

Idaho Broadband Advisory Board

Idaho Capital Projects Fund

Grant Guidelines Public Comments

Open February 17 – March 3, 2023

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Idaho Cable Broadband Association (ICBA)

Sparklight (Cable One)
Charter
Cox
Comcast

Association of Idaho-Based Internet Service Providers (AIISP)

ETS
FyberCom
AirBridge Broadband

Syringa Networks

Albion Telephone
Blackfoot Telecommunications
Cambridge Telephone
Custer Telephone
Direct Communication
Farmers Mutual Telephone
Filer Mutual Telephone
Midvale Telephone
Project Mutual Telephone
Rural Telephone
Silver Star Communications
Mud Lake Telephone

Idaho Telecom Alliance (ITA)

ATC Communications
Blackfoot Communications
CTC Telecom
CusterTel
Direct Communications
Farmers Mutual Telephone Co.
Truleap Technologies
MTE Communications
PMT
Rural Telecom Inc. (RTI)
Silver Star Communications
Mud Lake Telephone
Inland Networks
Oregon Idaho Utilities

The Association of Idaho-Based Internet Service Providers

Idaho's independent ISPs: Empowering local communities

Dear Idaho Broadband Advisory Board,

The Association of Idaho-Based Internet Service Providers (AIISP) is unique as it represents local ISPs whose business models provide infrastructure and service to unserved and underserved communities in rural Idaho. Over fifty percent of our respective customers live outside of metro areas. It is these rural areas where we focus our greatest efforts, talent, and resources. Please see our attached preliminary Mission, Vision, and Values to learn more about our newly founded partnership.

Collectively, we would like to highlight the following points with respect to the IBAB Idaho Capital Projects Fund Broadband Infrastructure Grant Application draft (in the order they appear on the draft document):

- **Section 6:** Ineligible Project Areas seems to be ambiguous. It seems the spirit of this section is to ensure the IBAB does not double-fund areas that have or are in the process of securing grant dollars to build out fiber or other wireline services that meet the current broadband definition of 100 Mbps / 20 Mbps. Perhaps this section could exclude the following:
 - Areas of the State that have already received State or Federal grant dollars to build out wireline infrastructure that can provide speeds of 100 Mbps / 20 Mbps.
 - Areas of the State that are in the process of receiving Federal grant dollars to build out wireline infrastructure that can provide speeds of 100 Mbps / 20 Mbps.
 - It should be noted that prior State Awards may have funded multiphase projects where only initial phases are completed, yet there are further phases waiting to be completed. Perhaps the broadband office could reserve the discretion to determine which projects are still eligible for future funding based on historical data, current needs, the success of initial phases, and the value of additional funding to complete subsequent phases.
- **Section 10a:** The timeline for the submission of a valid challenge by an eligible entity to a grant application should be shortened to no more than 7 days (May 3rd – May 10th). The seven days between May 11th and May 17th should be set

aside to respond to challenges, and the seven days between May 18th and May 24th should be utilized to vet and adjudicate challenges and responses.

- A valid challenge should be based upon clearly defined, credible, and tangible evidence (FCC reporting, speed tests, maps, etc.).
- An eligible entity should be defined as an actual ISP with current infrastructure and customers to establish an evidence-based challenge.
- **Section 15:** quarterly status updates on projects with the State Broadband Office would be appropriate. Furthermore, we suggest that this update occur via recorded video conferencing and should include the following three stakeholders:
 - Representative of the State Broadband Office
 - Representative of the ISP
 - An elected official (or authorized representative) who has stewardship within the grant area.
 - Having an elected official (or authorized representative) on a video call during status updates with the State Broadband Office should help ensure transparency, completion of milestones, and accurate representation should issues arise.
 - Furthermore, if grant applications were to include who this elected official (or authorized representative) would be, it would provide further evidence of critical community engagement and support. Grant applications should not be considered that do not include a designated person in the community who will help ensure accountability.
- **Section 19c:** Eligible Project Costs should NOT include purchasing equipment that will be utilized outside the scope or operation of the funded project (e.g., heavy construction equipment such as bulldozers, etc.). Leases for heavy equipment during the project's construction should be covered along with the purchase of equipment that may be essential for the continued effective operation of the infrastructure (i.e., Bucket trucks).
- **Section 19c:** Eligible Project costs should have realistic evidentiary support for the cost per mile for fiber. Very low and very high costs per mile should be vetted to ensure realistic bounds. Overfunding without evidentiary support risks building capital for private entities and lessening the reach of funding, while underfunding risks the possibility of low-quality, inefficient, or non-compliant work.
- **Section 19di:** The acquisition of spectrum licenses should be further defined as a license for spectrum obtained via an FCC auction (e.g., a CBRS PAL license). It

should NOT include costs for licensing a wireless point-to-point backhaul, as these should be included in eligible project costs.

- **Section 21-viii:** Rewarding projects by the number of locations served (20 points for hitting 2000+ locations) is counterintuitive and disincentivizes providing broadband to unserved and underserved communities in rural Idaho. In fact, it strongly incentivizes doing projects in large metro markets where large numbers of homes can be hit. Generally, those in unserved rural Idaho are unserved because they live in pockets of 20, 40, or 150 households. These are communities where there is no viable economic model to provide services unless grant dollars are attached. Areas with densities of 2000+ are more attractive and will naturally provide fiscal incentives to build infrastructure, even without grant dollars.
- **Section 21 – xiii:** The match table as currently constituted likewise disincentivizes providing broadband to unserved and underserved communities in rural Idaho for two reasons.
 - Large out-of-state entities have significant financial resources to bring to the table. Being able to match does not always evidence having “skin in the game” (although that is a nice talking point). It is potentially used to exclude small Idaho-based ISPs with limited access to capital, even though these small ISPs predominantly serve rural Idaho and are deeply vested in community success.
 - It is more likely that there will be a greater dollar match for projects in larger urban areas as there is a greater return on investment. This cannot be said for unserved locations that require a higher initial investment. It will be these communities that will suffer since no one is going to bring a sizeable dollar figure to the table to ensure coverage.
- **Section 21 – xv:** Bonus points should include the following:
 - Past performance on prior State Broadband Grants
 - *“Past is prologue”* – companies that have satisfactorily completed all prior State funded broadband projects should be given bonus points as this evidences both their abilities to complete projects effectively and their commitment to the local communities to deliver on what was promised.
 - Being an Idaho Based Company
 - Companies based in Idaho have owners and management teams who live in and work in Idaho. This is critical since time, energy, and resources are focused on what is best for Idaho communities.


Outside investors have less incentive to provide for community needs than Idaho stakeholders.

- ISPs whose customer base are predominantly in rural Idaho (>50%).
 - ISPs who devote their best energies, employees, and resources to expanding in metro markets (due to greater opportunities for profitability) will not be as inclined to devote these same limited resources to rural Idaho once a grant project is completed. ISPs that thrive in rural Idaho will continue to focus and invest in rural Idaho once a grant project is completed.
 - “Rural Idaho,” in this instance, could be defined as service areas with a population density of 10 or fewer homes per mile or those outside of metro areas (e.g., Boise, Twin Falls, Pocatello, Idaho Falls, and Coeur d’Alene).



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The Association of Idaho-Based Internet Service Providers

Idaho's independent ISPs: Empowering local communities

Mission:

The Association of Idaho-Based Internet Service Providers is dedicated to fostering a connected, thriving, and equitable future for Idaho's communities by leading the way in innovative, fair, and collaborative practices within the internet service industry. Actively involving and engaging our communities, we strive to promote equitable access to high-quality internet for all Idahoans.

Vision:

Through our collaborative efforts, we can provide internet access for all. We can and will ensure that everyone has an equal opportunity to participate in the digital economy and fully realize their potential.

Our Values:

Providing Leadership and Solutions: We know that providing internet access for all Idaho residents, businesses, and anchor institutions is crucial in today's digital age. We are part of the solution! While others look for leadership and direction, we provide a path forward.

Placing People First: By focusing on people, we create a positive impact that extends beyond the here and now. Our contributions create a more connected, prosperous, and equitable Idaho for all. We believe that putting people first, above all else, is key to being a successful locally owned and operated Internet Service Provider in Idaho.

Supporting and Involving Communities: We strive to build long-term relationships with our customers and the communities we serve. By prioritizing the needs of our communities and providing reliable, high-quality internet services at fair prices, we build trust and loyalty while contributing to our communities' overall well-being and growth.

Stakeholder Commitment:

We, the members of The Association of Idaho Internet Service Providers (AIISP), are committed to collaborating on common issues to promote and advance internet service quality, availability, and equity in our communities. Our initiative is to foster a competitive, innovative, and sustainable marketplace that serves the needs of all Idahoans.

As stakeholders in the Idaho internet industry, we pledge to:

Support and assist the Idaho Broadband Advisory Board and the Department of Commerce Broadband Office and their Mission, Vision, and Values.

Support policies and initiatives that promote fair, open competition, and encourage investment in broadband infrastructure and services.

Work together to identify and address common issues, such as regulatory challenges, technological developments, and market changes impacting our industry, communities, and customers.

Strive to provide high-quality, affordable internet services to all Idahoans, regardless of location or income.

Foster a culture of transparency, collaboration, and knowledge-sharing among our members to promote learning and innovation in our industry and faster ubiquitous broadband deployment for all Idahoans.

We believe respectful, healthy competition among Idaho internet service providers can and should exist. We value collaboration and desire to support common goals, resulting in a thriving local industry that benefits both business and society.

By committing to these principles, we can build a stronger, more vibrant internet industry in Idaho, and better serve the needs of our customers and communities.

Areas of Common Interest:

Neutrality, Interoperability, Scalability, Reliability, Cost-effectiveness, Open standards, Fair Competition, Innovation, Community Involvement, Local Job Creation, Education and Training, Shaping Public Policy, and Participation in Public Comments.



BROADBAND

231 W Main Street
Grangeville ID 83530
208-494-4343

March 3, 2023

RE: Open Access / Affordability via Transparency

Finding an acceptable definition for “open access” that all broadband stakeholders can agree on has proven to be difficult.

Confusion exists as to whether “open access” refers to middle mile or last mile infrastructure, or whether it refers to fiber or wireless buildouts, not to mention the issue as to what is and what is not technologically feasible.

Discussion has also occurred around the advantages or disadvantages of “standard rates” vs “what the market will bear” (*suggesting “what the market will bear” is the virtue that should be embraced ... and that “standard rates” are the vice to be avoided*).

Furthermore, incentives might exist for some ISP’s to ensure that “open access” is never clearly defined. Ambiguity in this area allows ISP’s to maximize profitability via monopolistic and exclusionary behaviors. This is regrettable since this objective comes at the expense of rural Idahoans who continue to suffer with subpar internet.

It is no wonder that finding common ground on this topic has proven elusive, especially with the prospect of litigation if a final definition doesn’t go in one’s favor.

Although we believe it is unrealistic to expect much headway on arriving at a definition for “open access” that works for the IBAB at this time, we still believe it is still important to (1) give some clear ideas of what we believe “open access” to be, and (2) to discuss the idea of middle mile and last mile **transparency** and “affordability” that could be an acceptable substitute for both the IBAB and other broadband stakeholders.

OPEN ACCESS – our definition

We believe that a definition for “open access” should refer to middle mile fiber only. The reasons for this are two fold:

- (1) Wherever affordable middle mile fiber exists, competition naturally springs up to correct any last mile market inefficiencies. If you address middle mile access correctly,

you don't need to worry about last mile pathologies. In short, *an ounce of prevention is worth a pound of cure.*

- (2) Most middle mile fiber in rural Idaho was previously funded by grants. This is just another way of saying this fiber was funded by you and me, the taxpayer. We need to remember that although a private company may own and operate middle mile fiber, it was partially paid for by the taxpayers their fiber passes by. These taxpayers have a legitimate claim to being served by the assets that they helped to pay for.
 - a. We agree that if a private ISP paid for middle mile fiber in rural Idaho 100% out of their own pocket (*with no taxpayer subsidization*), we embrace the idea that this private ISP should be able to do whatever they want with this fiber – including how to price middle mile circuits. Having said that, we all know that this reality is not the case. All middle mile fiber in rural Idaho was subsidized by the taxpayer to one degree or another, hence we as taxpayers have a legitimate claim to ensure that it is utilized and priced appropriately to ensure maximum benefit to all homes and businesses.

It is our feeling that ISP's that receive taxpayer funding should be obligated to do the following:

- (1) Provide maps of middle mile assets they control to the State Broadband Office so that the Broadband Office can have the tools necessary to help facilitate unserved and underserved Idahoans securing broadband internet.
- (2) Price middle mile fiber so that it is affordable and realistic for other ISP's to service rural unserved and underserved communities that currently lack quality broadband.

Lastly, it is our feeling that the IBAB should define pricing guardrails for middle mile fiber that was previously funded by the taxpayer (*we shouldn't forget that little fact*) so that smaller ISP's can effectively service last mile locations quickly and efficiently. We believe the IBAB should craft a formula as to the maximum cost for middle mile fiber based upon average cost of fiber in urban markets (e.g. maximum cost might equal 1.5 times the average cost for fiber in an urban market).

- (1) It could be suggested that the IBAB would be defining "standard rates." If this were the case, it is obvious that "standard rates" are the virtue that should be pursued and embraced, since it will have a net positive effect upon broadband delivery in rural Idaho.
- (2) It is obvious that "what the market will bear" is a fancy way of mislabeling a monopolistic and exclusionary pricing model.

AFFORDABILITY – our plausible solution

The IBAB should embrace the idea of promoting "affordability" via **transparency** as opposed to coming up with hard definitions for both middle mile and last mile connections. In doing so, we believe this is an area where the State of Idaho can get some positive movement in correcting market inefficiencies that can be acceptable to all stakeholders, while avoiding needless litigation.

In short, transparency should be achieved by collecting middle mile and last mile data from ISP's seeking broadband grant funds.

MIDDLE MILE DATA

ISP's who claim to be "open access" with their middle mile assets should also disclose on grant applications their highest priced middle mile circuit that they currently charge another ISP / entity within the State of Idaho. Classification can be as follows:

- Tier 1 = \$1 - \$2000 per month for a 10 GB circuit
- Tier 2 = \$2001 - \$4000 per month for a 10 GB circuit
- Tier 3 = \$4001 - \$6000 per month for a 10 GB circuit
- Tier 4 = \$6001 - \$8000 per month for a 10 GB circuit
- Tier 5 = > \$8001 per month for a 10 GB circuit

For example, if ABC ISP's highest priced middle mile circuit within Idaho was \$2450 per month for a 10 GB circuit that they charge another ISP, they would disclose that they are a "Tier 2" open access middle mile provider on their grant application.

LAST MILE DATA

All ISP's seeking grant funding should disclose the following data on their grant applications:

- Fiber ISP's
 - Cost for a 100 Mbps / 100 Mbps plan
 - Fastest speed offered for \$50 per month
- Wireless ISP's
 - Cost for a 100 Mbps / 20 Mbps plan
 - Fastest speed offered for \$50 per month

It should be noted that in filling out this data, information should include plans or speeds that are standard rates (they should exclude specials, promotions, etc. that artificially skew or game the information provided). Furthermore, all taxes / other mandatory fees should be included.

Data should be collected and averaged from all submissions (fiber and wireless should be two separate categories) so that realistic averages can be arrived at as to what is considered affordable and what is considered overpriced.

Big picture, since the objective of "affordability" is **transparency** as opposed to mandating a middle mile or a last mile pricing structure, there should not be much to disagree or litigate over.

Nobody will be forcing anyone to do anything, and no legally binding definition will be created out of thin air.

Furthermore, although this data should appear on the grant application before the IBAB, it should NOT factor into the overall scoring of the application. It should be informational only (just like letters of support, etc).

It is as simple as answering up to three questions on pricing when filling out a grant application. This should not be overly onerous or controversial, especially since NO scoring decisions to advantage or disadvantage grant applications will be based upon it.

Sincerely,

David McKnight
AirBridge Broadband | CEO



BROADBAND

231 W Main Street
Grangeville ID 83530
208-494-4343

March 3, 2023

RE: Scoring criteria to better align with serving unserved and underserved locations

Big picture, we are pleased with the direction the IBAB and the State Broadband Office is going with putting together the application for Idaho Capital Projects Fund (ARPA) Broadband Infrastructure Grants.

Having said that, the devil is in the details. A few minor changes will have a huge impact on bringing broadband infrastructure to unserved and underserved locations throughout rural Idaho.

In short, we believe an objective analysis of some of the questions might reveal that the application as currently constituted unwittingly disincentivize approving grants for those most in need (*the unserved and underserved*), and it might favor those in metro areas who are the least in need.

To remedy this concern, we believe that every question on the grant application should be thoroughly vetted by asking this question – “does answering this question affirmatively in order to secure the maximum points allowed advantage, or does it unwittingly disadvantage, unserved and underserved locations in Idaho securing broadband internet?” A second question might be “does answering this question affirmatively provide a distinct competitive advantage for those in metro markets over those in rural markets?”

If the true mission of the IBAB is to maximize precious grant dollars to serve as many unserved and underserved locations in Idaho as possible, then a serious review of the application with these questions in mind is warranted.

ON THE GROUND REALITIES

Sometimes it is easy to get the cart before the horse. Drafting grant questions and scoring based upon what is advantageous for a select group of ISP’s is an example of this.

If one were to correctly put the horse in front of the cart, one would first examine and define areas in the State of Idaho with the greatest need, and then one would select various ISP’s in the respective areas of the State who possess the capabilities and inclinations to fill these need.

Just as it would be impossible for AirBridge to fill a broadband need in Tennessee or Kentucky, it would be equally difficult for AirBridge to fill a broadband need in Southeast Idaho since we do not have assets and capabilities in that part of the State.

If the IBAB wanted to address a broadband need in Southeast Idaho, it would first need to determine who the capable ISP's in that part of the State were, and then it would need to select one of these capable ISP's to become part of the solution.

It would be unfortunate if all capable ISP's in Southeast Idaho were unable to secure a grant to address a real need if the grant application questions were skewed in AirBridge's favor to the detriment of the ISP's in Southeast Idaho (*since their grant applications might not then score as highly relative to AirBridge's applications*).

We must never forget that the prime objective is to bring broadband internet to unserved and underserved locations throughout rural Idaho. We must not allow grant application questions and scoring to become a roadblock to these ends.

QUESTIONS THAT FAVOR METRO MARKETS

Not to beat a dead horse, but questions 21-viii and 21-xiii all disproportionately favor metro markets over rural markets (35 out of 230 points, or 15% of total points).

1. Serving 2000+ locations in a metro market is simple, serving 2000+ locations in rural unserved Idaho is a Herculean feat and practically untenable.
2. Matching 41% or more in a metro market that has an attractive ROI is simple, matching 41% in rural unserved Idaho where the ROI is measured in centuries is a nonstarter.

QUESTIONS THAT DISADVANTAGE UNSERVED MARKETS

Fiber and wireless internet deployments are both valid options depending upon the circumstances, especially in rural areas of the State where unserved and underserved populations dominate (*the original focus of grant funding*).

Ultimately, these two technologies don't really compete since wireless fills a niche role in reaching locations that fiber can't reach economically, even with a huge inflow of grant funding.

If wireless technologies were to be excluded from grant funding, the hardest to reach unserved and underserved residents will remain with subpar internet for years to come.

For the vast majority of the State of Idaho, fiber deployment will be the right choice and we would expect that most of the funding to go this direction.

However, there are many rural areas where wireless technologies fill a unique role that cannot be filled any other way.

With that said, consider how questions 21-vi and 21-ix might disadvantage grant applications that feature wireless options (45 out of 230 points, or almost 20% of total points).

1. Question 21-vi specifically requires one to be a fiber network to answer affirmatively to secure the 25 points.
 - a. In addition, it requires a project to be “open access,” something that has yet to be defined for last mile buildouts, specifically for wireless last mile buildouts (*that nuance is important since it might not be technologically feasible*).
2. Question 21-ix requires an application to provide Community Anchor Institutions with 1 Gbps / 1 Gbps symmetrical fiber.
 - a. Perhaps an acceptable substitute might be changing a 1 Gbps / 1 Gbps symmetrical fiber service for a 200 Mbps / 200 Mbps symmetrical wireless service for all applications that feature wireless technologies.

Another elegant solution to this conundrum might be as follows:

1. At the beginning of the application ask for technology / scope:
 - a. Last mile fiber
 - b. Last mile open access fiber
 - c. Last mile wireless
 - d. Middle mile fiber with last mile fiber
 - e. Middle mile fiber with last mile wireless
 - f. And so forth.
2. Include or exclude relevant questions accordingly:
 - a. For example, if questions 21-vi and 21-ix were excluded for wireless applications, these applications would be scored out of a maximum of 185 points instead of 230 points.
 - b. All applications would then be normalized by taking a percentage out of 100% for a final score based upon how many total points were eligible for that technology / scope.

THE MISSING QUESTION

To stretch precious grant dollars as far as possible (\$125 million now, and \$500+ million over the next year or two), the IBAB might consider asking a question like it did for grant applicants in the \$35 million dollar round a little over a month ago.

It was previously asked whether a grant application might or might not be fundable during a future grant round.

The objective was to ensure that worthy projects were not passed by due to mismanagement of grant opportunities, something we would come to regret without a bit of wisdom and foresight.

Likewise, it might be wise to include the question “Is this project fundable by BEAD?”

If one were to answer “no” to this question, the applicant should provide a valid reason as to why it is not fundable by BEAD. Furthermore, the State Broadband Office might want to follow up with the applicant to gather more information before making a final determination as to whether a project is or is not fundable by BEAD.

Including this question on the grant application will provide a huge benefit to rural Idaho as it will help to optimize grant dollars both now and in the future.

Sincerely,

David McKnight
AirBridge Broadband | CEO

March 3, 2023

Via Email

Idaho Broadband Advisory Board
c/o Ramón S. Hobdey-Sánchez, J.D.
State Broadband Program Manager
Idaho Department of Commerce
700 W. State St., Boise, ID 83702
ramon.hobdeysanchez@commerce.idaho.gov

Dear Mr. Hobdey-Sanchez and the Idaho Broadband Advisory Board,

I am writing to express my gratitude for the opportunity to participate in the draft CPF funding guidelines. I appreciate the hard work and dedication of the Idaho Broadband Advisory Board to ensure that all residents of Idaho have access to high-quality broadband services.

First, I would like to express my support for the comments filed by the Idaho Telecom Alliance (ITA) regarding the draft CPF funding guidelines. I believe that their recommendations are thoughtful and comprehensive, and they will greatly contribute to the success of the CPF program. The ITA has identified key issues and areas for improvement in the draft guidelines, and I strongly agree with their suggestions.

In addition to that, I wanted to express my concern regarding the eligibility of companies like ATC Communications (ATC) for funding. ATC has spent a considerable amount of time and resources building a robust fiber network in rural Southern Idaho, with a backbone fiber network that has taken decades to build.

While we have been successful in bringing fiber to nearly 70% of our customers, there are still many high-cost locations at the edge of our network, particularly very rural areas with long and expensive drops. Given the guidelines, I am worried that companies like ours may not score well and may not be eligible for funding. I strongly believe that the CPF program should prioritize private industry players who have a proven track record of deploying capable and affordable fiber services in rural areas.

I understand why you may feel the need to give preference to open-access and municipal broadband in the guidelines, but I believe that private industry has a critical role to play in bridging the digital divide in rural “unserved” and “underserved” areas. Companies like ATC Communications have the expertise and experience to bring reliable and high-speed broadband to remote areas, where municipal and open-access broadband solutions may not be feasible or cost-effective. I urge the Idaho Broadband Advisory Board to consider the importance of private industry players in the CPF program and to shift the priorities to ensure that companies like ATC Communications can continue to bring high-quality broadband services to rural areas.

I would also like to bring to your attention my concern regarding what seems to be conflicting guidelines in the draft. While I appreciate the focus on building broadband infrastructure in unserved and

underserved areas of Idaho, I believe that the guidelines are also awarding points for being cost-effective, higher match percentages, and for large projects.

However, in my experience, the unserved and underserved locations in Idaho may not be the most cost-effective or lend themselves well to large projects. These areas will likely consist of many smaller pockets of homes, making it challenging to justify large-scale projects that are cost-effective. Furthermore, these areas may not have anchor institutions, which are usually key components of larger urban projects.

Therefore, I am concerned that these guidelines are contradictory and may not be the most effective way to address the digital divide in Idaho. I believe that the CPF program should be more flexible and take into account the unique challenges and needs of each area, rather than relying on a one-size-fits-all approach.

Thank you for considering my input and for your efforts in improving broadband access in Idaho.

Sincerely,

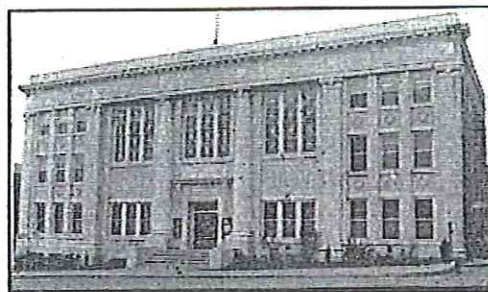
A handwritten signature in black ink, appearing to read 'Kyle Bradshaw'.

Kyle Bradshaw
General Manager

Board of
County Commissioners
245-2234

Clerk District Court
Auditor and Recorder
245-3212

Treasurer and
Tax Collector
245-2421



Prosecuting Attorney
245-2564

Assessor
245-2821

Sheriff
245-2555

Coroner
245-2611

County of Benewah
701 W. College Avenue
St. Maries, Idaho 83861

3/1/2023

Idaho Broadband Advisory Board
c/o Ramón S. Hobdey-Sánchez, J.D.
State Broadband Program Manager
Idaho Department of Commerce
P.O. Box 83720
Boise, ID 83720 – 0093
By email: broadband@commerce.idaho.gov

Re: Comments on the Capital Project Funds (CPF) Draft Guidelines

Dear Idaho Broadband Advisory Board:

Benewah County requests consideration of the following comments on the Capital Project Funds (CPF) Draft Guidelines.

Match Requirement

The draft CPF guidelines, as written, will place rural unserved and underserved projects at a disadvantage. A greater match commitment would result in a significant scoring advantage for applicants with capacity to provide a large cash match, such as internet service providers (ISPs). Due to a lack of cash reserves, rural communities will be unable to meet a comparable match percentage without the commitment of partnership with an ISP. While it is anticipated that small governments will be able to draw the interest and secure commitment from ISPs once funds are awarded, many projects are not yet at this point.

A higher percentage match does not equate to a higher level of community buy-in, stakeholder engagement, or project commitment. The in-kind match contributions provided by small and rural applicants might include man-hours, use of equipment, coordination of project teams, or other less tangible commitments. Despite meeting a lower overall percentage of total project costs, these match items demonstrate a high degree of local coordination and a strong commitment to public-private partnership. Projects coordinated by local governments benefit the greatest number of unserved and underserved Idahoans.

Benewah County proposes a matching requirement that does not penalize applicants without cash resources. In-kind matching that is weighted differently than cash or debt matching, or

state award grant payment contingent on private sector match commitments are excellent ways to gauge buy-in and project quality without penalizing rural communities.

Challenge Period

As expressed by IBAB members during the most recent meeting, we are in favor of reducing the timeline for awards and of remaining consistent with the comment period for CPF guidelines. Benewah County recommends a two week challenge period instead of four weeks as written in the draft CPF guidelines.

With a population of 13,612, Benewah County covers 776 square miles in the lower Idaho panhandle. Initial planning shows that 1,464 households remain underserved or unserved in the areas surrounding minor population centers such as the City of St. Maries, the Benewah County seat. Benewah County contains a portion of the Coeur d'Alene Tribal Reservation. Benewah County looks forward to working alongside the Idaho Broadband Advisory Board in creating a statewide broadband network that connects rural Idahoans to opportunity and essential services.

Sincerely,



County Commissioner,
Benewah County



3/1/2023

Idaho Broadband Advisory Board
c/o Ramón S. Hobdey-Sánchez, J.D.
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Re: Comments on the Capital Project Funds (CPF) Draft Guidelines

Dear Idaho Broadband Advisory Board:

Benewah County requests consideration of the following comments on the Capital Project Funds (CPF) Draft Guidelines.

Grant Administrative Costs

It is very important to Benewah County to use available CPF funds for Grant Administration services. Grant administration costs can be between 5-10% of the total project cost. On a \$21,000,000 project, Benewah County would be responsible for paying \$210,000 in grant admin fees. This is a barrier to entry that rural counties in Idaho cannot overcome, even with donated and in-kind services. To bridge the digital divide in rural Idaho, we must be allowed to use available grant funding for grant administrative costs. I suggest that 100% of grant administration costs can be included in the budget and reimbursable with grant funding.

Match Requirement

The Draft CPF guidelines, as written, will place rural unserved and underserved projects at a disadvantage. A greater match commitment would result in a significant scoring advantage for applicants with capacity to provide a large cash match, such as internet service providers (ISPs), who are more focused on higher density population areas. Due to a lack of cash reserves, rural communities will be unable to meet a comparable match percentage without the commitment of partnership with an ISP, who have been reluctant to serve low density population areas. While it is anticipated that small governments will be able to draw the interest and secure commitment from ISPs once funds are awarded, many projects are not yet at this point, even with pre-engineering studies completed, and preliminary plans in place.

A higher percentage match does not equate to a higher level of community buy-in, stakeholder engagement, or project commitment. The in-kind match contributions provided by small and rural applicants might include man-hours, use of equipment, coordination of project teams, or other less tangible commitments. Despite meeting a lower overall percentage of total project costs, these match items demonstrate a high degree of local coordination and a strong commitment to public-private partnership. Projects coordinated by local governments benefit the greatest number of unserved and underserved Idahoans.

Benewah County proposes a matching requirement that does not penalize applicants without cash resources. In-kind matching that is weighted differently than cash or debt matching, or state award grant payment contingent on private sector match commitments are excellent ways to gauge buy-in and project quality without penalizing rural communities.

Challenge Period

As expressed by IBAB members during the most recent meeting, we are in favor of reducing the timeline for awards and of remaining consistent with the comment period for CPF guidelines. Benewah County recommends a two week or less challenge period instead of four weeks as written in the draft CPF guidelines.

With a population of 13,612, Benewah County covers 776 square miles in the lower Idaho panhandle. Initial planning shows that 1,464 households remain underserved or unserved in the areas surrounding minor population centers such as the City of St. Maries, the Benewah County seat. Benewah County contains a portion of the Coeur d'Alene Tribal Reservation. Benewah County looks forward to working alongside the Idaho Broadband Advisory Board in creating a statewide broadband network that connects rural Idahoans to opportunity and essential services.

Sincerely,

Alex Barta
Executive Director
Greater St. Joe Development Foundation Inc. D.B.A. Timber Plus



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PATRICK N. CARON
ASSISTANT GENERAL COUNSEL

Delivery by Email only: broadband@commerce.idaho.gov

March 3, 2023

Idaho Broadband Advisory Board
Attn: Ramón S. Hobdey-Sánchez, J.D.
State Broadband Program Manager
Idaho Department of Commerce
700 W. State Street
Boise, Idaho 83702

Re: Idaho Capital Projects Fund – Cable One, Inc. Public Comments: Idaho Broadband Infrastructure Grant Guidelines

Dear Ramón:

Cable One, Inc. (d.b.a. Sparklight) (“Cable One”) is pleased to offer the Idaho Broadband Advisory Board (the “Board”) the following public comments on the above referenced Idaho Broadband Infrastructure Grant Program Guidelines (the “Guidelines”), issued pursuant to the priorities of the Capital Projects Fund (“CPF”) directed by the U.S. Department of the Treasury, and Idaho’s Broadband Strategic Plan.

Upon review of the Guidelines, Cable One must express the following significant concerns about the Board’s proposed Guidelines, which we believe stray critically from the priorities expressed by the Treasury Department and the Strategic Plan. The foremost and ultimate priority for allocation of this limited emergency funding must be to provide critical connectivity to locations presently unserved (or underserved) by reliable and robust broadband services. Bluntly, the Board’s CPF Guidelines misguidedly prioritize competition, open access, net neutrality, and other objectives not included Treasury’s CPF guidance or in Idaho’s Strategic Plan, and promotes scoring criteria inappropriately weighted toward accomplishing policy objectives and away from providing critical broadband services to unserved Idahoans.

We appreciate the Board’s consideration of the following:

1. Providing Broadband to Unserved (and Underserved) Idahoans Must Remain the Objective of this Funding – The Board’s Guidelines reduce this absolute requirement merely a scoring criterion. Currently, 20 points are awarded for projects that “either” serve the unserved/underserved, or “improve affordability in already-served markets.” Another 10 points are awarded to projects that serve more than 80% or more unserved locations.

Cable One urges that if a proposed project does not serve at least 80% unserved or underserved locations, it should be immediately rejected. If some level of scoring is necessary above the 80% threshold, it should be in the form of bonus points.

In a recent hearing before the Subcommittee on Communications, Media and Broadband of the Senate Commerce Committee, former FCC Chairman Michael Powell offered guidance for the proper allocation of broadband development funding prioritizing unserved and underserved locations, invoking what he referred to as the “family dinner” method – i.e. “nobody gets seconds until everybody gets firsts.”¹ Cable One urges the Board to take up this sound and simple advice as it considers awarding grant funds first and foremost to unserved and underserved locations and not in locations where qualifying service already exists.

2. Lowest Bid Price Should Be Included as the Primary Scoring Criterion – Among the scoring criteria included, awarding grants to the applicant submitting the lowest cost to build should be the highest value criteria considered. Troublingly, this critical point of analysis is not even mentioned in the Board’s proposed scoring criteria.

Cable One urges that the lowest cost bid submitted, calculated on a ‘grant cost per connected household’, should account for at least 50% of the overall points allocated. The bid with the lowest cost per connected household should get 50 (out of 100) points for the lowest cost bid, with the second place getting 40 points, etc. Such a scoring system would also incentivize matching, without having to score matching separately, and would eliminate the de facto matching cap of 41%, as proposed.

3. Open Access and Net Neutrality Are Fundamentally Different Concepts and are Grossly Overemphasized by the Board’s Scoring Criteria - Treasury guidelines do not reference “open access networks” or “net neutrality” as necessary priorities for awarding CPF funds, yet the Board’s Guidelines heavily favor applications (25 points) that prioritize these two very different criteria.

- **Open Access:** Imposing open access network requirements on a private ISP that has for decades designed, built and operated a proprietary network, would result in many or most of the same companies declining to apply for a CPF grant, even though these are the networks that in many cases are likely the closest to the unserved population. Troublingly the Board indicates that an open access is necessary for purposes of “competition.” Cable One again reiterates the critical point that this funding opportunity must not prioritize use of this funding to stimulate competition in locations already receiving qualifying service. Rather this funding must be prioritized to provide connectivity to unserved locations. Additionally, the Open Access concept included in the Board’s Guidelines is an entirely undefined term promoting confusion about the Board’s objective.

Accordingly, if there are to be any points awarded for open access, Cable One urges that those points be only a very small percentage of the Board’s scoring criteria, not to exceed 5% of the total points available, or preferably, awarded only as bonus points.

- **Net Neutrality:** Significantly, “net neutrality” provisions are not presently the subject of law or regulation in Idaho or at the federal level in the United States. That notwithstanding, Cable One believes that the primary objectives of so-called net neutrality regulations are noble and should be observed. Furthermore, they’re good business – we’re aware of no reputable providers who have profitably mandated the

¹ “Ensuring Solutions to Meet America’s Broadband Needs”, December 13, 2022;
<https://www.commerce.senate.gov/2022/12/ensuring-solutions-to-meet-america-s-broadband-needs>

egregious access violations that net neutrality provisions are designed to counter. However, the private ISP industry opposes the short-lived Obama-era FCC mandates that briefly attempted to impose network neutrality rules on private network operators. Among other things, those Obama-era rules inequitably permitted heavy internet users (for example, home “gamers”) to ride the network at the same fee paid the “average” network user whose user experience was objectively negatively impacted. Imposing network neutrality rules on private ISPs as a threshold criterion for receiving grants may result in few, if any, private ISPs applying for CPF grants. Furthermore, the Board again failed to provide a definition of net neutrality the parameters it seeks to impose.

Cable One therefore submits that the Board’s Guidelines should not reference net neutrality regulations or provide points for observance of this otherwise undefined concept.

4. The Requirement of a Formal Resolution Indicating Local Governmental Support is Unnecessary, Untimely, and Creates Unbalanced Competition – The Board’s requirement that private ISPs provide a formal resolution from the local legislative body indicating local support fails to recognize that many of the same local governments may be competitors with private ISPs seeking to serve the same unserved populations. It is highly unlikely that local governmental entities wishing to enter the broadband business with CFP funding will also pass resolutions or allow any of its affiliated enterprises (e.g., libraries, police, fire stations, etc.) to write letters supporting a private ISP competitor seeking the same grant funds. Many or most private ISP grant applications will fail on this singular point because of the heavy weighting (25 point) it carries in the scoring matrix. Further, the resolution requirement will create unnecessary delays occasioned by the often irregular sessions kept by local government authorities necessary to issue a duly enacted formal resolution.

Cable One recognizes that letters of support or local government resolutions (if available) can be scored however the score should not exceed 10% of the total score where a local government entity is not an applicant. If the local governmental unit is an applicant, then no points should be awarded to any party, due to the competitive advantage such scoring would give to the local governmental unit with incentive to use this scoring tool to favor itself.

5. The Guidelines Must Demonstrate the Board’s Commitment to Operating a Robust Challenge Process to Prevent Misallocation of CPF Funding Through Overbuilds. The Board must not permit CPF funding to be allocated to locations already receiving qualifying broadband speeds from a private ISP representing objectively wasteful spending of limited federal support. The Board should seek to eliminate any such overbuilding with its commitment to a robust, transparent, evidence-based challenge process.

Previously the Board indicated its preference for a shortened period (as little as 10-days) to accomplish its challenge review. Cable One submits that minimum 30-day period is necessary for the submission of substantive evidence (including but not limited to GIS location/service mapping, speed tests, customer billing, testimonials, etc.) reflecting the provision of qualifying service. The Board’s concern about delay and the submission of challenges without proper evidentiary support (or worse, submitted in bad faith) notwithstanding, Cable One submits that the Board’s attention to eliminating wasteful overbuilds is necessary to the effective and efficient allocation of this limited support. Other states have included a statutory remedy against

unsubstantiated challenge submission, prohibiting inadequately supported challengers from participating in future grant rounds.²

Cable One supports Idaho enacting a similar remedy to protect the integrity of the state challenge process and amplifying the requirement of adequately substantiated challenges supported by objective, evidence-based proof.

Cable One again thanks the Board for considering the foregoing. If further information is necessary or helpful, please do not hesitate to contact the undersigned.

CABLE ONE, INC.



Patrick Caron
Assistant General Counsel

copy: Chris Boone
Peter Witty
Cheryl Goettsche
Matt DeMuro
Teresa Whorton

² See, e.g. Minn. Stat. §116J.395, subd. 5a.(d), prohibiting challengers submitting improperly substantiated challenges from participating in the next two grant rounds.

March 2nd, 2023

Idaho Broadband Advisory Board
c/o Ramón S. Hobdey-Sánchez, J.D.
State Broadband Program Manager
Idaho Department of Commerce
P.O. Box 83720
Boise, ID 83720 – 0093
By email: broadband@commerce.idaho.gov



Re: Comments on the Capital Project Funds (CPF) Guidelines

Dear Idaho Broadband Advisory Board:

Camas County requests consideration of the following comments on the Capital Project Funds (CPF) Draft Guidelines.

Challenge Period

Camas County recommends a two week challenge period, rather than a four week challenge period, in order to reduce the timeline for awards and to remain consistent with the comment period for CPF guidelines.

Grant Administrative Costs

It is imperative that Camas County is able to use CPF funds for grant administration services. A typical project for grant administration would be between 5-10% of the total project cost, and it would be a barrier to entry for a low-resourced rural county like Camas County to undertake this for any major capital project. To bridge the digital divide in rural Idaho, we must be allowed to use CPF grant funding for grant administrative costs. Our recommendation is that 100% of grant administration costs can be included in the budget and reimbursable with grant funding.

Match Requirement

As written in the draft CPF guidelines, a points system associated with match commitment percentages will leave rural unserved and underserved projects behind. A greater match commitment would result in a significant scoring advantage for applicants with capacity to provide a large cash match, such as internet service providers (ISPs). Small, rural governments may not have the resources to commit such a large percentage of cash or in-kind match without the commitment of an ISP. Gaining the interest of an ISP is dependent on the award of initial funds, in many cases.

The ability to produce a higher-percentage match is not an accurate reflection of an applicant's level of community buy-in, stakeholder engagement, and project commitment. The in-kind match contributions provided by small and rural applicants demonstrate a high degree of local coordination that may be lacking in applications with a sizeable match. Small governments like Camas County have a strong commitment to public-private partnership that encourages competition and benefits the greatest number of unserved and underserved Idahoans.

Camas County suggests a matching requirement that does not penalize applicants without cash resources. For example, in-kind matching that is weighted differently than cash or debt matching, and/or state award grant payment contingent on private sector match commitments secured after a proposal is awarded so that the award is an incentive to potential private sector partners to bid on the project.

Camas County has a population of just 1,139 with 40% of its residents residing in the City of Fairfield, the county seat. Located in rural southern Idaho, all of the County's residents are considered unserved or underserved. Camas County looks forward to working alongside the Idaho Broadband Advisory Board in creating a statewide broadband network that connects rural Idahoans to opportunity and essential services.

Sincerely,

A handwritten signature in black ink, appearing to read "Travis Kramer", with a long horizontal flourish extending to the right.

Travis Kramer
Camas County Commissioner Chair

February 28, 2023

Via E-Mail: broadband@commerce.idaho.gov

Idaho Broadband Advisory Board
Attn: Ramón S. Hobdey-Sánchez, J.D.
State Broadband Program Manager
Idaho Department of Commerce
700 W. State Street
Boise, Idaho 83702

Re: Idaho Capital Projects Fund (ARPA) Broadband Infrastructure Grant Application Rules

Dear Mr. Hobdey-Sánchez:

Spectrum Pacific West, LLC (“Spectrum”) appreciates this opportunity to provide comments to the Idaho Broadband Advisory Board (“Board”) on the Idaho Capital Projects Fund (“ARPA”) Broadband Infrastructure Grant Application Rules (“CPF Rules”). Spectrum has been providing broadband service in the state for decades and shares the Board’s goal of bringing reliable and affordable high-speed broadband to all residents in Idaho. Spectrum’s comments on the Rules are intended for clarification purposes to aid the Board in its review. Attachment A to this Letter reflects Spectrum’s recommended limited edits to the Rules. Spectrum’s responses to the Board’s specific questions are as follows.

1. U.S. Treasury guidelines require that the IBAB consider whether the broadband service options offered by applicants will be affordable to target markets in proposed service areas. However, Treasury does not set a definition for “affordable” in its program guidelines. **The IBAB seeks feedback on how affordability should be assessed. Please consider factors including, but not limited to, socioeconomic factors (income, education, age, etc.), geographic disparities, price and competition.**

In general, affordability should be determined based on a number of factors such as market prices, the variety of speed tiers offered, and provision of low-cost options in addition to ACP. But Section 21(i)(k) of the draft CPF Rules asks whether “the price of broadband service for customers in the proposed project area for 100/20 service less than \$XXX a month?” Neither the

Treasury guidelines nor the state Strategic Broadband Plan require broadband prices to fall below a specific threshold.

If the purpose of Section 21(i)(k) is simply for providers to identify its current prices then the rule should be clarified to make that request. Further, if the proposed rule is only seeking information about the applicant's prices, the request should not be limited solely to 100/20 service. Providers may offer minimum speeds far in excess of the minimum speeds set forth in the rule, and there is no requirement to specifically offer a 100/20 mbps service. The U.S. Department of the Treasury only requires that broadband projects be designed to deliver, upon project completion, service that reliably meets or exceeds symmetrical download and upload speeds of 100 Mbps, or if 100 Mbps is not feasible then 100 Mbps download and 20 Mbps upload scalable to 100 Mbps symmetrical.¹

However, if Section 21(i)(k) is intended to set a maximum price for 100/20 mbps service, requiring a pricing threshold would create disincentives for providers to apply for broadband funding. Moreover, it may require a provider to actually offer a 100/20 tier service, which is not legally required, and may actually be detrimental to consumers by forcing providers to offer a tier of service that may actually be lower than the lowest tier service offered. And such a pricing requirement would be inconsistent with Spectrum's national pricing structure. Spectrum employs a nationwide pricing structure (called Spectrum Pricing & Packaging), which offers standardized pricing for each tier of broadband internet service Charter offers new customers across its service territory. This pricing strategy ensures that rural customers receive the same pricing as other highly competitive areas in the state.

The Affordable Connectivity Program ("ACP"), which Charter and other providers participate in and which is required for receipt of BEAD and ARPA subsidies, provides a \$30 discount on internet service for eligible customers. Charter has created a low cost offering (100/10 Mbps) that makes internet effectively free or very low cost for eligible customers on a promotional basis, when coupled with the \$30 discount. The eligibility criteria for ACP is broad, covering beneficiaries of many programs targeting low-income populations including Medicaid, SNAP, WIC, SSI, etc. Instead of rate regulation, the Board should consider whether the project includes low-cost options in addition to ACP or whether the provider routinely provides promotional discounts to its residential customers.

2. U.S. Treasury guidelines do not set requirements for minimum or maximum grant award amounts for this program. **For this \$125 million grant program, what are the minimum number of awards you think the IBAB should issue and is there an ideal range for the award amounts?**

¹ U.S. Department of the Treasury, *Guidance For The Coronavirus Capital Projects Fund For States, Territories & Freely Associated States*, at 3.

The focus of the grant program should be on criteria that best helps get broadband to unserved and underserved homes and businesses. The Board should not limit itself or applicants in determining how to structure proposed projects. Minimum funding thresholds could create disincentives for providers to apply and thereby slow broadband deployment to 100% of Idaho's residents. However, a maximum threshold of \$10 million per single project could increase the variety of providers that apply for funding.

3. U.S. Treasury guidelines do not require the IBAB to include match requirements for this program. **The IBAB seeks feedback on what an appropriate level of matching funds may be for program applicants. For further context, the IBAB must require a 25 percent match for the Broadband Equity, Access and Deployment (BEAD) program that will be administered at a later date.**

Applicant financial contributions or matches are important criteria that should be a part of any scoring system. Matching funds mean that the applicant has “skin in the game” and is committed to ensuring the long-term success of its investment. This helps to ensure there will be less waste of resources and mitigates against the risk that ongoing taxpayer subsidies will be required to maintain and operate the broadband system. Furthermore, matching funds mean that there are more government dollars available to bring broadband to more locations and to spend on other critical broadband priorities such as digital equity and adoption initiatives. In fact, the first primary priority criterion listed for the Broadband Equity, Access, and Deployment (BEAD) program is that the state prioritize projects that minimize the outlay of BEAD dollars.²

The state should award a higher number of points for providers that offer the greatest percentage of matching support. The amount of points awarded should be on a sliding scale either in ranges, i.e. 20-25% equals X points, 25-30% equals Y points, etc., or as suggested with the number of points correlating to the percent match, i.e. 25% match gets 25 points, 30% match gets 30 points, etc.

Some areas of Idaho have an extremely high cost threshold to build broadband where a 25% match is not feasible. A high minimum match requirement could discourage an applicant from applying in these high cost areas. If a minimum match is to be required, it should be 10%.

4. The IBAB has flexibility to determine the timeframe of the challenge period. **Is 21-days a reasonable amount of time for potential challengers to review proposed project areas and submit challenges?**

² IJA BEAD Notice of Funding Opportunity (BEAD NOFO) at 43

Providing an opportunity to challenge applications that seek to overbuild existing or currently funded broadband services ensures that funds are used efficiently and appropriately. However, Spectrum believes that least a thirty-day challenge process would provide sufficient time within which to investigate a potential overlap of service, potentially address the overlap with the Applicant before involving the Board, and where necessary, draft and file the challenge.

5. Discussions have been had as to whether grant administration costs should be allowable under the CPF program. **Should grant administration costs be allowable for awardees, and what amount for grant administration is reasonable?**
6. **Please provide any additional comments or suggestions regarding the program guidelines and application.**

Overall, Spectrum agrees with the Board's decision to ensure that its rules prevent wasteful use of finite fund resources by prohibiting funding to served areas and areas that have received funding from other sources. Doing so appropriately targets limited funding to areas that need it most in keeping with the Idaho Strategic Broadband Plan. But there are several components of the rules that should be revised or clarified as proposed herein.

Balancing Priorities

Applications meeting the greatest number of priorities should be preferred over Open Access. The current rules assign 25 points to applications with Open Access, even if such applications do not have a last mile component, and only five bonus points for connecting a greater number of locations at the most economical cost. Notably, nothing in the Idaho Broadband Statute, nor the CPF requires prioritization of Open Access. The Board should holistically consider all of the evidence in applications and prioritize more efficiently to bring reliable broadband service to the truly unserved areas faster. Specifically, low-cost and price matching criteria should account for at least fifty percent of the overall points awarded and points for contributing matching funds should not be capped at forty-one percent.

The definition of "Open Access" should track the definition of "Open Access Network" in the Idaho Strategic Plan for consistency and to balance the overall value of applications by more clearly identifying how applications are to be prioritized.

Since neither the state law, CPF requirements, nor the Strategic Plan require Open Access, prioritizing Open Access over other key priorities does not reflect the Legislature's intent. While the Board may give certain weight to an Open Access proposal, it should not outweigh applications that contain robust low income programs and seek a lower state contribution. All of these benefits should outweigh an Open Access proposal with unclear benefits and timing of broadband service

to consumers. For example, Spectrum has several low income initiatives that reflect our commitment to affordable service. The point-based prioritization system in the rules should appropriately recognize all the benefits to consumers, even for proposals without an “Open Access” component (which is not required by statute). Consumers want reliable and affordable broadband as quickly as possible. Ultimately, ensuring that all public interest priorities are weighted appropriately would encourage a broader range of applications and ensures the greatest benefit to consumers.

Labor and Wage Requirements

As currently drafted, the rules require applicants to provide wage and workforce data for subcontractors, direct staff, and other temporary employees related to the project to demonstrate fair labor practices in their application. The way this proposal is currently drafted is overly burdensome and unnecessary as not required under ARPA. Applicants may not know which subcontractors they will use at the time of application and provision of wage and labor data for temporary employees would require significant resources to gather. Rather than imposing these burdens up front, Spectrum recommends that the Board require a certification committing to comply with the wage reporting requirements set forth in the CPF Treasury Guidelines.

Overlap

The proposed CPF Rules provide 10 points for projects that serve “80% or more unserved locations.” This provision should be modified to avoid any confusion. The rules are clear that served areas are not eligible for funding. The rule can be modified to say that there can be 10 points for projects that serve 80% or more unserved locations, thus no more than 20% underserved locations.”

Respectfully Submitted,



Stafford Strong
Senior Manager, State Government Affairs
Charter Communications
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DRAFT

Idaho Broadband Advisory Board Idaho Capital Projects Fund (ARPA) Broadband Infrastructure Grant Application

Guidelines

The Idaho Broadband Advisory Board is committed to improving access to broadband infrastructure for Idahoans and recognizes that affordable, accessible and reliable high-speed broadband is one of the most critical infrastructure challenges facing Idahoans. To address this digital divide, the Idaho Broadband Advisory Board releases guidelines for the Idaho Capital Projects Fund (ARPA) Grant Program.

1. Program Description

Under the [American Rescue Plan Act of 2021 H.R. 1319](#), established by Section 604 of the Social Security Act, as added by Section 9901 of the American Rescue Plan Act of 2021 (ARPA) Congress created the [Coronavirus Capital Projects Fund \(Capital Projects Fund\)](#) and directed the U.S. Department of the Treasury (Treasury) to award funds to States under the Capital Projects Fund (CPF)

ARPA appropriated \$10 billion to Treasury to provide payments to States, territories, freely associated states, and Tribal Governments “to carry out critical capital projects directly enabling work, education, and health monitoring, including remote options, in response to the public health emergency with respect to the Coronavirus Disease (COVID-19).”

The CPF allows for investments in high-quality broadband infrastructure in communities where the COVID-19 public health emergency highlighted that access to high-quality internet can enable work, education, and health access, and that individuals and communities that lack affordable access to such high-quality internet are at a marked disadvantage. Additionally, Treasury prioritizes that investing in broadband for communities sensitive to or that have historically experienced these inequities will be critical for improving digital equity and opportunity, especially in the case of communities that currently lack access to the affordable, reliable, high-quality broadband internet that is necessary for full participation in school, healthcare, employment, social services, government programs, and civic life is crucial for their success.

Grants under the Idaho CPF Grant will follow federal guideline priorities outlined by Treasury as well as priorities outlined by the [Idaho Broadband Advisory Board’s Broadband Strategic Plan](#).

Per Treasury requirements funds must be expended by December 31, 2026. Treasury may, in its sole discretion, grant extensions to the period of performance upon request from the State of Idaho.

2. Funding Availability for CY2023

Under CPF, Treasury allocated \$125 million to the State of Idaho, which will be under oversight of the Idaho Broadband Advisory Board. The Board will award grants via a competitive grant application that complies with priorities outlined in the [Idaho Broadband Advisory Board's Broadband Strategic Plan](#) to entities that commit to improving broadband infrastructure to underserved and unserved locations in Idaho.

3. Timelines

- a. Grant Open for Applications: Monday, March 27, 2023
- b. Grant Window Closes: Monday, April 24, 2023
- c. Challenge Period Opens: Wednesday, May 3, 2023
- d. Challenge Period Closes: Wednesday, May 24, 2023
- e. Grant Review Period: May 25-June 16, 2023
- f. Presentation of Shortlist to Idaho Broadband Advisory Board: End of June 2023
- g. Grant Awards: July 2023
- h. Period of Performance for Projects ends December 31, 2026.

4. Eligible Applicants

Eligible applicants for this program are incorporated business or partnership, an Idaho nonprofit organization, limited liability company, incorporation, cooperative entity that provides broadband services, an Idaho local or tribal government, or political subdivisions. Examples include telecommunications provider, electric cooperative and local government entities.

Applicant may submit one application with multiple service providers, but must provide documentation from all parties demonstrating how the parties will collaborate to connect all locations in the project area. For example, if two internet service providers want to partner on a project, documentation will be required outlining the nature of the partnership on company letterhead.

Similarly, applicants must provide letter(s) of support from the communities impacted by the grant project area. Letters could come from the county, city, tribal government, schools, libraries, hospitals, businesses, etc. Projects with more letters of support from the community will be given priority in funding.

5. Eligible Project Areas

Pursuant to Treasury guidelines for CPF, eligible project areas are unserved areas in Idaho in which delivery points (locations) have no wireline access to broadband service or have no access to services operating with a download speed of at least 25 megabits per second

CPF-2 (2.17.23)

download and upload speed of at least 3 megabits per second with low latency. An underserved area is the area of Idaho in which serviceable locations (businesses, households, farm buildings, etc.) receive broadband service above the threshold of 25/3Mbps, but do not have access to wireline broadband service at 100 megabits download and 20 megabits per second upload with low latency.

Projects must connect to the premise to be eligible for grant funding or be capable of providing service to the location within 10 days of a request at no additional cost to the subscriber and provide an affidavit attesting to this and will be publicly available that they will provide no additional cost to ~~extend provide~~ [service to the premise \(other than standard service installation fees for equipment in the premise\)](#). Subrecipients are required to participate in the Affordability Connectivity Program (ACP).

Per guidelines from Treasury, when evaluating unserved and underserved areas, grant recipients may take into account a variety of factors including whether users actually receive internet service at or above the speed thresholds at all hours of the day, whether factors other than speed such as latency or jitter, or deterioration of the existing connections make their user experience unreliable, and whether the existing service is being delivered by legacy technologies such as copper telephone lines (typically using Digital Subscriber Line technology) or early versions of cable system technology (DOCSIS 2.0 or earlier), and other factors related to the services to be provided by Broadband Infrastructure Projects. Recipients may consider the actual experience of current broadband customers when making their determinations; and whether there is a provider serving the area that advertises or otherwise claims to offer broadband at a given speed is not dispositive.

6. Ineligible Project Areas

Pursuant to Treasury guidelines for CPF, the State of Idaho will not fund projects where locations currently have reliable wireline broadband service of at least 100/20Mbps. Additionally, the State of Idaho will not fund projects where locations will be connected to high-speed broadband service by other federal or state grants that will deliver high speed wireline service greater than 100/20Mbps. This includes FCC grant programs Rural Development Opportunity Fund (RDOF), USAC (E-Rate), USDA Reconnect, NTIA BIP, Tribal Broadband Connectivity Program, the 2020 State of Idaho Cares Act Grant, and the 2021 Idaho Broadband Fund: CARES Act Broadband Grant.

The State will retain the right to remove those serviceable locations from the proposed project area that are considered funded by other state and federal programs.

7. Definitions

- a. Broadband: wide bandwidth communication transmissions allowing high speed internet access with an ability to simultaneously transport multiple signals and traffic types at a minimum transmission speed of one hundred (100) megabits per second for downloads and twenty (20) megabits per second for uploads.

CPF-3 (2.17.23)

- b. Broadband Infrastructure: networks of deployed telecommunications equipment, conduit, and technologies necessary to provide broad band and other advanced telecommunications services to wholesalers or end users, including but not limited to private homes, businesses, commercial establishments, schools, or public institutions.
- c. Broadband provider: any entity that provides broadband services, including but not limited to a telecommunications provider, cable service provider, broadband provider, cellular provider, political subdivision that provides broadband services, electric cooperative that provides broadband services, electric utility that provides broadband services, state government entity that provides broadband services, tribal government that provides broadband services, internet service provider, or private-public partnership established for the purpose of expanding broadband in the state.
- d. Broadband Service: deployed internet access service “designed to reliably meet or exceed 100/20 Mbps and be scalable to a minimum of symmetrical 100 Mbps download and upload speeds” with a minimum-100/20Mbps scalable to 100/100Mbps (as required by Treasury).¹
- e. Last Mile Infrastructure: serves as the final leg connecting the broadband service provider’s network to the end-user’s on-premises telecommunications equipment.
- f. Middle Mile Infrastructure: links a broadband service provider's core network infrastructure to last-mile infrastructure.
- g. Open Access: provision of broadband dark fiber access to municipalities, community institutions, rural cooperatives, and nonprofit and communications companies utilizing a cost recovery-based model of operations and maintenance. Offering nondiscriminatory access to and use of middle mile network funded by the Program on a wholesale basis, at just and reasonable rates, to other providers seeking to provide middle mile carriage.
- h. Rural Areas: defined as areas where the population is less than 25,000.
- i. Unserved Locations: locations without access to reliable broadband service of 25/3Mbps.
- j. Underserved Locations: locations without access to reliable broadband service of 100/20Mbps.

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Commented [SE1]: Definition mirrors the Idaho State Strategic Broadband Plan

8. Eligible Program Costs

- a. There is a maximum allocation of **\$XXX million per project** unless the Idaho Broadband Advisory Board waives the maximum allocation on a project-by-project basis. All projects, regardless of the amount of the allocation request will be reviewed.

¹ <https://home.treasury.gov/system/files/136/SLFRF-Final-Rule-Overview.pdf>.
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9. Program Priorities

- a. Unserved/Underserved locations in Idaho.
- b. Priority consideration may be given to projects that leverage greater amounts of funding for a project from other private and/or public sources. To obtain a broadband grant, the applicant must provide the funding, not covered by the grant, with matching funds.
- c. Priority consideration to projects that provide [Open Access](#).

- d. Scalable technology for future needs will be given priority to the best value and the number of households with the highest technology possible. Where it's possible, preferential points will be given for:
 - i. Symmetrical application of gig speed; and
 - ii. Fiber to the premises.
- e. Projects that connect a greater number of locations at the most economical cost.
- f. Locations in Idaho where students and educators do not have reliable access to broadband as defined as speeds less than 100/20Mbps as well as libraries, schools, and institutions of higher learning without access to fiber broadband infrastructure defined as 1Gbps/1Gbps.
- g. A high priority of this grant is engagement with the impacted community. The Applicant is to work with the local community to identify an innovative means of providing a public benefit that addresses the community's needs and includes as a component of the proposed project, a long-term public benefit to the impacted community.
 - i. To be written into the appropriate fields or uploaded in the application:
 - 1. Local governing body resolution in support of the project and the minutes that support the resolution detailing an innovative means of providing a public benefit that addresses the community's needs and that includes, as a component of the proposed project, a long-term public benefit that addresses the community's needs.
 - a. Examples:
 - i. Provide service to previously unserved or underserved Community Anchor Institution(s) (libraries, police and fire stations, city/county buildings, public safety buildings, hospitals, healthcare facilities, and educational institutions).
 - ii. Serve an economically distressed area.
 - iii. Digital literacy training.
 - iv. [Households on](#) Low-income assistance.
 - v. Partner with or establish co-working space.
 - vi. Activities planned to increase adoption.
 - vii. Open [a](#)ccess.
 - viii. Fiber to the premises (FTTP).
- h. List of stakeholders and partners involved in the grant project and their roles.
- i. Show how the project is located in an economically distressed area of the state as measured by indices of unemployment, poverty, or population loss. Show how it is unlikely to be served without grant funding. Include an explanation of terrain, population and affordability issues.

- j. Government and Community Facilities without access to fiber infrastructure as defined as 1Gbps/1Gbps. This includes public safety facilities, City Hall, parks, civic and community centers, public infrastructure facilities.
- k. Projects that promote and implement Dig Once Principles in building out broadband infrastructure.
- l. Projects that enable remote work, distance learning, and telehealth adoption and access.
- m. Projects that can demonstrate increased potential economic diversification through enhanced connectivity.

10. Challenge Process

- a. The State will post all completed applications to the Idaho Department of Commerce websites for review by the public. Additionally, all subgrantees must submit shapefiles or kmz files containing polygon(s) of the project area and **all locations** (houses, farms, schools, businesses, healthcare facilities, etc.) in the project area that will be served by the broadband service that will deliver access to 100/100 Mbps or 100/20 Mbps speeds service scalable to 100/100 Mbps. Additionally, the subgrantee must include all Community Anchor Institutions [CAIs] that will be connected by fiber broadband service of 1Gbps/1Gbps. Failure to submit this documentation will result in the grant not being considered for funding.
- b. All project grant files will be shared on the State of Idaho's GIS broadband map as well as challenges. These geographic information system (GIS) files will be shared on the State GIS website along with the resulting challenges.
- c. To submit a challenge, a qualifying challenger must submit geospatial files (shapefiles or kmz files to the specifications mentioned in this grant) that outline where existing service delivers broadband speeds of 100/20Mbps scalable to 100/100Mbps.

11. Data Submission

- a. Every application shall include the following:
 - i. Data relevant to the proposed project area including the number of prospective broadband recipients that will be served as a result of the project including cost per location served. Data points should be tied to specific locations and be geo-coded for consideration as part of the application.
 - ii. Proof of participation in ACP- (possibly ae signed attestation).
 - iii. Provide a detailed description of broadband service options offered by the applicant to the end user, ensuring affordable options for the low-income customers. Detailed descriptions are required of any low-cost service option in addition to that will be higher than the ACP stipends

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given directly to consumers. Up to

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10 points will be taken away from applicants who fail to demonstrate affordability.

- iv. Each Project must include a GIS compatible file that will be shared on the Idaho Broadband Map.
 - 1. This map must include a shaded polygon of the proposed project area.
 - 2. All serviceable locations impacted by the proposed project (including households, businesses, farms, and community anchor institutions).
 - 3. For all those serviceable locations, the file must indicate the broadband speed that will be capable of being delivered to that location. (examples of this are available in the packet).
 - 4. [Be compatible with the FCC Broadband Data Collection and the Serviceable Location Fabric.](#)
- v. Grant Budget Template (include any equipment purchase/rental/lease and justification for any capital costs outside of infrastructure. These costs may not be eligible if they cannot be substantiated for the project.)
- vi. Broadband service option sheet for end users.
- vii. Project Schedule Form.
- viii. ARPA Certification: Attesting the project meets requirements outlined by the Capital Projects Fund including how the project is designed to directly impact work, education and health monitoring.
- ix. ARPA Certification: Attesting that the project will be designed to address a critical need that results from or was made apparent or exacerbated by the COVID-19 health emergency.
- x. ARPA Certification: Attesting that the project is designed to address a critical need in the community to be served by it.
- xi. Attestation that the project will comply with federal laws where applicable.
- xii. ~~Wage and workforce data for subcontractors, direct staff, and other temporary employees related to the project to demonstrate fair labor practices.~~ [For Projects receiving \\$ 5 million or more in CPF funding \(based on expected total Project cost to the State\), Applicants shall agree to provide a certification with respect to subchapter IV of chapter 31 of title 40, United States Code \(commonly known as the "Davis-Bacon Act"\) and a certification with respect to labor any agreements, as set forth in the Treasury Guidelines for CPF.²](#)
- xiii. Letters of Support

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² As set forth in [Guidance for the Coronavirus Capital Projects Fund For States, Territories & Freely Associated States U.S. Department of the Treasury, \("Treasury CPF Guidelines"\)](#), neither the Davis-Bacon Act nor Davis-Bacon Act related provisions requirements apply to projects funded solely with award funds from the Capital Projects Fund.

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- xiv. Letters demonstrating project match.
- xv. Proof of service provider(s) participation in the [Affordable Connectivity Program](#).
- xvi. Completed CPF Environmental Questionnaire.
- xvii. Any applicable sit plan, studies, or photographs.
- xviii. Idaho Department of Commerce reserves the right to request additional information if the submitted information is deemed insufficient or unclear.

12. Workforce

- a. One of the requirements contained in 2 C.F.R. 200, Appendix II says all contracts made by a Recipient or Subrecipient in excess of \$100,000 that involve 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).

13. Environmental Requirements

- a. Projects funded by the CPF must comply with all applicable federal environmental laws. Generally, the National Environmental Policy Act does not apply to Projects funded by the CPF [Projects supported with payments from the CPF may still be subject to NEPA review if they are also funded by or otherwise involve actions from other federal programs or agencies]. Prior to funding a Capital Project, recipients may complete an environmental checklist, to be made available on the CPF website, to determine whether certain environmental laws apply. Generally, Capital Projects that do not involve construction activities will not be subject to federal environmental review requirements.
- b. Projects must reach substantial completion before December 31, 2026. Substantial completion is defined as the date for which the Project can fulfill the primary operations that it was designed to perform, delivering services to end-users. At substantial completion, service operations and management systems infrastructure must be operational. Recipients may request extensions beyond this timeframe to the extent that factors outside of the Recipient's control have impacted Project delivery timelines. Treasury will only approve extension requests on a case-by-case basis.

14. Grant Administration

- a. Subgrantees must administer and are responsible for their own grants. Subgrantees can designate another entity to manage their grant. If a subgrantee is utilizing another entity to manage their grant, they must provide a contract or agreement between the parties, or an approved resolution from a local governing body.
- b. The procurement of goods and services purchased with or reimbursed by funding under the Program for Households must comply with all laws applicable to the recipient including, where applicable:
 - [Idaho Code Title 54, Chapter 19](#) – Public Works Contractors.
 - [Idaho Code Title 67, Chapter 23](#) – design professional qualification-based selection.
 - [Idaho Code Title 67, Chapter 28](#) – purchasing by political subdivisions.

- c. Prior to disbursement of funds, recipient and the Idaho Department of Commerce shall execute a Grant Agreement.
- d. At its discretion, the Idaho Broadband Advisory Board or the Idaho Department of Commerce may establish special conditions in the Grant Agreement requiring additional reporting, documentation, or program priorities.
- e. Grant funds shall be disbursed with progress as milestone payments. Milestone payments MUST be associated with project progress points identified through contract negotiations or by the Idaho Broadband Advisory Board during awards. Recipients are required to submit documentation verifying terms of the Grant Agreement to the Idaho Department of Commerce and verify that milestones have been completed before the Idaho Department of Commerce will release funds to the subgrantee.

15. Auditing

- a. Recipients and Subrecipients ~~will~~ may be subject to audit or review by the Treasury Inspector General and Government Accountability Office as well as the Idaho Broadband Advisory Board and Idaho Department of Commerce.

16. Application of Uniform Guidance

- a. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200 apply to the Capital Projects Fund grant, except for any provisions Treasury may determine are inapplicable to an award and subject to such exceptions as may be otherwise provided by Treasury. If applicable, a grant recipient shall comply with Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, ~~shall apply to this award.~~

Commented [SE2]: Subpart F does not apply to for-profit entities.

17. Noncompliance

- a. In the event of a Recipient’s noncompliance with applicable law or Capital Projects Fund program requirements or guidance, Treasury may impose additional conditions on the receipt of additional Capital Projects Fund funds by the Recipient, terminate further payments from the Capital Projects Fund, seek the repayment of previous Capital Projects Fund payments, or take other available remedies pursuant to 2 C.F.R. 200.339.

18. Website

- a. The Idaho Commerce Broadband website will include a list of grant recipients including the grant recipients name, primary location, and total grant award. The proposed grant application project area or proposed coverage area and challenges will be posted to the [Idaho Department of Commerce website](#) as well as the [Idaho ArcGIS website](#).

19. Project Costs

- a. A Recipient may use funds to cover costs incurred during the period beginning XXX, 2023, for one or more eligible projects.
- b. Project costs are not limited to new construction. For example, project costs can involve improvements and repairs to buildings to permit the buildings to be used for eligible purposes.
- c. Eligible Project Costs. Below is a non-exhaustive list of eligible costs:
 - i. Costs associated with completing the grant or Application and Grant Plan;
 - ii. Pre-project development costs 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;
 - iii. 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, middle, and last mile networks).
 - iv. Costs associated with monitoring of and reporting on Projects in compliance with Treasury requirements, including award closeout costs;
 - v. Costs associated with collecting and measuring performance data and conducting activities needed to establish and maintain a performance management
- d. Ineligible Project Costs
 - i. Acquisition of spectrum licenses.
 - ii. Operating expenses, other than grant administration costs.
 1. Grant administration costs not to exceed XXX% of the total project cost.
 - iii. Short-term operating leases.
 - iv. Payment of interest or principal on outstanding debt instruments or other debt service costs incurred prior to March 15, 2021.
 - v. Fees or issuance costs associated with the issuance of new debt.
 - vi. 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.
 - vii. To support or oppose collective.

20. Compliance and Reporting

- a. The State of Idaho is required by Treasury to disclose the names of Capital Projects Fund Recipients and the amounts of Capital Projects Fund grants. Additionally, Treasury may disclose other information provided by the State of Idaho and subgrantees in their Applications or Grant Plans to the public.

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Treasury will post this information on its website and report this information on the usaspending.gov website, which allows the public to see how the federal government has distributed COVID-19 relief funding.

- b. Projects funded by the Capital Projects Fund must comply with all applicable federal environmental laws. Generally, the National Environmental Policy Act does not apply to Projects funded by the Capital Projects Fund. Projects supported with payments from CPF may still be subject to NEPA review if they are also funded by or otherwise involve actions from other federal programs or agencies. Prior to funding a Capital Project, Recipients **shall** complete an [environmental checklist](#), to be made available on the Capital Projects Fund website, to determine whether certain environmental laws apply.
- c. Projects must reach substantial completion before December 31, 2026. Substantial completion is defined as the date for which the Project can fulfill the primary operations that it was designed to perform, delivering services to end-users. At substantial completion, service operations and management systems infrastructure must be operational. Recipients may request extensions beyond this timeframe to the extent that factors outside of the Recipient's control have impacted Project delivery timelines. Treasury will approve extension requests on a case-by-case basis.
- d. Applicants must provide a technical and narrative report detailing the technology/technologies to be used in the proposed project to serve.

21. Project Evaluation and Scoring Criteria

Applications satisfying the initial Idaho Department of Commerce review, followed by the grant review committee consisting of the Idaho Department of Commerce, State Board of Education, Idaho Department of Transportation, Idaho Commission for Libraries, and Idaho Office of Emergency Management, will then be evaluated by the Idaho Broadband Advisory Board. Applicants may also be required to present their project(s) directly to the Board.

i) **Project requirements: Project Must Meet These Requirements.**

- a) Does the Project provide a Broadband [network Service-capable](#) of 100/100Mbps or 100/20Mbps scalable to 100/100Mbps? **Y/N**
- b) Does the applicant or service provider participate in the [Affordable Connectivity Program](#)? **Y/N** Applicant will be required to submit proof that service provider participates in program. Applicants must provide a link to their website demonstrating this program is offered.
- c) Does this project comply with federal laws including the 2019 National Defense Authorization Act (NDAA)? **Y/N**

- d) List and provide all permits, easements, and right of ways already obtained or needed to complete the project including the regulatory authority involved and timeline to obtain the permit.
- e) Does the project comply with all applicable environmental laws? **Y/N**
- f) Does the project commit to fair labor standards [as required by CPF Treasury Guidelines](#)? **Y/N**
- g) Provide [a certification evidence](#) that all contracts made by a Recipient or Subrecipient in excess of \$100,000 that involve employment of mechanics or laborers 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).
- h) Does the project comply with the [applicable](#) directives in the Idaho Broadband and Right-of-Way Act? (Sections 40-516 through 40-520, Idaho Code) **Y/N**
- i) Has [or will](#) the applicant and/or subgrantees notified the appropriate federal, state, and local governments about any rights of ways, easements, or pole attachment needs? **Y/N** This includes, but is not limited to, the following: Idaho Department of Transportation, Utility Companies, Idaho State Historical Preservation Office, federal agencies (USFS, BLM, Army Corps.) etc.
- j) Does your project impact any of the five Idaho Tribal Reservations? **Y/N**
If so, have you talked with the respective Tribal Government about your project? **Y/N**
- k) ~~Is the current price of broadband service to be offered for customers in the proposed project area for capable of 100/20 service less than \$XXX a month~~ [Does the Applicant plan to offer low-cost service option\(s\) in addition to ACP](#)? **Y/N**
- ii) Project purpose and benefits. Extent to which the project will ~~either~~ (a) facilitate deployment of high-speed broadband networks to currently unserved or underserved areas, and (b) improve affordability in already-served markets by providing last mile service. **(20 points)**
- iii) Explain how the proposed project addresses a critical need related to access, affordability, and consistency. Please provide data to support your argument as well as any testimonials, letters, etc. **(10 points)**
- iv) Explain how the project addresses a critical need related to distance learning, telehealth, or remote work in the community. In your response, please provide data to support your argument as well as any testimonials, letters, etc. Information should include distance to hospital or clinic, poverty or education statistics, or examples from residents in the area who cannot work from home. **(20 points)**
- v) Explain how this project addresses a critical need for the community. Include in the response future needs such as agricultural technology improvements, natural

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disaster mitigation (forest fires, floods, droughts), smart city infrastructure, or public safety needs. **(10 Points)**

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vi) Explain how this infrastructure project will be managed as open access if applicable, with the mission of net neutrality and the goal of providing equal, affordable and unrestricted access to the internet. Describe how the fiber network will be open to local governments, internet service providers, anchor institutions and state assets. **(125 points)**

vii) Explain the comprehensiveness and appropriateness of the proposed technical solution for meeting the community’s needs, considering the offering’s capacity and performance characteristics. Reviewers will consider the proposed network’s ability to serve anticipated last mile users, and to meet the increasing needs of the households, businesses, and community anchor institutions in the proposed project areas. **(159 points)**

viii) Points are awarded based on the number of underserved and unserved locations impacted by the proposed grant project. Underserved is defined as locations without access to 100/20Mbps fixed terrestrial service, unserved is defined as locations without access to 25/3Mbps fixed terrestrial service.

Locations	Points – 100/100Mbps	Points – 100/20Mbps
400	4	3
800	8	6
1,200	12	9
1,600	16	12
2,000+	20	15

Projects that cannot achieve speeds of 100/100Mbps due to geography, topography, or excessive costs may only receive a maximum of 15 points in this section, or 75% total points in each category. **(20 Points)**

ix) Unserved Community Anchor Institutions are those facilities without access to 1Gbps/1Gbps symmetrical (fiber) service. **(20 Points)**

x) Is the project serving 80% or more unserved locations, with the remaining locations being underserved? **(10 Points)**

xi) Explain how the proposed project addresses priorities outlined in the Idaho Broadband Advisory Board’s Strategic Plan. This includes addressing distance learning, telehealth, public safety, economic development/business opportunities, and promotes dig once policies. Points will be awarded based on the project’s ability to address each item in detail. **(25 Points).**

xii) Demonstrate the financial capability to complete the project within cost and by December 31, 2026. This includes the reasonableness of the proposed budget (10

points), and the project’s fiscal sustainability beyond the award period (10 points).
(260 points)

xiii) Does the proposed project include a match? Match includes financial and in-kind contributions. Points will be awarded based on a percentage of the total project costs. **(15 Points)**

Match	Points
>10%	3
11% - 20%	6
21% - 30%	9
31% - 40%	12
41% or more	15

xiv) Does this project have support from the communities impacted by the proposed project? Please provide current letters of support from communities (signed and on the organizations letterhead). “Current” is defined as letters signed by community entities (state agencies, local governments and subdivisions, tribal government, non-profits, education institutions, healthcare facilities, community organizations) after the grant is open for application and prior to submission. Grant applicants can submit letters from the public. **(25 Points)**

xv) Bonus points. **(up to 5 points each)**

- a. Connected locations in Idaho where students and educators do not have reliable access to broadband as defined as speeds less than 100/20Mbps as well as libraries, schools, and institutions of higher learning without access to fiber broadband infrastructure defined as 1Gbps/1Gbps.
- b. Projects that connect a greater number of locations at the most economical cost.
- c. Connected government and community facilities without access to fiber infrastructure as defined as 1Gbps/1Gbps. This includes public safety facilities, City Hall, parks, civic and community centers, and public infrastructure facilities.
- d. [Projects that do not contain data caps.](#)



March 2, 2023

Ramón S. Hobdey-Sánchez, J.D.
State Broadband Program Manager
Idaho Department of Commerce
700 W. State St., Boise, Idaho 83702

Dear Program Manager Hobdey-Sanchez:

Cox Communications (“Cox”) is keenly interested in partnering with Idaho and local governments to help bridge the digital divide. Cox submits the following comments for consideration by the Idaho Broadband Advisory Board (“IBAB”) for the draft version of the CPF RFP Guidelines.

Feedback on RFP Guidelines:

- **U.S. Treasury guidelines require that the IBAB consider whether the broadband service options offered by applicants will be affordable to target markets in proposed service areas. However, Treasury does not set a definition for “affordable” in its program guidelines.**

Cox is committed to ensuring that high-quality broadband services are available to all families in our funded network’s service areas and does not object to the need for applicants to address its affordability plans in its proposal. Attempts to define “affordable” broadband service is not feasible as affordability varies from individual to individual. Many providers already have their own widely- recognized and established low-cost broadband programs in place. Existing low-income programs like Cox’s Connect2Compete and ConnectAssist have long been supported and help customers who are most in need in any proposed service areas offset some or all the cost of broadband services. Additionally, many providers already participate in the FCC’s ACP program, which is required by the BEAD program, and is another powerful tool to reach low-income consumers and helps to bridge the digital divide with broadband adoption. IBAB is not required to define “affordable” in program guidelines and should allow providers that have existing and established low-cost broadband programs and offerings to use them, along with their existing qualifying methods, to satisfy affordability requirements. This will ensure more robust participation and flexible approaches that do not lock applicants into a one-size-fits-all approach, thereby better serving the interests of consumers.

- **U.S. Treasury guidelines do not require the IBAB to include match requirements for this program.**

Cox is committed to demonstrating our commitment and ensuring an efficient use of public funds. In Idaho, where targeted grant areas are high cost where partner support is needed, the IBAB should consider eliminating or reducing match requirements to further assist and encourage broadband network deployment to un-and-underserved areas. Priority should be given to applicants that can show they can financially sustain ongoing operations.

- **The IBAB has flexibility to determine the timeframe of the challenge period.**

Challenge processes are a critical verification mechanism to ensure funding is allocated only to projects that expand broadband availability into un-and-underserved areas in Idaho to bridge the digital divide, rather than projects that waste resources on duplicative networks in areas that already have broadband service or existing funding commitments. To avoid grants being used to build to areas that already have broadband, IBAB should include a robust challenge process that allows providers to advise when public funds are being directed to areas that another provider already serves, has commenced construction to provide service to the area, or was awarded funding for the areas through a state or federal broadband grant program. An application should be denied if any of the above criteria exists.

To eliminate the administrative burden of conflicting applications and information providers, policy experts, and stakeholders should have adequate time (45 days) to review and challenge a proposed award, proposed projects should be easily identified, announced publicly, and should be defined in areas we can easily work with (e.g. census blocks) and in GIS format (e.g. shapefiles). The challenger should be notified of the decision/resolution that is made about the challenge and should be allowed to challenge any project that overlaps an area where that provider has an existing binding obligation to deploy broadband network infrastructure and to provide service, as required by any federal or state broadband funding program. Additionally, service verification mapping should be conducted in advance of an RFP release to provide a detailed review of the proposed service areas. This enables providers to make accurate assessments about service areas and identify challenge areas.

Suggestions Regarding the Program Guidelines and Application:

- **Focus funds on truly un-and-underserved areas:** Idaho should approach this funding thoughtfully, ensuring dollars are spent effectively by awarding funding on a priority basis to connect unserved locations (those without 25/3 Mbps) first, followed by funding projects to underserved areas (those without 100/20), and then to anchor institutions without access to 1Gbps service. Grant applications seeking to serve un-and-underserved areas should receive priority. Applications that seek to deploy networks in areas that are already served -- or have federal funding commitments-- should not be considered.
- **Identify & Validate Eligible Areas:** A fair, transparent process should be used to ensure only un-and-underserved areas receive funding. Grant applicants should include shapefile maps to ensure proposed projects are eligible for funding and providers/independent stakeholders should have adequate time to review and identify served areas or existing binding federal or state obligations to build. If a proposed project does not serve at least 80% un-or-underserved, it should be rejected. If some level of scoring is necessary above the 80% threshold, it should be bonus points.
- **Eliminate Open Access Requirements** to maximize participation from providers in this process, Idaho should refrain from assigning especially high weights to selection criteria relating to open access. An open access regime is especially inappropriate in low-density, high-cost, and rural areas that do not support a multiplicity of providers and are challenging for any ISP to serve. In areas that already have broadband, open-access infrastructure shifts ISP's focus and resources toward duplication of existing service offerings instead of extending networks to unserved areas. We recommend eliminating the current point structure for Open Access.

- **Evaluate applications objectively** to assure a level playing field, emphasizing criteria like expertise and experience in building and operating networks to maximize public benefit, and federal dollars invested. The focus on Idaho’s remaining connectivity challenges should be priority, including:
 - 1. Connecting un-and-underserved areas
 - 2. Broadband adoption

In addition, clear and simple benchmarks should be established to ensure that awardees meet the full spectrum of capabilities to meet program requirements. Other prequalification categories should include a proven track record of financial and technical capacity to build, manage, operate, and maintain a sustainable broadband network, availability of minimum broadband speeds and to meet future need, and successful affordability and digital equity programs.

- **Local Public and Governmental Support:** The application process allows for an inequity due to the 25 points awarded to an application receiving local and municipal letters of support, and zero points for no letters or city or county resolutions of support. This award fails to recognize that many of the same local governments will be competitors to private ISPs seeking to serve the same unserved populations. It is highly unlikely that local governmental entities wishing to enter the broadband business with CFP funding will also pass resolutions or allow any of its affiliated enterprises (e.g., libraries, police, fire stations, etc.) to write letters supporting a private ISP competitor seeking the same grant funds. Many or most private ISP grant applications will fail on this singular point because of the heavy weighting it carries in the scoring matrix.
 - *While letters of support or local government resolutions can be scored, the score should not exceed 10% of the total score where a local government entity is not an applicant. If the local governmental unit is an applicant, then no points should be awarded to any party, due to the competitive advantage such scoring would give to the local governmental unit with incentive to use this scoring tool to favor itself.*
- **Optimal public-private partnership models are collaborative and transparent, ensuring that all voices are heard and that all potential partnerships are explored:** Idaho and the IBAB have an incredible opportunity, and obligation, to bridge the digital divide for Idahoans while being good stewards of public dollars. IBAB should focus on prioritizing partnerships with expert ISPs that can leverage existing networks. This is the best way to spend scarce public dollars. Further, enhanced collaboration between the public and private sectors leading to more targeted, impactful, and efficient responses to reach broadband connectivity challenges. Cox stands ready to partner with the State of Idaho to continue to bridge the digital divide.
- **Support broadband adoption and digital skill development** with locally tailored solutions to reach those who do not subscribe to available broadband. Affordability, relevance, and lack of digital literacy training are the three chief barriers to digital adoption. Bolstering adoption is a critical aspect of ensuring all Idahoans have meaningful access to broadband. A balanced approach by Idaho, also considering affordability and adoption will be critical to expanding broadband access. Idaho should focus on increasing broadband adoption, which will provide a timelier solution to eliminating the digital divide.

Cox has a long-standing history of investing in Idaho and a track record of successful public-private partnerships. Additionally, Cox has decades of real-world experience deploying broadband projects, accelerating broadband adoption and delighting our customers. Cox stands ready to continue collaborating with the Idaho Office of Broadband, the Idaho Broadband Advisory Board, as well as stakeholders across private and nonprofit sectors, to ensure all Idahoans have access to reliable, high-speed broadband by 2027.

Sincerely,

A handwritten signature in black ink that reads "Guy Cherp". The signature is written in a cursive, flowing style.

Guy Cherp
Market Vice President, Wood River Valley
Cox Communications
Guy.Cherp@cox.com

Communication Workers of America Local 7603 comment to the Idaho Broadband Advisory Board on the grant program guidelines for the Idaho Capital Projects Fund (ARPA)

The Communications Workers of America Local 7603 supports and approves of the Guidelines that are set forth for the Idaho Capital Projects Fund (CFP) Broadband Infrastructure Grant Application with minor changes. We believe the language in the guidelines is well written and intended to support the people of Idaho and the intent of the grant. We provide responses to the questions from IBAB and additional suggestions to strengthen provisions related to workforce to ensure high quality deployment carried out in a safe manner, including prioritizing applicants that:

- Employ a locally based workforce;
- Directly employ workers rather than subcontracting the work, whenever possible;
- Employ a well-qualified workforce with documentation of training in relevant skills and safety practices.

1. U.S. Treasury guidelines require that the IBAB consider whether the broadband service options offered by applicants will be affordable to target markets in proposed service areas. However, Treasury does not set a definition for “affordable” in its program guidelines. **The IBAB seeks feedback on how affordability should be assessed. Please consider factors including, but not limited to, socioeconomic factors (income, education, age, etc.), geographic disparities, price and competition.**

CWA Local 7603 believes affordability can be best achieved by ensuring that any publicly funded middle-mile networks offer wholesale leased access on an open access basis at just and reasonable rates, facilitating greater competition from smaller providers. Publicly subsidized networks should have a cap placed on wholesale rates in order to ensure effective competition, which ultimately translates to a more affordable retail rate for consumers.

2. U.S. Treasury guidelines do not set requirements for minimum or maximum grant award amounts for this program. **For this \$125 million grant program, what are the minimum number of awards you think the IBAB should issue and is there an ideal range for the award amounts?**

CWA Local 7603 believes there should not be a specific minimum number of grant awards, but rather a careful examination of how the state can achieve maximum benefit for the largest number of residents with the funds available. While BEAD funds forthcoming under the Bipartisan Infrastructure Law require a focus on unserved and underserved locations – primarily rural areas – the CPF rules are more flexible. Therefore, the state should evaluate projects with the big picture of all funding programs and priorities in mind, and make awards from the CPF on that basis.

3. U.S. Treasury guidelines do not require the IBAB to include match requirements for this program. **The IBAB seeks feedback on what an appropriate level of matching funds may be for program applicants. For further context, the IBAB must require a 25 percent match for the Broadband Equity, Access and Deployment (BEAD) program that will be administered at a later date.**

While matching fund requirements are a good practice that leverage public dollars to maximize private investment in less profitable areas, it is also important to remain flexible and attentive to the possible need in sparsely populated locations to offer waivers for the match requirement if that is the difference-maker in achieving coverage. The BEAD program allows states to waive the matching requirement when necessary to “serve the public interest and effectuate the

purposes of the BEAD Program.” Further, the Federal Communications Commission recognizes that coverage in certain rural areas is “high-cost” and qualifies for Universal Service Fund operational subsidies. The state should consider which areas are “high-cost” when evaluating the level of match and the potential need for a match waiver.

4. The IBAB has flexibility to determine the timeframe of the challenge period. **Is 21-days a reasonable amount of time for potential challengers to review proposed project areas and submit challenges?**

A 21 calendar day review period may limit the ability of the state to carry out a complete and thorough review of proposals. Therefore, CWA Local 7603 proposes at least lengthening this period to 20 business days. While there is an imperative to expedite award decisions and meet deadlines for expenditure of federal funds, a slightly longer review period will appropriately balance urgency and the necessity of careful decision-making.

5. Discussions have been had as to whether grant administration costs should be allowable under the CPF program. **Should grant administration costs be allowable for awardees, and what amount for grant administration is reasonable?**

CWA Local 7603 believes that applicants should not be allowed to use grant funds for administrative costs considering that the clear purpose of the grant is for deployment of broadband networks. If recipients of CPF grant funds are healthy organizations with the financial capability to build and maintain a network, they should have the wherewithal to administer the grant project without undue strain.

6. **Please provide any additional comments or suggestions regarding the program guidelines and application.**

The CPF grant guidelines draft states that applicants must certify if they commit to using fair labor standards (page 12), but in order for that criteria to be effective further details on the definition of “fair labor standards” should be provided and built into reporting requirements. CWA recommends that the CPF grant program prioritize applicants who can demonstrate the following criteria related to a well-trained and qualified workforce:

1. The workforce performing the contract will receive high quality wages and benefits;
2. The workforce performing the contract is subject to robust in-house training standards tied to certifications, titles, and uniform wage scales to ensure that deployment is done at a high standard, considering factors including: established curriculum; mix of classroom instruction and hands-on training; for occupations working directly with fiber and other network components, relevant training including placing, pulling, and hanging fiber, fiber optic association’s CFOT certification, and the building industry’s consulting service international fiber-optic technician certifications;
3. Applicants who have high standards of safety training, certification, and/or licensure for workers performing the contract, for example, OSHA 10, OSHA 30, aerial and confined space training, traffic control, excavation and trenching safety, or other training, as relevant depending on title and work; and exemplary workplace safety practices;
4. Applicants who will use a directly hired workforce to perform broadband installation work;
5. Policies and practices that support job pipelines for local residents and traditionally marginalized communities;
6. Robust compliance with workplace protections including the Occupational Safety and Health Act, the Fair Labor Standards Act, Title VII of the Civil Rights Act of 1964, and State Labor and Employment Laws, or that applicants have mitigated violations with labor compliance agreements and have measures in place to ensure future labor compliance.

Plan as part of their application for funds. The Workforce Plan should include the following information:

1. Whether the workforce will be directly employed by the applicant or whether work will be performed by a subcontracted workforce;
2. The entities that the applicant plans to subcontract with in carrying out the proposed work;
3. If the applicant intends to use a subcontracted workforce, a description of how it will ensure that workers are adequately trained and will conduct work safely, and a description of whether or not applicant will be jointly liable for OSHA and wage and hour violations, either through meeting the joint employer standard or through contractual agreement;
4. The job titles and size of the workforce (FTE positions) required to carry out the proposed work over the course of the project and the entity that will employ each portion of the workforce;
5. For each job title required to carry out the proposed work, a description of
 - a. Wages, benefits, applicable wage scales including overtime rates and a descriptions of how wages are calculated;
 - b. Any in-house training program, including whether the training program is tied to certifications, titles, and/or uniform wage scales;
 - c. Safety training, certification, and/or licensure requirements;
6. A description of any health and safety committees in the worksite, including a description of the members, how the committees members are decided, and what functions the committee performs;
7. A description of any policies or practices that encourage career pathways and hiring for local residents and marginalized communities, including any to encourage pathways for women and people of color;
8. A description of any open investigations or unresolved litigation against the applicant, or subcontractors it intends to use for the project, for violations of the Occupational Safety and Health Act, the Fair Labor Standards Act, Title VII of the Civil Rights Act of 1964, and State labor and employment laws;
9. A description of findings against the applicant, or subcontractors it intends to use for the project, of the Occupational Safety and Health Act, the Fair Labor Standards Act, Title VII of the Civil Rights Act of 1964, and State labor and employment laws within the last six years.

The CPF grant program should make the Workforce Plan data available to the public via an internet website after an award is made, and in any event, not less than 60 days before the project commences. Key workforce information, including the number of in-house jobs or outsourced jobs created with the funding, job titles, and wage scales, should be made available to the public after proposals are submitted, prior to the granting of an award.

Following an award, the Workforce Plan and the requirement to submit ongoing workforce reports should be incorporated as material conditions of the contract with the Broadband Funding Program and become enforceable, certified commitments. The Broadband Funding Program should take measures to ensure monitoring and compliance of the Workforce Plan commitments.

In order to ensure that successful applicants (“Awardees”) comply with Workforce Plan commitments, Awardees should be required to periodically report workforce information over the course of the project. The Broadband Office should make the information available to the public without cost over the internet. At a minimum, Awardees should provide information verifying execution of the Workforce Plan above, including:

1. The employer of the workforce performing the project work, including any subcontracted entities;
2. The job titles and minimum size of the workforce performing the work, and the entity employing each portion of the workforce;
3. For each job title required to carry out the proposed work, a description of
 - a. safety training, certification, and/or licensure requirements, including whether there is a robust in-house training program with established requirements tied to certifications, titles, and uniform wage scales;
 - b. information on the professional certifications and/or in-house training in place to ensure that deployment is done at a high standard;

- C. minimum wages and fringe benefits, and applicable wage scales including overtime rates and a descriptions of how wages are calculated;
4. A description of any health and safety committees in the worksite, including a description of the members, how the committees members are decided, and what functions the committee performs;
 5. A description of any policies or practices that encourage career pathways and hiring for local residents and marginalized communities, including any to encourage pathways for women and people of color;
 6. A description of any open investigations or unresolved litigation against the applicant, or subcontractors it intends to use for the project, for violations of the Occupational Safety and Health Act, the Fair Labor Standards Act, Title VII of the Civil Rights Act of 1964, and state labor and employment laws;
 7. A description of findings against the applicant, or subcontractors it intends to use for the project, of the Occupational Safety and Health Act, the Fair Labor Standards Act, Title VII of the Civil Rights Act of 1964, and state labor and employment laws within the last six years.

With this system of reporting and accountability, the true promise of the BEAD program can be met in Idaho.

Thank you for the important work being carried out by this office. We are happy to answer any questions about our submission.

Sincerely,

Jeremiah Clever

President, CWA Local 7603

Comments from DIGB2/CEDA (in red)

Idaho Broadband Advisory Board Idaho Capital Projects Fund (ARPA)

Program Feedback: Over the coming weeks, the Idaho Broadband Advisory Board (IBAB) will release final grant program guidelines and open its application period for the \$125 million Idaho Broadband Capital Projects Fund, a competitive grant program that is funded through the American Rescue Plan Act (ARPA).

As the IBAB finalizes the grant application and program guidelines, the Board is requesting feedback on several items where the U.S. Treasury has provided flexibility: definition of affordability, award amounts, match requirements, challenge period and grant administration costs.

1. U.S. Treasury guidelines require that the IBAB consider whether the broadband service options offered by applicants will be affordable to target markets in proposed service areas. However, Treasury does not set a definition for “affordable” in its program guidelines. **The IBAB seeks feedback on how affordability should be assessed. Please consider factors including, but not limited to, socioeconomic factors (income, education, age, etc.), geographic disparities, price and competition.**
2. U.S. Treasury guidelines do not set requirements for minimum or maximum grant award amounts for this program. **For this \$125 million grant program, what are the minimum number of awards you think the IBAB should issue and is there an ideal range for the award amounts?** *The awards should focus first on a project’s merits based on 1) the IBAB priority factors and 2) connecting the under/unserved. Some distributive efforts across regions might be beneficial...*
3. U.S. Treasury guidelines do not require the IBAB to include match requirements for this program. **The IBAB seeks feedback on what an appropriate level of matching funds may be for program applicants. For further context, the IBAB must require a 25 percent match for the Broadband Equity, Access and Deployment (BEAD) program that will be administered at a later date.** *Some project match is indicative of commitment and serious intent. Project merit based on funding priorities is more important than a strict percentage of project match, however. Match should not be strictly locally sourced cash.*
4. The IBAB has flexibility to determine the timeframe of the challenge period. **Is 21-days a reasonable amount of time for potential challengers to review proposed project areas and submit challenges?**

21 days is too long of a comment period window when time is of the essence. 7-10 days is reasonable

5. Discussions have been had as to whether grant administration costs should be allowable under the CPF program. **Should grant administration costs be allowable for awardees, and what amount for grant administration is reasonable?**

Yes, Grant Administration should be an allowable cost coming out of these funds. Grant Administration is essential work to ensure that the funds are being spent properly and that the federal/state grant rules are being complied with. Other federal grant programs allow up to 10% of the grant award to be spent on certified Grant Administrators-and often require a Grant Administrator be assigned before awarding the funds. This protects the state from awarding funds to entities that may mis-handle public dollars, and keeps all in good standing with the federal funding agencies

6. **Please provide any additional comments or suggestions regarding the program guidelines and application.**

See document below

DRAFT

Idaho Broadband Advisory Board Idaho Capital Projects Fund (ARPA) Broadband Infrastructure Grant Application

Guidelines

The Idaho Broadband Advisory Board is committed to improving access to broadband infrastructure for Idahoans and recognizes that affordable, accessible and reliable high-speed broadband is one of the most critical infrastructure challenges facing Idahoans. To address this digital divide, the Idaho Broadband Advisory Board releases guidelines for the Idaho Capital Projects Fund (ARPA) Grant Program.

1. Program Description

Under the [American Rescue Plan Act of 2021 H.R. 1319](#), established by Section 604 of the Social Security Act, as added by Section 9901 of the American Rescue Plan Act of 2021 (ARPA) Congress created the [Coronavirus Capital Projects Fund \(Capital Projects Fund\)](#) and directed the U.S. Department of the Treasury (Treasury) to award funds to States under the Capital Projects Fund (CPF)

ARPA appropriated \$10 billion to Treasury to provide payments to States, territories, freely associated states, and Tribal Governments “to carry out critical capital projects directly enabling work, education, and health monitoring, including remote options, in response to the public health emergency with respect to the Coronavirus Disease (COVID-19).”

The CPF allows for investments in high-quality broadband infrastructure in communities where the COVID-19 public health emergency highlighted that access to high-quality internet can enable work, education, and health access, and that individuals and communities that lack affordable access to such high-quality internet are at a marked disadvantage. Additionally, Treasury prioritizes that investing in broadband for communities sensitive to or that have historically experienced these inequities will be critical for improving digital equity and opportunity, especially in the case of communities that currently lack access to the affordable, reliable, high-quality broadband internet that is necessary for full participation in school, healthcare, employment, social services, government programs, and civic life is crucial for their success.

Grants under the Idaho CPF Grant will follow federal guideline priorities outlined by Treasury as well as priorities outlined by the [Idaho Broadband Advisory Board’s Broadband Strategic Plan](#).

Per Treasury requirements funds must be expended by December 31, 2026. Treasury may, in its sole discretion, grant extensions to the period of performance upon request from the State of Idaho.

2. Funding Availability for CY2023

Under CPF, Treasury allocated \$125 million to the State of Idaho, which will be under oversight of the Idaho Broadband Advisory Board. The Board will award grants via a competitive grant application that complies with priorities outlined in the [Idaho Broadband Advisory Board's Broadband Strategic Plan](#) to entities that commit to improving broadband infrastructure to underserved and unserved locations in Idaho.

3. Timelines

- a. Grant Open for Applications: Monday, March 27, 2023
- b. Grant Window Closes: Monday, April 24, 2023
- c. Challenge Period Opens: Wednesday, May 3, 2023
- d. Challenge Period Closes: Wednesday, May 24, 2023
- e. Grant Review Period: May 25-June 16, 2023
- f. Presentation of Shortlist to Idaho Broadband Advisory Board: End of June 2023
- g. Grant Awards: July 2023
- h. Period of Performance for Projects ends December 31, 2026.

4. Eligible Applicants

Eligible applicants for this program are incorporated business or partnership, an Idaho nonprofit organization, limited liability company, incorporation, cooperative entity that provides broadband services, an Idaho local or tribal government, or political subdivisions. Examples include telecommunications provider, electric cooperative and local government entities.

Applicant may submit one application with multiple service providers, but must provide documentation from all parties demonstrating how the parties will collaborate to connect all locations in the project area. For example, if two internet service providers want to partner on a project, documentation will be required outlining the nature of the partnership on company letterhead.

Similarly, applicants must provide letter(s) of support from the communities impacted by the grant project area. Letters could come from the county, city, tribal government, schools, libraries, hospitals, businesses, etc. Projects with more letters of support from the community will be given priority in funding.

5. Eligible Project Areas

Pursuant to Treasury guidelines for CPF, eligible project areas are unserved areas in Idaho in which delivery points (locations) have no wireline access to broadband service or have no access to services operating with a download speed of at least 25 megabits per second download and upload speed of at least 3 megabits per second with low latency. An

underserved area is the area of Idaho in which serviceable locations (businesses, households, farm buildings, etc.) receive broadband service above the threshold of 25/3Mbps, but do not have access to wireline broadband service at 100 megabits download and 20 megabits per second upload with low latency.

Projects must connect to the premise to be eligible for grant funding or be capable of providing service to the location within 10 days of a request at no additional cost to the subscriber and provide an affidavit attesting to this and will be publicly available that they will provide no additional cost to provide service. Subrecipients are required to participate in the Affordability Connectivity Program (ACP).

Please define this further. It makes sense to enforce ISP's to enforce a waived connection fee for a set time-frame, and market the waived connection fee to all residents who will benefit from this. There will be residents who will not want to/be able to connect for a while (for whatever reason...), what about these future customers? Smaller ISPs may not be able to connect every household/resident requesting service w/in the 10 days...

Per guidelines from Treasury, when evaluating unserved and underserved areas, grant recipients may take into account a variety of factors including whether users actually receive internet service at or above the speed thresholds at all hours of the day, whether factors other than speed such as latency or jitter, or deterioration of the existing connections make their user experience unreliable, and whether the existing service is being delivered by legacy technologies such as copper telephone lines (typically using Digital Subscriber Line technology) or early versions of cable system technology (DOCSIS 2.0 or earlier), and other factors related to the services to be provided by Broadband Infrastructure Projects. Recipients may consider the actual experience of current broadband customers when making their determinations; and whether there is a provider serving the area that advertises or otherwise claims to offer broadband at a given speed is not dispositive.

6. Ineligible Project Areas

Pursuant to Treasury guidelines for CPF, the State of Idaho will not fund projects where locations currently have reliable wireline broadband service of at least 100/20Mbps. Additionally, the State of Idaho will not fund projects where locations will be connected to high-speed broadband service by other federal or state grants that will deliver high speed wireline service greater than 100/20Mbps. This includes FCC grant programs Rural Development Opportunity Fund (RDOF), USAC (E-Rate), USDA Reconnect, NTIA BIP, Tribal Broadband Connectivity Program, the 2020 State of Idaho Cares Act Grant, and the 2021 Idaho Broadband Fund: CARES Act Broadband Grant.

The State will retain the right to remove those serviceable locations from the proposed project area that are considered funded by other state and federal programs.

7. Definitions

- a. Broadband: wide bandwidth communication transmissions allowing high speed internet access with an ability to simultaneously transport multiple signals and

traffic types at a minimum transmission speed of one hundred (100) megabits per second for downloads and twenty (20) megabits per second for uploads.

- b. Broadband Infrastructure: networks of deployed telecommunications equipment, conduit, and technologies necessary to provide broad band and other advanced telecommunications services to wholesalers or end users, including but not limited to private homes, businesses, commercial establishments, schools, or public institutions.
- c. Broadband provider: any entity that provides broadband services, including but not limited to a telecommunications provider, cable service provider, broadband provider, cellular provider, political subdivision that provides broadband services, electric cooperative that provides broadband services, electric utility that provides broadband services, state government entity that provides broadband services, tribal government that provides broadband services, internet service provider, or private-public partnership established for the purpose of expanding broadband in the state.
- d. Broadband Service: deployed internet access service with a minimum 100/20Mbps scalable to 100/100Mbps (required by Treasury).
- e. Last Mile Infrastructure: serves as the final leg connecting the broadband service provider's network to the end-user's on-premises telecommunications equipment.
- f. Middle Mile Infrastructure: links a broadband service provider's core network infrastructure to last-mile infrastructure.
- g. Open Access: **Open Access should be defined as public providers who charge wholesale rates for Operations & Maintenance**
 - i **Good example is strands set aside for public use that are charged wholesale rates, commercial use fiber can be charged more**
- h. Rural Areas: defined as areas where the population is less than 25,000. **By county where the project is located, "region," or project service area targeted by the application?**
- i. Unserved Locations: locations without access to reliable broadband service of 25/3Mbps.
- j. Underserved Locations: locations without access to reliable broadband service of 100/20Mbps.
- k. **Overbuilding: Commerce will benefit all residents of Idaho if you define the term 'overbuilding'.**
 - i **Overbuilding is not offering homes/residents more than one internet connection option... having multiple options is a healthy business practice and needs to be standard in broadband options for all residents Consumers, residents, businesses should have a choice of provider and service options. Limitations will lead to market constraints and artificial cost escalators.**

- 1 Applicants using the term ‘overbuilding’ when they are the only broadband option available to residents is their attempt to monopolize the market, and should not be allowable

8. Eligible Program Costs

- a. There is a maximum allocation of \$XXX million per project unless the Idaho Broadband Advisory Board waives the maximum allocation on a project-byproject basis. All projects, regardless of the amount of the allocation request will be reviewed.

9. Program Priorities

- a. Unserved/Underserved locations in Idaho.
- b. Priority consideration may be given to projects that leverage greater amounts of funding for a project from other private and/or public sources. To obtain a broadband grant, the applicant must provide the funding, not covered by the grant, with matching funds. . Leverage funding- yes; but leveraging collaboration and productive partnerships that create value and benefit for the resident, school, healthcare facility and/or business is also a valuable add-on; i.e., leveraged value can be created in a number of ways.....
- c. Priority consideration to projects that provide open access.
- d. Scalable technology for future needs will be given priority to the best value and the number of households with the highest technology possible. Where it’s possible, preferential points will be given for:
 - i. Symmetrical application of gig speed; and
 - ii. Fiber to the premises.
- e. Projects that connect a greater number of locations at the most economical cost.
- f. Locations in Idaho where students and educators do not have reliable access to broadband as defined as speeds less than 100/20Mbps as well as libraries, schools, and institutions of higher learning without access to fiber broadband infrastructure defined as 1Gbps/1Gbps.
- g. A high priority of this grant is engagement with the impacted community. The Applicant is to work with the local community to identify an innovative means of providing a public benefit that addresses the community’s needs and includes as a component of the proposed project, a long-term public benefit to the impacted community.
 - i. To be written into the appropriate fields or uploaded in the application:
 1. Local governing body resolution in support of the project and the minutes that support the resolution detailing an innovative means of providing a public benefit that addresses the community’s needs and that includes, as a component of the proposed project, a long-term public benefit that addresses the community’s needs.

a. Examples:

- i. Provide service to previously unserved or underserved Community Anchor Institution(s) (libraries, police and fire stations, city/county buildings, public safety buildings, hospitals, healthcare facilities, and educational institutions).
 - ii. Serve an economically distressed area.
 - iii. Digital literacy training.
 - iv. Low-income assistance.
 - v. Partner with or establish co-working space.
 - vi. Activities planned to increase adoption.
 - vii. Open access.
 - viii. Fiber to the premises (FTTP).
- h. List of stakeholders and partners involved in the grant project and their roles.
- i. Show how the project is located in an economically distressed area of the state as measured by indices of unemployment, poverty, or population loss. Show how it is unlikely to be served without grant funding. Include an explanation of terrain, population and affordability issues.
- j. Government and Community Facilities without access to fiber infrastructure as defined as 1Gbps/1Gbps. This includes public safety facilities, City Hall, parks, civic and community centers, public infrastructure facilities.
- k. Projects that promote and implement Dig Once Principles in building out broadband infrastructure.
- l. Projects that enable remote work, distance learning, and telehealth adoption and access.
- m. Projects that can demonstrate increased potential economic diversification through enhanced connectivity.
- n. **Public Safety Communications is identified as one of the 5 Strategic Objectives of the IBAB plan... but is not mentioned in these guidelines. Add them here please**

10. Challenge Process

- a. The State will post all completed applications to the Idaho Department of Commerce websites for review by the public. Additionally, all subgrantees must submit shapefiles or kmz files containing polygon(s) of the project area and **all locations** (houses, farms, schools, businesses, healthcare facilities, etc.) in the project area that will be served by the broadband service that will deliver 100/100 Mbps or 100/20 Mbps service scalable to 100/100 Mbps. Additionally, the subgrantee must include all Community Anchor Institutions [CAIs] that will be connected by fiber broadband service of 1Gbps/1Gbps. Failure to submit this documentation will result in the grant not being considered for funding.

- b. All project grant files will be shared on the State of Idaho's GIS broadband map as well as challenges. These geographic information system (GIS) files will be shared on the State GIS website along with the resulting challenges.
- c. To submit a challenge, a qualifying challenger must submit geospatial files (shapefiles or kmz files to the specifications mentioned in this grant) that outline where existing service delivers broadband speeds of 100/20Mbps scalable to 100/100Mbps.

11. Data Submission

- a. Every application shall include the following:
 - i. Data relevant to the proposed project area including the number of prospective broadband recipients that will be served as a result of the project including cost per location served. Data points should be tied to specific locations and be geo-coded for consideration as part of the application.
 - ii. Proof of participation in ACP. (possible signed attestation).
 - iii. Provide a detailed description of broadband service options offered by the applicant to the end user, ensuring affordable options for the customer. Detailed descriptions are required of any service option that will be higher than the ACP stipends given directly to consumers. Up to 10 points will be taken away from applicants who fail to demonstrate affordability.
 - iv. Each Project must include a GIS compatible file that will be shared on the Idaho Broadband Map.
 - 1. This map must include a shaded polygon of the proposed project area.
 - 2. All serviceable locations impacted by the proposed project (including households, businesses, farms, and community anchor institutions).
 - 3. For all those serviceable locations, the file must indicate the broadband speed that will be capable of being delivered to that location. (examples of this are available in the packet).
 - 4. [Be compatible with the FCC Broadband Data Collection and the Serviceable Location Fabric.](#)
 - v. Grant Budget Template (include any equipment purchase/rental/lease and justification for any capital costs outside of infrastructure. These costs may not be eligible if they cannot be substantiated for the project.)
 - vi. Broadband service option sheet for end users.
 - vii. Project Schedule Form.

- viii. ARPA Certification: Attesting the project meets requirements outlined by the Capital Projects Fund including how the project is designed to directly impact work, education and health monitoring.
- ix. ARPA Certification: Attesting that the project will be designed to address a critical need that results from or was made apparent or exacerbated by the COVID-19 health emergency.
- x. ARPA Certification: Attesting that the project is designed to address a critical need in the community **or project service area** to be served by it.
- xi. Attestation that the project will comply with federal laws where applicable.
- xii. Wage and workforce data for subcontractors, direct staff, and other temporary employees related to the project to demonstrate fair labor practices.
- xiii. Letters of Support
- xiv. Letters demonstrating project match.
- xv. Proof of service provider(s) participation in the [Affordable Connectivity Program](#).
- xvi. Completed CPF Environmental Questionnaire.
- xvii. Any applicable **site** plan, studies, or photographs.
- xviii. Idaho Department of Commerce reserves the right to request additional information if the submitted information is deemed insufficient or unclear.

12. Workforce

- a. One of the requirements contained in 2 C.F.R. 200, Appendix II says all contracts made by a Recipient or Subrecipient in excess of \$100,000 that involve 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).

13. Environmental Requirements

- a. Projects funded by the CPF must comply with all applicable federal environmental laws. Generally, the National Environmental Policy Act does not apply to Projects funded by the CPF [Projects supported with payments from the CPF may still be subject to NEPA review if they are also funded by or otherwise involve actions from other federal programs or agencies]. Prior to funding a Capital Project, recipients may complete an environmental checklist, to be made available on the CPF website, to determine whether certain environmental laws apply. Generally, Capital Projects that do not involve construction activities will not be subject to federal environmental review requirements.
- b. Projects must reach substantial completion before December 31, 2026. Substantial completion is defined as the date for which the Project can fulfill the primary operations that it was designed to perform, delivering services to

endusers. At substantial completion, service operations and management systems infrastructure must be operational. Recipients **Subrecipients??** may request extensions beyond this timeframe to the extent that factors outside of the Recipient's control have impacted Project delivery timelines. Treasury will only approve extension requests on a case-by-case basis.

Streamlining will be needed

14. Grant Administration

- a. Subgrantees must administer and are responsible for their own grants. Subgrantees can designate another entity to manage their grant. If a subgrantee is utilizing another entity to manage their grant, they must provide a contract or agreement between the parties, or an approved resolution from a local governing body.
- b. The procurement of goods and services purchased with or reimbursed by funding under the Program for Households must comply with all laws applicable to the recipient including, where applicable:
[Idaho Code Title 54, Chapter 19](#) – Public Works Contractors.
[Idaho Code Title 67, Chapter 23](#) – design professional qualification-based selection.
[Idaho Code Title 67, Chapter 28](#) – purchasing by political subdivisions.
- c. Prior to disbursement of funds, recipient and the Idaho Department of Commerce shall execute a Grant Agreement.
- d. At its discretion, the Idaho Broadband Advisory Board or the Idaho Department of Commerce may establish special conditions in the Grant Agreement requiring additional reporting, documentation, or program priorities.
- e. Grant funds shall be disbursed with progress as milestone payments. Milestone payments **MUST** be associated with project progress points identified through contract negotiations or by the Idaho Broadband Advisory Board during awards. Recipients are required to submit documentation verifying terms of the Grant Agreement to the Idaho Department of Commerce and verify that milestones have been completed before the Idaho Department of Commerce will release funds to the subgrantee.

15. Auditing

- a. Recipients and Subrecipients will be subject to audit or review by the Treasury Inspector General and Government Accountability Office as well as the Idaho Broadband Advisory Board and Idaho Department of Commerce.

Check-ins should happen regularly with subrecipients, and Grant Administrators. There are a lot of public dollars going out into these projects and we need to ensure the projects that are being funded are being completed. Rural- more accurately "frontier" Idaho needs the grant recipients to provide them with good

service, and it is the public servants/elected officials responsibility to ensure it is provided

16. Application of Uniform Guidance

a. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200 apply to the Capital Projects Fund grant, except for any provisions Treasury may determine are inapplicable to an award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.

17. Noncompliance

a. In the event of a Recipient’s noncompliance with applicable law or Capital Projects Fund program requirements or guidance, Treasury may impose additional conditions on the receipt of additional Capital Projects Fund funds by the Recipient, terminate further payments from the Capital Projects Fund, seek the repayment of previous Capital Projects Fund payments, or take other available remedies pursuant to 2 C.F.R. 200.339.

18. Website

a. The Idaho Commerce Broadband website will include a list of grant recipients including the grant recipients name, primary location, and total grant award. The proposed grant application project area or proposed coverage area and challenges will be posted to the [Idaho Department of Commerce website](#) as well as the [Idaho ArcGIS website](#).

19. Project Costs

- a. A Recipient may use funds to cover costs incurred during the period beginning XXX, 2023, for one or more eligible projects.
- b. Project costs are not limited to new construction. For example, project costs can involve improvements and repairs to buildings to permit the buildings to be used for eligible purposes.
- c. Eligible Project Costs. Below is a non-exhaustive list of eligible costs:
 - i. Costs associated with completing the grant or Application and Grant Plan;
 - ii. Pre-project development costs 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;
 - iii. 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, middle, and last mile networks.
 - iv. Costs associated with monitoring of and reporting on Projects in compliance with Treasury requirements, including award closeout costs;
 - v. Costs associated with collecting and measuring performance data and conducting activities needed to establish and maintain a performance management
- d. Ineligible Project Costs
- i. Acquisition of spectrum licenses.
 - ii. Operating expenses, other than grant administration costs.
 - 1. Grant administration costs not to exceed **XXX%** of the total project cost.
 - iii. Short-term operating leases.
 - iv. Payment of interest or principal on outstanding debt instruments or other debt service costs incurred prior to March 15, 2021.
 - v. Fees or issuance costs associated with the issuance of new debt.
 - vi. 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.
 - vii. To support or oppose collective.

20. Compliance and Reporting

- a. The State of Idaho is required by Treasury to disclose the names of Capital Projects Fund Recipients and the amounts of Capital Projects Fund grants. Additionally, Treasury may disclose other information provided by the State of Idaho and subgrantees in their Applications or Grant Plans to the public. Treasury will post this information on its website and report this information on the usaspending.gov website, which allows the public to see how the federal government has distributed COVID-19 relief funding.
- b. Projects funded by the Capital Projects Fund must comply with all applicable federal environmental laws. Generally, the National Environmental Policy Act does not apply to Projects funded by the Capital Projects Fund. Projects supported with payments from CPF may still be subject to NEPA review if they are also funded by or otherwise involve actions from other federal programs or agencies. Prior to funding a Capital Project, Recipients **shall** complete an [environmental checklist](#), to be made available on the Capital Projects Fund website, to determine whether certain environmental laws apply.
- c. Projects must reach substantial completion before December 31, 2026. Substantial completion is defined as the date for which the Project can fulfill the primary operations that it was designed to perform, delivering services to endusers. At substantial completion, service operations and management

systems infrastructure must be operational. Recipients may request extensions beyond this timeframe to the extent that factors outside of the Recipient's control have impacted Project delivery timelines. Treasury will approve extension requests on a case-by-case basis.

- d. Applicants must provide a technical and narrative report detailing the technology/technologies to be used in the proposed project to serve.

21. Project Evaluation and Scoring Criteria

Applications satisfying the initial Idaho Department of Commerce review, followed by the grant review committee consisting of the Idaho Department of Commerce, State Board of Education, Idaho Department of Transportation, Idaho Commission for Libraries, and Idaho Office of Emergency Management, will then be evaluated by the Idaho Broadband Advisory Board. Applicants may also be required to present their project(s) directly to the Board.

i) **Project requirements: Project Must Meet These Requirements.**

- a) Does the Project Provide Broadband Service of 100/100Mbps or 100/20Mbps scalable to 100/100Mbps? **Y/N**
- b) Does the applicant or service provider participate in the [Affordable Connectivity Program](#)? **Y/N** Applicant will be required to submit proof that service provider participates in program. Applicants must provide a link to their website demonstrating this program is offered.
- c) Does this project comply with federal laws including the 2019 National Defense Authorization Act (NDAA)? **Y/N**
- d) List and provide all permits, easements, and right of ways already obtained or needed to complete the project including the regulatory authority involved and timeline to obtain the permit.
- e) Does the project comply with all applicable environmental laws? **Y/N**
- f) Does the project commit to fair labor standards? **Y/N**
- g) Provide evidence that all contracts made by a Recipient or Subrecipient in excess of \$100,000 that involve employment of mechanics or laborers 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).
- h) Does the project comply with the directives in the Idaho Broadband and Rightof-Way Act? (Sections 40-516 through 40-520, Idaho Code) **Y/N**
- i) Has the applicant and/or subgrantees notified the appropriate federal, state, and local governments about any rights of ways, easements, or pole attachment needs? **Y/N** This includes, but is not limited to, the following: Idaho Department of Transportation, Utility Companies, Idaho State Historical Preservation Office, federal agencies (USFS, BLM, Army Corps.) etc.
- j) Does your project impact any of the five Idaho Tribal Reservations? **Y/N**

If so, have you talked with the respective Tribal Government about your project?

Y/N

k) Is the price of broadband service for customers in the proposed project area for 100/20 service less than \$XXX a month? **Y/N**

- ii) Project purpose and benefits. Extent to which the project will either (a) facilitate deployment of high-speed broadband networks to currently unserved or underserved areas, and (b) improve affordability in already-served markets by providing last mile service. **(20 points)**
- iii) Explain how the proposed project addresses a critical need related to access, affordability, and consistency. Please provide data to support your argument as well as any testimonials, letters, etc. **(10 points)**
- iv) Explain how the project addresses a critical need related to distance learning, telehealth, or remote work in the community. In your response, please provide data to support your argument as well as any testimonials, letters, etc. Information should include distance to hospital or clinic, poverty or education statistics, or examples from residents in the area who cannot work from home. **(20 points)**

Public Safety Communications must also be a favorable criteria per IBAB Plan

- v) Explain how this project addresses a critical need for the community. Include in the response future needs such as agricultural technology improvements, natural disaster mitigation (forest fires, floods, droughts), smart city infrastructure, or public safety needs. **(10 Points)**
- vi) Explain how this infrastructure project will be managed as open access, with the mission of net neutrality and the goal of providing equal, affordable and unrestricted access to the internet. Describe how the fiber network will be open to local governments, internet service providers, anchor institutions and state assets. **(25 points)**
- vii) Explain the comprehensiveness and appropriateness of the proposed technical solution for meeting the community's needs, considering the offering's capacity and performance characteristics. Reviewers will consider the proposed network's ability to serve anticipated last mile users, and to meet the increasing needs of the households, businesses, and community anchor institutions in the proposed project areas. **(10 points)**
- viii) Points are awarded based on the number of underserved and unserved locations impacted by the proposed grant project. Underserved is defined as locations without access to 100/20Mbps fixed terrestrial service, unserved is defined as locations without access to 25/3Mbps fixed terrestrial service.

Locations	Points – 100/100Mbps	Points – 100/20Mbps
400	4	3
800	8	6
1,200	12	9
1,600	16	12
2,000+	20	15

that

Projects cannot achieve

speeds of 100/100Mbps due to geography, topography, or excessive costs may only receive a maximum of 15 points in this section, or 75% total points in each category.

(20 Points)

- ix) Unserved Community Anchor Institutions are those facilities without access to 1Gbps/1Gbps symmetrical (fiber) service. **(20 Points)**
- x) Is the project serving 80% or more unserved locations? **(10 Points)**
- xi) Explain how the proposed project addresses priorities outlined in the Idaho Broadband Advisory Board’s Strategic Plan. This includes addressing distance learning, telehealth, public safety, economic development/business opportunities, and promotes dig once policies. Points will be awarded based on the project’s ability to address each item in detail. **(25 Points).**
- xii) Demonstrate the financial capability to complete the project within cost and by December 31, 2026. This includes the reasonableness of the proposed budget (10 points), and the project’s fiscal sustainability beyond the award period (10 points). **(20 points)**
- xiii) Does the proposed project include a match? Match includes financial and in-kind contributions. Points will be awarded based on a percentage of the total project costs. **(15 Points)**

Match	Points
>10%	3
11% - 20%	6
21% - 30%	9
31% - 40%	12
41% or more	15

xiv) Does this project have support impacted by from the communities the proposed project? Please provide current letters of support from communities (signed and on the organizations letterhead). “Current” is defined as letters signed by community entities (state agencies, local governments and subdivisions, tribal government, nonprofits, education institutions, healthcare facilities, community organizations) after the grant is open for application and prior to submission. Grant applicants can submit letters from the public. **(25 Points)**

xv) Bonus points. **(up to 5 points each)**

- a. Connected locations in Idaho where students and educators do not have reliable access to broadband as defined as speeds less than 100/20Mbps as well as libraries, schools, and institutions of higher learning without access to fiber broadband infrastructure defined as 1Gbps/1Gbps.
- b. Projects that connect a greater number of locations at the most economical cost.
- c. Connected government and community facilities without access to fiber infrastructure as defined as 1Gbps/1Gbps. This includes public safety facilities, City Hall, parks, civic and community centers, and public infrastructure facilities.

Via Email

Ramon S. Hobdey-Sanchez
State Broadband Program Manager
Idaho Department of Commerce
700 West Sate Street
Boise, Idaho 83702
Ramon.hobdeysanchez@commerce.idaho.gov

Dear Mr. Hobdey-Sanchez:

Thank you for the opportunity to provide comments and responses to the CPF Guidelines put out by the Idaho Broadband Advisory Board (IBAB). In the following document we will attempt to answer your specific questions. We will also offer some additional thoughts and feedback on other areas of the guidelines.

1. U.S. Treasury guidelines require that the IBAB consider whether the broadband service options offered by applicants will be affordable to target markets in proposed service areas. However, Treasury does not set a definition for “affordable” in its program guidelines. **The IBAB seeks feedback on how affordability should be assessed. Please consider factors including, but not limited to, socioeconomic factors (income, education, age, etc.), geographic disparities, price and competition.**
 - a. Many states are highly focused on increasing the usage rate of the Affordable Connectivity Program (ACP) or like programs. Direct Communications was one of the first providers in the nation to take part in the ACP and its predecessor. We have made significant efforts to make our customers and service areas aware of the benefits of these programs. Direct Communications is the only provider participating in the Empowering Parents Program which provides eligible families with grant funds towards eligible services including internet access. We believe that these programs, and others, can play an important role in helping to increase digital equity across socioeconomic strata’s. (However, it does seem an odd thing to gauge the success of a program by the number or percentage of people who utilize a government subsidy.) There is some truth to the idea that for too long bad actors have been charging overly high rates for poor services. Often, they have been unwilling or slow to put those dollars back into upgrading their local networks and improving their services. Despite this it would be both unwise and economically unviable to impose a state mandated

“affordable” price. The cost to do business and to provide service is not the same in all areas and regions of the state. The cost of access, construction, labor, etc. can change or fluctuate from area to area. The most appropriate and perhaps viable solution may be to require providers to offer like services for like rates. Affordability should be determined by the mitigating factors in a certain area not across an entire state or country. A comparison of services offered across comparable regions can quickly determine if a provider is offering quality service at a competitive rate.

2. U.S. Treasury guidelines do not set requirements for minimum or maximum grant award amounts for this program. **For this \$125 million grant program, what are the minimum number of awards you think the IBAB should issue and is there an ideal range for the award amounts?**
 - a. Setting a predetermined number of grants to award seems a short-sighted decision. The number of awards granted should be determined by which projects best fit the scoring matrix, predetermined goals of the board, and needs of the state. It would also seem appropriate that the board tries to assure that some sense of fairness & equity is used in distributing the funds across the multiple regions of the state. Due to the limited funds available it is imperative that the board does not award funds to areas that are already being served by a broadband provider. There is simply not enough money available to bridge the digital divide in Idaho if we are awarding projects that will service already served areas.

3. U.S. Treasury guidelines do not require the IBAB to include match requirements for this program. **The IBAB seeks feedback on what an appropriate level of matching funds may be for program applicants. For further context, the IBAB must require a 25 percent match for the Broadband Equity, Access and Deployment (BEAD) program that will be administered at a later date.**
 - a. In our opinion it is wise to encourage and incentivize the inclusion of match funds. Points could be awarded for matching funds that equal 10% – 35% of the total project. However, overvaluing a project match will lead to unintended consequences. First many unserved areas of the state are too expensive to build and don't provide enough revenue to justify any match. For example Pegram Idaho is beautiful, unincorporated, town in in the southeast corner of the state. Pegram has roughly a dozen homes and four or five business structures. To service Pegram a 15-mile build would be required as well as an additional 3 miles to build the town. Currently the residents have zero broadband service. They are limited to dial up or perhaps LEO services. You are all smart enough to see that almost any amount of required match would deem this project unwise. Even a \$100,000 match would take over 6 years just to recover the initial

investment. Second, overvaluing a high match percentage may serve to price out smaller providers and limit competition for these grant dollars.

4. The IBAB has flexibility to determine the timeframe of the challenge period. **Is 21-days a reasonable amount of time for potential challengers to review proposed project areas and submit challenges?**
 - a. 21 days is tight but seems doable; 30 days or an additional week seems more appropriate.

5. Discussions have been had as to whether grant administration costs should be allowable under the CPF program. **Should grant administration costs be allowable for awardees, and what amount for grant administration is reasonable?**
 - a. In our opinion the answer to this question depends on who is asking for the administration costs. If a municipality is forced to hire an outside agency or employ new staff to administer the grant, then it may be appropriate. However, there are many governmental agencies available to help smaller municipalities handle these types of projects. However, if a private provider or larger public agency is requesting administration costs it seems unnecessary. These expenses seem the cost of doing business.

6. **Please provide any additional comments or suggestions regarding the program guidelines and application.**
 - a. In our opinion the number one goal of the Idaho Broadband Advisory Board should be to connect as many unserved homes as possible. Bridging the digital divide in Idaho is imperative to assure that the rural parts of the state aren't simply left behind by our metropolitan areas. It has become crystal clear over the last few years that high quality, fiber optic based, broadband services have become a necessary part of our lives. Without it our children will receive lesser education opportunities, our elderly will miss out on lifesaving medical services, and the workforce will see limited growth opportunities and less opportunities for upward mobility. We must not lose sight of this goal.
 - b. How is the state going to consider RDOF awarded areas? Many if not most of the RDOF awarded projects have become boondoggles. Many of those projects have simply been abandoned by the winning bidder. Even more have seen little to now progress. How will the state decide if an area should be ineligible or not. What will the status the award need to be for the area to be deemed ineligible?
 - c. The states CPF guidelines spend a lot of time talking about different delivery speeds and requirements. The Project Requirements state that projects must provide 100/20 services scalable to 100/100. The state is presented with a once in a generation opportunity to meet the growing

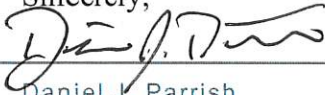
demands of broadband in Idaho. Due to the importance of this issue and the rarity of this opportunity it is imperative that you fund projects that can not only meet today's needs but the demands of tomorrow. We would highly recommend that applicants are required to build networks that can immediately provide reliable, 100/100mbs networks that are at least 1gig/1gig scalable. Moving your vision up and making this change will ensure that only quality networks are constructed. This will help to help to provide Idaho's residents with world class services for years to come.

- d. Section 21 i i) is related to applicants communicating with organizations regarding rights of ways, easements, or pole attachments needs. It is important to note that man of not the vast majority of this work would take place after the granting of project awards. Most agencies would want little more than basic projects information before an actual project was ready to move forward. Bogging down local, state, and federal agencies requests on potential projects would only serve to unnecessarily slow down the process for everyone.
- e. Section 21 i viii) will the state have accepted and approved mapping available to help determine the status locations? If not, what methods of assessing the available service to a location will be accepted?
- f. There has been much discussion about "open access". Much of this discussion has happened without defining what open access is and what if any actual value it offers. Impressively the state offers a rather fair definition in section 21 i vi) "*the goal of providing equal, affordable, and unrestricted access to the internet*". Those who support "open access" models often claim that these models decrease access costs, increase competition, and raise the quality of service being offered. However, they rarely offer clear examples showing the success of these models. If the goal is to increase competition and decrease access costs while increasing accessibility and affordability to unserved areas, there are better ways to accomplish these objectives. You could simply require, or assign value in your scoring matrix, that grant fund recipients make circuits available across the newly constructed networks. to any recipients of state grant funds to make available circuits across the newly constructed networks. You can require that these new circuits be offered at fair market rates. This will serve to immediately increase competition and drive down the cost for other providers who would like to service the area. His would also serve to offload the costs of maintenance, upgrade, etc. to the private sector provider. This would be the quickest, cleanest, easiest, and most affordable way to ensure open access to un and underserved areas.
- g. If we were attempting to determine the projects that our children's treasure was going to fund, we would use criteria similar to the following:
 - Number of unserved homes connected.
 - Number of underserved homes impacted.

- Is there Existing Network Overbuild
- % of Applicant Match
 - This could be weighed against the cost of construction per location. This would help to ensure that the most rural areas aren't priced out of the market.
- Carrier services (middle mile) available
- Equitable Disbursement of Funds

We are appreciative of the effort and hard work that the Department of Commerce and members of the IBAB have put in. This is not an easy task. If the department of commerce or the IBAB would like more information or clarifications, please do not hesitate to contact us.

Sincerely,



Daniel J. Parrish

Community Development Officer, Legislative Liaison

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March 3, 2023

RE: Comment on the Capital Projects Fund (CPF) grant guidelines
ATTN: Ramón S. Hobdey-Sánchez

Dear Idaho Broadband Advisory Board,

In conjunction with our previous commentary, linked [HERE](#), we submit six discrete observations and proposed solutions for improving the Idaho Capital Projects Fund (ARPA) Broadband Infrastructure Grant Application and Guidelines. In the following letter, we offer potential alterations to further align the guidelines to IBAB's guiding principles, including *access, affordability, alignment, competition, data-driven planning, and responsiveness*.

We respectfully submit this document and ask for serious consideration on behalf of the communities we have worked with and considering the thousands of hours volunteered to help communities build broadband plans, access funding, and build better communities through technology. ETS is committed to the vision the Idaho Broadband Strategic Plan set forth and will continue to provide expertise to communities facing acute needs here in Idaho. As an Idahoan myself, I am passionate about building up my community and all Idaho communities. I look forward to working with the IBAB to create a better Idaho.

I would be happy and grateful for the opportunity to discuss these ideas further with any Board or Broadband team member at your request. Thank you for your time, efforts, and consideration.

Sincerely,

	Jacob Johnson Chief Technology Officer
	----- Mobile 801 499 3608 Office 208 647 7153 jacob.johnson@etscorp.com
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We have curated this feedback according to section titles and verbiage in the [Grant Application Draft](#). We value **Leading with Solutions** for our communities and have provided possible steps for resolutions where appropriate.

- **3. Timelines – C and D – Challenge Period – (Responsive)** - We would encourage the committee to consider *shortening the challenge period* to no more than seven days (May 3rd – May 10th). We implore the committee to require evidence to be reported with any challenge substantiating a claim (e.g., speed tests, maps, FCC reporting, etc.). We propose that the time between May 11th and May 17th be available to grant submitters to respond to challenges. We then suggest that the time between May 18th and 24th be utilized to vet challenges and grants thoroughly in preparation for the grant review period, streamlining the process while providing diligent responses and timely awards.
- **6. Ineligible Project Areas – (Access)** - As written, this stipulation mentions excluding geographic areas that received funding in the “2020 State of Idaho Cares Act Grant and the 2021 Idaho Broadband Fund: CARES Act Broadband Grant”. This could prohibit meaningful participation from communities with successful multiphase broadband projects. We encourage the Committee to consider the *proven, audited, successful multiphase projects* whose first phase focused on middle-mile fiber and wireless for covering outlying areas and whose subsequent phases are focused on last-mile fiber for every home in the population density.
- **7. Definitions - g. Open Access – (Affordable and Competitive)** - Defining Open Access is imperative if challenging, for the committee before the release of the grant applications. An open access network is one where the infrastructure owner offers *nondiscriminatory* access to and use of its network on a wholesale basis to other providers seeking to provide middle-mile carriage using the eligible entity’s funded network *at just and reasonable wholesale rates*. We suggest a strategy requiring reporting backhaul pricing (10GB) for middle-mile in the grant application for comparison, review, and consideration, ensuring fair pricing. While this paragraph has a basic definition, networks are more complex than a single paragraph can express. Please see the attached [Exhibit A](#) detailing network types and attributes.
- **15. Auditing - (Alignment and Data-Driven)** - The auditing section would benefit from increased critical definition. We encourage the committee to consider adding *specified certification criteria, but equally important quarterly reviews, and a specified claw-back clause for incomplete or non-progressing projects*. Quarterly reviews would include the grantee, a community representative (e.g., a mayor, county commissioner, or appointed representative), and the department of commerce to ensure project progress and community satisfaction.

For project completion, requirements should include, a notarized letter of certification from the grantee or certified partner of project completion, the completion date, conformity to all applicable federal, state, and local requirements, and service level certification, a document containing a project brief, total costs, outcomes, community impact, how the project explicitly fulfills IBAB Broadband Strategic Plan Criteria, complete infrastructure mapping, and video-verified speed tests of critical infrastructure and anchor institutions. *(Examples of suggested documents available upon request.)*

- **21. Project Evaluation and Scoring Criteria - viii) Points are awarded ...** (*Access, Data-Driven, and Responsive*) - The first scoring table of “locations” favors larger communities and significantly disadvantages, if not eliminates, the smaller ones. ***Utilizing percentages of households and businesses reached*** rather than gross numbers would create a more level playing field for rural and small communities. This should be used in conjunction with the percentage of the population that is unserved/underserved.

Further, consideration of cost per household in relation to the national average ratios and long-term savings should be considered. Project costs should have realistic evidentiary support for their costs. Very low and very high costs should be vetted to ensure realistic bounds. In the case of very high costs in areas with exceptional rurality and low population density (e.g., A rural community with 50 households in a mountainous region), overfunding may lessen the overall reach of the grants, while subsidiary funding for timely solutions like Starlink may be a better solution today in planning for tomorrow. Taking this approach better aligns with IBAB’s overall guiding principles, especially access to all, by treating the cost and population analysis more similarly to a ***necessary public utility or infrastructure***, much like electricity, phone, or sewer services.

- **21. Project Evaluation and Scoring Criteria - xiii) Does the proposed project include a match? ...** - (*Access, Data-Driven, and Responsive*) - The second scoring table, “the match,” creates an advantage for private owners and large communities while disadvantaging small communities and community-owned infrastructure. The disadvantage to small and rural communities directly conflicts with IBAB’s goals of funding those most in need, removing barriers, and providing internet for all. While we do not have a perfectly succinct solution for resolving this issue, we encourage the committee to consider the following approach and concepts for this criterion.

Following in the footsteps of the NTIA program, we encourage the IBAB committee to implement a match waiver allowing those who qualify to be allotted the full 15 points for this metric. Like IBAB, NTIA’s policy is to ensure “funds are used to bring affordable broadband to all Americans.” Critical concepts for this waiver would include a preponderance of evidence of merit and value to the communities, long term affordability of services, and the “pay it forward to pay it back” mindset applied to public utilities or infrastructure as mentioned above.

Secondly, we encourage the committee to place more stringent accountability for matches, both in kind and in cash. Documentation for all in-kind matches should be required that stipulates the assets and contributions to the project. For in-cash matches, we encourage the committee to consider a dollar-for-dollar in-kind escrow account. This would provide three functions; it would provide extra accountability and documentation sources for contributions and distributions, it would prevent budget or asset “padding” that would make grant requests more competitive without true matching, and lastly, it would provide accountability for following the building timeline helping with quarterly accountability and completion auditing.

We respectfully request that the board give serious consideration to these suggestions. We desire nothing more than to help align the efforts of communities with the Idaho Broadband Strategic Plan. We look forward to continuing our efforts in serving with the IBAB to meet the broadband needs of our communities.

An Open Access Middle-mile Network refers to an infrastructure system where the network owner/operator provides equal and fair access to the network to other service providers at a wholesale level, without discrimination or preference, while maintaining standards and viability. The network owner/operator allows other providers to use the network to offer middle-mile transportation services. Access to the network is granted at just and reasonable wholesale rates, ensuring that all providers can offer their services to end-users at competitive prices. In summary, the Open Access Middle-mile Network promotes fair competition and innovation by removing barriers to entry and ensuring access to essential infrastructure.

An Open Access Last-mile Network is a telecommunications infrastructure that enables multiple service providers to offer their retail services over the same access network simultaneously. This means that end-users have the freedom to choose which service provider they prefer to purchase their services from instead of being restricted to a single provider. This competition among service providers creates a more diverse and innovative market, encouraging providers to offer better services at more competitive prices.

An Open Access Last-mile Network is created when a network owner/operator provides access to their infrastructure to multiple service providers, who then compete to offer services to end-users. The network owner charges a fee to the service providers for the use of the network, which can be a flat fee or a usage-based fee. This revenue model provides an incentive for the network owner to invest in and maintain the infrastructure while allowing service providers to enter markets where they do not have an infrastructure.

In summary, an Open Access Last-mile Network promotes competition, innovation, and consumer choice by allowing multiple service providers to offer services over the same infrastructure. This model provides a level playing field for service providers, enabling them to compete on the quality and price of their services while allowing the network owner to generate revenue from using their infrastructure.

Middle vs. Last-mile:

Speaking in general terms, the middle-mile and last-mile are two segments of a telecommunication network that are crucial for delivering services to end-users.

The middle-mile refers to the network segment that connects the internet backbone to local networks or internet service providers (ISPs). This segment is responsible for transporting data from the Internet backbone to regional or local networks. The middle-mile network typically covers a larger geographic area than the last-mile network and includes fiber optic cables, microwave links, and other wired and wireless technologies. While Middle-mile is essential in serving end-users, it rarely is used to connect end-users directly.

The last-mile, on the other hand, refers to the final segment of the network that connects the local network or ISP to the end-users' premises, such as homes or businesses. This segment is responsible for delivering the internet connection to the end-users and typically covers a smaller geographic area. The last-mile network typically includes technologies such as fiber optics or wireless.

In summary, the middle-mile network is responsible for transporting data between the internet backbone and local networks or ISPs, while the last-mile network delivers the internet connection to end-users' premises. Both segments are critical for delivering internet services to end-users.

Fundamental Characteristics of Open Access Networks:

- **Openness:** An Open Access Network should be open to all service providers on equal terms without discrimination or preference while ensuring high standards and quality.
- **Non-discrimination:** Service providers should have equal access to the network, and network owners should not prioritize or give preferential treatment to any one service provider.
- **Transparency:** Open Access Networks should be transparent in their operation, pricing, and terms of use.
- **Competition:** Open Access Networks should promote innovation and competition among service providers, which leads to better services and lower prices for consumers.
- **Standard Technologies:** Open Access Networks should be built on accepted and proven standard technologies, meaning that they should follow accepted and proven technological standards and protocols while avoiding vendor bias/lock which may lead to lack of interoperability. Examples of these standards should include quality Active or Passive Optical solutions, Wavelength Division Multiplexing, TCP/IP, Ethernet, MPLS, QinQ, IPV4/IPv6, VLANs/VXLANs, OSPF, BGP, Open Tunneling Protocols, and SNMP, which provide the necessary speed, capacity, and flexibility to enable high-speed broadband access for multiple service providers on the same infrastructure.
- **Cost recovery:** Open Access Networks should allow network owners/operators to recover their costs, but not to generate excessive profits. Operating plans should require continued investment, and upgrades which should be funded from operating proceeds.
- **Interoperability:** Open Access Networks should promote interoperability, allowing for seamless connectivity between different providers, networks, and services.
- **Scalability:** Open Access Networks should be designed to scale and accommodate future growth and technological changes.
- **Community Involvement:** Open Access Networks should involve and engage with the communities they serve, promoting local ownership and public private partnerships. They ensure the community is well served and that all end-users are afforded choice and competition ensure fair market rates.
- **Innovation:** Open Access Networks should foster innovation by promoting experimentation and new business models, enabling new services and applications to emerge. Open Access Networks provide a platform for many solutions and services beyond internet connectivity.



Ramón S. Hobdey-Sánchez, J.D.
State Broadband Program Manager
Idaho Department of Commerce
700 W. State St., Boise, Idaho 83702

3-3-23

Dear Mr. Hobdey-Sanchez,

Thank you for the opportunity to provide public comment in response to the CPF Guidelines put out by the Idaho Broadband Advisory Board (the "IBAB").

Farmers Mutual Telephone Company (FMTC), a cooperative that was established in 1908, is located on the western edge of Idaho along the Snake River. FMTC is proud to say that it has completed building fiber to all locations within its traditional service area. Now FMTC is expanding outside of the traditional borders at the request of unserved and underserved Idahoans.

FMTC feels that the FCC Urban Rate Survey Results published by the FCC should be used to determine affordability. Additionally, the existing ACP and Lifeline programs should be required to be offered to the customers that qualify for financial support.

FMTC feels that a 10% cap of the overall funding budget for projects will distribute funding to multiple areas of the state. Project proposals can be engineered around these dollar limitations.

Points for grant matching funds should be capped at 15-25%. The unserved and underserved customers live away from municipalities in the most expensive and least profitable locations around our state.

FMTC feels a 21-business day threshold is adequate for the challenge process and will not delay the awarding of funding.

Grant administration costs should be allowed to be recovered up to the limits defined by the [GUIDANCE FOR THE CORONAVIRUS CAPITAL PROJECTS FUND \(treasury.gov\)](https://home.treasury.gov/system/files/136/Capital-Projects-Fund-Guidance-States-Territories-and-Freely-Associated-States.pdf) <https://home.treasury.gov/system/files/136/Capital-Projects-Fund-Guidance-States-Territories-and-Freely-Associated-States.pdf>.

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FMTC would recommend elimination of open access requirement and any scoring for open access. As FMTC continues to expand deeper into the unserved and underserved areas, the requirement to open the last mile does not afford any solution as the core of the network is complete.

The Capital Projects Fund allows for investment in high-quality broadband infrastructure designed to directly enable work, education, and health monitoring. Letters of support are important, but the number of letters supporting a project may be minimized by the lack of customers in remote, high-cost project areas as compared to the customer density of a municipality. This metric would always be in favor of densely populated areas. FMTC would caution relying on a specific number of letters as a scoring criterion.

FMTC supports the prioritization of fiber optic projects purposefully engineered for the future of Idaho citizens.

There is a conflict in the requirement in section 13. a. and 20. b. as it pertains to completing an environmental checklist. FMTC would suggest that no additional environmental requirements be placed on grant recipients above what the ARPA funds define as mandatory.

Anchor institutions are weighted very heavily and this will be an area that rural projects will have an impossible time of gaining any points as the program is currently defined.

The IBAB has an enormous task to distribute this one-time funding for the betterment of Idaho citizens. Please look to existing successful providers to invest in and have confidence that these investments will have long-lasting returns.

Respectfully submitted,

A handwritten signature in blue ink that reads "Ron Rembelski".

Ron Rembelski
General Manager

From: Ty Snyder <ty.snyder@fatbeam.com>
Sent: Friday, March 3, 2023 2:41 PM
To: COM Broadband <broadband@commerce.idaho.gov>
Subject: CPF Grant Guidelines - Public Comment

Thank you for the opportunity to provide comments on the CFP Grant Guidelines draft.

We would appreciate further clarification on and better definition of how the Scoring Metrics will be used. Will the applications be ranked by the highest score and then awarded based on high score(s), or will a minimum score be required for the application to be considered, or perhaps some other approach?

We also request clarification on this question: Section viii asks for the number of unserved/underserved locations being impacted. If that number is 400, a maximum of 4 points can be awarded, if the number of locations is 2000+ a maximum of 20 points can be awarded. What if the number of locations is below 400?

Also, this scoring metric disfavors smaller projects, the smaller projects in many cases will likely never get done without funding as the ROI is not there. For locations of 2000+ the ROI is much different than the smaller projects, a case could be made that the larger projects could need less percentage of funding, where a smaller project may need full funding.

Thank you again for the opportunity to provide comment.

Ty Snyder



Ty Snyder
Sr. Government Account Executive
208) 755-0143
ty.snyder@fatbeam.com | www.fatbeam.com

FYBERCOM

March 3, 2023
George Swanson
CHRO
FyberCom LLC
3780 N Yellowstone Hwy
Idaho Falls, ID 83401

Program Feedback:

Minimum number of awards-

Stretching grant money is very important to FyberCom, not just because we are an ISP but also because we are taxpayers of this wonderful state and want broadband access for every rural location in the state. To answer this, the IBAB should focus heavily on cost per mile above other cost metrics; cost per mile will speak loudly on what companies are using grant monies to gain capital (equipment, contracts, materials, etc.) and attempting to make more projects happen. Cost per mile will give you a better dollar figure for what these projects can complete and in what area. No one needs 120 to 200k per mile; this is a misuse of federal/state funds. FyberCom proposes that we determine a sliding cost-per-mile formula by taking all regions of Idaho and averaging all proposals; any project above that amount could then be subjected to submitting supporting documents and or receiving multiple bids to prove the scope of work is really that cost. FyberCom does not have a minimum/maximum number of awards to recommend. However, we recommend best practices for making our grant monies go further and cutting waste from these projects.

Open access-

FyberCom would like clarification on what open access a provider. Anyone can say it's open access, but what model follows this? Rules/regulations/pricing/etc.? What if there is no middle mile to connect? Diving deeper into what this means would help with all projects greatly.

Matching funds-

FyberCom appreciates the board's approach to matching funds. This will help stretch grant monies further throughout the state.



Grant Administration-

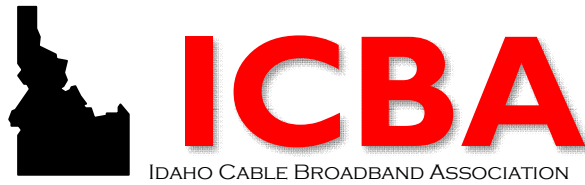
Grant administration costs should be allowable for awardees. \$2,000 to \$3,000 per project should be sufficient.

Labor Clarification-

The draft application states that the project's construction is an eligible cost. However, is this only for contracted construction? If FyberCom employs its own construction company, can we include our labor as part of the construction? Clarification on construction for 1st party or 3rd party construction.

Additional Comments-**Idaho Businesses-**

Additional bonus points to Idaho Headquartered businesses that employ and create jobs with these grant monies. This helps create new positions on new projects. Capital Projects Funds are for helping with the challenges laid bare by the pandemic, especially in rural parts of America. THIS is how we help get broadband access and create and keep local jobs in our state.



March 3, 2023

Via E-Mail: broadband@commerce.idaho.gov

Idaho Broadband Advisory Board
Attn: Chairman Vander Woude
Vice-Chair Ricks
Ramón S. Hobdey-Sánchez, J.D.
State Broadband Program Manager
Idaho Department of Commerce
700 W. State Street
Boise, Idaho 83702

RE: CPF Grant Guideline Draft

Dear Mr. Hobdey-Sánchez:

On behalf of the Idaho Cable Broadband Association (ICBA), thank you for the opportunity to provide these comments regarding the Draft Grant Guidelines for the Capital Project Fund (CPF) grant funds. We appreciate your hard work, and the hard work of others within the Idaho Department of Commerce in developing the Draft Guidelines.

Cable operators are the largest providers of essential broadband services to communities throughout Idaho, with all cable broadband providers now offering 1 Gig service everywhere within their respective service areas, but with most customers choosing to purchase broadband packages more in the 100 to 500 Mb/s range of service. Cable operators in Idaho have also placed an investment ‘bet’ of well over \$1 Billion in plant and equipment in order to provide broadband service. It is our hope that this private risk-capital investment in facilities also can play a role in expanding these networks into unserved and underserved areas of Idaho.

Some of our concerns regarding the Draft Guidelines, as discussed further below, are that they appear biased against private broadband providers and the private capital that has been and will be invested, with guidelines instead tilting strongly towards funding new broadband networks to be built by cities, counties, and regional governmental entities. Clearly, CPF

broadband grant guidelines allow for grant programs to prioritize government owned networks.¹ However, IBAB Draft Guidelines tip the scales so much in favor of government owned networks that private providers do not have a reasonable chance to receive funds. What we seek are more balanced guidelines that would allow private broadband providers to compete fairly with local governments for grant funding. We also do not believe that government owned networks should be the preferred solution in all instances, as the Draft Guidelines seem to favor.

We also strongly believe that the unserved and underserved populations should have their broadband needs met first, before other goals are addressed. Several studies are showing that there are approximately 68,000 unserved households in Idaho. With an expected \$600M in federal broadband funds coming into this state, this equates to slightly less than \$9,000 per unserved household. The point being – even at this funding level it is unlikely that there will be enough grant funds to get broadband to every unserved household in the state.

Amending the Grant Guidelines to better allow private providers to participate in the rural broadband expansion process will further the reach of these precious funds in getting broadband service to unserved and underserved locations in Idaho – both as a result of the location of our existing networks, and private match contributions.

We are also committed to working with the state and local governments to ensure that the revised guidelines prioritize the expansion of quality broadband services to those areas that are currently lacking adequate access, before other goals are prioritized.

Accordingly, our suggested changes to the draft guidelines are as follows:

1. Increase the Focus on the Unserved and Underserved

The very first Strategic Objective of *Infrastructure & Technology* found in the *Idaho Broadband Strategic Plan* is to “implement grant programs that focus on unserved and underserved communities.” The very same “unserved” and “underserved” language repeats in *Economic Development* and *Educational Access* Strategic Objectives. Yet, this core objective is lightly weighted in the Draft Guidelines, which we believe do not go far enough in prioritizing unserved and underserved.

Currently, projects that either serve the unserved/underserved or improve affordability in already-served markets are awarded 20 points. An additional 10 points are given to projects that serve more than 80% unserved locations. Instead, we believe that restricting grant dollars to be used only in unserved/underserved areas should be an absolute requirement instead of a scoring category.

We propose that any project that does not serve 100% unserved or underserved locations should be rejected outright, or amended to remove served locations. If some level of scoring is necessary above the 80% threshold for unserved locations, it could then be bonus points. This would ensure that the unserved and underserved populations receive the broadband services they

¹ U.S. Department of the Treasury, *Guidance For The Coronavirus Capital Projects Fund For States, Territories & Freely Associated States*, at 3.

need. Additionally, it would help to address the digital divide in Idaho by prioritizing those communities that have the greatest need for broadband access.

2. Lowest Application Price Per Customer

Our second point of concern in the CPF Draft Grant Guidelines is the lack of scoring related to the lowest application price. The current guidelines do not even mention this criterion, which we feel is a significant oversight.

For clarification purposes, we are only talking about giving scoring weight for un/underserved served areas where more than one applicant applies for a grant to serve. And, if there is only one grant application to serve an un/underserved area, regardless of what it cost to provide that service, the single applicant would, by definition, also be the lowest cost applicant.

Nor is this proposal a proper tool to compare the cost of one unserved area against another. There will be vast differences between the costs to serve one unserved area, versus another unserved area, primarily because of density. The cost scoring proposed here is only one competitor against another, in the same unserved area.

We propose that a category of 'grant cost per connected household' be added and account for the greatest single category of points awarded. The application with the lowest cost per connected household should get the highest or maximum number of points, followed by lesser points for second, third, fourth place applications. Such a scoring system would also incentivize matching without having to score matching separately, and would eliminate the *de facto* matching cap of 41%, as proposed.

We also believe that this scoring system would promote fairness and transparency, would not present any bias in favor of or against a public or a private applicant, and would prioritize projects that offer the most cost-effective solutions for expanding broadband access to unserved Idahoans. Most important, it would also help to ensure that the state's limited resources are used as efficiently as possible.

3. Open Access and Net Neutrality

Our third point of concern is the Draft Guidelines' heavy weighting (25 points) for proposals that contain open access networks and network neutrality. We are concerned that the heavy weighting for last-mile open access networks will lead to the forgone conclusion that those offering last-mile open access networks – primarily government owned networks – will in almost all cases prevail, and those that do not propose open access will fail.

Cable broadband providers that for the last four or more decades spent far in excess of \$1 Billion in Idaho to build proprietary networks will not be proposing last mile open access networks, and will (as currently proposed) get zero out of 25 points. It would be difficult to make up this point loss in other proposed criteria.

Cable networks are designed, built, and operated as proprietary networks, and there would need to be significant technology changes in order for a third party to be allowed to 'ride'

the last mile of an otherwise integrated broadband network, which network is also supported by decades of private investment into equipment, plant and facilities that are before and support the last mile investment. These networks are, in many instances, the network closest to the unserved population. Scoring last mile open access so heavily would, in so many instances, result in a much higher cost per customer applicant getting the grant, when the network closest and with a much lower cost, would lose.

If there are to be any points awarded for open access, they should only be a very small percentage, not to exceed 5% of the total points available.

Net neutrality rules would impose significant burdens on private ISPs, limiting their ability to manage network traffic effectively and efficiently. This would result in higher costs for consumers, would have lighter broadband users subsidizing heavier users, and could impede the development of innovative new services and applications. Additionally, imposing network neutrality rules on private ISPs receiving grants could result in few, if any, private ISPs applying for CPF grants, reducing the pool of potential providers and limiting competition in the market.

There should be no points be awarded regarding network neutrality, and the guidelines should focus on other factors that are more closely related to expanding access to quality broadband services in Idaho.

4. Local and Government Support

We believe that the current Draft Guidelines which awards 25 points to applications receiving local and municipal resolutions and letters of support unfairly disadvantages private ISPs and fails to recognize the competitive nature of grant application process, and of the broadband marketplace.

Many of the same local governments that will be called on by cable broadband companies to provide governmental resolutions and letters of support will also be competing with cable broadband providers for the same grant funds for the same unserved areas. It is highly unlikely that local governmental entities wishing to enter the broadband business with CFP funding will also pass resolutions or allow any of its affiliated enterprises (e.g., libraries, police, fire stations, etc.) to write letters supporting a private ISP competitor seeking the same grant funds. Many or most private ISP grant applications will fail on this singular point because of the heavy weighting it carries in the scoring matrix.

We propose that while letters of support or local government resolutions are important and can be scored, the score should not exceed 10% of the total score where a local government entity is not an applicant.

If the local governmental unit is an applicant, then no points should be awarded to any party, due to the competitive advantage such scoring would give to the local governmental unit with an incentive to use this scoring tool to favor itself.

5. Broadband Price Cap

The ICBA has concerns about the requirement in the draft guidelines that broadband service in unserved areas be at a price “less than \$XX per month.” It seems that there are other affordability tools that can be deployed, before the IBAB becomes the price regulator for broadband service, a task IBAB does not appear authorized to do under state law², and a proposal that likely runs afoul of federal law and FCC rules that do not allow for the price regulation of broadband service.³

The proposal also fails to recognize that private broadband providers provide monthly broadband service at a “rolled-in” monthly cost that includes invested capital (CapX), network operation and maintenance (O&M) costs, and typical ISP related customer-facing services. Many if not most governmental broadband entities separate the three services and recover them separately. For example, a customer pays for the municipal fiber-to-the-home as a part of the homeowner’s property tax payment (usually amortized over a 10 to 20 year time frame), pays the municipality separately for monthly O&M network maintenance costs, and then pays a separate fee to the ISP of choice that is riding the municipal open access network.

A cable broadband provider has one fee to report. Which of the three separate fees is the government broadband provider going to report for purposes of this “. . . less than \$XX per month?” As an aside, most private ISPs would jump at the opportunity to have their CapX network investment billed separately and as part of a homeowner’s property tax.

IN CONCLUSION, Thank you again for your consideration of the points made above, as you decide these very important guidelines that will determine how federal grant dollars are spent in Idaho.

As mentioned in the introduction, the ICBA and its members only look for the opportunity to compete fairly for grant dollars, so that our existing, privately funded broadband

² IAB’s jurisdictional mandate is to promote the deployment of broadband to unserved and underserved areas in Idaho, not regulate the prices associated with the use of access to broadband facilities or services (Idaho Code § 4761).


³ Regulation of broadband internet access services is exclusively within the jurisdiction of the Federal Communications Commission (“FCC”), which has decided that the service should be “lightly regulated” without specific rate caps or pricing requirements (*Restoring Internet Freedom*, 33 FCC Rcd 311 (2018)). The *RIF Order* reaffirms that broadband Internet access service (“BIAS”) is an interstate information service and reversed the FCC’s 2015 decision to classify BIAS as a “telecommunications service.” Under long-standing federal law, information services have been free from state regulation. *See, e.g., California v. FCC*, 39 F.3d 919 (9th Cir. 1994); *see also National Cable & Telecomms. Ass’n v. Brand X Internet Servs.*, 545 U.S. 967, 976 (2005) (stating providers of information services are not treated as common carriers and thus are not subject to the requirements of Title II of the Federal Act)

Ramón S. Hobdey-Sánchez, J.D.
March 3, 2023
Page 6

networks and facilities have an equal shot of being the provider of choice into un/underserved areas of the state.

Regards,

HAWLEY TROXELL ENNIS & HAWLEY, LLP

By: 
Ron Williams
As Executive Director
Idaho Cable Broadband Association



March 3, 2023

Idaho Broadband Advisory Board
c/o Ramón S. Hobdey-Sánchez, J.D.
Manager

State Broadband Program
Idaho Department of Commerce
P.O. Box 83720
Boise, ID 83720-0093

By email:

broadband@commerce.idaho.gov

RE: Comments on the Idaho Capital Projects Fund (ARPA)
Draft Broadband Infrastructure Grant Application ■ 2-17-23

Dear Idaho Broadband Advisory Board:

Imagine Idaho Foundation has carefully reviewed the Draft Broadband Infrastructure Grant Application released on February 17, 2023, and the specific questions for which the Idaho Broadband Advisory Board has asked for feedback relating to definition of affordability, award amounts, match requirements, challenge period and grant administration costs. Imagine Idaho supports Idahoans receiving affordable and reliable internet access and supports this federal funding which is designed to serve Idaho's most marginalized, unserved and underserved populations so that they may achieve a higher quality of life and economic prosperity.

1. U.S. Treasury guidelines require that the IBAB consider whether the broadband service options offered by applicants will be affordable to target markets in proposed service areas. However, Treasury does not set a definition for "affordable" in its program guidelines. **The IBAB seeks feedback on how affordability should be assessed. Please consider factors including, but not limited to, socioeconomic factors (income, education, age, etc.), geographic disparities, price and competition.**

Imagine Idaho supports affordable and reliable internet service. The best route to affordability is a competitive marketplace for providers offering service to end users. Open access broadband infrastructure to the home enables multiple providers to access and compete for service. With more than one provider, prices will naturally meet its market affordability and draw more customers for participating providers. Providers and broadband infrastructure teams should look at the net positive of not carrying the capital cost subsidized by this program, allowing them to offer lower than historical prices because they do not have to recover the original infrastructure investment.



As part of this opportunity, Internet Service Providers (ISPs) should have at least one option for deployed internet access service with a minimum 100/20Mbps scalable to 100/100Mbps that is no more than \$30/ month (including all fees) that will be fully subsidized through participating as an Affordable Connectivity Program (ACP) provider. The ACP utilizes socioeconomic factors included in its current eligibility requirements. This level will allow end users who qualify to get connected at no cost to their household, for as long as the ACP is funded. Requiring ACP enrollment for ISPs to apply, along with a marketing strategy to customers to receive the ACP benefit ensures equitable access for Idahoans. If or when ACP is no longer funded, which may not happen in our estimation, the \$30/month subscription should remain in place for qualifying households, with a required communication campaign that the ACP program is phasing out. For those not eligible for ACP, the same service should be available at no more than \$50/month for deployed internet access service with a minimum 100/20Mbps scalable to 100/100Mbps. Higher speeds may be offered by providers at higher rates. Beyond these requirements of a federally funded program prioritized for economically marginalized communities, the marketplace will ultimately drive competitive, affordable pricing. Affordability for critical community services incents growing populations to participate and therefore everyone wins including the service providers.

2. U.S. Treasury guidelines do not set requirements for minimum or maximum grant award amounts for this program. **For this \$125 million grant program, what are the minimum number of awards you think the IBAB should issue and is there an ideal range for the award amounts?**

Imagine Idaho supports the IBAB prioritizing high need areas first, and to have flexibility to determine how many projects to award and at what amounts. The IBAB should put good faith in planners and their requests and evaluate on need and merit. We do recommend that any single requests covering regions not exceed more than 25% of the \$125 million fund so that the resources can cover more projects.

3. U.S. Treasury guidelines do not require the IBAB to include match requirements for this program. **The IBAB seeks feedback on what an appropriate level of matching funds may be for program applicants. For further context, the IBAB must require a 25 percent match for the Broadband Equity, Access and Deployment (BEAD) program that will be administered at a later date.**

- A. Private providers should be required to include a significant match, with a higher percentage of match increasing their chance for possible points.
- B. Public entities or applicants that can demonstrate and justify outsized public



benefits or high need according to accepted definitions should be encouraged to apply for a match waiver.

The BEAD NOFO provides context and direction for this exception:

As explained in Section III.B.5. of the NOFO, in evaluating requests for waiver of the BEAD Program’s non-federal match requirement, NTIA will carefully balance the Program’s various objectives. It is NTIA’s policy to ensure that BEAD funds are used to bring affordable broadband to all Americans. Thus, the Assistant Secretary will generally seek to minimize the BEAD funding outlay on a particular project to extend the Program’s reach, and expects to grant waivers only in special circumstances, when waiver is necessary to advance objectives that are critical to the Program’s success. In order to be considered for a waiver, an Eligible Entity must submit a request that describes the special circumstances underlying the request and explain how a waiver would serve the public interest and effectuate the purposes of the BEAD Program. The Assistant Secretary retains the discretion to waive any amount of the match, including up to the full 25 percent requirement.

- C. Additionally, we propose a matching requirement that does not penalize applicants without cash resources. For example, in-kind matching that is weighted differently than cash or debt matching, and/or state award grant payment contingent on private sector match commitments secured after a proposal is awarded so that the award is an incentive to potential private sector partners to competitively bid on the project. In-kind assets may be tangible like power poles or rights of way but may also be more intangible like educational support, training certifications offered, and donated planning services. These in-kind assets should be given higher point value because they point to community involvement that will foster success.

To qualify for matching alternatives and waivers, criteria could be used to designate a high-need area and include one of the following:

- Classification of rural, frontier and remote areas with an average density below the USDA threshold of residents per square mile;
- Percentage of households in Opportunity Zones;
- Percentage of are classified as Severely Vulnerable Communities;
- Rank in median household income or poverty rate in Idaho; or
- Low-density populations with number of households without access to reliable broadband service at 100/20 Mbps



4. The IBAB has flexibility to determine the timeframe of the challenge period. **Is 21-days a reasonable amount of time for potential challengers to review proposed project areas and submit challenges?**

The challenge period should be reduced to no more than two weeks. By the time of this proposal release, the state should have a compiled map that outlines existing assets and speed-testing data. Therefore, there should be no need to spend additional time and resources for challenges that prevent the IBAB from moving forward with awards. Requiring providers to work with communities will create an opportunity to communicate about projects and potential partnerships. The Idaho Broadband Office should have ample data to be able to verify and review any discrepancies on their own.

5. Discussions have been had as to whether grant administration costs should be allowable under the CPF program. **Should grant administration costs be allowable for awardees, and what amount for grant administration is reasonable?**

Yes, grant administration costs should be an allowable use of grant awards. A typical federal project for grant administration would be 10% of the total project cost. Not allowing it would be a barrier to entry for low-resourced rural counties who do not have additional funding to manage a major capital project. To bridge the digital divide in rural Idaho, it is imperative that CPF grant funding be used for grant administration costs. Our recommendation is that 100% of grant administration costs can be included in the budget and reimbursable with grant funding, particularly for applicants who make a case as a high need area according to federal definitions.

6. **Please provide any additional comments or suggestions regarding the program guidelines and application.**

Outside of Idaho's major metropolitan areas, Idaho's unserved and underserved residents are in communities that do not operate with large cash reserves. They are fiercely independent, self-reliant, and do not over burden their tax base with bonds and local assessments. Because they are rural and remote, they are often overlooked by private internet service providers (ISPs) because the economics don't pencil out. The CPF and other federal broadband funds dedicated to Idaho are intended as once in a generation funding to help these unserved and underserved communities develop projects to get connected in an equitable and affordable way that is attractive to the private sector to participate.

Communities applying that are rural, remote, high-need and have a very low tax base have historically not been priority projects for infrastructure funded by the private sector. They



can demonstrate overwhelming community support and have a strong history of stakeholder engagement, in some cases over many years of effort to launch their projects. Lessening or eliminating the burden of a match and other barriers for applicants with high-need criteria would make projects more attractive for ISPs participation and building public private partnerships, ultimately getting Idahoans connected.

Imagine Idaho Foundation is a 501(c)(3) non-profit created to connect rural Idaho with broadband infrastructure leading to Idahoans securing accessible, reliable, and affordable internet access, that is future-proof and high-speed to further economic prosperity. Incorporated in Idaho Falls, Idaho, we are a non-biased, grant funded, private entity that serves as an educational and capacity building resource for Idaho and its unserved and underserved communities.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "Christina Culver", is placed over a light green rectangular background.

Christina Culver
Director

From: Mike Bly <mikeb@inlandcell.com>
Sent: Tuesday, February 21, 2023 2:45 PM
To: COM Broadband <broadband@commerce.idaho.gov>
Cc: Jake Reynolds <Jake.Reynolds@commerce.idaho.gov>; Ewa Szewczyk <Ewa.Szewczyk@commerce.idaho.gov>; Cody Allred <Cody.Allred@commerce.idaho.gov>; Ramon Hobdey-Sanchez <ramon.hobdeysanchez@commerce.idaho.gov>
Subject: RE: [EXTERNAL] DRAFT: Idaho CPF Grant Program and Guidelines

Ramon –

Some feedback:

1. Affordability. The cost of service should be comparable to the service available in surrounding areas. For current broadband providers, the cost of service should be equal to or less than that offered in non-subsidized areas.
2. # of awards. No input.
3. Level of match. Even a 10% or 25% match from a carrier/private business may make the project untenable, with no ROI. Remember, these are often hard to reach places with high costs. If we are going to provide low cost service and have to provide a sizeable match, there may be no ROI even with 75% or 90% reimbursed. On the other hand, if the business is seeking other public funds for the match, this drastically increases the cost of writing a grant because now there are two grants to write, contingent on each other. For the BEAD money, the state should consider a separate fund to provide for the match, and the application for the separate state funds should not add to the burden of writing the grant.
4. Challenge period. 21 days is reasonable (provided it is not over our major holiday season).
5. Grant administration. Yes, it should be allowable. If it isn't, it should count towards the match. I don't believe most people realize the amount of time this takes, particularly for federal grants. It is daunting.
6. Please define: scalable to 100/100Mbps. Does this mean it needs to be able to get to 100/100Mbps...and if so, by when? And with what effort/cost? Will the future cost be covered by the grant? Keep in mind, synchronous speeds eliminate much of the current wireless technology and frequencies – there's often not a simple upgrade to suddenly go from 100/20Mbps to 100/100Mbps. If it needs to be capable of 100/100Mbps, why not just require that from the get go?

Mike



Mike Bly | SVP Business Operations
Inland Cellular HQ
Mobile: (208) 791-8000
Office: (208) 798-0245 ext 1222



March 3, 2023

Sent Via Email To: broadband@commerce.idaho.gov

Idaho Department of Commerce
Attn: Ramón S. Hobdey-Sánchez,
P.O. Box 83720
Boise, ID 83720-0093
Fax: 208-334-2631

Re: Newmax, LLC dba Intermax Networks' Public Comment Regarding CPF Grant Application Guidelines

Dear Mr. Hobdey-Sánchez, Chairman Vander Woude, and Broadband Advisory Board Members:

Newmax, LLC dba Intermax Networks (hereinafter "Intermax") submits this response to the Idaho Broadband Advisory Board's Request for Public Comment on the Capital Project Fund ("CPF") grant application guidelines released on February 21, 2023.

I. Challenge Process:

The current draft is too vague: it does not include a definition of a "qualifying challenger"; does not contain any information about who oversees and adjudicates challenges; and does not mention who has the burden of proof (which should reside with the challenger). The challenge process, in full, must be included in the grant guidelines.

II. Grant Administration:

- a. Procurement – The current requirements on procurement are vague and will be burdensome to private entities. Further, the rules should clarify that if an entity is self-performing, adherence to these statutes is not required in order to receive CPF funding.
- b. Milestone Payments – Funding based solely upon progress milestones could be problematic for many entities. There should be an initial disbursement to cover upfront costs incurred, as intended in Section 19(a), as well as a process for requesting disbursement for grant administration costs, as expressed in Section 19(d). Additionally, consideration should be given for an initial 20% disbursement of project costs to cover the costs incurred to secure materials and contractors to begin the CPF projects.

III. Affordability Issue in Served Markets:

Points should not be given to overbuild an area that is already considered served, particularly when participating in the ACP is already required to be an eligible applicant under the draft guidelines. Currently, as drafted, 20 points are awarded for projects that

“either” serve the unserved/underserved, or “improve affordability in already-served markets.” Another 10 points are awarded to projects that serve more than 80% or more unserved locations. If some level of scoring is necessary above the 80% threshold, it should be bonus points.

IV. Lowest Bid Price:

Where this is not mentioned, it should instead be *the most significant scoring criteria*. The lowest cost bid, calculated on a ‘grant cost per connected household’, should account for at least 50% of the overall points allocated. The bid with the lowest cost per connected household should get 50 (out of 100) points for the lowest cost bid, with the second place getting 40 points, etc. Such a scoring system would also incentivize matching, without having to score matching separately, and would eliminate the de facto matching cap of 41%, as proposed.

V. Open Access & Net Neutrality:

Treasury guidelines do not reference “open access networks” or “net neutrality” as goals related to awarding CPF funds, yet the IBAB Draft Guidelines heavily weigh bids (25 points) that contain these two very different elements. Further, the draft guidelines are vague and do not define “open access.” Imposing open access network requirements on a private ISP that has for decades designed, built and operated a proprietary network, would result in many or most of the same companies declining to apply for a CPF grant, even though these are the networks that in many cases are likely the closest to the unserved population. Accordingly, if there are to be any points awarded for open access, they should only be a very small percentage, not to exceed 5% of the total points available, or bonus points.

Intermax, like many private ISPs, and in particular smaller ISPs, does not operate its network in a way that offends net neutrality. Adding impositions on providers that are not currently operating in a way to hinder net neutrality is burdensome and unfair, and will likely result in few private ISPs applying for CPF grants.

There should be no reference to, or points awarded, regarding “network neutrality.”

VI. Local Public and Governmental Support:

25 points awarded to an application receiving local and municipal letters of support, and zero points for no letters or city or county resolutions of support, fails to recognize that many of the same local governments will be competitors to private ISPs seeking to serve the same unserved populations. It is highly unlikely that local governmental entities wishing to enter the broadband business with CFP funding will also pass resolutions or allow any of its affiliated enterprises (e.g., libraries, police, fire stations, etc.) to write letters supporting a private ISP competitor seeking the same grant funds. Many or most private ISP grant applications will fail on this singular point because of the heavy weighting it

carries in the scoring matrix. While letters of support or local government resolutions can be scored, the score should not exceed 10% of the total score where a local government entity is not an applicant. If the local governmental unit is an applicant, then no points should be awarded to any party, due to the competitive advantage such scoring would give to the local governmental unit with incentive to use this scoring tool to favor itself.

VII. History of Broadband Projects:

Points should be given to entities that have successfully completed prior broadband projects, including state and federal projects, that have received public funding.

Thank you for the opportunity to comment on these important topics related to expanding broadband to rural Idaho in the most effective and efficient way possible. This is an important moment and we need to get it right.

Sincerely,

A handwritten signature in blue ink, appearing to read "M.K.", written in a cursive style.

Mike Kennedy
President and CEO

GIVENS PURSLEY_{LLP}

Attorneys and Counselors at Law

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March 3, 2023

VIA EMAIL

Ramón S. Hobdey-Sánchez
State Broadband Program Manager
Idaho Department of Commerce
700 W. State Street
Boise, Idaho 83702
ramon.hobdeysanchez@commerce.idaho.gov

Dear Mr. Hobdey-Sanchez:

Thank you for the opportunity to provide a public comment in response to the CPF Guidelines put out by the Idaho Broadband Advisory Board (the “Advisory Board”).

As you are aware, the Idaho Telecom Alliance (“ITA”) is made up of fourteen independent local exchange telecommunications and broadband companies located in the most rural areas of Idaho. Their customer density typically is less than 1.4 people per square mile, making their service territories some of the least dense and most expensive in the state to serve. Their identities and service territories can be found at: <https://www.idahotelecomalliance.org/>. Originally these companies were formed, many of them over a hundred years ago, to provide telephone services to the “leftover areas” of rural southern Idaho that were not offered service from the legacy Bell system. Now they provide some of the most sophisticated broadband service in the state. Most provide broadband service that meets the requirements of the CPF Guidelines through fiber to the premises for most customers. Because rural areas also are growing, however, there are unserved areas within their service territories that could be built out with assistance of the Capital Projects Fund (“CPF”). Unfortunately there also are areas that qualify as underserved as the cost of replacing DSL service on legacy long loop copper facilities with fiber to the premises is a challenging financial prospect.

This letter includes comments on four main areas the ITA would like addressed in the final Guidelines but also provides other technical observations of a less urgent nature. As we have told you before, taken as a whole, this proposed set of Guidelines is heavily weighted against private companies that for many decades have provided service to customers in rural

Idaho. It seems to plainly show a preference for municipal or nonprofit networks instead. That may not have been the intent of the drafters but in fact it is what the Guidelines do as they are currently proposed.

We understand the frustration expressed by Idahoans whose demand for broadband service has not been supplied adequately by the private market. As the Advisory Board knows, providing broadband to high cost locations is a daunting challenge for any network. In many cases the market incentives don't offer sufficient return to justify an investment in the facilities necessary to serve those locations. That is an unfortunate economic fact. BUT, as the Advisory Board goes forward to assist funding services it should recognize that it usually will make less economic sense to overbuild existing networks in rural high cost areas than it does to augment them.

All ITA member companies have plant and equipment to provide the broadband services required under CPF within their service territories. The reason their service is not yet provided to every potential customer in their service areas at the required bandwidths is attributable solely to the fact that the build out investment hasn't provided the ROI potential to justify the investment. Be assured, however, if those customers are to obtain broadband from funds provided by CPF, the service will be vastly less costly to provide by investment in the current networks than by the creation of new networks.

If the qualifications and scoring criteria are not changed, the customers who live within or near the ITA companies' areas are not likely to see improved services from CPF funds. Instead, those funds will be spent elsewhere, most likely in more populated areas where the market case for broadband investment is less daunting. Why do we say that? For several reasons explained more fully below. To put it in a nutshell though, the preference for urban-focused municipal networks will cause proposals by municipalities to be scored higher. The majority of the "unserved" and "underserved" customers that CPF funds are supposed to be targeting don't live in or near those municipalities. They live in the county far from any municipality.

Second, the preference for open access will drive the grants towards new networks that do not have substantial private investments to protect. Requiring a private company to allow its competitors to use the facilities it alone has paid for in order to compete against it for its own customers is not a business proposition that many business will find attractive. Finally, preferring projects that are supported by a municipality puts an elbow on the scale in favor of municipalities. If that is difficult to understand, envisioning a scoring criteria that required a municipally owned network to gain the support of the private companies it intends to overbuild should illustrate the unfairness.

Each of our major concerns is addressed in turn below, followed by technical comments of a less urgent nature:

1. Open Access

Our greatest concern is the metric for open access. The Guidelines afford open access projects the highest score available of 25 points. We anticipate that no private company will

agree to open use of its network by those who have not built it. We understand the thought that improvements to networks that might be funded by CPF funds should be open to the public since they are paid for by public dollars. Envision a two mile extension to a private network that would serve thirty new locations. A company cannot provide open access only on those two miles. Networks don't work that way; particularly for the last mile service to be provided by CPF funds. The cost to a private entity to open up its entire network is not justified by the potential increase of thirty customers.. Private companies will not be able justify the high cost of opening their entire networks and will not qualify for the 25 points.

In practical terms, only municipal and non-profit networks will agree to this requirement. It is a curious policy to penalize those most capable of providing broadband service - those with a history of demonstrated competence and experience - in favor of new networks to be built and operated by those without track records. This is inherently unfair to private entities applying for grant monies who are able to achieve successful build outs by 2026. Beyond that, it would disadvantage the customers for whom broadband can best be provided by private companies. In fact, this provision alone likely will disqualify the most rural locations from funding under this program since the municipalities will not focus their efforts on locations far outside their jurisdictions. As such, to the extent it is legally possible, ITA would recommend reduction or elimination of the scoring metric for open access.

2. Net Neutrality

The Guidelines favor those entities who submit projects that will be operated on a net neutrality basis. The net neutrality component of the guidelines is included in the higher scoring category as an extension of open access. This is not a requirement of federal law and we are aware of no reason net neutrality should be a basis for evaluating submissions under this program. Net neutrality treats consumers of broadband unfairly, allowing high service users to take advantage of rates that are not reflective of the significant demands their use places on the network and reduces the quality of service for others. We can think of no reason for this requirement, believe it is not an appropriate metric in the evaluation process for CPF grant money and recommend that it be struck from the Guidelines altogether.

3. Community Correspondence, Urban Bias and Large Project Bias

The Guidelines request community support for a project to be shown. To show community support, current letters from community members is weighted at twenty-five points—the highest score of points that can be awarded. The Guidelines also provide preferences for services to anchor institutions, government uses and projects that serve large number of locations. ITA has four concerns with these metrics.

First, as mentioned above, it is hard to envision that a project proposed by a private company will be able to gain support from a municipality that wishes to have its own proposal funded. This provision essentially gives municipalities a right of first refusal at the expense of the private company. It is hard enough for a private entity to compete with government in the first place. Provisions such as this make it virtually impossible. Second, it is unclear how letters will be scored, for example, does one letter equate to one point and what occurs if twenty-

six or more letters are received. Do letters from government entities get more heavily weighted than those from community organizations that are not government entities?

Third, the Guidelines also award points for the number of locations a project might serve. The very most rural locations that need help getting service will not have 2,000 locations. They perhaps may have dozens but will get no points under this metric. This is a complete bias in favor of large projects at the expense of small projects. Similarly, points are awarded for providing service to anchor institutions that are found almost exclusively in municipal locations. This is another scoring bias in favor of larger and more urban projects. Fourth, the higher the cost of a project the more difficult it will be to match. This again biases the metrics against selection of the most rural and highest cost proposals since the match may be unobtainable or not economic.

The Guidelines for scoring the grant process seem to overlook the fundamental nature of the CPF grant program that is supposed to build out broadband for the unserved and underserved customers, many of whom are located in rural places. Under these proposed Guidelines projects focusing on more rural communities will be at a disadvantage and larger communities will be significantly benefitted by these biases. Both the metrics and unintended consequence of limiting points for rural projects needs to be addressed in order for the CPF program goals to be attained.

4. Competency

Currently, the draft Guidelines omit any requirement for demonstrating competency to build out and operate a project. The competency of an entity to be able to take on and manage a complex broadband project from cradle to grave is a key component to the success of a project. While financial capacity is addressed through the match requirement, funding is not the only metric for success and does not take into account the skill and experience required. We believe that it is imperative for a grant applicant to be measured on its demonstrated ability to competently use the grant dollars. Factors that could be included in the Guidelines are prior successes and experience in building and operating broadband networks; project milestones and the management thereof; staffing to include a review of skillset; entity access to appropriate technologies; and entity capacity. Under the guidelines a proposal by someone with financial backing and zero track record in successfully building and operating a broadband network can score very well. This is a gross oversight that needs to be addressed.

In addition to the four major comments above, we include below other observations for your consideration:

1. US Treasury guidelines do not define “affordability.” The Grant Program suggests that a number of factors are considered. Due to the inherently subjective nature of the term “affordability,” we request that IBAB use an established affordability metric, such as the FCC’s annual urban rate survey. <https://www.fcc.gov/economics-analytics/industry-analysis-division/urban-rate-survey-data-resources> Additionally, all proposers should be required to participate in ACP, Lifeline and ITSAP if they are eligible to do so.

2. The twenty-one day challenge period is adequate time for interested parties to submit challenges to bid projects without unnecessarily delaying the grant process.
3. Item 11(a) xii should not be included in the application. That is proprietary and should be provided after an award and not as a condition of award.
4. Item 19(d)ii imitations on grant administration are appropriate but since that term is not defined we cannot suggest the appropriate number. Does the category include engineering and permitting costs for example?
5. Item 21(1)(i) should not be included as a requirement of the application since these approvals cannot be obtained until after an award has been made.
6. Item 21(1)(k) Prices should meet the FCC urban area rates and should not be set in the Guidelines.

Thank you for your review and consideration of our comments.

Sincerely,



Kenneth R. McClure



March 3, 2023

Idaho Broadband Advisory Board

Attn: Ramón Hobdey-Sánchez

State Broadband Program Manager

RE: Idaho Capital Projects Fund (ARPA)
Broadband Infrastructure Grant Application Guideline Comments

To the Idaho Broadband Advisory Board and Mr. Hobdey-Sánchez:

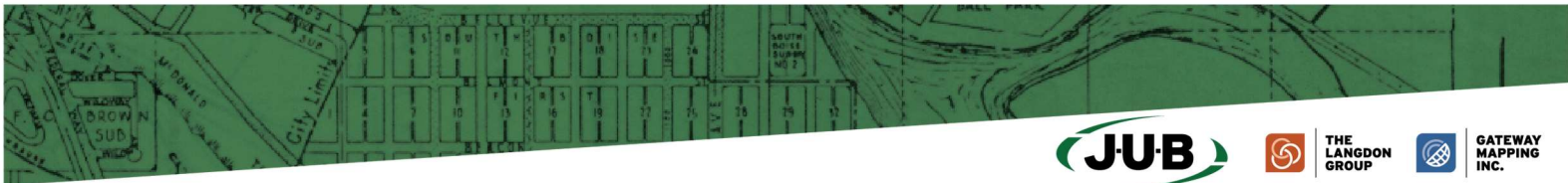
In response to the solicitation for public comments and as a leader providing engineering, planning, GIS mapping, and environmental services in Idaho, we appreciate the opportunity to provide input on draft guidance for the Broadband Infrastructure Grant Application.

General Comments & Questions

1. Most unserved and underserved areas rely on consultants to generate the supporting data required for this application. Due to staff limitations, some projects/applicants which otherwise meet eligibility criteria may not be able to complete required submittals (data, mapping, and community engagement) within the application timeline if the data is not already available.
2. Question: Is a pre-application process possible to allow communities described above to demonstrate eligibility while providing additional time to collect the data required for a complete submittal?
3. Question: Could a template for certifications and attestations be provided on a single form?
4. Question: Could templates be provided for the grant budget and project schedule to further assist applicants/projects described in Item 1 above? Could hyperlinks to referenced certifications, rules, and regulations be provided whenever possible and applicable?
5. Question: Will improvements to public safety and emergency response be prioritized when evaluating and scoring projects/applicants?

Environmental Comments & Questions

1. The environmental section is focused almost entirely on the CPF environmental checklist — it would be helpful to provide a direct link to that document ([located here](#)) to ensure applicants reference the correct document. (Section 11. a. xvii., Section 13., Section 19. c. ii., Section 20. b., and Section 21. i. e.)
2. Regarding NEPA compliance: Draft guidance implies it is not usually required, but if federal permitting (e.g., USACE for wetlands/streams) is needed there is a possibility more substantial permitting may be required. Clarification of these sections is recommended to accurately reflect the intent regarding NEPA compliance. (Section 13. a. and Section 20. b.)



J-U-B FAMILY OF COMPANIES

3. Suggest providing clarification that the level of effort required is entirely dependent upon individual project impacts and location. (Section 13. a. and Section 20. b.)
4. General organization: It seems incongruent that the project completion deadline paragraph is in the environmental requirements section. (Section 13. b.)
5. Question: Is there a template for documentation that is required? Who is documentation submitted to and reviewed by to determine compliance?

GIS Mapping Comments & Questions

1. Regarding definitions of "premise" and "location" data – further clarification would help eliminate variances in responses received. Depending on the data desired, premises and locations can be mapped as a single point for each property, each parcel, each address, individual structures, building footprint, or be shown as population density across an area (such as a heat map). It is recommended that consideration be given to data that is readily and consistently available to all communities. (Section 10 and references to "premise" and "location" in general)
2. Information required by Section 21. i. d., *"all permits, easements, and right of ways already obtained or needed to complete the project including the regulatory authority involved..."* may not be fully understood until final design. (See also Section 21. i. i.)
3. Question: Do shapefiles need to show the proposed fiber network, general route, or service area(s)? (Section 10. c.)
4. Question: Does GIS/map data need to be delivered in a specific coordinate system to facilitate future integration with the Idaho ArcGIS website and Idaho Broadband Map? (Section 11. a. i.)

We are excited for the future of broadband in Idaho and committed to helping our clients be successful! If there are any questions related to the comments provided, we would be happy to discuss further or provide additional information.

Sincerely,

Kayla Brown, Area Manager – Lewis Clark Valley

J-U-B ENGINEERS, Inc.

Lisa Bachman, Area Manager – Meridian

J-U-B ENGINEERS, Inc.



Latah County
BOARD OF COUNTY COMMISSIONERS

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Idaho Broadband Advisory Board
c/o Ramón S. Hobdey-Sánchez, J.D.
State Broadband Program Manager
Idaho Department of Commerce
700 W. State Street, Boise, Idaho 83702

Thursday, March 2, 2023

Re: Capital Projects Fund Draft Guidelines
Feedback

Dear Idaho Broadband Advisory Board:

Please accept the below comments on the Capital Project Fund draft guidelines in response to the call for feedback:

1. U.S. Treasury guidelines require that the IBAB consider whether the broadband service options offered by applicants will be affordable to target markets in proposed service areas. However, Treasury does not set a definition for “affordable” in its program guidelines. **The IBAB seeks feedback on how affordability should be assessed. Please consider factors including, but not limited to, socioeconomic factors (income, education, age, etc.), geographic disparities, price and competition.**

Internet Service Providers (ISPs) should have at least one option that is *free*. This should be entirely possible with the requirement that they’re a participating Affordable Connectivity Program (ACP) provider. The ACP already has socioeconomic factors included in its eligibility requirements. So, if an ISP is an ACP provider and they offer a service within the covered cost of ACP enrollment (not more than \$30, including *all* fees), end users who qualify should be able to get connected for free, for as long as the ACP is funded. Requiring ACP enrollment – and marketing to customers – for providers, along with an offering that costs no more than \$30/month, should take care of affordability for now.

2. U.S. Treasury guidelines do not set requirements for minimum or maximum grant award amounts for this program. **For this \$125 million grant program, what are the minimum number of awards you think the IBAB should issue and is there an ideal range for the award amounts?**

The name Capital Project Funds suggests large infrastructure projects, not simply line extensions. To that end, IBAB should aim to fund 5 capital projects around \$25 million each. But a generally ideal funding range would be between \$5 million - \$25 million. Additionally, these projects should aim to build toward BEAD funding applications that not only connect un- and underserved locations but also establish future-proof infrastructure that’s built to last and scales for future needs – ensuring that the baseline investment is one that won’t need additional public funds for decades.

3. U.S. Treasury guidelines do not require the IBAB to include match requirements for this program. **The IBAB seeks feedback on what an appropriate level of matching funds may be for program applicants. For further context, the IBAB must require a 25 percent match for the Broadband Equity, Access and Deployment (BEAD) program that will be administered at a later date**

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Private providers should be required to include at least 25% match, with a higher percentage of match increasing their chance for possible points.

Public entities or applicants that can demonstrate and justify outsized public benefits should be encouraged to apply for a match waiver. BEAD provides context and direction for this exception:

As explained in Section III.B.5. of the NOFO, in evaluating requests for waiver of the BEAD Program's non-federal match requirement, NTIA will carefully balance the Program's various objectives. It is NTIA's policy to ensure that BEAD funds are used to bring affordable broadband to all Americans. Thus, the Assistant Secretary will generally seek to minimize the BEAD funding outlay on a particular project to extend the Program's reach, and expects to grant waivers only in special circumstances, when waiver is necessary to advance objectives that are critical to the Program's success. In order to be considered for a waiver, an Eligible Entity must submit a request that describes the special circumstances underlying the request and explain how a waiver would serve the public interest and effectuate the purposes of the BEAD Program. The Assistant Secretary retains the discretion to waive any amount of the match, including up to the full 25 percent requirement.

If a waiver is not offered, IBAB should consider setting aside remaining no-strings-attached Idaho Broadband Funds as non-federal match for projects that demonstrate significant community support and serve the public interest to the greatest extent possible.

4. The IBAB has flexibility to determine the timeframe of the challenge period. **Is 21-days a reasonable amount of time for potential challengers to review proposed project areas and submit challenges?**

There should be no challenge periods – especially if it cuts down the open application period. If the state is compiling or has compiled a map that outlines existing assets, there should be no need to spend additional time and taxpayer dollars chasing down challenges. Further, if providers are working with communities and also doing their due diligence, there should have been ample time to communicate about projects and potential partnerships. Finally, any projects that have already been funded through other broadband programs with public funds are easily accessible for all to see and the Idaho Broadband Office should be able to verify and review any discrepancies on their own.

5. Discussions have been had as to whether grant administration costs should be allowable under the CPF program. **Should grant administration costs be allowable for awardees, and what amount for grant administration is reasonable?**

Absolutely. Similarly styled grant programs – particularly ones that fund infrastructure projects – allow grant administration costs between 5-10% of the total project cost.

One such existing state-run program is the Community Development Block Grant (CDBG) which allows up to 10% grant administration costs to be included in the budget and reimbursable with grant funding. And there are many other examples of broadband grant programs that allow similar grant administration percentage thresholds.

6. **Please provide any additional comments or suggestions regarding the program guidelines and application.**

For all proposed projects, costs and benefits should be weighed against and in favor of the longest-lasting infrastructure investments – not necessarily the most economical, as suggested in the Bonus Points section (xv.b.).

In other words, IBAB shouldn't balk at expensive proposals if they're anticipated to meet community connectedness needs for decades into the future. Do not prioritize proposals that extol the virtues of the low cost per connection – these projects will need additional investment in the near-term in order to keep pace with exponentially growing needs. Consider that building a core fiber network with future plans and options for fiber-to-the-premise builds scalable to multiple Gigabits symmetrical per location will cost much more up front but, if averaged out over the next 30-50+ years, the cost is significantly lower than the projects that propose to connect many homes and locations cheaply for the short-term. Further, these robust core fiber networks will enable rural communities to attract businesses and take advantage of economic development opportunities that have never been available to them because of lack of infrastructure.

Thank you for the opportunity to comment.

Sincerely,



Christina Mangiapani
Grants, Latah County
208-310-0547

On behalf of the [Latah County Broadband Coalition](#): City of Potlatch, City of Bovill, City of Genesee, City of Kendrick, City of Juliaetta, City of Deary, City of Troy, City of Moscow, Latah County Library District, Moscow School District, Kendrick Joint School District, Genesee Joint School District, Potlatch School District, Troy School District, University of Idaho, Gritman Medical Center, Latah County, Highway Districts

March 3, 2023

VIA EMAIL

Ramón S. Hobdey-Sánchez, J.D.
State Broadband Program Manager
Idaho Department of Commerce
700 W. State St., Boise, Idaho 83702
broadband@commerce.idaho.gov

Dear Mr. Hobdey-Sanchez and members of the Idaho Broadband Advisory Board:

Attached are the comments of Lumen Technologies (a/k/a CenturyLink) in response to the Board's request for comment on the proposed Capital Projects Fund Guidelines and feedback on the items afforded flexibility by the U.S. Dept of Treasury.

The overarching focus of our comments is that the Board maximize the use of these funds and ensure this approach is as thoughtful as possible. While there is certainly a need to finalize the structure and begin the process of accepting applications and awarding grants, there is value in taking time to ensure the goals are achieved when this is all done.

We greatly appreciate the opportunity to provide these comments and for the Board's time and consideration.

Please let me know if there are any questions, concerns, or comments.

Sincerely,

/s/ Tim Kunkleman

Tim Kunkleman

Lumen/CenturyLink/Quantum Fiber¹ (Lumen) has experience with the various federal and state broadband grant programs within the 16 states where it operates as an Incumbent Local Exchange Carrier (ILEC).² The following recommendations are based upon this experience and if incorporated by Idaho, will help prevent problems and issues that have happened in other states.

On Friday, February 17, 2023, the Idaho Broadband Advisory Board (IBAB) issued two documents that it seeks comment on. The first is a series of questions around items that the U.S. Treasury has provided states flexibility on addressing them. The second document is a draft of the proposed guidelines for Capital Projects Fund Grant Applications.

I. TREASURY FLEXIBILITY FEEDBACK

1. U.S. Treasury guidelines require that the IBAB consider whether the broadband service options offered by applicants will be affordable to target markets in proposed service areas. However, Treasury does not set a definition for “affordable” in its program guidelines. **The IBAB seeks feedback on how affordability should be assessed. Please consider factors including, but not limited to, socioeconomic factors (income, education, age, etc.), geographic disparities, price and competition.**

Response: IBAB can use various demographic and socioeconomic factors to determine economically disadvantaged areas and designate those as priority areas. Affordability can be scored/assessed for those areas based upon the pricing and offerings for high-speed internet (HSI) as well as applicants’ participation in the ACP and other low-income programs. However, the main overall goal for Idaho should be to maximize the number of unserved and underserved customer locations that will get HSI and benefit from the state grant program.

2. U.S. Treasury guidelines do not set requirements for minimum or maximum grant award amounts for this program. **For this \$125 million grant program, what are the minimum number of awards you think the IBAB should issue and is there an ideal range for the award amounts?**

Response: Lumen does not have a position specific to the minimum number of awards that IBAB should issue. However, as outlined in the above response, the overall goal for

¹ Attachment A – Slide 2 is a chart showing the relationship of the various entities under Lumen including CenturyLink and Quantum Fiber.

² Arizona, Colorado, Florida, Idaho, Iowa, Minnesota, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, Wyoming.

the IBAB should be to use this grant money to fund the best projects that will maximize the number of unserved and underserved customer locations that will get HSI.

3. U.S. Treasury guidelines do not require the IBAB to include match requirements for this program. **The IBAB seeks feedback on what an appropriate level of matching funds may be for program applicants. For further context, the IBAB must require a 25 percent match for the Broadband Equity, Access and Deployment (BEAD) program that will be administered at a later date.**

Response: A key aspect of the Capital Improvement Projects funding is that there is no required minimum match by an applicant. This is by design and provides an opportunity to reach areas that BEAD may not reach. The scoring of applications should consider the grant cost per customer location as the most important criteria.

4. The IBAB has flexibility to determine the timeframe of the challenge period. **Is 21-days a reasonable amount of time for potential challengers to review proposed project areas and submit challenges?**

Response: A 30-day challenge period would yield a better result. Given the volume of applications previously filed, there should be an expectation that there will be as many if not more for this grant cycle. As result, providers are going to need time to review each application to ensure the proposed projects are not overbuilding areas that are already served. Again, as stated above, this effort needs to be focused on reaching those that do not have broadband. Every customer that gets overbuilt equates to a customer somewhere else who doesn't get service. To maximize the benefits of the grant money, Lumen believes Idaho has a responsibility to ensure that grant dollars are not being used to overbuild served areas, regardless of whether or not a provider challenges an area.

5. Discussions have been had as to whether grant administration costs should be allowable under the CPF program. **Should grant administration costs be allowable for awardees, and what amount for grant administration is reasonable?**

Response: Lumen is of the belief that every effort should be made to ensure that these finite dollars are spent on building out broadband. It's possible that there is a scenario where administrative costs need to be included, but it's hard to believe that they outweigh building broadband to someone instead.

6. **Please provide any additional comments or suggestions regarding the program guidelines and application.**

Response: Please see below.

II. PROPOSED GUIDELINES FOR CAPITAL PROJECTS FUND GRANT APPLICATIONS

1. PROJECT EVALUATION AND SCORING

The main goal for the Idaho broadband grant program should be to maximize the total number of unserved and underserved customer locations being enabled with high-speed internet (HSI). A successful grant program makes it possible to build HSI in areas where it is otherwise uneconomical to build and sustain HSI service and facilities. Everything else must be secondary to this goal. The draft guidelines as constructed do not have that goal at the top. For the majority of the locations subject to these historical dollars, competition should not be the goal; enabling service at these locations where it's uneconomic for one provider to serve, let alone two or more, is the goal. Funding new networks that overbuild already enabled HSI locations is also counter to the goal of reaching as many unserved and underserved customers as possible. The scoring and weighting assigned to the various criteria for determining the best applications needs to be reworked in order to be able to accomplish this main goal.

a. Grant cost per enabled customer location

In the current scoring draft, bonus points, up to 5 points can be provided for *“Projects that connect a great number of locations at the most economical cost.”*³ Against the total possible points, scoring for an economic project is effectively zero. Despite this being the most important criteria. The scoring is way too low given how important grant cost per customer location needs to be weighted. Attachment B provides a recommendation for scoring, including a scoring matrix for the grant cost per customer location. Lumen recommends that a significantly higher percentage of the total scoring should be allocated to grant cost per customer location.

The grant cost per customer location is the most important scoring criteria if the state wants to maximize the benefit of the grant program. By focusing on other less important criteria for scoring, other states have experienced unintended consequences and have inadvertently limited the breadth to which their broadband program grant dollars could be applied towards *“universal connectivity.”*

Recently Montana awarded \$309 million in broadband grants.⁴ Lumen filed 11 applications and it was awarded 5 of the applications.⁵ The other 6 applications were not approved at 100% because they scored lower than other applications covering similar areas. In each of these 6 applications, Lumen was the low-cost applicant because it already has existing investment and

³ xv b. CPF-14

⁴ <https://montanafreepress.org/2022/12/08/montana-nears-awards-for-broadband-internet-grants/>
<https://montanafreepress.org/2022/12/14/montana-governor-signs-309-million-broadband-grant-project-list/>

⁵ Lumen/CenturyLink was awarded 100% of it requested grant amount for the 5 applications. The other 6 applications were awarded between 12% - 57% for a subset of its project areas. This uneconomic funding will result in not being able to accept those awards.

infrastructure within the project areas. The Montana broadband grant program did not consider the grant cost per customer location in its scoring criteria.

Specifically, Forsyth, Montana, Lumen/CenturyLink filed an application requesting a \$656,500 grant to build Fiber to the Premise (FTTP) to 1,036 customer locations (\$636 grant cost per customer location). In comparison, another provider filed an application in basically the same area, requesting a \$6,121,738 grant to build FTTP to 766 customer locations (\$7,992 grant cost per customer location). The other provider scored a 66 on its application and Lumen scored a 65 on its application. See Attachment A – slide 5 for more information about this situation.⁶

As result of not focusing on the primary goal, Montana will have wasted about \$5.46 million costing thousands of citizens the opportunity to have fiber internet build out to their locations. This is an example of what can happen if the Idaho grant program does not establish scoring that makes the grant cost per customer location the most important criteria.

b. Very high-cost priority areas

There are going to be areas within the state that are very high-cost and projects in these areas will score lower because they will have a much higher grant cost per customer location. The state can address this situation in two ways. One way would be to set aside a percentage of the grant dollars for the very high-cost priority areas.⁷ The state can acquire estimated cost information and other demographic information⁸ to help it designate the high-cost priority areas. If the state will identify and designate the higher cost priority areas and provide sufficient advance notice of these areas, this will enable multiple providers time to develop applications bidding on these areas. The second way to address very high-cost areas is to request that the state, through its general fund, establish a support fund that provides additional support to these significantly more costly areas. This fund could also be used in the BEAD round to assist with the required match for these same areas.

c. Scoring - Open Access and Net Neutrality

Neither Open Access nor Net Neutrality are defined in the draft guidelines, nor are they referenced or required in the U S Treasury guidelines for use of Capital Improvement Funds (CPF). Net Neutrality has been a very politically charged issue in the past and provides no

⁶ For the 6 applications that did not receive 100% grant, there was significant overlap with the project areas of the providers who received 100% grant awards, and in all cases, Lumen/CenturyLink's cost per customer location was significantly lower than the winning providers.

⁷ Perhaps up to 25%.

⁸ From companies like Cost Quest. Cost Quest stated that it has agreed with the NTIA to provide information related to the FCC Broadband Data Collection maps to each state. A state may also be able to get engineering cost data that will help the state determine the likely cost for getting high-speed internet into various areas.

benefit for a state grant program and should not be a consideration for scoring in the Idaho broadband grant program.

Open access has not been defined in the draft definitions section.⁹ Lumen provides open access consistent with its obligations as an Incumbent Local Exchange Carrier (ILEC) and in response to bona fide requests. Lumen recommends the following definition which is consistent with the NTIA Notice of Funding Opportunity for the BEAD program:

Definition: The term “open access” refers to an arrangement in which the subgrantee offers nondiscriminatory access to and use of its network on a wholesale basis to other providers seeking to provide broadband service to end-user locations, at just and reasonable wholesale rates for the useful life of the subsidized network assets. For this purpose, “just and reasonable wholesale rates” means rates that include a discount from the provider’s retail rates reflecting the costs that the subgrantee avoids by virtue of not providing retail service to the end user location (including, for example, marketing, billing, and collection-related costs).

Attachment C provides more detail regarding how Lumen/CenturyLink complies with this definition.

Idaho should be very cautious with any open access scoring criteria to make sure it does not assume that some types of open access are superior to other types of open access.

In Washington, for its grant program, the state has provided preferential treatment to government owned or non-profit owned Fiber-to-the-premise (FTTP) wholesale networks. With these networks, a government entity or a non-profit is the wholesale provider of the FTTP network and does not provide the retail service. Multiple ISPs can pay the government entity or non-profit provider its wholesale rates and then provide service to retail customers. Having a choice of multiple ISPs that ride the same dark fiber or lit fiber network may provide the customer a choice but does not guarantee lower prices or superior service in comparison to the offerings of private providers. Competition in the situation before us is misguided. Pricing is effectively a national construct meaning prices won’t be impacted by an open access network. But overall costs will be impacted. Trying to ensure that every uneconomic, high-cost location enabled by a grant can be served by multiple providers will drive up the cost of every proposed project. Wasting those dollars is in direct contravention to the goal of enabling as many locations as possible.

Attachment A – Slide 4 provides a comparison between Kitsap County PUD, who is a wholesale FTTP provider in portions of Kitsap County, Washington, and Lumen’s Quantum Fiber brand

⁹ Draft – Idaho Broadband Advisory Board Idaho Capital Projects Fund (ARPA) Broadband Infrastructure Grant Application, 7 Definitions, g. Open Access:

pricing/offerings in Washington and throughout the company.¹⁰ The Quantum Fiber pricing is significantly lower than the retail pricing offered by the ISPs riding the Kitsap County PUD open fiber network. In this case the benefits of having a choice of ISPs did not translate into more competitive options and lower prices in comparison to what Quantum Fiber could have provided if it had been given a broadband grant to build FTTP within the same area.

Quantum Fiber utilizes the same standardized pricing for grant areas, consistent to what it does in very competitive areas, where the company has already built FTTP. Grant areas served by Quantum Fiber, even if there is limited competitive choice, get the benefits of the same offers available in the most competitive areas.

Also, in Washington not all counties and local governments are interested in doing municipal entry or do not have a provider willing to support a wholesale fiber (dark or lit) network model in their areas. The unserved and underserved citizens in these counties have been left out because of the bias in the Washington state broadband grant program. Idaho should not follow the Washington model.

Idaho should remain agnostic to the various types of open access. Otherwise, this will prevent many private providers from filing grant applications, which will prevent many unserved and underserved areas from getting HSI.

d. Scoring - Retail rates for service

The Idaho scoring criteria needs to consider the price that customers will pay for service. Some providers may be willing to cover a higher percentage match, but at the same time charge higher prices for service. Attachment B provides Lumen's recommendation for scoring matrix for the retail rates.

e. Scoring - Unserved and Underserved

As part of the overall goal to maximize the number of customer locations that will benefit from the broadband grant program, the state needs to ensure minimal overbuilding of served areas. At a minimum for a grant application to even be considered it should ensure that at least 80% or more of the customer locations within the project area are unserved and underserved. Grant projects areas can be set up to avoid overbuilding served areas. If a fiber cable needs to be placed through a served area to get to an unserved or underserved area, the grant should not cover the incremental cost of serving customer locations on that fiber, that are in the served areas. Bonus points can be given to projects that cover more than the 80% threshold to avoid incentivizing the overbuilding of existing served customer locations. Scoring can also be set up

¹⁰ Going forward for all new FTTP placements, whether it is market overbuilds the company is doing on its own, or for RDOF and for state grant projects, the company is deploying multi-gig XGS-PON FTTP technology and marketing under its Quantum Fiber brand.

to reward a higher percentage mix of unserved in comparison to underserved. Attachment B provides a recommended scoring matrix for unserved and underserved.

f. Scoring – Local Public and Government Support

Instead of scoring based upon letters of support, the state should only require notification letters be sent by providers to local governments. There should be no scoring for this criterion. Otherwise, local governments that are planning to file applications and to become competitors to private providers, can create a situation where a private provider wanting to file an application within the same local government area, may have difficulty getting letters of support. This creates a scoring disadvantage for private providers wanting to file applications within the same areas where local governments want to become competitors. It also creates a disadvantage in comparison to the applications of other private providers that are filing in areas where the local government is not planning to file applications.

g. Scoring review

Ensuring accurate scoring of the grant applications is very critical. Mistakes can happen. For example, in Montana the company filed 11 grant applications. There were errors with the initial scoring of the Lumen applications. They gave the opportunity to Lumen and other providers to have the scoring on their applications reviewed. Lumen recommends that after Idaho completes their initial scoring of the applications, they provide that scoring information feedback back to each provider for their applications. This will allow the applicant to review the scoring and ask for reconsideration or make recommendations for corrections to the scoring, as needed.

2. PROPOSED PROJECT REQUIREMENTS

Lumen makes the following recommendations/changes to the following items shown on the list of project requirements found at Page CPF-11. The numbering used below correlates to what was used in the CPF proposal.

d) List and provide all permits, easements, and right of ways already obtained or needed to complete the project including the regulatory authority involved and timeline to obtain the permit.

i) Has the applicant/and or subgrantees notified the appropriate federal, state, and local governments about any rights of ways, easements, or pole attachment needs? Y/N This includes, but is not limited to, the following: Idaho Department of Transportation, Utility Companies, Idaho State Historical Preservation Office, federal agencies (USFS, BLM, Army Corps.) etc.

The two requirements listed above should not be part of the required elements necessary to file a grant application. There are significant costs associated with doing the detailed engineering and obtaining permits. If the company did this before filing a grant application and the state does not award a grant for the grant application, the detailed engineering and permitting costs

would be wasted. Additionally, permitting authorities, such as government and utilities will not appreciate granting permits for grant project areas until it is certain that the grant project will happen.¹¹ All providers understand the process of obtaining permits, accessing the right-of-way, attaching to poles, and acquiring easements. Asking for this information in the initial application is premature.

Developing its estimated costs for grant projects, Lumen utilizes the same engineering planning tools and software that it uses for developing costs for the FTTP projects that the company builds on its own without grants. Lumen has extensive experience building FTTP in Idaho and throughout the company. Attachment A – Slide 6 shows that the company has already placed FTTP to about 90,000 customer locations within Idaho, and about 3.1 million company-wide. The company is planning to place FTTP to another 40,000 + customer locations in Idaho in 2023.¹²

The company has extensive experience doing FTTP. The actual detailed engineering for grant projects does not happen until after a grant award is received for project areas. This is also true for identifying and obtaining all necessary permits for a grant project. Acquiring permits happens after a grant is awarded for a project area and after the detailed engineering for that project is completed.

k) Is the price of broadband service for customers in the proposed project area for 100/20 service less than \$XXX a month? Y/N

Lumen recommends this not be a requirement for filing an application. There should not be a cap on the price being offered. However, as previously recommended, the pricing for HSI should be addressed in the scoring of applications. For Lumen, all awarded grant projects will be FTTP utilizing XGS-PON technology to provide fiber internet services beginning at a speed of 200/200. See Attachment A - Slides 7 and 8 for information about XGS-PON and the current pricing for Quantum Fiber.

For Lumen's recommended list of "Project requirements: Project Must Meet These Requirements," see Attachment B.

3. ADDITIONAL GENERAL COMMENTS ON THE PROPOSED GUIDELINES

a. Installation Timeframe

Proposed language (2nd paragraph, CPF -3):

¹¹ Lumen broadband grant projects will not be constructed without the requested grant amount being awarded to the company.

¹² This is an initial planning FTTP number for 2023 for Idaho. Until plans are finalized and approved, this is subject to change.

Projects must connect to the premise to be eligible for grant funding or be capable of providing service to the location within 10 days of a request at no additional cost to the subscriber and provide an affidavit attesting to this and will be publicly available that they will provide no additional cost to provide service.

When Lumen builds FTTH, it places the broadband infrastructure necessary to serve all of the customer locations within a grant project area. However, this does not include placing the fiber drop, optical network termination (ONT) to the customer location and does not including installing the WIFI modem within the customer location. This will happen only after fiber internet service is ordered by a customer.

Usually when service is ordered by a customer, the company can place the fiber drop, ONT and install service within 10 days. However, if a customer location requires a buried fiber drop, there are some situations where it will not be possible to complete an installation within 10 days, especially during winter months.

In Nebraska the company has placed fiber drops as part of grant projects, before service is ordered. There are trade-offs for doing it this way. Idaho needs to determine whether it makes sense to use grant money to pay for the placing of a high percentage of the fiber drops associated with the project, when not all customers will order service.¹³

A better use of the grant money is an approach to allow a reasonable period-of-time after the completion of the FTTP project, for customers to sign up for fiber internet service without having to pay for the fiber drop, ONT and the installation costs.¹⁴ For example, such as allowing a time frame of 6 to 12 months after project completion. This will help create an incentive for customers to sign up for service sooner rather than later, which ensures better utilization of the grant and project dollars.

Also, some customer locations, such as schools, libraries, police and fire stations, city/county buildings, etc. may not be served with a fiber drop, but will require an entrance fiber cable necessary to provide the type of business fiber internet services required by these customers. The broadband infrastructure will be built to accommodate serving all customer locations within the project area, whether it will need to be served by fiber drop or by fiber entrance cable. Usually with entrance fiber cables, the property owner is required to provide an entrance conduit and the entrance fiber cable will need to be placed on a different construction project when there is a bona fide request for business fiber internet service. These entrance fiber cable projects will take longer than 10-days to complete.

b. Challenge process: (Item 10. Page CPF-6)

¹³ In Nebraska, a small percentage of customers will not give permission to the construction contractor to place the fiber drop at the time the project is being built.

¹⁴ This does not include the WIFI modem. Depending upon the fiber internet service speed ordered by a customer, they may have to pay for a leased WIFI capable modem or purchase their own qualified WIFI modem.

The company concurs with the challenge process. However, the state needs to utilize any mapping information it will have available to also ensure grant application projects are not overbuilding served areas. The state should not just rely upon existing providers or providers planning to build in the area.

c. Idaho CFP Proposal vs. BEAD Rules

Lumen Technologies has reviewed the Idaho Capital Projects Fund Grant Program Guidelines and compared those rules to the rules found in the NTIA Broadband, Equity, Access, and Deployment (BEAD) Program Notice of Funding Opportunity (NOFO). For purposes of consistency, Lumen would like to encourage the state to use the rules found in the NTIA BEAD NOFO in the following areas:

State Grant Requirements	NTIA BEAD NOFO Rules (to adopt)
<u>Period of Performance:</u> Grant awards expected in July 2023 and performance ends December 31, 2026.	BEAD NOFO allows for a 4-year network buildout and up to a 1-year extension for uncontrollable events.
<u>Funding priority:</u> Projects with more letters of support from the community will be given priority in funding.	No such funding priority given in BEAD rules. The number of support letters is not what’s important. If there is a desire to have letters, they should be focused on quality over quantity.
<u>Definitions:</u> “Broadband” means wide bandwidth communication transmissions allowing high speed internet access with an ability to simultaneously transport multiple signals and traffic types at a minimum transmission speed of one hundred (100) megabits per second for downloads and twenty (20) megabits per second for uploads.	The term “broadband” or “broadband service” has the meaning given the term “broadband internet access service” in Section 8.1(b) of title 47, Code of Federal Regulations, or any successor regulation, meaning it is a mass-market retail service by wire or radio that provides the capability to transmit data to and receive data from all or substantially all internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up internet access service. This term also encompasses any service that the Commission finds to be providing a functional equivalent of the service described in the previous sentence or that is used to evade the protections set forth in this part.
<u>Definitions:</u> “Broadband Infrastructure” means networks of deployed telecommunications equipment, conduit, and technologies necessary to provide broad band and other advanced telecommunications services to wholesalers or end users, including but not	No definition in BEAD rules. Could utilize the Federal definition (47 U.S.C. Sec 1504). The term broadband infrastructure “means any buried, underground or aerial facility, and any wireless or wireline connection

<p>limited to private homes, businesses, commercial establishments, schools, or public institutions.</p>	<p>that enables users to send and receive voice, video, data, graphics, or any combination thereof.”</p>
<p><u>Definitions:</u> “Broadband provider” means any entity that provides broadband services, including but not limited to a telecommunications provider, cable service provider, broadband provider, cellular provider, political subdivision that provides broadband services, electric cooperative that provides broadband services, electric utility that provides broadband services, state government entity that provides broadband services, tribal government that provides broadband services, internet service provider, or private-public partnership established for the purpose of expanding broadband in the state.</p>	<p>No definition in BEAD rules.</p> <p>Is it necessary for Idaho to have a definition?</p>
<p><u>Definitions:</u> “Broadband Service” means deployed internet access service with a minimum 100/20Mbps scalable to 100/100Mbps (required by Treasury).</p>	<p>The term “broadband” or “broadband service” has the meaning given the term “broadband internet access service” in Section 8.1(b) of title 47, Code of Federal Regulations, or any successor regulation, meaning it is a mass-market retail service by wire or radio that provides the capability to transmit data to and receive data from all or substantially all internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up internet access service. This term also encompasses any service that the Commission finds to be providing a functional equivalent of the service described in the previous sentence or that is used to evade the protections set forth in this part.</p>
<p><u>Definitions:</u> “Last Mile Infrastructure” serves as the final leg connecting the broadband service provider’s network to the end-user’s on-premises telecommunications equipment.</p>	<p>No definition in BEAD rules.</p> <p>The proposed definition could be amended slightly as follows: “Last mile infrastructure” means broadband infrastructure that serves as the final leg connecting the broadband service provider’s network to the end-user customer’s on-premise telecommunications equipment.</p>

<p><u>Definitions:</u> “Middle Mile Infrastructure” links a broadband service provider's core network infrastructure to last-mile infrastructure.</p>	<p>The term “middle mile infrastructure” (A) means any broadband infrastructure that does not connect directly to an end-user location, including a community anchor institution; and (B) includes—(i) leased dark fiber, interoffice transport, backhaul, carrier-neutral internet exchange facilities, carrier-neutral submarine cable landing stations, undersea cables, transport connectivity to data centers, special access transport, and other similar services; and (ii) wired or private wireless broadband infrastructure, including microwave capacity, radio tower access, and other services or infrastructure for a private wireless broadband network, such as towers, fiber, and microwave links.</p>
<p><u>Definitions:</u> “Rural Areas” is defined as areas where the population is less than 25,000.</p>	<p>No definition in BEAD rules.</p> <p>There is a Federal definition found at 47 U.S.C. Sec 1506: “the term “rural area” means any area other than (A) a city, town, or incorporated area that has a population of more than 20,000 inhabitants; or (B) an urbanized area contiguous and adjacent to a city or town that has a population of more than 50,000 inhabitants.”</p>
<p><u>Definitions:</u> “Open Access” is not defined.</p>	<p>The term “open access” refers to an arrangement in which the subgrantee offers nondiscriminatory access to and use of its network on a wholesale basis to other providers seeking to provide broadband service to end-user locations, at just and reasonable wholesale rates for the useful life of the subsidized network assets. For this purpose, “just and reasonable wholesale rates” means rates that include a discount from the provider’s retail rates reflecting the costs that the subgrantee avoids by virtue of not providing retail service to the end user location (including, for example, marketing, billing, and collection-related costs).</p>
<p><u>Definitions:</u> “Unserved Locations” means locations without access to reliable broadband service of 25/3Mbps.</p>	<p>The term “unserved location” means a broadband-serviceable location that the Broadband DATA Maps show as (a) having no</p>

	<p>access to broadband service, or (b) lacking access to Reliable Broadband Service offered with—(i) a speed of not less than 25 Mbps for downloads; and (ii) a speed of not less than 3 Mbps for uploads; and (iii) latency less than or equal to 100 milliseconds.</p>
<p><u>Definitions:</u> “Underserved Locations” means locations without access to reliable broadband service of 100/20Mbps.</p>	<p>The term “underserved location” means a broadband-serviceable location that is (a) not an unserved location, and (b) that the Broadband DATA Maps show as lacking access to Reliable Broadband Service offered with—(i) a speed of not less than 100 Mbps for downloads; and (ii) a speed of not less than 20 Mbps for uploads; and (iii) latency less than or equal to 100 milliseconds.</p>
<p><u>Program priorities:</u> Priority consideration may be given to projects that leverage greater amounts of funding for a project from other private and/or public sources.</p>	<p>No such priority given in BEAD rules.</p> <p>Projects should be evaluated on total cost to the state based upon the cost per location served. A priority should not be given to a project that has a high per location costs simply because external funding sources were utilized.</p>
<p><u>Program priorities:</u> Priority consideration to projects that provide open access.</p>	<p>No such priority given in BEAD rules.</p> <p>While the Idaho CPF program can define open access, it should not weight or prioritize open access in consideration of grant applications.</p>

Lumen Technologies Comments
Idaho Broadband Advisory Board
CFP Guidelines & Treasury Feedback
March 3, 2023

Attachment A

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QuantumSM
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LUMEN[®]

TECHNOLOGIES

A multinational corporation with a portfolio of exceptional communications solutions and technology brands.

RESIDENTIAL / SMALL BUSINESS

ENTERPRISE



Reliable internet and voice services delivered over our copper network for **homes and small businesses.**



Ultra-fast fiber internet service and a premiere customer experience that powers **homes, apartments and small businesses.**



The amazing all-in-one platform that powers the 4th Industrial Revolution for **enterprise.**

Recommendations for Scoring Applications

- ❑ **Open access should not be a requirement, nor should it be the basis of scoring.**
 - ❑ The dark fiber or open lit fiber model is not a superior business model.
 - ❑ Having a choice of multiple ISPs that ride the same dark fiber or lit fiber network, may provide choice of providers, but does not guarantee lower prices or superior service.
 - ❑ Lumen provides “open access” consistent with its obligations as an Incumbent Local Exchange Carrier (ILEC) and in response to bona fide requests.
 - ❑ The company utilizing the same standardized pricing and offerings for grant areas, consistent to what it does in very competitive areas. Grant areas served by Lumen, even if there is limited competitive choice get the benefits of very competitive offerings and pricing. (See attached Washington example.)

- ❑ **Grant cost per customer location, percentage match and price customers will pay for service.**
 - ❑ The main goal is to serve as many unserved customer locations as possible. The state should focus first upon the grant cost per customer location and the price for service to customers.
 - ❑ Otherwise, an application with a high grant cost per customer location may receive a grant award, and projects with a lower grant cost per customer location may not. (See attached recent Montana example.)
 - ❑ The state needs to also compare the price providers will be charging for service. Some providers may increase the percentage match they will cover, offsetting this through charging higher rates for service.
 - ❑ There are unserved areas, that will require even up to a 100% grant. Even though the BEAD program will normally cover up to 75% of the grant costs, there is the ability to seek a waiver in high-cost situations.

Comparison: Open fiber model does not guarantee lower prices to customers.

Kitsap County PUD:

Wholesale rates to ISPs:

- \$42 monthly for 100 Mbps
- \$52 monthly for 1 gig

ISPs monthly retail rates:

- \$69 - \$70 monthly for 100 Mbps
- \$85 - \$90 monthly for 1 gig

Fiber drop placement costs, charged to customers by Kitsap County PUD.

Information provided by the PUD during the 10/28/22 WSBO call.

Quantum Fiber:

[Get Blazing Fast Fiber Internet for Your Home or Business \(quantumfiber.com\)](https://www.quantumfiber.com)

- **\$30 monthly for 200 Mbps symmetrical.**
 - Provide own modem or lease for \$15 monthly.
- **\$70 monthly for 940 Mbps symmetrical.**
 - Includes 360 WIFI modem.

The company covers up to \$1,500 for the fiber drop placement costs.

Forsyth Montana BB Grant

CenturyLink Application: (Application Score 65)

- 1,032 Customer Locations (CLs), Grant - \$656,500
- Grant\$ per CL - \$636

Awarded - Range Telephone (Application Score 66)

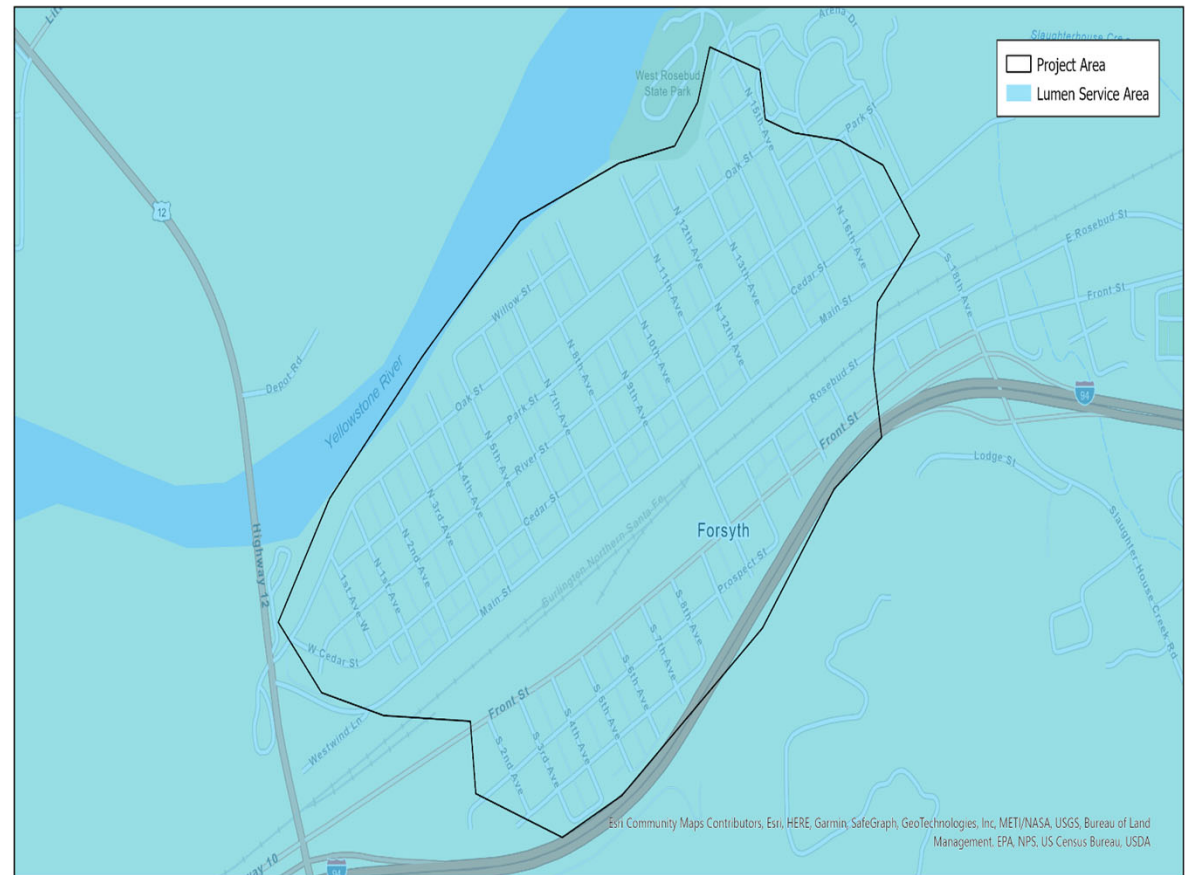
- 766 CLs - Grant - \$6,121,738
- Grant\$ per CL - \$7,992

Range Telephone was awarded a grant for Forsyth because it scored 1 point higher than CenturyLink. The project areas are almost identical with both providers using a Fiber to the Premise (FTTP) solution.

Montana did not include the grant cost per CL that the grant would pay in the scoring. Had the scoring considered this, the state would not have awarded Range Telephone a grant of \$6,121,738 million to do a project area that CenturyLink was willing to do for \$656,500.

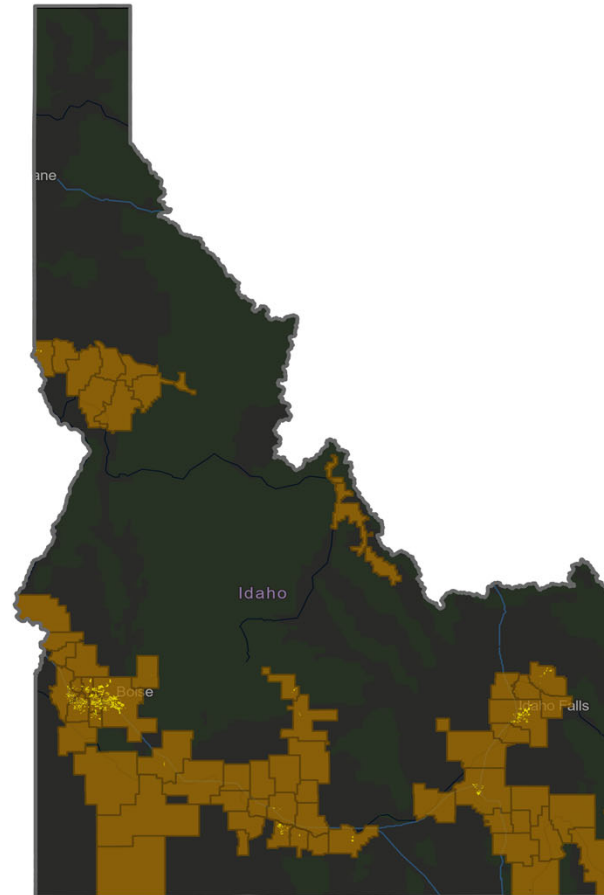
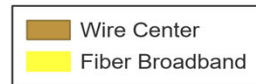
LUMEN®

Forsyth



Portions of the map data are ©2006-2022 TomTom and portions of the map data are ©2022 Lumen.

- ❑ About 3.1M FTTP customer locations company wide.
- ❑ Already about 90K FTTP customer locations in Idaho.
- ❑ Planning to build a significant number of additional FTTP during 2023. Specific number TBD.



Esri, HERE, Garmin, FAO, NOAA, USGS, EPA

Coverage area and speeds are as of December 31, 2022, are approximate, and based on census blocks and street segments. Not all addresses within a coverage area will qualify for broadband at the indicated speed. For verification of unique addresses or locations, contact your local CenturyLink representative. Portions of the map data are ©2006-2022 TomTom and portions of the map data are ©2023 Lumen.

Fiber to the Premise (FTTP) Technology

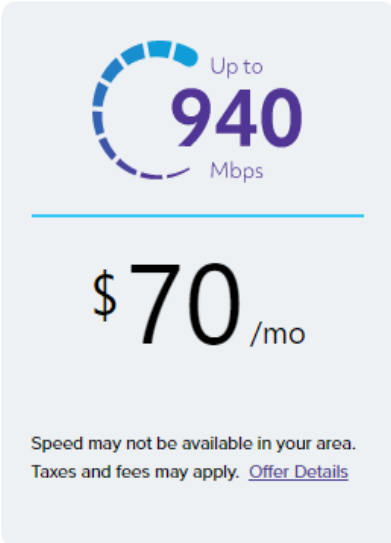
- ❑ Beginning in 2022, the company began deploying **10 Gigabit Symmetric Passive Optical Network (XGS-PON)** FTTH technology. The company has successfully trialed the XGS-PON FTTH technology in multiple areas and is now moving forward with widespread deployment. New FTTH placements (brownfield, greenfield, RDOF and BB grants) will be XGS-PON.
- ❑ Customers served with XGS-PON FTTP will be able to subscribe to multi-gig internet services.
- ❑ The company will be marketing its FTTH fiber internet service through its Quantum Fiber brand.
- ❑ The current pricing and terms and conditions for Quantum Fiber, is located at the following website:
<https://fiber.q.com/fiber/s/welcome>

<https://www.quantumfiber.com/homepage.html>

Today's internet at tomorrow's speed.

Internet for budgets that could use a break.
Get Quantum Fiber for your home or business
at a price that's nice.

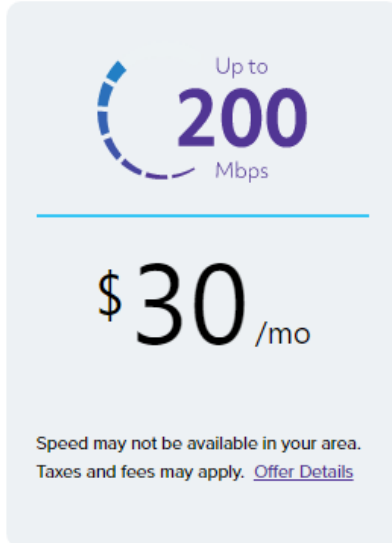
*Based on network uptime or availability.



Up to
940
Mbps

\$70 /mo

Speed may not be available in your area.
Taxes and fees may apply. [Offer Details](#)



Up to
200
Mbps

\$30 /mo

Speed may not be available in your area.
Taxes and fees may apply. [Offer Details](#)

Note: Because the decision to adopt a newer technology was made so recently, Lumen's current retail fiber internet service offerings do not yet reflect XGS-PON FTTH multi-gig capabilities. Lumen is working through its product development process and will publicize the offerings once the process is completed. Recently the company announced an 8-gig service offering now being offered in limited areas and to be expanded to other areas in the future. (<https://www.fiercetelecom.com/broadband/lumen-trots-out-8-gig-service-quantum-fiber-subs-3-cities>)

Suggested Project Evaluation and Scoring Criteria

The list below modifies the project requirements found on CPF-11-12, section 21.i. Original numbering is modified when applicable.

Project requirements: Project Must Meet These Requirements.

- a) Does the Project Provide Broadband Service of 100/100Mbps or 100/20Mbps scalable to 100/100Mbps? **Y/N**
- b) Does the applicant or service provider participate in the Affordable Connectivity Program? **Y/N** Applicant will be required to submit proof that service provider participates in program. Applicants must provide a link to their website demonstrating this program is offered.
- c) Does this project comply with federal laws including the 2019 National Defense Authorization Act (NDAA)? **Y/N**
- ~~d) List and provide all permits, easements, and right of ways already obtained or needed to complete the project including the regulatory authority involved and timeline to obtain the permit.~~
- d) Does the project comply with all applicable environmental laws? **Y/N**
- e) Does the project commit to fair labor standards? **Y/N**
- f) Provide evidence that all contracts made by a Recipient or Subrecipient in excess of \$100,000 that involve employment of mechanics or laborers 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).
- g) Does the project comply with the directives in the Idaho Broadband and Right-of-Way Act? (Sections 40-516 through 40-520, Idaho Code) **Y/N**
- ~~h) Has the applicant and/or subgrantees notified the appropriate federal, state, and local governments about any rights of ways, easements, or pole attachment needs? **Y/N** This includes, but is not limited to, the following: Idaho Department of Transportation, Utility Companies, Idaho State Historical Preservation Office, federal agencies (USFS, BLM, Army Corps.) etc.~~
- h) Does your project impact any of the five Idaho Tribal Reservations? **Y/N** If so, have you talked with the respective Tribal Government about your project? **Y/N**
- ~~i) Is the price of broadband service for customers in the proposed project area for 100/20 service less than \$XXX a month? **Y/N**~~
- i) At least 80% of the customer locations within a project area must be unserved/underserved.
- j) Provide evidence of notification to the applicable local government officials regarding the intent to file a grant project within their municipal area.

- k) A provider must guarantee that all unserved and underserved locations within the project areas will be enabled with the project.

Scoring Criteria

The numbering below coincide with the scoring criteria proposed on CPF-12-13, section 21. Numbering has been modified when applicable.

- ii. Project purpose and benefits. Extent to which the project will either (a) facilitate deployment of high-speed broadband networks to currently unserved or underserved areas, and (b) improve affordability in already-served markets by providing last mile service. **(2010 points)**
- iii. Explain how the proposed project addresses a critical need related to access, affordability, and consistency. Please provide data to support your argument as well as any testimonials, letters, etc. **(10 points)**
- iv. Explain how the project addresses a critical need related to distance learning, telehealth, or remote work in the community. In your response, please provide data to support your argument as well as any testimonials, letters, etc. Information should include distance to hospital or clinic, poverty or education statistics, or examples from residents in the area who cannot work from home. **(2010 points)**
- v. Explain how this project addresses a critical need for the community. Include in the response future needs such as agricultural technology improvements, natural disaster mitigation (forest fires, floods, droughts), smart city infrastructure, or public safety needs. **(10 Points)**
- vi. Explain how this infrastructure project will be managed as open access, consistent with the definition of open access. with the mission of net neutrality and the goal of providing equal, affordable and unrestricted access to the internet. Describe how the fiber network will be open to local governments, internet service providers, anchor institutions and state assets. **(2510 points)**
- vii. Explain the comprehensiveness and appropriateness of the proposed technical solution for meeting the community's needs, considering the offering's capacity and performance characteristics. Reviewers will consider the proposed network's ability to serve anticipated last mile users, and to meet the increasing needs of the households, businesses, and community anchor institutions in the proposed project areas. **(10 points)**
- viii. ~~Points are awarded based on the number of underserved and unserved locations impacted by the proposed grant project. Underserved is defined as locations without access to 100/20Mbps~~

~~fixed terrestrial service, unserved is defined as locations without access to 25/3Mbps fixed terrestrial service.~~

Locations	Points— 100/100Mbps	Points— 100/20Mbps
400	4	3
800	8	6
1,200	12	9
1,600	16	12
2,000+	20	15

~~Projects that cannot achieve speeds of 100/100Mbps due to geography, topography, or excessive costs may only receive a maximum of 15 points in this section, or 75% total points in each category. (20 Points)~~

~~ix.viii.~~ Unserved Community Anchor Institutions are those facilities without access to 1Gbps/1Gbps symmetrical (fiber) service. **(10 Points)**

~~x.~~ Is the project serving 80% or more unserved locations? **(10 Points)**

~~xi.ix.~~ Explain how the proposed project addresses priorities outlined in the Idaho Broadband Advisory Board’s Strategic Plan. This includes addressing distance learning, telehealth, public safety, economic development/business opportunities, and promotes dig once policies. Points will be awarded based on the project’s ability to address each item in detail. **(2520 Points)**

~~xii.x.~~ Demonstrate the financial capability to complete the project within cost and by December 31, 2026. This includes the reasonableness of the proposed budget (10 points), and the project’s fiscal sustainability beyond the award period (10 Points). **(20 Points)**

~~xiii)~~ Does the proposed project include a match? Match includes financial and in-kind contributions. Points will be awarded based on a percentage of the total project costs. **(15 Points)**

Match	Points
>10%	3
11% - 20%	6
21% - 30%	9
31% - 40%	12
41% or more	15

~~xiv) Does this project have support from the communities impacted by the proposed project? Please provide current letters of support from communities (signed and on the organizations letterhead). "Current" is defined as letters signed by community entities (state agencies, local governments and subdivisions, tribal government, non-profits, education institutions, healthcare facilities, community organizations) after the grant is open for application and prior to submission. Grant applicants can submit letters from the public. **(25 Points)**~~

~~xv) Bonus points. **(up to 5 points each)**~~

~~a. Connected locations in Idaho where students and educators do not have reliable access to broadband as defined as speeds less than 100/20Mbps as well as libraries, schools, and institutions of higher learning without access to fiber broadband infrastructure defined as 1Gbps/1Gbps.~~

~~b. Projects that connect a greater number of locations at the most economical cost.~~

~~c. Connected government and community facilities without access to fiber infrastructure as defined as 1Gbps/1Gbps. This includes public safety facilities, City Hall, parks, civic and community centers, and public infrastructure facilities.~~

xi. Average grant cost per customer location. Projects that can only achieve speeds of at least 100/20 but less than 100/100 due to geography, topography or excessive costs are adjusted by a 75% factor in comparison to the points for speeds of at least 100/100. Total requested grant dollars are divided by the total customer locations to be enabled by the project. This prioritizes the grant cost per customer location over less important criteria.

<u>Average Grant Cost Per Customer Location (CL)</u>	<u>Points</u>	
	<u>At least 100/100</u>	<u>At least 100/20</u>
<u>Up to \$1,000 Per CL</u>	<u>50</u>	<u>38</u>
<u>\$1,001 - \$2,000 Per CL</u>	<u>45</u>	<u>34</u>
<u>\$2,001 - \$3,000 Per CL</u>	<u>40</u>	<u>30</u>
<u>\$3,001 - \$4,000 Per CL</u>	<u>35</u>	<u>26</u>
<u>\$4,001 - \$5,000 Per CL</u>	<u>30</u>	<u>23</u>
<u>\$5,001 - \$6,000 Per CL</u>	<u>25</u>	<u>19</u>
<u>\$6,001 - \$7,000 Per CL</u>	<u>20</u>	<u>15</u>
<u>\$7,001 - \$8,000 Per CL</u>	<u>15</u>	<u>11</u>
<u>\$8,001 - \$9,000 Per CL</u>	<u>10</u>	<u>8</u>
<u>\$9,001 - \$10,000 Per CL</u>	<u>5</u>	<u>4</u>

xii. Percentage of Unserved locations. Total number of unserved customer locations to be enabled is divided by the total number of customers locations to be enabled in the project area. Projects that can only achieve speeds of at least 100/20 but less than 100/100 due to geography, topography or excessive costs are adjusted by a 75% factor in comparison to the points for speeds of at least 100/100.

<u>Percentage of Unserved</u>	<u>Points</u>	
	<u>At Least 100/100</u>	<u>At least 100/20</u>
<u>90% and above</u>	<u>40</u>	<u>30</u>
<u>80% - 89.9%</u>	<u>36</u>	<u>27</u>
<u>70% - 79.9%</u>	<u>32</u>	<u>24</u>
<u>60% - 69.9%</u>	<u>28</u>	<u>21</u>
<u>50% - 59.9%</u>	<u>24</u>	<u>18</u>
<u>40% - 49.9%</u>	<u>20</u>	<u>15</u>
<u>30% - 39.9%</u>	<u>16</u>	<u>12</u>
<u>20% - 29.9%</u>	<u>12</u>	<u>9</u>
<u>10% - 19.9%</u>	<u>8</u>	<u>6</u>
<u>Less than 10%</u>	<u>4</u>	<u>3</u>

xiii. Idaho designated high-cost priority project areas. The state may designate and publish a list of high-cost priority areas. Projects in these areas can receive bonus points. Total requested grant dollars divided by the total customer locations to be enabled by the project.

<u>Idaho designated high-cost priority project areas</u>	<u>Points</u>
<u>\$10,001 - \$15,000 per CL</u>	<u>35</u>
<u>\$15,001 - \$20,000 per CL</u>	<u>40</u>
<u>\$20,001 - above per CL</u>	<u>45</u>

xiv. Grant projects need to be set up to avoid using grant dollars to overbuild existing served customer locations. Calculated by taking the total number of existing served customer locations divided by the total number of customer locations being enabled by the grant project.

<u>Percentage of served CLs within the project area</u>	<u>Points</u>
<u>0%</u>	<u>20</u>
<u>.01% - 3%</u>	<u>10</u>
<u>3.01% - 10%</u>	<u>5</u>
<u>10.01% - 15%</u>	<u>2</u>

xv. Does the proposed project include a match? Match includes financial and in-kind contributions. Points will be awarded based on a percentage of the total project costs.

<u>Match</u>	<u>Points</u>
<u>Less than 10%</u>	<u>3</u>
<u>10.1% - 20%</u>	<u>6</u>
<u>20.1% - 30%</u>	<u>9</u>
<u>30.1% - 40%</u>	<u>12</u>
<u>40.1% and above</u>	<u>15</u>

xvi. Price for high-speed internet service. Each application can receive points for no more than 2 of the 3 speed categories. Price does not include taxes, fees and surcharges, or the cost to lease a modem or other WIFI equipment.¹ For the 1 gig category, anything 940/940 and above would be considered 1 - gig.²

<u>Price for High-Speed Internet Service for 100/100 speed service</u>	<u>Points</u>
<u>\$30.00 or less</u>	<u>12</u>
<u>\$30.01 - \$40.00</u>	<u>8</u>
<u>\$40.01 - \$50.00</u>	<u>4</u>
<u>Price for High-Speed Internet Service for 200/200 speed service</u>	<u>Points</u>
<u>\$35.00 or less</u>	<u>12</u>
<u>\$35.01 - \$45.00</u>	<u>8</u>
<u>\$45.01 - \$55.00</u>	<u>4</u>
<u>Price for High-Speed Internet Service for 1-gig/1-gig speed service</u>	<u>Points</u>
<u>\$70.00 or less</u>	<u>12</u>
<u>\$70.01 - \$80.00</u>	<u>8</u>
<u>\$80.01 - \$90.00</u>	<u>4</u>

¹ Customers will also have the option to purchase a compatible WIFI modem from other vendors besides the company so that it will not be required to lease a company modem.

² Lumen’s 1-gig offering is advertised as 940/940 even though it technically is a 1-gig circuit.

Examples of Lumen's Open Access

Wholesale Service

Lumen does offer Wholesale services using the Middle Mile or Last Mile Infrastructure. Lumen offers Metro Optical Ethernet (MOE) service as a wholesale service today. This service is offered to Wireless Carriers for connecting their Cell Sites to their core network. This MOE service is also offered to other carriers to connect their customers to their own MOE Network. The same applies to WAVE service using the WAVE Systems. These services are offered where available.

Lumen also allows resellers to purchase High Speed Internet services on a contractual basis. Lumen will also entertain the lease of dark fiber for other carriers to us as transport outside of the grant area using fiber installed using grant funds.

Lumen's Wholesale Ethernet services can be found at the following URLs:

- <http://www.centurylink.com/wholesale/EthernetServices/>
- <https://www.centurylink.com/wholesale/pcat/ixcmoe.html>

Lumen's Wholesale WAVE services can be found at the following URL:

- [Wavelength Solutions | Lumen](#)

Interconnection Policy

It is Lumen's policy to allow all customers access to the Internet. Lumen does not block any lawful Internet traffic on its network. Lumen, however, blocks any unlawful or harmful Internet traffic for security reasons.

Lumen publishes its Network Management Practices on its Internet Service Disclosure document. The Internet Service Disclosure document provides information about the network practices, performance characteristics, and commercial terms applicable to CenturyLink's mass market broadband internet access services, consistent with the Federal Communications Commission's Open Internet Rules.

The full version of the Internet Service Disclosure can be found at the following URL:

- <https://www.centurylink.com/aboutus/legal/internet-service-disclosure/full-version.html>

Lumen does Interconnect with other Internet Service Providers through Peering arrangements. These Peering arrangements are negotiated between Lumen and other ISPs. These Peering arrangements are used for the sole purpose of Internet traffic exchange.

Lumen's Peering Policy can be found at the following URL:

- <https://www.lumen.com/en-us/about/legal/peering-policy.html>

COMMISSIONERS
Tracy Casady, District 1
David Dose, District 2
Jeff Zimmerman, District 3

Email- bocc@co.shoshone.id.us
Phone (208) 752-3331
Fax: (208) 752-1264



CLERK DISTRICT COURT
AUDITOR and RECORDER

Tamie J. Eberhard
Email – teberhard@co.shoshone.id.us
Phone (208) 752-1264
Fax (208) 7582-8881

March 3, 2023

Idaho Broadband Advisory Board
c/o Ramón S. Hobdey-Sánchez, J.D.
State Broadband Program Manager
Idaho Department of Commerce
P.O. Box 83720
Boise, ID 83720 – 0093
By email: broadband@commerce.idaho.gov

Re: Comments on the Capital Project Funds (CPF) Draft Guidelines

Dear Idaho Broadband Advisory Board:

Shoshone County requests consideration of the following comments on the Capital Project Funds (CPF) Draft Guidelines.

Match Requirement

With a significant scoring advantage for applicants with capacity to provide a large cash match, such as internet service providers (ISPs), Idaho’s rural communities will be disadvantaged during the scoring process due to the inability to provide a large cash or in-kind match.

A higher-percentage match does not reflect an applicant’s level of community buy-in, stakeholder engagement, or project commitment. The match contributions provided by small and rural applicants, despite meeting a lower overall percentage of total project costs, demonstrate a high degree of local coordination and a strong commitment to benefitting the greatest number of unserved and underserved Idahoans. Local governments are best poised to identify and meet the needs of their residents, while encouraging competition and including all relevant stakeholders.

Shoshone County suggests a matching requirement that does not penalize small applicants. For example, in-kind matching that is weighted differently than cash or debt matching, and/or state award grant payment that is contingent on private sector match commitments secured after a proposal is awarded. This would allow governments to use a successful, well-designed project to bring ISPs on board as a member of a larger coalition working to bring connection to rural communities.

Challenge Period

In order to reduce the timeline for awards and remain consistent with the comment period for CPF guidelines. Shoshone County recommends a two week challenge period instead of four weeks as written in the draft CPF guidelines.

With a population of 13,612, Shoshone County lies on the eastern side of the Idaho panhandle. Just 1% of Shoshone County's 2,636 square miles is considered "developed" along the I90 corridor. Much of the county contains unincorporated communities that are largely unserved. The neighborhoods where our children and workforce live and small businesses operate that are not directly along the I90 corridor have limited options and are often expensive, based on cellular service and minimal speeds. The geography made up of mountains, rivers and narrow gulches increases the distances for build, increases the expense and decreases options. That same geography represents a large cost burden to maintain the county roadways and bridges and greatly decreases our ability to budget funding for more than annual cost increases. Fully 76% of our land is federal and state-owned lands further decreasing our ability to fund projects of this size and nature. We recognize that we are not the only county experiencing these barriers and support consideration of cash match requirements.

Shoshone County looks forward to working alongside the Idaho Broadband Advisory Board in creating a statewide broadband network that connects rural Idahoans to opportunity and essential services.

Sincerely,



Colleen Rosson
Shoshone County Grants Administrator
and Shoshone County Broadband Action Team member

Idaho Broadband Advisory Board

Idaho Capital Projects Fund (ARPA)

Program Feedback: Over the coming weeks, the Idaho Broadband Advisory Board (IBAB) will release final grant program guidelines and open its application period for the \$125 million Idaho Broadband Capital Projects Fund, a competitive grant program that is funded through the American Rescue Plan Act (ARPA).

As the IBAB finalizes the grant application and program guidelines, the Board is requesting feedback on several items where the U.S. Treasury has provided flexibility: definition of affordability, award amounts, match requirements, challenge period and grant administration costs.

1. U.S. Treasury guidelines require that the IBAB consider whether the broadband service options offered by applicants will be affordable to target markets in proposed service areas. However, Treasury does not set a definition for “affordable” in its program guidelines. **The IBAB seeks feedback on how affordability should be assessed. Please consider factors including, but not limited to, socioeconomic factors (income, education, age, etc.), geographic disparities, price and competition.**
Silver Star recommends starting with the FCC Urban Rate Survey Results published by the FCC; affordability is highly subjective and varies by area. The ACP provides relief on the affordability front by providing a discount to those who qualify and who apply to receive the benefit. Any affordability guidelines enacted by the state should follow what is already in place.
2. U.S. Treasury guidelines do not set requirements for minimum or maximum grant award amounts for this program. **For this \$125 million grant program, what are the minimum number of awards you think the IBAB should issue and is there an ideal range for the award amounts?**
Silver Star believes the grant dollars should be awarded based on the most rural and unserved areas in Idaho - where “normal” business models do not make sense. In order to not set unreasonable limitations, neither a minimum number of awards nor range amount for awards should be a consideration under this program, though a match should be required to ensure awardees are sufficiently invested in completing the projects.
3. U.S. Treasury guidelines do not require the IBAB to include match requirements for this program. **The IBAB seeks feedback on what an appropriate level of matching funds may be for program applicants. For further context, the IBAB must require a 25 percent match for the Broadband Equity, Access and Deployment (BEAD) program that will be administered at a later date.**
Silver Star feels a match of 25% is equitable.
4. The IBAB has flexibility to determine the timeframe of the challenge period. **Is 21-days a reasonable amount of time for potential challengers to review proposed project areas and submit challenges?**

Idaho Broadband Advisory Board

Idaho Capital Projects Fund (ARPA)

Silver Star believes a 21 business day threshold is adequate and does not unnecessarily extend the application process.

5. Discussions have been had as to whether grant administration costs should be allowable under the CPF program. **Should grant administration costs be allowable for awardees, and what amount for grant administration is reasonable?**

Silver Star recommends allowing up to 1% of the grant award for administration purposes.

6. **Please provide any additional comments or suggestions regarding the program guidelines and application.**

General questions/comments:

Please define wireline access, Section 5.

In the event an extension is needed to complete projects beyond 12/31/26 (Section 1), what would the process to request an extension look like?

Please clarify Section 5 language “...and will be publicly available,” ie, what will be publicly available and that the reference to “no additional cost to provide service” is applicable only to premise connections (access to broadband) and not the service itself; further that the obligation to connect is required only during the project term (whether provider-determined or 12/31/26

The State has a wonderful opportunity to connect its most rural customers that would not typically be able to afford the cost of construction to get Broadband service to their locations. Focusing on populated areas where a business model already exists to provide service in the name of affordability (aka competition) seems like a missed opportunity. Let’s get everyone at least one good connection before we spend millions of dollars on bringing in multiple providers.

Contact for additional questions/concerns:

Michelle Motzkus

Legal & Regulatory Administrator

Silver Star Communications

mamotzkus@silverstar.net

307-883-6690



March 3, 2023

VIA EMAIL

Ramón S. Hobdey-Sánchez, J.D.
State Broadband Program Manager
Idaho Department of Commerce
700 W. State St.
Boise, Idaho 83702
ramon.hobdeysanchez@commerce.idaho.gov

RE: Public Comment relating to the Idaho Capital Projects Fund (ARPA) Grant Application Guidelines

Dear Mr. Hobdey-Sánchez,

On behalf of Syringa Networks, LLC, thank you for the opportunity to provide public comments regarding the Idaho Capital Projects Fund (ARPA) Broadband Infrastructure Grant Application and associated Guidelines.

As an initial matter, we have reviewed the comments submitted by the Idaho Telecom Alliance ("ITA") and agree with their statements. To the extent possible, please incorporate our support for ITA's comments for the Board's consideration.

In addition to ITA's comments, it is our understanding that the Idaho Broadband Advisory Board is committed to improving access to broadband to unserved and underserved populations in Idaho. To achieve this goal, the Guidelines must provide grant applicants a level playing field, which we believe is currently missing from the proposed Guidelines document.

To Syringa Networks – competition, free market, and a fair level playing field are paramount considerations in Idaho, but competition with government entities presents a unique situation – it is difficult to compete against local entities that also have the ability to regulate the broadband industry.

For instance, many municipalities charge franchise fees for telecommunication providers and enact ordinances with specific requirements on conduits being placed in municipal jurisdictions. Companies impacted by municipality ordinances are competing with municipalities for grants. Indeed, the power of municipalities over this industry is very broad. It is our understanding that some municipalities with their own broadband departments are placing liens on homes for non-payment. Certainly, broadband companies cannot place a lien on a home.



While we welcome municipalities and local governments competing for these grants, we are concerned of the “extra” power local governments have upon private industries like broadband. To Syringa Networks, it presents an unequal playing field.

Accordingly, to ensure fairness in the grant process, we ask that the Idaho Broadband Advisory Board factor in such market dynamics. If a municipality wants to compete for grants, we request that it be prohibited from imposing any requirements, financial or otherwise, on its potential competitors – private broadband companies. This will allow for a grant process that is based on fair competition.

Thank you for your consideration of our comment. I would be happy to meet or talk with you anytime in the future.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Phillips", with a horizontal line extending to the right.

Doug Phillips
Chief Executive Officer
Syringa Networks



March 2, 2023

Emailed: broadband@commerce.idaho.gov

Ramón S. Hobdey-Sánchez, J.D.
State Broadband Program Manager
Idaho Department of Commerce
700 W. State St., Boise, Idaho 83702

RE: Comments on Capital Projects Fund Broadband Infrastructure Proposed Grant Program

Dear Program Manager and Board Members:

TDS Telecommunications, LLC. and TDS Broadband Service, LLC. (TDS) provide the following feedback on the items listed in the February 17, 2023 request for comment on the CPF grant guidelines:

1. U.S. Treasury guidelines require that the IBAB consider whether the broadband service options offered by applicants will be affordable to target markets in proposed service areas. However, Treasury does not set a definition for “affordable” in its program guidelines. **The IBAB seeks feedback on how affordability should be assessed. Please consider factors including, but not limited to, socioeconomic factors (income, education, age, etc.), geographic disparities, price and competition.**

Response: As proposed in the draft document, eligible grant applicants should be required at a minimum to participate in the ACP. In addition, applicants should be eligible for 10-20 extra points if they commit to providing additional discounts above and beyond ACP. There should not be a set price requirement as alluded to in the draft at page 12, Section 21.i.k.

2. U.S. Treasury guidelines do not set requirements for minimum or maximum grant award amounts for this program. **For this \$125 million grant program, what are the minimum number of awards you think the IBAB should issue and is there an ideal range for the award amounts?**

Response: Each grant applications should be reviewed and scored based on the merits of the application. Grant amounts and quantities should not be pre-determined and should instead be determined by the quality of the specific grant applications.

3. U.S. Treasury guidelines do not require the IBAB to include match requirements for this program. **The IBAB seeks feedback on what an appropriate level of matching funds may be for program applicants. For further context, the IBAB must require a 25 percent match for the Broadband Equity, Access and Deployment (BEAD) program that will be administered at a later date.**

Response: A grant match of at least 25% should be required. The state may want to consider setting aside other state funds to provide funding to offset some of the match in extenuating circumstances but in no case should the total match be less than 10%.

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4. The IBAB has flexibility to determine the timeframe of the challenge period. **Is 21-days a reasonable amount of time for potential challengers to review proposed project areas and submit challenges?**

Response: There is likely to be a large number of applications that will need to be reviewed to ensure funds are not used to overbuild either existing or planned broadband capable networks to be completed within 24 months of the grant award announcements. To the extent the applications include shapefiles or kmz files containing polygon(s) of the project area and all locations and that information is made available for review and analysis by potential challengers, the entire challenge process would be more accurate and could be expedited. Based on experience in other states, TDS recommends a minimum of 4 weeks to challenge applications.

5. Discussions have been had as to whether grant administration costs should be allowable under the CPF program. **Should grant administration costs be allowable for awardees, and what amount for grant administration is reasonable?**

Response: TDS does not support the inclusion of grant administration costs as part of the allowable costs under this program.

6. **Please provide any additional comments or suggestions regarding the program guidelines and application.**

Response: The draft guidelines include multiple references to “open access” networks. No grant awardee should be required to build an open access network. This would discourage applicants from building out in the most high cost, and often the most underserved, areas of the state as it reduces potential revenue that is needed to keep the system operating. Without that potential revenue, a company might be forced to charge higher rates which is a deterrent to reaching rural residents. TDS doesn’t believe open access should be required as a threshold item for grant applicants, but rather a tie-breaker if projects score the same. If not used as a tie-breaker, applicants that commit to an open access network could be eligible for up to 5 additional points.

Thank you for this opportunity to submit feedback to these proposed guidelines. If you have questions or would like to discuss these comments I can be reached at either gail.long@tdstelecom.com or 608-664-2923.

Sincerely,

/s/

Gail Long
Manager, State Government Affairs

From: Greg Adams <gadams@co.teton.id.us>
Sent: Friday, March 3, 2023 4:14 PM
To: Ramon Hobdey-Sanchez <ramon.hobdeysanchez@commerce.idaho.gov>
Subject: CPF guidelines comment

Hi Ramon,

The most important thing to me on the guidance for the upcoming broadband grant funding is to make it benefit every possible entity that the project could impact through ensuring open access to the project to local agencies and competitors alike. I have seen too many projects that benefit a single provider, that they use in turn to hurt competition and ensure their ability to overcharge the public. Any requirements that the Idaho Broadband Advisory Board can put into the grant requirements that force the successful agencies to allow other agencies easy access to the resource that the people of Idaho have provided them through the grant process is a win in my book. Thank you for all of your efforts in making broadband more accessible to our communities! Have a great day!

Sincerely,
Greg Adams
Teton County
IT Director
Emergency Management Coordinator
Office: (208) 354-2703
Cell: (208) 201-6898
gadams@co.teton.id.us



March 2, 2023

Submitted via email: broadband@commerce.idaho.gov

Ramón S. Hobdy-Sánchez
PO Box 83720
Boise, ID 83720-0093

RE: Idaho Capital Projects Fund Draft Guidelines

Dear Mr. Hobdy-Sánchez:

ZiPLY Fiber appreciates the opportunity to provide comment on Idaho's proposed Guidelines for Capital Project Fund broadband grant program. ZiPLY Fiber is an Idaho Incumbent Local Exchange Carrier. Since acquiring the assets of Frontier Communications in 2020, we have invested tens of millions of dollars in network upgrades in Idaho. Our investments in Idaho have delivered fiber to over 60,000 address locations and construction is underway within several Idaho communities. We offer the comments for your consideration.

The IBAB seeks feedback on how affordability should be assessed. Please consider factors including, but not limited to, socioeconomic factors (income, education, age, etc.), geographic disparities, price, and competition.

The IBAB Plan is aligned with the US Treasury Guidance for the Coronavirus Capital Projects Fund (US Treasury Guidance) ensure the service provider for a completed Capital Projects fund-funded Broadband infrastructure Project participate in federal programs that provide low-income consumers with subsidies on broadband internet access services.

We applaud the Idaho Capital Projects Fund Broadband Grant Guidance (Idaho CPF) requirement that applicants participate in the Federal Communications Commission Affordable Connectivity Program (ACP). However, the pressure on the ACP funds should not be overlooked as this was one-time money allocated to assist in addressing affordability of broadband service. We recommend bonus points for applicants participating in the Federal Lifeline program. The reason is simple – ACP will eventually run out as it is not tied to an ongoing funding mechanism the way Federal Lifeline is tied to ongoing Federal Universal Service Fund support. For applicants who have established a product that has the net cost to

qualified households of \$0, the award of an additional 5 points in recognition of those providers efforts to address affordability of their network.

For this \$125 million grant program, what are the minimum number of awards you think the IBAB should issue and is there an ideal range for the award amounts?

We have conducted preliminary analysis across our service territory in Idaho in response to the IBAB Request for Information and in anticipation of the Idaho CPF grant. The factors affecting costs of construction include the lack of transport infrastructure and challenging terrain in Idaho. The Idaho CPF indicates projects serving 2,000 location or greater will receive the maximum points for locations served. The Idaho CPF objectives are to *“Connect as many Idahoans as possible to fiber infrastructure...; and that project should be prioritized based on the number of locations connected and the price per location. Essentially prioritizing density and impacting the greatest number of Idahoans in project areas without access to wireline delivery of 100/20 Mbps.”* The Idaho CPF identifies a threshold of \$15,000 per household for fiber investment. Using the predetermined threshold for fiber investment and the desired scale of projects with 2,000 locations resulting in maximum project size of \$30,000,000.

We have completed a statewide analysis of unserved and underserved locations in determining possible project areas and costs to deploy fiber to end user locations. To maximize deployment to connect unserved and underserved end user locations we suggest a maximum project allocation of \$15,000,000 as more appropriate.

The IBAB seeks feedback on what an appropriate level of matching funds may be for program applicants. For further context, the IBAB must require a 25% match for the Broadband Equity, Access and Deployment (BEAD) program that will be administered at a later date.

We support that applicants to this program have some “skin in the game” to ensure commitment and sustainability of the project over time. Matching contributions, including in-kind matches that lower project costs, demonstrate commitment to a particular project and minimize funding outlay, extend the reach of the program funding, and help to ensure that the most unserved and underserved locations in Idaho has access to reliable, affordable, high-speed internet. Matching should come in the form of cash as well as acknowledgement of the value of in-kind contributions. For example, a private provider may have staff engineers who can design the project. The value of those engineers’ time is no legitimate than if the project was contracted to an outside engineering firm, in fact the cost to the project overall is likely less than if the project was outsourced. Furthermore, allowing for in-kind matches will help to alleviate the pressure on the available resources to support these projects by encouraging providers who do have skilled workforces to leverage these assets to the benefit of the program.

We recommend match be used as a threshold and not as a scoring element. Providing a scaled point structure adds complexity with no real benefits. A threshold match allows the focus to be placed on the project cost versus the amount of grant funds sought per location. For the sake of consistent administration of the various funding programs Identifying a 25% match

requirement; aligning the Idaho CPF Grant program with the future Broadband Equity Access and Deployment funds, is recommended.

Is 21-days a reasonable amount of time for potential challengers to review proposed project areas and submit challenges?

The Idaho CPF identified a month-long challenge process. We suggest the Idaho CPF stay in alignment with the Idaho CPF Plan submitted to US Department of Treasury.

Should grant administration costs be allowable for awardees, and what amount for grant administration is reasonable?

The US Treasury Guidance provides clear guidance for States regarding eligible/allowable program administrative costs. Refer §1.D. Eligible and Ineligible Costs a) Program Administrative Costs over the period of performance may not exceed the greater of five (5) percent of the total amounts of the grant received under the Capital Projects Fund, or \$25,000. We recommend that Idaho CPF remain aligned with these allowable expenses.

Please provide any additional comments or suggestions regarding the program guidelines and application.

Timeline

The Idaho CPF Plan presented a schedule indicating the application process will allow for a 90-day open application cycle, followed by a month-long challenge period. We encourage adoption of this timeline.

Eligible Applicants

We applaud the State of Idaho's inclusion of private telecommunications providers as eligible applicants for these funds. However, in the Draft Idaho CPF Guidelines an applicant, a recipient, and/or a subrecipient seem to be used interchangeably. We ask that these terms be clearly defined and used in context consistently.

Eligible Project Areas

The guidance defines eligible project areas as unserved with no wireline access to services operating with speeds of at least 25/3 Mbps. We recommend the scoring give more points to projects with the most number or higher percentages of unserved locations that will receive broadband services as a result of the proposed application. The Draft Idaho CPF Guidelines Section 21 (viii) goes further to promote projects that deliver 100/100 Mbps. We would recommend projects that will deliver 100/100 Mbps scalable to 1000/1000 Mbps within two years of project completion.

The Draft Idaho CPF Guidelines note that *“Projects must connect to the premise to be eligible for grant funding or be capable of providing service to the location within 10 days of a request at no additional cost to the subscriber.”* Consistent with FCC requirements for network reporting, Zply Fiber is able to connect a customer premise within ten business days of an order. This language would conflict with the FCC standard in this regard by not specifying business versus calendar days of a standard install. Further, the second half of the same sentence, *“at no additional cost to the subscriber.”* Must consider the length of individual driveways. Service drops cannot be installed at the time of construction unless a service order is placed prior to construction (extremely infrequent), because customer service drops are placed across private property. Absent a service order, accessing private property is trespassing. Taking into consideration the length of driveways in rural Idaho that can be over 500 linear feet, the cost of connecting an individual location to fiber can add significant cost to a project as a secondary construction project. To maximize the reach of these funds, we recommend the adoption of a standard length relatable to an urban driveway; or 500 linear feet or less as the threshold for cost free customer service drop installation; or removal of the condition *“at no additional cost to subscriber”*.

Section 7(c) Broadband Provider: any entity that provides broadband services; however, the definition includes *“...or private-public partnership established for the purpose of expanding broadband in the state.”* Does a private -public partnership proposal not need to include providing services to end users?

US Department of Treasury Guidance, encourage recipients to focus on projects that will achieve last-mile connections. We recommend this section clarify that private -public partnerships should be established to provide broadband services.

Section 7(g) Open Access

As a telephone company, aspects of our network are required to be furnished to competitive providers. We understand that for some providers, this obligation is outside of their current business model. Not all private providers are similarly situated, just as not all public providers are similarly situated.

The variety of funding sources have their own requirements. The Infrastructure Investment Jobs Act Broadband Equity, Access and Deployment funds (IIJA BEAD) will require open access defined (q) *Open Access— The term “open access” refers to an arrangement in which the subgrantee offers nondiscriminatory access to and use of its network on a wholesale basis to other providers seeking to provide broadband service to end-user locations, at just and reasonable wholesale rates for the useful life of the subsidized network assets. For this purpose, “just and reasonable wholesale rates” means rates that include a discount from the provider’s retail rates reflecting the costs that the subgrantee avoids by virtue of not providing retail service to the end user location (including, for example, marketing, billing, and collection-related costs).*

For the sake of consistent administration of the various funding programs, Ziply Fiber suggests that any network that is funded through public funds be obligated to be operated as an open access network as a threshold criterion. The rationale is simple. The public paid for a portion of the network and competition on that publicly funded asset will increase its value to the public it is serving. Absent a willingness to operate the project as open access, should remove it from consideration.

Section 9. Program Priorities

The Draft CPF Guidelines states that *“A high priority of this grant is engagement with the impacted community.”* US Treasury Guidance encourages recipients to consult with community as part of project selection. The Idaho CPF Plan Community Engagement section notes that *“For CPF grant applications we will award additional points in the scoring rubric for applications that show significant support from the community.”*

We concur with the Idaho CPF Plan stated award of additional bonus points for proposals with letters of support from state agencies, local governments, tribal governments, subdivisions, non-profits, educational situations, healthcare facilities, community organizations, and the public recognizes community support. Letters of support from local stakeholders should be acceptable in demonstrating the local level of demand/support for a project. The Draft CPF Guideline requirement to submit a *“Local governing body resolution in support of the project and the minutes that support the resolution detailing an innovative means of providing a public benefit that addresses the community’s needs and that includes, as a component of the proposed project, a long-term public benefit that addresses the community’s need.”*, unjustly gives preference to projects proposed by local municipalities over private sector provider applicants. We recommend that a local government resolution be considered equivalent to a letter of support and not be a threshold criterion but be factored as additional points in the scoring rubric.

Section 9j. Government and Community Facilities

We recommend the Idaho CPF Grant Guidelines align with the Federal Communications Commission Broadband Data Collection definition of Community Anchor Institution found in <https://cqafabric.s3.amazonaws.com/supportfiles/Broadband+Serviceable+Location+Fabric+Methods+Manual+Public+11022022.pdf>

Section 10. Challenge Process

Will a challenge be accepted for a proposed project area currently under construction by an existing provider or planned to be constructed within the next 12 months?

Section 14. Grant Administration

In 14.b the reference to the Program for Households may have been made out of context. We seek clarification as a private sector applicant regarding compliance parameters between 2 CFR 200. 318-320 per the US Treasury Guidance or Idaho Code Title 67, Chapter 28.

Section 16. Application of Uniform Guidance

The Treasury Guidance on Capital Projects Funds on page seven includes the following:

1. *The Project invests in capital assets designed to directly enable work, education, and health monitoring. Investments in Capital Assets Capital Project or Project means the construction, purchase, and installation of, and/or improvements to capital assets⁷ where the costs of such assets are capitalized or depreciated, including ancillary costs necessary to put the capital asset to use.*

Examples of capital assets include buildings, towers, digital devices and equipment, fiber-optic lines, and broadband networks. Examples of ancillary costs include project costs related to project planning and feasibility, broadband installation, and community engagement, broadband adoption, digital literacy, and training associated with a planned or completed Project funded by the Capital Projects Fund program.

⁷Treasury does not intend for the definition of capital assets, as defined under Uniform Guidance, to limit eligible investments under Capital Projects.

The interpretation being taken by the American Institute of Certified Public Accountants Executive Committee is that this footnote clearly denotes that a) there is no obligation for CPF funds to be used only in the construction of capital assets, and b) that as a result the projects constructed under these funds may not be subject to uniform guidance (2 CFR 200).

In November 2022, Federal Agencies including both NTIA and Treasury met to discuss the planned topics for the Office of Management and Budget (OMB) Compliance Supplement Bulletins scheduled for fiscal year 2023 and 2024. OMB shared that the plan to tackle compliance guidance for the 11.031 Capital Projects Funds and 11.035 BEAD Funds will be completed in the fiscal year 2024 supplement. 2 CFR 200 is uniform guidance for not-for-profit entities whereas 48 CFR 31 cost principals are meant as guidance to for-profit entities. Until the OMB issues the compliance supplement, there will be no clear edict on how compliance is defined for the purposes of procurement and audit. We encourage Idaho to include both possible options for compliance.

Section 19. Project Costs

Item c.(v.) discusses collection of performance data. We seek clarification on what is being contemplated as possible performance data. If Idaho is considering requirements similar to the FCC Connect America Fund Performance Measures data collection, these processes require considerable definition and are complex to establish. We recommend that basic provisioning and speed test data be used in lieu of more formal performance measurement processes.

Section 21. Project Evaluation and Scoring Criteria

Item ii) *Project Purpose and Benefits. (b) improve affordability in already-served markets by providing last mile service* raises some concerns. This criteria conflicts with the previously determined Eligible Project Area, which includes unserved areas with no access to services

operating with 25/3 Mbps or an underserved area which serviceable locations have access to broadband services at 100/20 Mbps. According to US Treasury guidance, presumptively eligible projects – Broadband Infrastructure Projects are the construction and deployment of broadband infrastructure. Already served markets should not be considered eligible project areas.

We look forward to working with the State of Idaho Broadband Office and the Idaho Broadband Advisory Board in expanding gigabit connectivity across Idaho. Please do not hesitate to contact me at (503) 431-0458 or via electronic mail at jessica.epley@ziply.com with any questions or concerns.

Sincerely,



Jessica Epley
VP Regulatory & External Affairs