



# **Arizona Broadband Development Grant Program**

## **Program Guidelines**

Arizona Commerce Authority

January 2024

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# 1. Introduction

## 1.1 Program Overview

The U.S. Treasury's (Treasury) Capital Projects Fund (CPF) is a federal program that provides funding to states, territories, and tribal governments to support the deployment of broadband infrastructure and related programs. The CPF program has been established to promote the development of high-speed broadband infrastructure to ensure high-quality, reliable, and affordable internet connectivity to all citizens of the US, particularly those in underserved and rural areas.

The CPF program provides funding for a range of broadband infrastructure projects, including fiber-optic networks, hybrid fiber-coaxial networks, fixed wireless broadband, mobile broadband, and satellite broadband. Additionally, CPF program funding can be used to support a wide range of broadband-related initiatives, including digital literacy and adoption programs, workforce development programs, and public safety initiatives.

Treasury approved Arizona's plan to invest \$100 million of CPF funding in broadband infrastructure projects that will provide high-quality internet to locations that lack access to adequate service. Arizona will implement two broadband infrastructure programs that aim to provide reliable internet access to areas of the state lacking adequate service.

The Arizona Broadband Development Grant (ABDG) program is a competitive grant program designed to help Arizona communities establish and accelerate the enhancement of broadband infrastructure that strengthens their capacity and competitiveness for economic growth and thereby ultimately improves economic conditions and quality of life in rural Arizona. Grant funds will be paid on a reimbursement basis for Allowable Costs incurred by Applicants that comply with the guidelines set forth herein. To that end, and as more particularly described herein, the ABDG program provides grants to partially fund qualifying broadband infrastructure projects that will enhance the connectivity for Arizona's citizens, businesses, healthcare institutions, government establishments, and education sectors. It is intended that these grant funds will contribute to bridge the digital divide.

The grant is divided into two categories, (i) Rural infrastructure construction which includes projects in Apache, Cochise, Coconino, Gila, Graham, Greenlee, La Paz, Mohave, Navajo, Pinal, Santa Cruz, Yavapai, and Yuma counties and (ii) Urban infrastructure construction in Maricopa and Pima counties.

1. **ABDG-Rural program** is intended to partially fund the establishment and accelerate broadband infrastructure construction projects that will enhance the speed, redundancy and reach of high-speed internet at reasonable cost to consumers in rural communities.
2. **ABDG-Urban program** is intended to partially fund the establishment and accelerate broadband infrastructure construction projects that will enhance the speed, redundancy and reach of high-speed internet at reasonable cost to consumers in urban communities.

## **2. Purpose**

The ABDG Program Guidelines provide guidance on the steps and requirements that the Arizona Commerce Authority (ACA) will take in administering the CPF / ABDG program funds as well as identifying eligible projects that meet program guidelines and the requirements from Treasury.

The primary objective of the ABDG program is to help Arizona communities accelerate the enhancement of broadband infrastructure ultimately to strengthen competitiveness for economic growth and improve economic conditions and quality of life throughout Arizona. ACA plans to achieve this objective by providing grant funds to subrecipients for the development of broadband infrastructure that will last into the future. The ABDG program will also enable investments in capital assets designed to address access to critical services.

### **2.1 Objectives of the CPF Program**

Following Treasury's guidance, the ABDG program will address each of the priorities laid out in CPF program guidance by deploying broadband infrastructure that directly enables work, education, and health monitoring. A key priority of the CPF program is to make funding available for reliable, affordable, high-speed broadband infrastructure and other digital connectivity technology projects in the state. The CPF program encourages recipients to focus on economically distressed areas with limited internet access, support communities with reliable broadband infrastructure, and adopt strong labor practices.

The objectives of the CPF program are to:

- Directly support recovery from the COVID-19 public health emergency by strengthening and improving the infrastructure necessary for participation in work, education, and health monitoring that will last beyond the pandemic;
- Enable investments in capital assets designed to address inequities in access to critical services; and
- Contribute to the goal of providing every American with the modern infrastructure necessary to access critical services, including a high-quality and affordable high-speed broadband internet connection.

These grant funds are intended to help address many challenges laid bare by the pandemic, especially in rural America, Tribal communities, low- and moderate-income households, and help ensure that all communities have access to the high-quality modern infrastructure, including broadband, needed to access critical services.

## **3. Program Schedule**

ACA anticipates that eligible entities will be obligated/awarded grant funds to complete broadband infrastructure projects within 24 months of execution of the Grant Agreement. Reporting is required through 36 months following the project completion. ACA currently estimates the following schedule relating to the ABDG program:

Event	Date and Time
Solicitation Release Date	November 15, 2021
Questions Due Date	November 19, 2021
Questions & Answers List Release Date	November 26, 2021 (target)
Submission Due Date and Time	December 10, 2021, 5:00 PM, MST
Award Notification Date	January 7, 2022 (target)

## 4. Eligibility

### 4.1 Eligible Applicants

The ABDG program is a competitive reimbursement grant program created to expand broadband infrastructure in Arizona to address connectivity needs of unserved and underserved communities, which will encourage job creation, capital investment, and the strengthening and diversification of local economies. Eligible applicants are as follows:

#### 4.1.1. Eligible Applicants

Eligible Applicants for the ABDG Rural program are as follows:

- An eligible provider of broadband service meaning a provider with a minimum of two (2) years' operating history in the telecommunications industry;
- A partnership between an established non-profit enterprises and economic development organizations in Arizona with a minimum of two (2) years' operating history and an eligible provider of broadband service;
- A partnership between one or more incorporated cities and towns located in Apache, Cochise, Coconino, Gila, Graham, Greenlee, La Paz, Mohave, Navajo, Pinal, Santa Cruz, Yavapai, or Yuma County and an eligible provider of broadband service;
- A partnership between one or more counties (Apache, Cochise, Coconino, Gila, Graham, Greenlee, La Paz, Mohave, Navajo, Pinal, Santa Cruz, Yavapai, and/or Yuma County) and an eligible provider of broadband service; and
- Federally recognized Indian tribes situated in Apache, Cochise, Coconino, Gila, Graham, Greenlee, La Paz, Mohave, Navajo, Pinal, Santa Cruz, Yavapai, or Yuma County.

Eligible Applicants for the ABDG-Urban program grants are as follows:

- An eligible provider of broadband service meaning a provider with a minimum of two (2) years' operating history in the telecommunications industry;

- A partnership between an established non-profit enterprises and economic development organizations operating in Arizona with a minimum of two (2) years' operating history and an eligible provider of broadband service and an eligible provider of broadband service;
- A partnership between one or more incorporated cities and towns located in Maricopa and/or Pima counties and an eligible provider of broadband service; A partnership between Maricopa and/or Pima County and an eligible provider of broadband service; and
- Federally recognized Indian tribes situated in Maricopa or Pima counties.

All ABDG program applicants must also meet the following requirements:

- Ensure that the service provider for a completed CPF program funded Broadband Infrastructure Project participate in federal programs that provide low-income consumers with subsidies on broadband internet access services.
- While they may participate with an applicant, unincorporated communities (irrespective of location) and all other persons and entities not specifically identified herein as eligible Applicants are not eligible themselves to be applicants under the program.
- Proof of registration in the Federal System for Award Management ([www.sam.gov](http://www.sam.gov)) with no negative findings.
- Valid DUNS number (<https://www.dnb.com/duns-number/get-a-duns.html>).

#### **4.1.2. Participation in Affordable Connectivity Program**

ACA requires ABDG program subrecipients to participate in the Affordable Connectivity Program (ACP) (<https://www.fcc.gov/acp>), showcasing a commitment to making broadband services affordable and accessible to low-income households and further align their project with the broader goals of promoting digital equity and access.

If ABDG program applicant is pursuing ACP participation at the time of a grant award, the Applicant must provide an affidavit confirming their status as an ACP participant within six months of signing the Grant Agreement.

#### **4.1.3. Public Private Partnerships**

Public private partnerships (where a government entity partners with internet service provider(s) to either own, operate, or maintain broadband infrastructure or service in unserved areas where there is no provider) are encouraged to apply for the ABDG program.

## **4.2 Eligible Projects**

### **4.2.1. Eligible Projects**

Awards will be considered for broadband infrastructure projects that generally benefit a broad group of intended beneficiaries as possible and that incorporate broadband infrastructure supporting download/upload speeds of 100 megabits per second (Mbps) / 100 Mbps ("100/100")

Mbps) with the minimum acceptable download/upload speeds of 100/25 Mbps (“100/25” Mbps) for a period of at least five (5) years.

#### **4.2.1.1. ABDG-Rural Program**

Applications must be for broadband infrastructure projects that, within twenty-four (24) months of the award date, will provide:

- Broadband service to unserved or underserved areas by actively providing speeds of 100/100 Mbps to the intended beneficiaries of the project;
- Increase existing speeds to 100/100 Mbps to the intended beneficiaries of the project at costs that are lower or substantially equal to urban areas; and/or
- Provide middle-mile redundancy to the region.

#### **4.2.1.2. ABDG-Urban Program**

Applications must be for broadband infrastructure projects that, within twenty-four (24) months of the award date, will provide, among other planning elements:

- Broadband service to unserved or underserved areas by actively providing speeds of 100/100 Mbps to the intended beneficiaries of the project;
- Increase existing speeds to 100/100 Mbps to the intended beneficiaries of the project at costs that are lower or substantially equal to urban areas; and/or
- Provide middle-mile redundancy to the region.

#### **4.2.1.3. Additional Eligibility Requirements**

Applications are required to set forth the current availability, speed, and cost in the proposed service area to intended beneficiaries, the necessity for or convenience of enhanced broadband connectivity, the impact the investment will have on the future infrastructure, and the impact on the communities and populations that will receive the service (as defined by the population, number of households, community anchor institutions, number of businesses served, and other identifiers appropriate for such an illustration).

Applicants must also ensure that:

- The project invests in capital assets designed to directly enable work, education, and health monitoring.
- The project is designed to address a critical need that resulted from or was made apparent or exacerbated by the COVID-19 public health emergency.
- The project is designed to address a critical need of the community to be served by it.
- The project for which funding is requested must be a new project and not a project already in progress. A “project in progress” means one in which construction of broadband infrastructure has started.
- The project must be administered by and through a single contact at an eligible Applicant.



- At least ten percent (10%) of Allowable Costs must be paid by the Applicant (and/or by one or more parties working in conjunction with the Applicant). Documentation of the committed sources and amounts of the match must be provided. A cash “match” of qualifying expenses in excess of 10% is encouraged in order to maximize the number of ABDG-Rural and ABDG-Urban grant awards, and is a positive factor taken into consideration in evaluating an ABDG-Rural or ABDG-Urban application.
- The project would not, in the absence of an ABDG-Rural or ABDG-Urban grant award, occur within the same time frame or would not otherwise be as effective in advancing the goals of the program. Accordingly, Applicants should generally exhaust other potential sources of funding (whether governmental or private) before seeking ABDG-Rural or ABDG-Urban grant funding.
- Except in compelling circumstances, as determined by the ACA, the project must commence within three (3) months after the date of an executed Grant Agreement and must be completed within twenty-four (24) months of an executed Grant Agreement.
- Construction of the project must be performed by a licensed and bonded contractor and must be accomplished in accordance with all applicable procurement laws and regulations in the State of Arizona.
- ABDG-Rural or ABDG-Urban grant funds will not be awarded for projects principally involving landscaping, beautification, maintenance or to purchase other telecommunications companies.

Leveraging of federal funds is strongly encouraged, but duplicative funding or “double dipping” will not be allowed. Each Applicant is required to disclose whether it has (or is proposed as a subrecipient under) any pending applications for federally funded grants or cooperative agreements that (1) include requests for funding to support the same project being proposed in the application under the solicitation, and (2) would cover any identical cost items outlined in the budget submitted as part of the application under the solicitation. The Applicant is required to disclose applications made directly to federal awarding agencies, and applications for subawards of federal funds (e.g., applications to State agencies that will subaward (“subgrant”) federal funds).

An Applicant must be capable of executing a Grant Agreement with the ACA within sixty (60) calendar days of notification of a grant award. Further, the Applicant must have the demonstrated financial capacity to pay the incurred expenses of the project while grant reimbursements are being processed.

Grantees of federal broadband grants may apply for ABDG grant funding if the federal grants are not funding the same infrastructure improvements or components for which ABDG program funds are sought.

#### **4.2.2. Middle Mile Projects**

Middle mile projects are eligible projects with the intent to provide backhaul connectivity to eligible broadband service to support the future deployment of last mile services by one or more last mile internet service providers. Middle Mile Applicants should identify one or more last mile partners

that will deploy last mile services to unserved locations should the middle mile project be approved under the ABDG program.

Applicants should note that middle mile infrastructure is high-bandwidth infrastructure that provides backhaul connectivity to enable eligible broadband service in last mile connectivity. Additionally, applications that include middle mile infrastructure will be evaluated utilizing the same scoring criteria and process as any other application.

## **4.3 Eligible and Ineligible Locations**

### **4.3.1. Eligible Locations**

Eligible locations are those lacking access to internet service of at least 100 Mbps downstream and 20 Mbps upstream, from at least one (1) internet service provider.

Eligible locations proposed for service are not required to be contiguous within a single grant application. However, collections of eligible locations proposed for internet service within a single application should be reasonably adjacent.

### **4.3.2. Ineligible Locations**

The following locations are considered ineligible:

- Service addresses that have been allocated from the federal Rural Digital Opportunity Fund (“RDOF”) and Connect America Fund (“CAF”).
- Note that for proposed project areas that have received RDOF funds and CAF funds, a portion of the project may be eligible to receive CPF / ABDG grant awards if there is not a material overlap in service addresses and if the proposed infrastructure in CPF / ABDG application in terms of footprint acts complimentary to the infrastructure in grants awards of RDOF and/or CAF.

## **4.4 Allowable and Unallowable Costs**

### **4.4.1. Allowable Costs**

ABDG-Rural and ABDG-Urban grant funds may be used only to reimburse the costs of broadband infrastructure improvements/planning performed during the term of an ABDG-Rural or ABDG-Urban grant award. Allowable Costs include:

- Pre-project but post-award, development cost and uses, including data-gathering, feasibility studies, community engagement and public feedback processes, equity assessments and planning, and needs assessments; permitting, planning, architectural design, engineering design, and work related to environmental, historical, and cultural reviews;
- Costs of repair, rehabilitation, construction, improvement, and acquisition of real property, equipment (e.g., devices and office equipment), and facilities (e.g., telecommunications equipment, including infrastructure for backhaul and last mile networks);

- Cost of long-term leases (for terms greater than one year) of facilities required to provide qualifying broadband service, including infeasible right-of-use (“IRU”) agreements and capital leases;
- Personnel costs including salaries and fringe benefits for staff and consultants required for carrying out a Capital Project (such as project managers, program directors, subject matter experts, equity consultants, grant administrators, financial analysts, accountants, and attorneys);
- Ancillary costs necessary to operationalize and put the capital assets to full use, including costs to increase broadband adoption and improve digital literacy;
- Costs associated with monitoring of and reporting on Capital Projects in compliance with Treasury requirements, including award closeout costs; and
- Project specific costs associated with collecting and measuring performance data and conducting activities needed to establish and maintain a performance management and evaluation regime.

#### **4.4.2. Unallowable Costs**

Project-related costs that will not be funded by the ABDG program include, but are not limited to:

- Costs associated with completing or filing an application for the grant;
- Any expense incurred prior to the period of performance in the Grant Agreement, unless specifically identified and approved by ACA;
- Acquisition of spectrum licenses;
- Operating expenses;
- Short-term operation leases;
- Payment of interest or principal on outstanding debt instruments;
- Fees or issuance costs associated with the issuance of new debt; and
- Satisfaction of any obligation arising under or pursuant to a settlement agreement, judgment, consent decree, or judicially confirmed debt restructuring plan in a judicial, administrative, or regulatory proceeding.

#### **4.5 Other Terms and Conditions**

ACA reserves its discretion to modify or change the contents of the ABDG program. Any modification or change will not modify or change the terms of any executed Grant Agreement without due consideration.

Because the ACA is subject to Arizona’s public records laws (A.R.S. §§3 9-101, et seq.), information submitted to the ACA may be subject to disclosure in response to public records requests. However, the public records laws provide exceptions for business information that, if released, would undermine the Applicant’s competitive position and for proprietary or trademark

(or copyright) protected information. The public records laws also permit the ACA to redact (block out) personal information before documents are released. The ACA will attempt to preserve the confidentiality of information to the extent permitted by law but cannot guarantee that such information will not be disclosed and is not responsible for the consequences of any such disclosure. Additionally, the ACA specifically hereby reserves the right to use the following information in its marketing materials, including without limitation in press releases: (i) the name and type of a project, (ii) the name of a Grantee, (iii) the projected economic impact of a project including without limitation the population, households, anchor institutions, and businesses to be served and the extent of capital investment contemplated, (iv) the uses of an ABDG Rural or ABDG-Urban award, and (v) the amount or other nonproprietary terms of an ABDG Grant Agreement.

## **5. Technical Assistance**

Point of Contact:

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## **6. Prioritization and Maximum Limits**

### **6.1 Priority Projects**

Priority will be given to broadband infrastructure projects that achieve the following. This prioritization will be reflected in the application scoring criteria.

- Address a critical need that resulted from or was made apparent or exacerbated by the COVID-19 public health emergency;
- Provide access to broadband education, awareness, training, access, equipment, and support to libraries, schools, colleges and universities, health care providers, and community support organizations;
- Encourage the sustainable adoption of broadband internet service in primarily underserved areas by removing barriers to entry;
- Work toward encouraging investments in establishing affordable and sustainable broadband service in unserved areas of the state;
- Facilitate the development of applications, programs, and services, including, but not limited to, telework, telemedicine, and e-learning to increase the usage of, and demand for, broadband service in the state;
- Leverage other funding sources for the project including local and private sources;
- Address digital equity and inclusion;

- Promote adoption of the proposed broadband infrastructure; and
- Receive strong local community support.

## **6.2 Fiber as Preferred Technology**

In addition to the above criteria, priority will be given to fiber-optic networks deployed directly to the home or business. Other technologies capable of delivering broadband service at the levels mentioned in Treasury guidance may be deployed where fiber-optic networks are not economically feasible, or other environmental factors make fiber-optic network deployment impractical. Clear rationale and supporting data must be provided for any exception to the use of fiber-optic technology in projects.

## **6.3 Maximum Limit**

An individual ABDG-Rural award cannot exceed \$10,000,000. It is anticipated that few applications will request the maximum award amount. An individual ABDG-Urban award cannot exceed \$5,000,000. It is anticipated that few applications will request the maximum award amount. This is a competitive grant application and eligibility for funding is based on scoring out of a maximum 100 points. Based on the number of applicants, the amounts applied for and awarded, and the score given to each application, the potential exists that not all applicants scored as eligible for funding will be awarded funding.

# **7. Application Evaluation**

## **7.1 Evaluation Process**

### **7.1.1. Overview**

The evaluation of an application by the ACA and selection of an Applicant for an award will be based on the information submitted in the application, including any required attachments and documentation. Failure to respond to each of the requirements in the application may form the basis for rejecting an application. ACA will accept applications through a competitive process that results in awards to applicants proposing projects that score the highest on the application. All applications will undergo an initial review for eligibility and completeness, followed by a scoring review based upon the ACA's scoring guidelines (as reflected herein). To maximize chances of receiving an award, Applicants must be mindful of two key objectives while preparing the application:

Level of Responsiveness: Provide all required information along with the specified attachments. Responses provided should be comprehensive, detailed, and clear.

Scoring Criteria: Review this section to ensure that the application comprehensively addresses all requirements listed in the Evaluation Criteria and Consideration Factors section.

### 7.1.2. Responsiveness Review

All applications will go through a responsiveness review to ensure each application has provided the necessary information required for further evaluation and scoring.

### 7.1.3. Scoring Review

Applications meeting the eligibility requirements will undergo a screening against the scoring criteria outlined herein and subsequently assigned a calculated score. The scoring criteria focuses on the following characteristics:

- A. Technical Approach and Related Network Capacity and Performance
- B. Consistency with the Arizona Broadband Strategic Plan and Community Impact
- C. Return on Investment and Project Funding
- D. Financial Support
- E. Demonstrated Local Support
- F. Technical and Managerial Capabilities
- G. Affordability

## 7.2 Evaluation Criteria and Consideration Factors

### 7.2.1. Evaluation Criteria Overview

Applications will be reviewed and evaluated by the ACA using criteria and associated point values set forth below. Each category uniquely contributes to the ACA’s mission to increase the availability and effectiveness of broadband service throughout the state and its economy.

Evaluation Criteria	Maximum Points (100)
Technical Approach and Related Network Capacity and Performance	20
Consistency with the Arizona Broadband Strategic Plan and Community Impact	10
Return on Investment and Project Funding	30
Financial Support	10
Demonstrated Local Support	10
Technical and Managerial Capabilities	10
Affordability	10

To maximize chances of receiving a high score under this review, Applicants must be mindful to provide complete, comprehensive, and clear responses for all sections of the application and information requested. This is a competitive grant application and eligibility for funding is based on scoring out of a maximum 100 points. Based on the number of Applicants, the grant amounts

applied for and awarded, and the score given to each application, the potential exists that not all Applicants scored as eligible for grant funding will be awarded funding.

**7.2.2. Evaluation Criteria Consideration Factors**

There are seven (7) major evaluation criteria listed below with sub-categories and consideration factors identified for each. Under each sub-category, factors are listed for consideration that will be used to assign scoring points. The Applicant should answer all questions to enable a comprehensive, detailed filing of the application.

**7.2.2.1. Technical Approach and Related Network Capacity and Performance**

This evaluation criteria assesses the readiness of a project by evaluating details of the project, number of community anchor institutions, households, businesses, and population served, the project schedule, location and miles of fiber-optic network, and other key project details.

<b>Technical and Related Network Capacity and Performance (Maximum 20 Points)</b>	
<b>Key Areas</b>	<b>Factors for Consideration</b>
<ul style="list-style-type: none"> <li>• Project details and description of improvements</li> <li>• Number of CAI, households, businesses, and population served</li> <li>• Project schedule</li> <li>• Other key project details</li> </ul>	<ol style="list-style-type: none"> <li>1. Degree to which proposed project serves CAIs, households, businesses, and population. Networks with higher end-user speeds and the potential for incremental future capacity/bandwidth increases to offer higher broadband speeds in the future, will receive greater consideration.</li> <li>2. Degree that project schedule is detailed, structured, clear, and consistent with committed deadlines.</li> <li>3. Viability of project schedule.</li> </ol>

**7.2.2.2. Consistency with the Arizona Broadband Strategic Plan and Community Impact**

This evaluation criteria assesses the potential impact that broadband infrastructure expansion could have within the proposed project area. Projects that offer access to greater numbers of unserved or underserved locations will be scored higher. This scoring criteria also evaluates and measures the benefits to the communities that will be served within the project area and the degree to which broadband access will enable workforce, education, and healthcare.

<b>Consistency with the Arizona Broadband Strategic Plan and Community Impact (Maximum 10 Points)</b>	
<b>Key Areas</b>	<b>Factors for Consideration</b>
<ul style="list-style-type: none"> <li>• Anticipated economic development benefit</li> <li>• Proposed project needs of the area(s) that it serves</li> </ul>	<ol style="list-style-type: none"> <li>1. Anticipated economic development benefit achieved by construction of improvements.</li> <li>2. Degree to which the proposed project addresses the broadband needs of the area(s) that it serves.</li> </ol>

**Consistency with the Arizona Broadband Strategic Plan and Community Impact  
(Maximum 10 Points)**

<ul style="list-style-type: none"> <li>• Location and miles of fiber / geographic distribution</li> </ul>	<ol style="list-style-type: none"> <li>3. Evidence that project is consistent with the Arizona Broadband Strategic Plan with additional consideration given to projects that leverage Arizona’s Smart Highway Corridors.</li> <li>4. Degree of geographical distribution of the proposed grant awards.</li> <li>5. Extent to which the Applicant proposes to contribute non-ABDG cost share to fund a portion of the total Allowable Cost of the project.</li> <li>6. Accuracy, thoroughness, and appropriateness of the Grant Application</li> </ol>
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**7.2.2.3. Return on Investment**

This evaluation criteria assesses the potential project’s Return on Investment (ROI). ROI is measured by the relationship between the benefits resulting from the enhanced connectivity of unserved or underserved areas and the populations; businesses; and community anchor institutions eligible for the new service and/or improve internet reliability. Underserved means a Census Tract in which services at minimum speeds of 25/3 Mbps are not available to one or more households or businesses.

**Return on Investment (Maximum 30 Points)**

Key Areas	Factors for Consideration
<ul style="list-style-type: none"> <li>• Return on Investment</li> </ul>	<ol style="list-style-type: none"> <li>1. Level of anticipated ROI, as generally measured by the relationship between the benefits resulting from the enhanced connectivity of unserved or underserved areas and the populations; businesses; and community anchor institutions eligible for the new service and/or improve internet reliability. Underserved means a Census Tract in which services at minimum speeds of 25/3 are not available to one or more households or businesses.</li> </ol>

**7.2.2.4. Technical and Managerial Capabilities**

This evaluation criteria assesses executability of a project by evaluating factors that may impact project risk such as contractor experience, engineering, project development approach, the type of project technology, and improvement in redundancy and reliability.



**Technical and Managerial Capabilities (Maximum 10 Points)**

Key Areas	Factors for Consideration
<ul style="list-style-type: none"> <li>• Experience of vendors/contractors</li> <li>• Project development</li> <li>• Technology utilized and scope/achievability of construction</li> <li>• Improve redundancy and reliability</li> <li>• Evidence that the Applicant and partners are strongly positioned to deploy and operate the project</li> </ul>	<ol style="list-style-type: none"> <li>1. Degree to which contractor/vendor has experience and results deploying projects of similar size and scope.</li> <li>2. Robustness of Applicant’s partnership and/or subrecipient strategy, including how it complements the applicant’s organizational capacity, as well as the project approach, feasibility, and timely completion of proposed project.</li> <li>3. Useful life and capacity of the technology</li> <li>4. Technology specifications that clearly indicate purported speeds and network indicators can be met.</li> <li>5. Vendors details (particularly for new technologies or new applications of technology).</li> <li>6. Process and investment for long-term network scalability, redundancy, and reliability.</li> <li>7. Demonstration of the organizational capability necessary to undertake and complete the project.</li> <li>8. Details regarding the experience and expertise of the project management team.</li> <li>9. Identification of key partners, role, and letters of commitment.</li> </ol>

**7.2.2.5. Demonstrated Local Support**

This evaluation criteria assesses the level of community support within the proposed project area. Applicants who are able to provide substantive evidence of community support will score higher.

**Demonstrated Local Support (Maximum 10 Points)**

Key Areas	Factors for Consideration
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**Demonstrated Local Support (Maximum 10 Points)**

<ul style="list-style-type: none"> <li>Evidence of community support and engagement</li> </ul>	<ol style="list-style-type: none"> <li>Evidence of community outreach efforts to gauge interest in the project.</li> <li>Community support letters from members of local business, members of the community, and elected leadership, attest to the merits of, and anticipated benefits provided by the project.</li> <li>The extent of the Applicant’s cash match to be furnished by sources other than the Applicant (if any).</li> <li>Community and anchor tenant service commitments that would help promote sustainability of the project.</li> <li>Other community feedback or documentation that shows compelling need and project support.</li> </ol>
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**7.2.2.6. Financial Support**

This evaluation criteria assesses funding of a project by evaluating the reasonableness of the budget, degree to which the Applicant has identified cost criteria, and the executability of the plan. Applicants must provide a minimum of 10% funding. Applicants will receive additional credit for amounts above the minimum.

**Financial Support (Maximum 10 Points)**

Key Areas	Factors for Consideration
<ul style="list-style-type: none"> <li>Timing, intended uses, and sources of funds</li> <li>Level of commitment</li> </ul>	<ol style="list-style-type: none"> <li>Reasonableness of budget and identification of major expenditure categories.</li> <li>Reasonableness and identification of potential cost elements.</li> <li>Executability of funding plan and budget.</li> <li>Degree to which the applicant demonstrated the ability to obligate and spend funds.</li> <li>Applicants must provide a minimum of 10% funding. Applicants will receive additional credit for amounts above the minimum.</li> </ol>

**7.2.2.7. Affordability**

This evaluation criteria assesses the degree to which broadband services offered are affordable compared to existing broadband services in the proposed service area or based on nationwide averages.

Affordability (Maximum 10 Points)	
Key Areas	Factors for Consideration
<ul style="list-style-type: none"> <li>Evidence that the Project demonstrates affordability</li> </ul>	<ol style="list-style-type: none"> <li>Degree to which broadband services offered are affordable compared to existing broadband services in the proposed service area or based on nationwide averages.</li> </ol>

## 8. Grant Agreement Terms and Conditions

Once the ACA validates the application’s completeness and the applicant eligibility for funding, a Grant Agreement will be executed with ACA. The Grant Agreement will include the terms and conditions that will govern the performance of subrecipient obligations during implementation of the work.

The award is a cost-reimbursement grant; thus, payments are limited to reimbursement for actual, reasonable, and necessary costs in accordance with the Grant Agreement and all federal and state requirements. The Grant Agreement and accompanying documents will set forth the procedures for each subrecipient of an award to submit Allowable Costs for reimbursement. Funds will not be dispersed to subrecipients that are not in compliance with the terms and conditions of the Grant Agreement. Subrecipients will be required to execute the Grant Agreement prior to receiving an award or any cost-reimbursement under the program.

## 9. Compliance and Reporting Requirements

### 9.1 Specific Guidance

#### 9.1.1. ABDG Grant Agreement Reporting Requirements

The Grant Agreement will require each subrecipient to adhere to certain ongoing reporting requirements to allow ACA to consistently monitor and track each project’s status, adherence to program goals and project outcomes, certain performance measurements such as funding and expenditures, schedule, and other relevant information.

Reporting requirements will include but are not limited to ongoing project and expenditure reporting, which are monthly and quarterly reports that aims to capture detail on projects funded, obligations, expenditures, project status, outputs, performance indicators, and other information. Reporting requirements will also include an annual performance report that captures information on uses of funds and progress, project outcomes and challenges, communities served, community engagement, labor practices, equitable outcomes, and adherence other compliance activities. A final close out report will require subrecipients to confirm that they have completed the project and fulfilled their broadband service commitments outlined in their application and Grant Agreement. Reporting requirements will be provided to each subrecipient by ACA in the Reporting Requirements Guidelines.

### **9.1.2. Program Income**

As indicated in Treasury guidance in May 2023, income generated by ISPs as a subrecipient from subawards will not be considered program income and ISPs may use such income without restriction.

### **9.1.3. Procurement Standards**

Recipients and subrecipients must follow the procurement requirements outlined in 2 C.F.R. Parts 200.317 through 200.326 for the acquisition of property or services required under a federal award or subaward. Non-federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

**Competition Requirements.** All procurement transactions for acquisition of property or services required under a federal award must be conducted in a manner providing full and open competition. Contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. A non-federal entity must have written procedures for procurement transactions and ensure that all solicitations:

- Have a clear and accurate description of technical req's for material/product/service to be procured; and
- Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

**Methods.** The Uniform Guidance establishes that all procurement transactions for property or services must be conducted in a manner providing full and open competition consistent with standards outlined in 2 C.F.R. Part 200.320. 2 CFR 200.320 describes methods of procurement based on two procurement thresholds: the Micro purchase threshold (MPT) and the Simplified Acquisition Threshold (SAT). Micro-purchase threshold (MPT) - 2 CFR 200.320(a)(1): Purchase of supplies and services for a price below the MPT, currently set at \$10,000, are not required to be solicited competitively. However, there are circumstances when a recipient may have a MPT that is greater than \$10,000. For example, all non-federal entities may increase their MPT up to \$50,000 if they follow the protocols described in 200.320(a)(1)(iv). Additionally, non-federal entities such as metropolitan cities, counties, non-entitlement units of local government, and Tribes may use their own MPT if they follow the protocols described in 200.320(a)(1)(iv). Simplified Acquisition Threshold (SAT) - 2 CFR 200.320(a)(2): Purchases of property and services at a price above the recipient's MPT and below the SAT, currently set at \$250,000, may be made following the small purchase procedures described in the definition of SAT in 2 CFR 200.1 and 2 CFR 200.320(a)(2). Procurement of property and services at a price above the SAT must follow the formal procurement methods outlined in 2 CFR 200.320(b).

**Non-Competitive Procurements.** Recipients may conduct non-competitive procurements under the Uniform Guidance if:

- The Item in question is below the micro-purchase threshold;
- The Item is only available from a single source (sole source);

- Public exigency/emergency doesn't permit delay; or
- Solicitation of a number of sources, competition is determined inadequate.

Contracting with Small, Minority-Owned, and Women-owned Businesses. As per 2 C.F.R. Part 200.321, all non-federal entities must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

Domestic Preferences for Procurements. As per 2 C.F.R. Part 200.322, to the greatest extent practicable, non-federal entity recipients should provide preference for purchase, acquisition, use of goods, products, or materials produced in the United States. The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products. In addition to meeting the federal requirements outlined above, the subgrantee needs to meet applicable state and local requirements for procurement.

#### **9.1.4. Labor Agreements and Standards**

Awardees must comply with all applicable federal labor laws and regulations, and with all requirements for state, and local laws and ordinances to the extent that such requirements do not conflict with federal laws. Recipients and subrecipients of federal funds will be required to comply with federal labor standards, including but not limited to:

- a) Labor Standards Provisions of 29 C.F.R. Part 5;
- b) Contract Work Hours and Safety Standards Act of 1962, as amended (40 U.S.C.3701-3708);
- c) Federal Fair Labor Standards Act of 1938, as amended (29 U.S.C. 201-219); and
- d) Copeland "Anti-Kickback" Act (18 U.S.C. 874).

U.S. Treasury encourages recipients of CPF program funding to incorporate strong labor standards, including project labor agreements and community benefits agreements that offer wages at or above the prevailing rate. Potential applicants should become familiar with federal requirements and guidance specific to the CPF program. Federal Davis-Bacon Act prevailing wage rate requirements do not apply to projects funded solely by the CPF program. If, however, CPF program funds are used on a construction project in conjunction with another source of federal funds which requires Davis Bacon Act compliance, then the project may be subject to compliance with the Davis-Bacon Act. Additionally, corollary state prevailing-wage-in-construction laws (commonly known as "baby Davis-Bacon Acts") may apply to projects.

The following reporting requirements apply to CPF-funded projects receiving \$5 million or more in CPF funding based on expected total cost:

- i. Grantees may provide a certification that, for the relevant project, all laborers and mechanics employed by contractors and subcontractors in the performance of such project are paid wages at rates not less than those prevailing, as determined by the U.S. Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the "Davis-Bacon Act"), for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the civil subdivision of the State in which the work is to be performed, or by the appropriate State entity pursuant to a

corollary State prevailing-wage-in construction law (commonly known as “baby Davis-Bacon Acts”).

- ii. If the above certification is not provided, a recipient must provide a project employment and local impact report detailing:
  - The number of employees of contractors and sub-contractors working on the project;
  - The number of employees on the project hired directly and hired through a third party;
  - The wages and benefits of workers on the project by classification;
  - Whether those wages are at rates less than those prevailing. (As determined by US Secretary of Labor in accordance with subchapter IV of chapter 31 of Title 40, United States Code (“Davis-Bacon Act”); and
  - Grantees must maintain sufficient records to substantiate this information upon request.
- iii. In addition, Grantees may provide a certification that a project includes a project labor agreement, meaning a pre-hire collective bargaining agreement consistent with section 8(f) of the National Labor Relations Act (29 U.S.C. 158(f)).
- iv. If the recipient does not provide such certification, the recipient must provide a project workforce continuity plan, detailing:
  - How the recipient will ensure the project has ready access to a sufficient supply of appropriately skilled and unskilled labor to ensure high-quality construction throughout the life of the project;
  - How the recipient will minimize risks of labor disputes and disruptions that would jeopardize timeliness and cost-effectiveness of the project;
  - How the recipient will provide a safe and healthy workplace that avoids delays and costs associated with workplace illnesses, injuries, and fatalities; including descriptions of safety training, certification, and/or licensure requirements for all relevant workers (e.g., OSHA 10, OSHA 30);
  - Whether workers on the project will receive wages and benefits that will secure an appropriately skilled workforce in the context of the local or regional labor market; and
  - Whether the project has completed a project labor agreement.
- v. Grantees will also report on whether the project prioritizes local hires.
- vi. Grantees will report on whether the project has a Community Benefit Agreement, with a description of any such agreement.

## **9.2 General Guidance**

Applicability: Under 2 C.F.R. Part 200.101, the terms and conditions of federal awards generally flow down to subcontracts and subawards. This means that non-federal entities must comply with requirements regardless of whether the non-federal entity is a recipient or subrecipient of a federal award.

**Internal Controls:** Per 2 C.F.R. Part 200.303, all non-federal entities must establish effective internal controls to ensure that funding decisions constitute eligible uses of funds and document determinations.

**Allowable Costs.** As outlined in the Uniform Guidance at 2 C.F.R. PART 200, Subpart E regarding Cost Principles, allowable costs are based on the premise that a recipient is responsible for the effective administration of federal awards, application of sound management practices, and administration of federal funds in a manner consistent with the program objectives and terms and conditions of the award. Any costs reimbursed with program funds must be reasonable and allocable, as described in 2 C.F.R Parts 200.404 and 200.405, respectively.

The costs related to the project are only allowed to be charged to the grant if they are necessary and reasonable for the performance of the grant program award. Costs must be consistently charged as either indirect or direct costs but may not be double charged or inconsistently charged as both, as described in 2 C.F.R. Part 200.403. Direct costs are those that are identified specifically as costs of implementing the program objectives, such as contract support, materials, and supplies for a project. Indirect costs are general overhead costs of an organization where a portion of such costs are allocable to the grant award such as the cost of facilities or administrative functions like a director's office contract support, materials and supplies for a project. If a recipient has a current Negotiated Indirect Costs Rate Agreement ("NICRA") established with a federal cognizant agency responsible for reviewing, negotiating, and approving cost allocation plans or indirect cost proposals, then the recipient may use its current NICRA. Alternatively, if the recipient does not have a NICRA, the recipient may elect to use the de minimis rate of 10 percent of the modified total direct costs pursuant to 2 C.F.R. Part 200.414(f).

**Real Property and Equipment:** Equipment and real property acquired with federal funds must be used for the originally authorized purpose. Consistent with 2 C.F.R. Part 200.311 and 2 C.F.R. Part 200.313, any equipment or real property acquired using federal funds shall vest in the non-federal entity. A non-federal entity must request disposition instructions for real property from the awarding agency, which may include the retention of the title, sale of the property, or transfer of the title. In the event that original or replacement grant-funded equipment is no longer needed for the original project or program, the non-federal entity must dispose of the property in accordance with 2 C.F.R. Part 200.313.

The Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (42 U.S.C. 4601-4655) (URA) and implementing regulations in 49 C.F.R. Part 24 are also applicable.

**Prohibition on Certain Telecommunications and Video Surveillance Services, Equipment, and Costs:** Recipients and subrecipients may not use grant funds to procure or obtain certain telecommunications and video surveillance services or equipment provided or produced by designated entities, including certain entities owned or controlled by the People's Republic of China, 2 C.F.R. Part 200.216. Under 2 C.F.R. Part 200.471, certain telecommunications and video surveillance costs associated with 2 C.F.R. Part 200.216 are unallowable.

**Remedies for Noncompliance:** Recipients and subrecipients shall comply with the terms of the grant agreement and applicable federal laws, regulations, and guidance. Noncompliance may result in actions set forth in 2 C.F.R. Part 200.339.



**Closeout:** Any funds not obligated or expended for eligible uses in the eligible cost timeframe must be returned to the federal agency, including any unobligated or unexpended funds that have been provided to subrecipients and contractors as Part of the award closeout process pursuant to 2 C.F.R. Part 200.344(d).

**Audits:** Pursuant to the Single Audit Act and its implementing regulation at 2 C.F.R. Part 200, Subpart F, recipients and subrecipients expending \$750,000 or more from all federal sources within a fiscal year are required to have a Single Audit conducted for that fiscal year. For-profit subrecipients that receive subawards are not subject to Single Audit requirements, however, they are subject to other audits as deemed necessary by authorized governmental entities, including Treasury and Treasury's OIG. Note that the Compliance Supplement provides information on the existing, important compliance requirements that the federal government expects to be considered as a Part of such audit.

**Contract Provisions for Non-Federal Entity Contracts Under Federal Awards:** In addition to other provisions required by the federal agency or non-federal entity, all contracts made by the non-federal entity under the federal award must contain provisions covered in 2 C.F.R. Part 200 - Appendix II. All contracts made by a recipient or subrecipient in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with certain provisions of the Contract Work Hours and Safety Standards Act, 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. Part 5). Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all overtime hours. Working conditions must not be unsanitary, hazardous, or dangerous.

**Suspension and Debarment Requirements:** All recipients and subrecipients, their prime contractor, and subcontractors (including contracted administrators and engineers) must comply with all financial management and federal requirements, and document that they are not suspended, debarred, or otherwise excluded prior to contract execution (no exclusions stated), 2 C.F.R. Part 200.214.

The Uniform Guidance, pursuant to 2 C.F.R. Part 180, requires an infrastructure for competitive bidding and contractor oversight, including maintaining written standards of conduct and prohibitions on dealing with suspended or debarred Parties.

**Civil Rights:** Recipients and subrecipients must comply with applicable statutes and regulations prohibiting discrimination, including:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), and the Treasury's implementing regulations, 31 C.F.R. PART 22, which prohibits discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance.
- Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance.
- Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. 1681 et seq., and the Department of Justice's implementing regulations, 31 C.F.R. PART 28.



- The Age Discrimination Act of 1975, as amended (42 U.S.C. 6101 et seq.), and the Treasury implementing regulations at 31 C.F.R. Part 23, prohibits discrimination on the basis of age in programs or activities receiving federal financial assistance.
- Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. 12101 et seq.), prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

Environmental Review: National Environmental Policy Act (NEPA) does not apply to the Treasury's administration of the funds. Projects supported with payments from the funds may still be subject to NEPA review if they are also funded by other federal financial assistance programs.

SAM.gov Registration. Pursuant to 2 C.F.R. Part 25, each applicant must obtain a Unique Entity Identifier from the federal System for Award Management (SAM) prior to receiving a subgrant agreement and must be kept current for the term of the Grant Agreement.

Other: In addition, subgrantees must comply with applicable federal laws, including the 2019 National Defense Authorization Act (NDAA). Among other requirements contained in 2 C.F.R. Part 200, 2 C.F.R. 200.216 implements certain provisions of the NDAA and contains prohibitions on the use of grant funds to procure or obtain certain telecommunications and video surveillance services or equipment provided or produced by designated entities, including certain entities owned or controlled by the People's Republic of China. In addition, 2 C.F.R. 200.471 provides that certain telecommunications and video surveillance costs associated with 2 C.F.R. 200.216 are unallowable.

### **9.3 Other Requirements**

The requirements and regulations above provide a broad overview of the requirements and regulations that apply to federally funded broadband programs and are not meant to be an exhaustive list of all the requirements and regulations that subrecipients will be subject to. Other requirements include, but are not limited to:

The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 C.F.R. Part 200) in general.

- The Hatch Act (5 U.S.C. 1501-1508 and 7324-7328);
- Governmentwide Requirements for Drug-Free Workplace (31 C.F.R. Part 20);
- New Restrictions on Lobbying (31 C.F.R. Part 21);
- Protections for Whistleblowers (41 U.S.C. 4712);
- False Claims Act (31 U.S.C. 3729-3733);
- Rules and Procedures for Efficient Federal-State Funds Transfers (31 C.F.R. Part 205); and
- Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507).

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