



PROGRAM NOTICE #3

Idaho Capital Projects Fund (CPF) Broadband Infrastructure Grant

Notice Date: July 14, 2023

Title: Definitions (Section 4) and Challenge Process (Section 9)

Effective Date: Immediate

On Monday, July 17, 2023, all Idaho CPF grant applications will be posted online and the open public comment and challenge period will begin. Access and weblinks are forthcoming. Below are several clarifications regarding the grant guidelines and challenge process.

Program Guidelines.

Section 4. Definitions.

k. **Qualifying Challenger:** an eligible applicant under the Idaho CPF broadband grant program. Such as a company, firm, corporation, partnership, entity, political subdivision, tribal government or association that provides existing broadband service at speeds of 100/20Mbps. Qualifying challengers must be in compliance with all FCC broadband data reporting requirements.

Section 9. Challenge Process.

- a. The State will post all submitted applications to the Idaho Department of Commerce website for review by the public. All applications will be posted along with the associated attachments for review. Applications cannot identify any information as confidential or otherwise not available to the public and will be posted as submitted.
- b. To submit a challenge, a qualifying challenger must use the Idaho CPF Map Companion and Idaho GIS mapping tool to identify the challenged location where existing or future planned (within 12 months) wireline service delivers broadband speeds of at least 100/20Mbps.
- c. Challengers are encouraged to contact applicants directly and discuss the contested Project area before submitting a challenge, as Project areas could be re-scoped or modified.
- d. All challenges and rebuttals will be posted online in the same manner as all submitted applications.
- e. Challenged projects/applicants will be notified by the Idaho Department of Commerce.

f. All applicants will have 3 business days for the rebuttal of posted challenges. (Estimated to be August 7-10, 2023). Applicants may:

i. Submit a response to the challenge containing specific evidence that the applicant meets the grant criteria or that the challenger did not provide sufficient evidence;

ii. Modify or re-scope the application Project area to meet the grant criteria; or

iii. Withdraw the application. (Non-responsiveness to a challenge will be deemed a withdrawal of the application for consideration.)

g. The burden of proof rests with the challenger to demonstrate by clear and convincing evidence that an applicant or project is ineligible for funding. Discretionary decisions by the Board or review committee, such as scoring and priority of projects, shall not be subject to challenge.

h. Adjudication of challenges will be conducted and determined by the Idaho Broadband Advisory Board and review committee.

i. Any challenger that claims there is active 100/20Mbps broadband wireline service in a Project area, not represented on the FCC or Idaho CPF map, must include sufficient and documented evidence that said service exists and that a formal challenge has been submitted to the FCC map, or the Idaho CPF grant challenge will be denied.

j. Any challenger that challenges based on an active project, must be able to demonstrate that broadband serviceable locations in the challenged Project area will have active 100/20Mbps broadband wireline service within 12 months of the challenge. If a challenger that successfully challenges an application, subsequently cancels or modifies the identified project used as a basis for the challenge and/or is unable to demonstrate that broadband wireline service was provided to the identified area and locations, the Board may deny that challenger future state or federal grant monies.

k. Challengers are not permitted to challenge a proposal based on future plans of highspeed broadband wireline service if there is no state or federal requirement to complete the project or if the challenger has not already made significant progress to deploy services in the proposed Project area. The onus will be on the challenger to demonstrate its future plans of service within the proposed Project area, and final determination will be made by the Board and review committee during the adjudication process.

l. For challenges regarding existing service, construction, or future builds to be considered, supporting evidence and documentation must be provided. Challenges with

insufficient evidence or documentation, or those that include inaccurate information, will not be considered. Challengers may be asked to provide additional information. If a challenger is found to have submitted inaccurate information, all current and future challenges may be disregarded. If a challenger submits an excessive number of challenges, as determined by the Board or review committee, the Board and review committee reserve the right to deem said challenger ineligible for future state or federal grant monies.

Important to note: The open public comment and challenge period **closes on Friday, July 28, 2023 @ 5pm (MDT)**. Further, the Idaho Broadband Advisory Board and the Idaho Office of Broadband reserve the right to modify the current grant schedule and timeline (based on the number and complexity of challenges received, the need for additional resources, etc.).

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