## DOE AGENCY PLAN

**APPENDIX B**

**DOE INVENTORY OF “SHARE IN COST” AUTHORITIES/PROGRAMS**

The Federal Plan requires agencies to build agency capacity by utilizing “share in cost” programs, where available, that enable agencies to recover permit evaluation and review costs from project sponsors.

“Share in cost” programs that allow agencies to recover costs associated with permit evaluation and review responsibilities, build agency capacity through third-party support, or fund sector-specific liaisons through the support of other government agencies, can be crucial to enabling agencies to implement process innovations that improve performance across the board.

The following is a list of Department of Energy (DOE)-related “share in cost” programs and authorities:

1. **Third Party Finance of Transmission Infrastructure**

Pursuant to section 1222 of the Energy Policy Act of 2005 (EPAct) (42 U.S.C. § 16421), the Secretary of Energy (Secretary), acting through the Administrators of Southwestern Power Administration (Southwestern) or Western Area Power Administration (Western), has the authority to design, develop, construct, operate, own, or participate with other entities in designing, developing, constructing, operating, maintaining, or owning two types of Projects: (1) Electric power transmission facilities and related facilities needed to upgrade existing transmission facilities owned by Southwestern or Western (42 U.S.C. § 16421(a)), or (2) New electric power transmission facilities and related facilities located within any State in which Southwestern or Western operates (42 U.S.C. § 16421(b)). In carrying out either type of Project, the Secretary may accept and use funds contributed by another entity for the purpose of executing the Project (42 U.S.C. § 16421(c)). In order to exercise the authority to engage in these activities under section 1222, the Secretary, in consultation with the applicable Power Marketing Administration’s (PMA) Administrator, must first determine that a proposed Project satisfies certain statutory criteria.

1. **National Environmental Policy Act (NEPA)-Related Share in Cost Authorities**:
	1. The NEPA implementing procedures for DOE enable applicants to fund the cost of a contractor's preparation of an Environmental Impact Statement (EIS) in certain situations. See 10 C.F.R. § 1021.215(d).
	2. For Presidential permit applications, the Office of Electricity Delivery & Energy Reliability (OE) recovers the costs for NEPA contractors pursuant to 10 C.F.R. §§ 205.328-.329.
2. **DOE-wide contributed funds authorities**

The Secretary is authorized on and after October 2, 1992, to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private, or foreign.” 42 U.S.C. § 7278.

An example of when this authority, in conjunction with other authorities, has been utilized is when Western signed an Advance Funding Agreement with a transmission line developer to utilize the developer’s funds to conduct project planning and review under NEPA, facilitate the acquisition of a project rating under the Western Electricity Coordinating Council rating process, and develop Participation Agreements

1. **Western Area Power Administration (Western)-specific contributed funds authorities**

“All moneys hereafter [after March 4, 1921] received, from any State, municipality, corporation, association, firm, district, or individual for investigations, surveys, construction work, or any other development work incident thereto involving operations similar to those provided for by the reclamation law shall be covered into the reclamation fund and shall be available for expenditure for the purposes for which contributed in like manner as if said sums had been specifically appropriated for said purposes.” 43 U.S.C. § 395.

As an example of a typical situation in which the above authority would be used, Western may receive funds from power customers for an upgrade to Western's transmission system, where the upgrade provides benefits to the customers.

“Any moneys which may have been heretofore or may be hereafter advanced for operation and maintenance of any project or any division of a project shall be covered into the reclamation fund and shall be available for expenditure for the purposes for which advanced in like manner as if said funds had been specifically appropriated for said purposes.” 43 U.S.C. § 397a.

Western uses these authorities to construct, rehabilitate, upgrade, operate, and/or maintain its transmission system, and, in conjunction with the Interior Department’s Bureau of Reclamation, to construct, rehabilitate, upgrade, operate, and/or maintain power generating facilities at Federal dams from which Western markets the power.

1. **Southwestern Power Administration’s Utilization of Non-Federal Reimbursable Agreements with Third Parties to Recover Review Costs from Project Sponsors**

The party requesting interconnection (Requesting Party) is responsible for all costs incurred by Southwestern associated with the proposed interconnection, including costs associated with study and initial planning to determine and mitigate impacts to neighboring third-party utilities' facilities, environmental review to comply with NEPA, detailed design, and construction. In compliance with the Anti-Deficiency Act, funds for such activities must be provided to Southwestern by the Requesting Party prior to any work being performed by Southwestern. Any advanced funds not expended by Southwestern are returned to the Requesting Party once all work associated with the interconnection is completed.

The Requesting Party is required to execute a Facilities Study and Environmental Documentation Agreement (FSEDA), which is generally provided concurrent with the Scoping meeting. Through the FSEDA, Southwestern typically provides for the Requesting Party to perform and/or contract for the preparation of the environmental documentation required pursuant to NEPA to the maximum extent possible consistent with applicable statutes and implementation procedures. Southwestern has found that allowing the Requesting Party to use familiar contractors to perform the work in accordance with the scope of the project minimizes cost and expedites implementation of interconnections. It should be noted that, although the applicant or contractors may prepare environmental documentation, DOE remains responsible for independently evaluating information submitted by them and is responsible for the scope and content of the document.

Upon completion of the environmental documentation, and if property rights are to be owned or held by Southwestern, negotiations for any necessary acquisition of property rights begins. Negotiations should be complete and the land rights obtained prior to the start of construction. If it is determined that Southwestern will conduct negotiations for the acquisition of property rights, the Requesting Party is required to provide funds to Southwestern in advance of such negotiation activities. However, the Requesting Party may also procure the property rights for an interconnection, which usually reduces the Requesting Party’s cost and expedites interconnection projects on Southwestern's transmission system and facilities. If the Requesting Party procures and holds such property rights, Southwestern requires the Requesting Party to issue to Southwestern the applicable permits, licenses, or other documentation needed to fulfill Southwestern's property requirements. Such real estate documentation for Southwestern to secure its property rights is developed by Southwestern as part of Southwestern's work under the FSEDA.

The same process for environmental documentation and for the procurement of any required land is also followed for local transmission planning upgrade projects.

Authority: Southwestern Power Administration operates in accordance with Section 5 of the Flood Control Act of 1944 (16 U.S.C. § 825s) ), the Contributed Funds Act and its non-Federal Reimbursable Authority secured through annual appropriations law.

1. **Loan Programs Office’s (LPO) Collection of Fees for Administrative Expenses**

Section 1702(h)(1) of Title XVII of the Energy Policy Act of 2005 provides: “The Secretary shall charge and collect fees for guarantees in amounts the Secretary determines are sufficient to cover applicable administrative expenses.” 22 U.S.C. § 16512(h)(1). LPO charges fees generally on a programmatic and solicitation-by-solicitation basis, not on an individualized project basis. However, LPO has discretion to charge higher or lower fees in particular cases. The LPO does not segregate these fees for NEPA or environmental reviews. However, the applicant is required to pay outside contractor fees for the preparation of NEPA documents, and such arrangement is governed by a contract between LPO, the applicant, and the third party contractor.

1. **Bonneville Power Administration’s (BPA) Transmission Interconnection and Transmission Service Provided to Third Parties, Including Resource Developers**

BPA is self-financing, meaning that it must recover the costs for all of its services from the users and beneficiaries of those services. Section 7(i) of the Pacific Northwest Electric Power Planning and Conservation Act provides that the Administrator shall establish rates that recover the costs associated with the acquisition, conservation and transmission of electric power. 16 U.S.C. § 839e. Sections 9 and 10 of the Federal Columbia River Transmission System Act are of similar import. 16 U.S.C. §§ 838g, 838h. In addition, pursuant to its authority to provide transmission services and to contract for the provision of those services, the Administrator has established a BPA Open Access Transmission Tariff. Sections 19.1, 19.2, 19.4 and 19.10 of the Tariff provide that if BPA cannot provide service from its existing system, the requestor can be required to reimburse BPA for the costs of its studies (system impact studies, facilities studies, environmental studies) attendant to determining how to provide the service. The Large Generator Interconnection Agreement and Large Generator Interconnection Procedures that are a part of the Tariff are of similar import in connection with an interconnection request.

1. **Western Area Power Administration Transmission and Interconnection and Transmission Service Provided to Third Parties**

Western provides for transmission and interconnection services to third parties consistent with its statutory authority, in particular 43 U.S.C. § 485h(c) and consistent with 16 U.S.C. § 825(s), and generally provides those services under its Open Access Transmission Tariff (OATT). Sections 15.4(a) and 28.2 of Western’s OATT indicate that Western’s obligation to design and construct new facilities is contingent upon the availability of sufficient appropriations and/or authority as well as the availability of advanced funds from the transmission customer. The Large Generator and Small Generator Interconnection Procedures that are part of Western’s OATT invoke similar qualifications on Western’s requirement to fund new additions to its transmission system.