the New ERA Application until all agreements requested for review have been approved by the Agency.

p. *Meteorological Data and Studies*. Renewable Energy Systems such as solar and wind projects must be supported with meteorological data and studies to determine the expected energy generation of the facility during the initial year of operation. The Applicant must identify the amount and basis of any annual degradation in energy output of the Renewable Energy Systems.

q. *Fuel and Fuel Transportation Strategies*. If applicable, the Applicant must describe the fuel and fuel transportation strategies of the Project and show that the fuel supply for the life of the Project is adequate. Fuel supply contracts and fuel transportation contracts must be identified, including the term of each contract. Copies of the fuel contracts or arrangements must be provided if requested by the Agency.

r. *Sources and Uses of Water*. The Applicant must identify the uses and source of water for the Project and provide evidence that the water supply will be adequate to meet both daily requirements and for the life of the Project. If requested by the Agency, (1) the Applicant must provide copies of any agreements or arrangements that would be used to purchase or receive

water used and consumed by the Project; and/or (2) the applicable water balance diagram of the facilities must be provided.

s. *Technical and Financial Description.* The technical and financial description of the Portfolio of Actions shall not exceed 1,500 words per Project proposed in the New ERA Application and must include the following:

1. Description of each Project being requested for financing, including Project name, location, type, size, and renewable or zero-emission energy units generated and saved or carbon captured.

2. For each Project, submit an updated or revised digital shapefile of the proposed service area if such service area has changed from that contained in the digital shapefile submitted with the LOI.

3. For each Project, indicate the estimated dates to start construction and to achieve commercial operation.

4. Verification that the Project(s) will be designed, constructed and operated based on proven Commercially Available Technology.

5. The estimated total capital cost of each Project and the amount of Award funds being requested to finance each Project.

t. *Real Estate Agreements.* If the Applicant is leasing the real estate upon which it will build and operate the Project, the Applicant must submit an executed copy of the lease agreement with the application. The lease agreement must have a provision that allows the Applicant to collaterally assign the lease to RUS as security for the loan. Further, to the extent that the lessor under any lease with the Applicant has executed a mortgage or deed of trust on the real estate in question, the mortgagee must execute an attornment and non-disturbance agreement in favor of the Applicant that will allow the Applicant to continue to lease the real property in question and operate the Project in the event of the lessor's default under the mortgage or deed of trust. RUS will not obligate an Award until the Applicant submits all applicable Real Estate Agreements.

u. *Community Benefit Plan.* The Applicant must confirm in its application that it will develop a Community Benefit Plan(s) through stakeholder engagement within the first year after the date RUS obligates the Award. The Agency will not advance any Award funds until the Awardee has developed its Community Benefit Plan(s). The Agency will not advance the grant portion of an Award until the Awardee implements its Community Benefit Plan(s).

The Applicant must identify in its application how it will develop its Community Benefits Plan(s) and any initial benefits to residents within the service area expected beyond the Project itself, including, but not limited to at least one of the following:

1. Investments in the American workforce such as local worker retraining and job creation;
2. The launch or expansion of systemic or consumer-based energy efficiency and carbon reduction measures such as providing on-bill financing or Pay-as-You-Save programs to improve the energy efficiency and beneficial electrification for consumers;
3. Land use agricultural integration that demonstrates ways for agricultural producers to benefit from clean energy projects; and
4. Diversity, equity, inclusion and accessibility and environmental justice goals set forth in Executive Order 14008, Part II, Section 223, the Justice40 Initiative, which aims to assure that 40 percent of the overall benefits of certain federal investments flow to disadvantaged communities.

v. *Refinancing and Modifications.* If the Applicant is seeking to refinance or modify existing debt, it must provide sufficient information and data to demonstrate how it will utilize the cash savings generated from the proposed loan refinancing or modification to purchase Renewable Energy, Renewable Energy Systems, Zero-Emission Systems, or Carbon Capture and Storage Systems; to deploy such systems; or to make energy efficiency improvements to electric generation and transmission systems.

w. *Award Type.* The Applicant must specify what type of Award (loan only, grant only, loan/grant combination, and/or loan refinancing/modification) it is seeking. If the Applicant is seeking more than one type of Award, it must clearly state the type of Award it is seeking for each Project and the amount of each type of Award.

x. *Non-RUS Funds.* The Applicant must identify the source of any non-RUS funds that it intends to utilize to finance the cost of the proposed Project in its application.

y. *Tribal Government Resolution of Consent.* For each Project that will be sited on Tribal Lands where a Federally Recognized Tribe has regulatory authority and for each Project whose service area includes Tribal Lands where a Federally Recognized Tribe has regulatory authority, certification from the appropriate Tribal official that it consents to or has no objection to the Project is required. The appropriate certification is a Tribal Government Resolution of Consent. The appropriate Tribal official is the Tribal Council of the Federally Recognized Tribe(s) with regulatory jurisdiction over the Tribal Lands at issue. Any Applicant that fails to provide a certification to provide service on the Tribal Lands identified in the application will not be considered for funding with respect to the infrastructure proposed to be constructed on Tribal Lands.

z. *Eligible Costs.* The Applicant must include in its New ERA Application a breakdown of the estimated eligible costs listed in Section C.3.i for which it intends to seek reimbursement.

aa. *Additional Information.* RUS reserves the right to require the Applicant to provide additional information or documentation in support of its application.

3. *System for Award Management and Unique Entity Identifier.*

i. At the time of application, each Applicant must have an active registration in the System for Award Management (SAM) before submitting its application in accordance with 2 CFR part 25. To register in SAM, entities will be required to obtain a Unique Entity Identifier (UEI). Instructions for obtaining the UEI are available at <https://sam.gov/content/entity-registration>.

ii. Applicants must maintain an active SAM registration, with current, accurate and complete information, at all times during which it has an active Federal award or an application under consideration by a Federal awarding agency.

iii. Applicants must ensure they complete the Financial Assistance General Representations and Certifications in SAM.

iv Applicants must provide a valid UEI in its application, unless determined exempt under 2 CFR 25.110.

v. The Agency will not make an Award until the Applicant has complied with all SAM requirements including providing the UEI. If an Applicant has not fully complied with the requirements by the time the Agency is ready to make an Award, the Agency may determine that the Applicant is not qualified to receive a Federal Award and use that determination as a basis for making a Federal Award to another Applicant.

4. *Submission Dates and Times.*

i. *Letters of Interest.* *Letters of Interest* can be submitted beginning at 11:59 p.m. ET on July 31, 2023, and until 11:59 p.m. ET on August 31, 2023. *Letters of Interest* will not be accepted after 11:59 p.m. ET on August 31, 2023.

ii. Eligible Entities that receive a written invitation to submit a full New ERA Application will have sixty (60) days from the date RUS sends the invitation to submit such a full New ERA Application. RUS reserves the right, in its sole discretion, to extend the sixty (60)-day deadline upon the written request of the Applicant if the Applicant demonstrates to the satisfaction of the Administrator that exceptional circumstances exist to warrant the extension.

iii. RUS also reserves the right to ask Applicants for clarifying information and additional verification of assertions in the LOI and New ERA Application.

5. *Intergovernmental Review.* Executive Order (EO) 12372, “Intergovernmental Review of Federal Programs,” is not required for this Program.

6. *Funding Restrictions.*

i. Projects that receive support from the PACE Program for construction will not be eligible for support for the direct purchase of power produced by that supported Project.

ii. The Agency will only finance Commercially Available Technologies.

iii. Given the statutory focus on reductions in GHG, the Agency will not utilize funds made available under this funding notice to: (a) finance new investments in new sources of fossil fueled power; or (b) system improvements at existing fossil fueled generation plants, regardless of whether such improvement is incorporated in the scoring of the Applicant's Portfolio of Actions, except Carbon Capture Systems and Energy Storage Systems.

iv. RUS will not provide funding under this NOFO for any Project if construction of the Project commenced before August 16, 2022, the effective date of the IRA.

7. Other Submission Requirements.

i. The Agency will accept LOIs through an online mechanism as opened on or before July 31, 2023, unless otherwise indicated by the Agency.

ii. By submitting the LOI, the Eligible Entity certifies to RUS that it has the intent and ability to submit a complete New ERA Application within ninety (90) days of RUS emailing an Invitation to Proceed should RUS provide such Invitation to Proceed.

iii. An Applicant's receipt of an invitation to submit a full New ERA Application is not a guaranty that the Applicant will receive an Award or that Awards will be offered on the same terms as the Applicant sought.

iv. The Agency will accept consolidated LOIs and New ERA Applications from groups of Eligible Entities such as a generation and transmission utility and its distribution members or groups of distribution utilities. The Agency will score the consolidated LOIs and New ERA Applications by aggregating the estimated reduction in GHG emissions of each the Eligible Entity's Portfolio of Actions into one score. A consolidated LOI or New ERA Application will compete in either Category I, Category II, or Category III, as detailed in Section E.2.i.c., based on the combined TUP of the group, which will be the sum of the TUP of each participating Eligible Entity in the group. The Agency, however, reserves the right to evaluate each Eligible Entity's proposed Projects in order to determine the technical and Financial Feasibility of each Eligible Entity's proposed Project or Projects separately. Further, the Agency may review the Financial Feasibility of the New ERA Application on a disaggregated basis by conducting the underwriting individually for each of the individual Applicants. Consolidated Applicants must also be prepared to accept disaggregated contractual and financial commitments relating to their consolidated New ERA Application. Further, each Applicant in a consolidated LOI or New ERA Application must have an active SAM.gov registration at the time the consolidated LOI or New ERA Application is submitted.

v. Wholly or jointly owned subsidiaries of cooperatives are included in the definition of Eligible Entity under Section 22004 of the IRA. The Agency, therefore, will accept a single

application from a joint venture entity between two or more Eligible Entities. A LOI or New ERA Application submitted by a joint venture entity will be reviewed and evaluated as any other LOI or New ERA Application requesting a Project Award. Further, in the LOI, each owner of the joint venture entity must also attest to its willingness and demonstrate its ability to provide adequate security for their share of the Award as well as their performance of all related program commitments.

vi. The Agency will accept only one New ERA Application per Applicant whether individually or as part of a consolidated application.

vii. Applicants who have submitted proposals under the funding notice for the PACE Program may not include the same proposal or project for funding under this Notice. The Agency will consider separate, single proposals under the PACE and New ERA Programs from the same Applicant provided the proposed actions are separate and distinct. In order to receive separate PACE and New ERA Awards the Applicant must demonstrate to the satisfaction of the Administrator that the Applicant has the financial and technical ability to carry out both Awards.

viii. For purposes of this NOFO, an electric cooperative and any subsidiary in which it holds a majority ownership or voting interest shall be considered one entity for purposes of determining the 25 percent limitation on the grant component of a New ERA Award as provided in section 22004 of the IRA.

E. Letters of Interest and Application Review Information

1. Criteria.

i. *Letters of Interest.* Applicants must submit an LOI that contains the information required in Section D.2.i. of this Notice. The LOIs will be used to invite a pool of final applications that advance the purposes of the New ERA Program.

RUS will review and evaluate the LOIs to determine if they are eligible, competitive and within the funding limits and policy objectives of the New ERA Program. RUS will evaluate the LOIs based on the criteria listed in Section C.1.iv. and E.1.ii. below. Thus, Eligible Entities are encouraged to consider the criteria in Section C.1.iv. and E.1.ii. below when preparing their LOI's. Letters of Interest in which the technical description of the Project(s) exceed 1,500 words may be disregarded.

Once RUS has reviewed and evaluated the LOIs, Eligible Entities will be informed if they are invited to submit a New ERA Application. Eligible Entities that receive an Invitation to Proceed will have sixty (60) days from when the date of the Invitation to Proceed is sent to submit a New ERA Application to RUS. In the Invitation to Proceed, the Agency reserves the right to: (a) suggest modifications to the proposal outlined in the LOI; (b) negotiate a final package of assistance with each Eligible Entity; and (c) update an Applicant's evaluation based

on the full application proposal submitted. Each Eligible Entity that receives an Invitation to Proceed will have a General Field Representative (GFR) assigned to it. An Invitation to Proceed does not constitute an offer by the Agency, nor does it constitute approval of the Applicant's New ERA Application.

ii. *New ERA Application.* RUS will review each New ERA Application based upon: (a) RUS' general underwriting requirements contained in 7 CFR part 1710, Subpart D; and (b) the Applicant's Portfolio of Actions using the selection criteria identified in 1 through 4 below. Each of the metrics in the criteria below will be generated by the Achievable Reductions Tool or other methods acceptable to RUS as noted above. Pursuant to IRA section 22004, the heaviest weight will be given to the reduction of GHG emissions (CO₂e). Points will be awarded as follows:

1. Annual tons of carbon dioxide equivalent (CO₂e) reduced (from generation resources owned or purchased): **up to 30 points.**
2. Annual tons of CO₂e avoided: **up to 10 points.**
3. Percentage difference in renewable or zero-emission energy in the energy mix (from generation resources owned and purchased): **up to 10 points.**
4. Percentage decrease in the carbon intensity of the energy mix (from generation resources owned and purchased): **up to 10 points.**

2. *Review and Selection Process.*

i. RUS will acknowledge the receipt of LOIs and New ERA Applications via an email to the Applicant. After receipt of LOIs and New ERA Applications, RUS will take the following actions:

a. Incomplete LOIs and applications or ineligible applications as of the deadline for submission will not be considered further, and the Applicant will be notified in writing.

b. Letters of Interest and New ERA Applications will be reviewed for completeness and ranked based on the scoring criteria in E.1.ii. above.

c. Applicants with complete applications will be placed into one of three categories based on their year ending 2022 TUP value.

1. Category I: Applicants with a TUP value equal to or over \$500 million.

2. Category II: Applicants with a TUP value under \$500 million but over \$200 million.

3. Category III: Applicants with a TUP value equal to or less than \$200 million.

d. Applicants will then compete for Awards within their category and based on the evaluation of metrics that reflect achieving the greatest reductions in GHG emissions. RUS expects to utilize at least 60 percent of the funds made available under this Notice for Category I Applicants, up to 20 percent of funds made available under this Notice for Category II, and up to

20 percent of the funds made available under this Notice for Category III Applicants. This split in the value of TUP reflects the likely lower total costs for smaller entities to transition to Renewable Energy Systems or Zero-Emissions Systems and the desire to ensure that both large and small Applicants are able to benefit from the program while ensuring that the program meets its statutory requirement to achieve the greatest reduction in GHG.

e. RUS will not approve a specific request for financial assistance if RUS determines that the requested financial assistance imposes an undue risk to RUS' loan portfolio in general.

f. For the purposes of this NOFO, the Agency will apply the SUTA provisions of section 306F of the RE Act as it would to a program contained in section 306F(a)(1).

3. *Other Information.*

The Administrator shall have the authority and sole discretion, to: (i) Shift funding between Category I, Category II, and Category III Applicants, (ii) Offer financing in different amounts or on different terms than what the Applicant proposes in its application; (iii) Reject any application or any Project in an application regardless of RUS' evaluation of the Project that the Administrator determines is not eligible, feasible, securable, or executable within the timeframe of the Award; (iv) Add additional funding to this competition if such funding becomes available; and (v) Make an offer that references funding from other RUS programs separate from a New ERA Award.

F. Federal Award Administration Information

1. *Federal Award Notices.*

i. *Award Notices.* Applicants will be notified of their application's status as follows:

a. Applicants not selected for funding will be notified in writing.

b. Successful Applicants will receive a Commitment Letter from the Administrator specifying: (i) The total amount of the Award approved by RUS; and (ii) Any additional controls on its financial, investment, operational and managerial activities; acceptable security arrangements; and such other conditions deemed necessary by the Administrator to adequately secure the Government's interest and ensure repayment. Upon receipt of the acceptance of the Award from the Awardee, RUS will begin to prepare the Award Documents with the assistance of the Applicant. Upon completion of the Award Documents, RUS will forward those documents to the Applicant.

1. The Administrator may incorporate any applicable provisions of 2 CFR part 200, in addition to the provisions of 2 CFR part 200 that have been incorporated into this NOFO, into the Award Agreement if the Award is comprised only of a grant.

2. Receipt of a Commitment Letter from the Administrator does not authorize the Awardee to commence performance under the Award. All RUS requirements and Award

conditions specified in the Commitment Letter must be met before loan or grant funds will be disbursed. Applicants may not commence construction on any Project until RUS provides the Applicant with written environmental clearance of the Projects as provided in 7 CFR part 1970. RUS will notify the Awardee when it is authorized to commence performance using New ERA funds.

ii. *Funding Disbursements and Restriction.* The Agency will use all tools at its disposal to obligate funds in a timely manner. RUS will disburse funds to the Awardee in accordance with the terms of the executed Award Documents, this NOFO, and the applicable provisions of 7 CFR parts 1710 through 1730, 1767, 1773, 1787, and 1970 (<https://www.ecfr.gov/current/title-7/subtitle-B/chapter-XVII>).

a. Except as related to a stranded asset loan, all Award funds will be disbursed as a reimbursement for Eligible Award Costs.

b. The executed Award Agreement will contain a provision stating that no Award funds will be advanced after September 30, 2031. The Agency will set a last day for advance in the Award Agreements well in advance of this statutory limit. All undisbursed funds as of close of business on September 30, 2031, will automatically be rescinded.

c. Unless stated otherwise in the NOFO or in the applicable Award Agreement, RUS will advance grant funds upon the Awardee's completion and testing of the Project to the satisfaction of RUS as provided in Section B.5.i.c. of this NOFO and the reporting of such testing to RUS.

d. The Administrator may condition any advance on the Awardee meeting specific requirements prior to making any advance on an Award.

e. The Awardee is encouraged to display USDA standard infrastructure investment signage, available for download from the Agency, during construction of the Project. Expenditures for such signage shall be a permitted eligible cost of the Project.

iii. *Award term.* Except Awards that include a loan refinancing or loan modification, Awards will be for a term not to exceed the lesser of: (a) The expected useful life of the Project; (b) The term of the PPA (if required for execution between the Awardee and the Off-taker); (c) The term of the lease for the land that the Project will occupy (if such land is not owned by the Awardee), (d) The expiration dates of power supply arrangements between the Awardee and its members should the Awardee provide the power supply needs of the members under such power supply arrangements; or (e) 35 years. The term of an Award that includes a loan refinancing or loan modification will be determined on a case-by-case basis based on the Financial Feasibility of the Award.

iv. *Interest rate.* Loans made under the New ERA Program will bear interest per annum at the percentages specified in section B of this NOFO.

v. *Repayment.* Except for a loan relating to loan refinancing or loan modification, the repayment of each advance on a loan to the Awardee must be fully amortized over the remaining term of the loan as determined in Section F.1.iii. The repayment of an advance on a loan relating to the refinancing or modification of an existing loan must be fully amortized over the term of the loan as specified in the Award Documents. The amortization will be premised upon equal monthly debt service payments over the term of the loan portion of the Award. Further, unless otherwise provided in the NOFO, the provisions of 7 CFR parts 1710 and 1714 (<https://www.ecfr.gov/current/title-7/subtitle-B/chapter-XVII>), applicable to direct loans, shall apply to any loan made pursuant to an Award.

vi. *Prepayment.* An Awardee may prepay the loan component of an Award, at par, at any time. All other terms under the Award Documents will continue for any remaining portion of the Award.

vii. *Financial ratios.* The requirements for coverage ratios will be set forth in the Commitment Letter and the Awardee's Award Documents with RUS. The minimum coverage ratios required of the Awardee, whether applied on an annual or average basis, will be determined by the Administrator on case-by-case basis based on the risk profile of the Awardee and specific loan features. Existing RUS borrowers will be subject to their current financial coverage ratios contained in the applicable loan agreements or indentures unless otherwise determined by the Administrator. When new Award Documents are executed, the Administrator may, on a case-by-case basis, increase the coverage ratio of the Awardee if the Administrator determines that higher ratios are required to ensure the repayment of a loan made by RUS. Also, the Administrator may, on a case-by-case basis, reduce the coverage ratios if the Administrator determines that the lower ratios are required to ensure the repayment of the loan made by RUS.

viii. *Equity requirements.* As noted in Section B.5.i.b., RUS will require the Awardee to provide at least 25 percent equity in the Project for a Project Award. For System Awards, the Administrator may, in the Administrator's sole discretion, deem it acceptable to loan the full cost of the Project. The required equity position will be determined by the Administrator on a case-by-case basis and will be set forth in the Commitment Letter and the Award documents as a condition to the Award. As noted above, RUS may consider allowing the Awardee to meet the equity requirements by utilizing any grant component of the Award or any other grant, if permitted under applicable authorities. Further, RUS may consider allowing the Awardee to meet the equity requirement by utilizing any applicable investment tax credit or an elective direct payment in lieu of the investment tax credit relating to the Project as permitted in the Internal Revenue Code of 1986 and its implementing regulations. In each case, RUS must find that such uses of the tax benefits relating to the Project are financially feasible. If the Award is grant only

because the Awardee is financing the portion of the cost of the Project not covered by the grant solely from a non-RUS source, the Administrator may consider waiving the equity requirement.

ix. *Opinion of counsel.* An opinion of counsel is required at closing and must be acceptable to the Administrator, opining that the Awardee is properly organized and has the required corporate authority to enter into the proposed transaction. It must also identify the proposed collateral to secure the Award and certify that such collateral is free of liens or identify any issues that may arise for the Government regarding the securing and perfecting of a first and prior lien on such property comprising the collateral.

x. *The Award Documents.* The Agency will provide the Awardee with the applicable Award Documents that the Award must execute.

xi. *Award term and conditions.* The Administrator reserves the right to modify or waive certain requirements if the Administrator believes such modifications or waiver are in the best interest of the Government and the Administrator has determined that the loan component of any Award will be repaid in the designated time period and the security for such loan is adequate. Also, the Administrator, at their sole discretion, may add such terms and conditions in an Award Agreement to ensure the loan is timely repaid and is adequately secured. Additionally, as provided in 7 U.S.C. 1981(b)(4) the Administrator retains the right to modify the terms of any Award pursuant to the terms of that authority.

xii. *Reporting.*

a. *Performance Reporting.* RUS will establish periodic reporting requirements. These will be enumerated in the Award Documents.

b. *Accounting Requirements:* RUS accounting requirements include compliance with Accounting Principles Generally Accepted in the United States (GAAP), as well as compliance with the requirements of the applicable regulations: 2 CFR part 200 subpart E, 48 CFR 31, and the system of accounting prescribed in 7 CFR part 1767. The Administrator may modify the accounting requirements if it is deemed necessary to satisfy the purpose of the statute.

c. *Audit Requirements:* Awardees will be required to prepare and furnish to RUS audits as follows:

1. Non-Federal Entities shall provide RUS with an audit pursuant to 2 CFR part 200, Subpart F. The Awardee must follow subsection 502 in determining federal awards expended. All RUS loans impose an ongoing compliance requirement for the purpose of determining federal awards expended during a fiscal year. In addition, the Awardee must include the value of new federal loans made along with any grant expenditures from all federal sources during the Awardee's fiscal year. Therefore, the audit submission requirement for this program begins in the Awardee's fiscal year that the loan is made and thereafter, based on the

balance of federal loan(s) at the beginning of the audit period. All required audits must be submitted within the earlier of: (i) 30 calendar days after receipt of the auditor's report; or (ii) nine months after the end of the Awardee's audit period; and

2. For all other entities, Awardees shall provide RUS with an audit within 120 days after the as of audit date in accordance with 7 CFR part 1773. Note that with respect to advances that contain loan funds, the audit is required after an advance has been made, and, thereafter, from the close of each subsequent fiscal year until the loan is repaid in full. With respect to advances that only contain grant funds, the audit is required until all grant funds have been advanced or rescinded and all financial compliance requirements have been fully satisfied. While an audit is required, Awardees must also submit a report on compliance and internal controls over financial reporting, as well as a report on compliance with aspects of contractual agreements and regulatory requirements.

xiii. *Monitoring.* Awardees must comply with all reasonable RUS requests to support ongoing monitoring efforts including monitoring an Awardee's construction progress and progress towards achieving project related GHG reductions. The Awardee must afford RUS, through their representatives, a reasonable opportunity, at all times during business hours and upon prior notice, to have access to and the right to inspect any or all books, records, accounts, invoices, contracts, leases, payrolls, timesheets, cancelled checks, statements, and other documents, electronic or paper of every kind belonging to or in possession of the Awardee or in any way pertaining to its property or business, including its parents, affiliates, and subsidiaries, if any, and to make copies or extracts therefrom. Failure to comply with reasonable RUS requests could result in a termination of the Award Agreement.

2. *Administrative and National Policy Requirements.*

The items listed in this Notice implement the appropriate administrative and national policy requirements, which include but are not limited to:

- i. Execution of an Award Agreement and related Award Documents;
- ii. Compliance with other applicable Federal statutes and regulations to include 7 U.S.C 8103, the generally applicable provisions of 7 CFR parts 1700 through 1730, 1767, 1773, and 1787, 1970 or any successor regulations (<https://www.ecfr.gov/current/title-7/subtitle-B/chapter-XVII>).
- iii. Except as provided in the NOFO and in the executed Award Documents, all other generally applicable regulations contained in 7 CFR Chapter XVII will apply to New ERA Program Awards.
- iv. All existing RUS Electric Program bulletins apply (<https://www.rd.usda.gov/resources/regulations/bulletins>).

v. Additional requirements that apply to recipients selected for this program can be found in the Grants and Agreements regulations of the Department of Agriculture codified in 2 CFR parts 180, 400, 415, 417, 418, 421; 2 CFR parts 25 and 170 (<https://www.ecfr.gov/current/title-2>); and 48 CFR 31.2 (<https://www.ecfr.gov/current/title-48/chapter-1/subchapter-E/part-31/subpart-31.2>), and successor regulations to these parts.

G. Federal Awarding Agency Contact(s)

For general questions about this announcement, please contact the point of contact listed in the FOR FURTHER INFORMATION CONTACT section of this Notice.

H. Build America, Buy America Requirements

Infrastructure Project Awards under this announcement must meet the following domestic preference requirements:

1. *Funding to Non-Federal Entities.* Awardees that are Non-Federal Entities shall be governed by the requirements of section 70914 of the Build America, Buy America Act (BABAA) within the Infrastructure Investment and Jobs Act (IIJA), and its implementing regulations. The Act requires the following Buy America preference:

i. All iron and steel used in the Project are produced in the United States. This means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

ii. All manufactured products used in the Project are produced in the United States. This means the manufactured product was manufactured in the United States, and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation.

iii. All construction materials (excludes cement and cementitious materials, aggregates such as stone, sand, or gravel, or aggregate binding agents or additives) are manufactured in the United States. This means that all manufacturing processes for the construction material occurred in the United States.

BABAA only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does BABAA apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project. Any requests for waiver of these

requirements must be submitted pursuant to USDA's guidance available online at <https://www.usda.gov/ocfo/federal-financial-assistance-policy/USDABuyAmericaWaiver>.

2. *Funding to all other entities.* All other Awardees shall be governed by the Agency's Buy American requirement at 7 CFR part 1787. Rural electric cooperatives, for-profit organizations, and investor-owned utilities are not considered Non-Federal Entities. Any requests for waiver of these requirements must be submitted pursuant to those regulations.

I. OTHER INFORMATION

1. *Congressional Review Act Statement:* Pursuant to Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (also known as the Congressional Review Act or CRA); 5 U.S.C. 801 et seq., this action meets the threshold for a major rule, as defined by 5 U.S.C. 804(2), because it will result in an annual effect on the economy of \$100,000,000 or more. Accordingly, the Agency will not take action on LOIs until sixty (60) days has lapsed from notification to Congress.

2. *Administrative Procedure Act Statement.* This NOFO is being issued without advance rulemaking or public comment. The Administrative Procedure Act of 1946 (APA), as amended (5 U.S.C. 553), has several exemptions to rulemaking requirements. Among them is an exception for a matter relating to "loans, grants, benefits, or contracts."

3. *Paperwork Reduction Act.* In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), USDA requested that the Office of Management and Budget (OMB) conduct an emergency review of a new information collection that contains the Information Collection and Recordkeeping requirements contained in this Notice.

In addition to the emergency clearance, the regular clearance process is hereby being initiated to provide the public with the opportunity to comment under a full comment period, as the Agency intends to request regular approval from OMB for this information collection.

Comments from the public on new, proposed, revised, and continuing collections of information help the Agency assess the impact of its information collection requirements and minimize the public's reporting burden. Comments may be submitted regarding this information collection through the Federal eRulemaking Portal at <https://www.regulations.gov>. In the "Search for dockets and documents on agency actions" box, type in the DOCKET # from this notice to submit or view public comments and to view supporting and related materials available electronically. Information on using Regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's "FAQ" link. Comments on this information collection must be received by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

Title: Empowering Rural America (New ERA) Program

OMB Control Number: 0572-NEW

The following estimates are based on the average over the first 3 years the program is in place.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 31.853 hours per response.

Respondents: Electric cooperatives, subsidiaries of electric cooperatives.

Estimated Number of Respondents: 250.

Estimated Number of Responses per Respondent: 23.296.

Estimated Number of Responses: 5,824.

Estimated Total Annual Burden (hours) on Respondents: 185,514.

Copies of this information collection may be obtained from Pamela Bennett, Management Analyst, Regulatory Division, RD Innovation Center, telephone: 202-720-9639; email: pamela.bennett@usda.gov. All responses to this information collection and recordkeeping notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

4. *National Environmental Policy Act*. All recipients under this Notice are subject to the requirements of 7 CFR part 1970.

5. *Wage Rate Requirements*. As provided in 7 U.S.C. 8103(f) all Projects funded under the New ERA Program, as a condition of receiving a grant or loan under this section, an Eligible Entity shall ensure that all laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed, in whole or in part, with the grant or loan, as the case may be, shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with 40 U.S.C. 31, sections 3141 through 3144, 3146, and 3147.

6. *Federal Funding Accountability and Transparency Act*. All Applicants, in accordance with 2 CFR part 25, must be registered in SAM and have a UEI number as stated in Section D.3 of this notice. All recipients of Federal financial assistance are required to report information about first-tier sub-awards and executive total compensation in accordance with 2 CFR part 170.

7. *Civil Rights Act*. All grants made under this notice are subject to Title VI of the Civil Rights Act of 1964 as required by the USDA in 7 CFR part 15, subpart A (eCFR :: 7 CFR Part 15 Subpart A -- Nondiscrimination in Federally-Assisted Programs of the Department of Agriculture - Effectuation of Title VI of the Civil Rights Act of 1964) and section 504 of the Rehabilitation Act of 1973, Title VIII of the Civil Rights Act of 1968, Title IX, Executive Order

13166 (Limited English Proficiency), Executive Order 11246, and the Equal Credit Opportunity Act of 1974.

8. *Nondiscrimination Statement.* In accordance with Federal civil rights laws and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Mission Areas, agencies, staff offices, employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (e.g., Braille, large print, audiotape, American Sign Language) should contact the responsible Mission Area, agency, or staff office; the USDA TARGET Center at (202) 720-2600 (voice and TTY); or the 711 Relay Service.

To file a program discrimination complaint, a complainant should complete a Form AD-3027, USDA Program Discrimination Complaint Form, which can be obtained online at <https://www.usda.gov/oascr/program-discrimination-complaint-filing>, from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation.

The completed AD-3027 form or letter must be submitted to USDA by:

- (1) Mail: U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410; or
- (2) Fax: (833) 256-1665 or (202) 690-7442; or
- (3) Email: program.intake@usda.gov

USDA is an equal opportunity provider, employer, and lender.

Andrew Berke,
Administrator,
Rural Utilities Service,

USDA Rural Development.

[FR Doc. 2023-10392 Filed: 5/15/2023 8:45 am; Publication Date: 5/16/2023]