



COM/DH7/mef 9/16/2021

FILED
09/16/21
03:25 PM

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking
Regarding Revisions to the California
Advanced Services Fund.

Rulemaking 20-08-021

**ASSIGNED COMMISSIONER'S
AMENDED SCOPING MEMO AND RULING**

This Amended Scoping Memo and Ruling (Amended Scoping Memo) sets forth the issues, need for hearing, schedule, category, and other matters necessary to scope this proceeding pursuant to Public Utilities (Pub. Util.) Code Section 1701.1 and Article 7 of the Commission's Rules of Practice and Procedure (Rules).

1. Procedural Background

On April 15, 2021, I issued a ruling suspending the schedule for Phase II and III, noting that the State Legislature was considering a number of bills that would impact California Advanced Services Fund (CASF) program requirements and policy options.

Governor Newsom recently approved the Budget Act of 2021 (Assembly Bill (AB) 164) and Senate Bill (SB) 156, which, among other things, provide the following appropriations and program changes to the CASF program:

- Invest \$6 billion for broadband last-mile and middle-mile projects, including \$50 million to facilitate the formation of municipal entities and agreements for financing broadband infrastructure and to fund projects, distribute grants, or

fund support costs associated with these projects, among other allowable uses.

- Establish a Broadband Loan Loss Reserve Fund in the State Treasury, and appropriate \$750 million to fund costs related to the financing of the deployment of broadband infrastructure by a local government agency or nonprofit organization.¹
- Establish a goal of the Broadband Infrastructure Grant Account to approve funding for infrastructure projects that will provide broadband access to no less than 98 percent of California households by December 31, 2026.
- Establish a Federal Funding Account, and require the Commission to implement a program to expeditiously connect unserved and underserved communities by applicable federal deadlines. Further, require the Commission to allocate two billion dollars to applicants for construction of last-mile broadband infrastructure.
- Require moneys in the Broadband Public Housing Account to be available for grants and loans to low-income communities to finance projects to connect broadband networks that offer free broadband service for residents of low-income communities.
- Establish monthly reporting requirements for entities that receive CASF funding or financing, and modify the Commission's audit and reporting requirements.

Pursuant to the August 2, 2021 Amended Scoping Memo in Rulemaking (R.) 20-09-001, implementation of a Federal Funding Account and of rules for a program funding the deployment of last-mile broadband Internet networks are within scope of R.20-09-001.

¹ California State Budget 2021-2022, <http://ebudget.ca.gov/2021-22/pdf/Enacted/BudgetSummary/FullBudgetSummary.pdf> (accessed on August 17, 2021), at 26-27.

This Amended Scoping Memo sets the scope and schedule for implementing a local government and tribal government technical assistance program and administration of the Broadband Loan Loss Reserve Fund, pursuant to SB 156 and the Budget Act of 2021. As noted above, SB 156 also contains general CASF program changes, and additional bills may further impact CASF program requirements. I anticipate issuing an amended scoping ruling in late 2021 or early 2022 to set the scope and schedule for addressing CASF program changes, which may include those identified in Phases II and III of the October 26, 2020 Scoping Memo and Ruling (Scoping Memo).

2. Issues

The issues to be determined or otherwise considered are:

1. Requirements and other elements of a local and tribal government technical assistance program, consistent with SB 156 and the Budget Act of 2021, and the existing Tribal Technical Assistance Grant Program.
2. Necessary implementation details for administration of the Broadband Loan Loss Reserve Fund, in accordance with SB 156 and the Budget Act of 2021.
3. For both Issues 1 and 2: Impacts on environmental and social justice communities, including the extent to which local government technical assistance and/or the Broadband Loan Loss Reserve Fund impact achievement of any of the nine goals of the Commission's Environmental and Social Justice Action Plan.

With respect to Issue 1, this ruling includes a staff proposal for a local and tribal government technical assistance program as Attachment 1. Parties are invited to file comments on the staff proposal in accordance with the schedule set forth below in Section 4. While commentors may address any aspect of the staff proposal, comments on the staff proposal should address the following specific questions:

1. Is \$150,000 per local agency, per fiscal year, a reasonable maximum award amount? Given the variations in size and density across local agency jurisdictions, which could impact the costs of each reimbursable project component, should the Commission increase the total annual award amount allowed to \$1 million per local agency? Should the Commission adopt a range of award caps based on size, density, or other jurisdictional metric, with a cap of \$1 million per local agency?
2. The staff proposal amends the Tribal Technical Assistance Grant Program by subsuming it within the proposed local agency technical assistance program and setting aside a portion of the program budget for tribal applicant priority. How much of the total program budget should this set aside be?
3. With regards to the Eligibility Criteria, should the Commission consider ways to add flexibility or speed to quickly distribute grant funds to local agencies operating in the same geographic region?
4. The staff proposal currently limits the range of applications that can be reviewed ministerially to those applications from entities with jurisdictions that do not overlap the jurisdictions of any entities with pending applications for technical assistance or with technical assistance grants approved within the past year (excluding overlapping tribal jurisdictions). Should the Commission allow for ministerial review of applications from cities or other smaller agencies located within counties with approved or pending technical assistance applications? Is the staff proposal clear that tribal jurisdictions are not overlapping jurisdictions for the purposes of this program? Are there other ways the Commission can streamline the review of applications for technical assistance in areas that have other pending or awarded technical assistance grants?
5. Should the Commission authorize reimbursement for local agency staff hours dedicated to work on reimbursable project components or for local agency staff hours

- dedicated to development of organizational capacity to support broadband deployment? If so, should there be a cap on this type of reimbursement and how should local agencies be required to account for such staff time?
6. Is a 15 percent cap on administrative costs eligible for reimbursement reasonable? Does the staff proposal present a reasonable system for reimbursing local agencies for these costs? If the Commission authorizes reimbursement for local agency staff hours as described above, should the Commission increase the administrative cost cap beyond 15 percent?
 7. Are there activities necessary for the pre-planning and/or development of broadband deployment projects that are not included within the scope of “technical assistance” defined in the staff proposal that should be included?
 8. Does the proposed scope of “local agencies” cover a sufficient range of governmental and tribal entities to allow for the efficient allocation of resources to those entities most able and willing to plan for local broadband deployment projects?
 9. What modifications to the staff proposal (if any) are appropriate, and/or what further actions should the Commission take, to ensure the proposed local and tribal government technical assistance program advances the Commission’s Environmental and Social Justice Action Plan?

3. Need for Evidentiary Hearing

This Amended Scoping Memo preliminarily determines that there are no issues of material disputed fact. Accordingly, an evidentiary hearing is not needed at this time.

4. Schedule

The following schedule is adopted here and may be modified by the assigned Commissioner or Administrative Law Judge (ALJ) as required to promote the efficient and fair resolution of the rulemaking. Based on this

schedule and the anticipated issuance of a Second Amended Scoping Ruling to address CASF program modifications, this phase of the proceeding will be resolved within 18 months after the issue date of this Amended Scoping Memo.

4.1. Issue 1 – Local government and tribal technical assistance program

Event	Date
Staff proposal for local and tribal government technical assistance program	Concurrent with amended scoping ruling
Comments on staff proposal	September 30, 2021
Reply comments on staff proposal	October 14, 2021
Proposed decision on local government technical assistance program	On or before December 1, 2021

4.2. Issue 2 – Broadband Loan Loss Reserve Fund

Event	Date
Staff proposal for Broadband Loan Loss Reserve Fund	1 st quarter 2022
Comments on staff proposal	30 days after staff proposal
Reply comments on staff proposal	15 days after comments
Proposed decision on Broadband Loan Loss Reserve Fund	Within 90 days after reply comments

5. Alternative Dispute Resolution (ADR) Program and Settlements

The Commission’s ADR program offers mediation, early neutral evaluation, and facilitation services, and uses ALJs who have been trained as neutrals. At the parties’ request, the assigned ALJ can refer this proceeding to

the Commission's ADR Coordinator. Additional ADR information is available on the Commission's website.²

Any settlement between parties, whether regarding all or some of the issues, shall comply with Article 12 of the Rules of Practice and Procedure and shall be served in writing. Such settlements shall include a complete explanation of the settlement and a complete explanation of why it is reasonable in light of the whole record, consistent with the law and in the public interest. The proposing parties bear the burden of proof as to whether the settlement should be adopted by the Commission.

6. Category of Proceeding and *Ex Parte* Restrictions

This ruling confirms the previous determination in the October 26, 2020 ruling that this is a quasi-legislative proceeding. Accordingly, *ex parte* communications are permitted without restriction or reporting requirement pursuant to Article 8 of the Rules.

7. Intervenor Compensation

Pursuant to Pub. Util. Code Section 1804(a)(1), a customer who intends to seek an award of compensation must file and serve a notice of intent to claim compensation within 30 days after the issue date of this Amended Scoping Memo.

8. Response to Public Comments

Parties may, but are not required to, respond to written comments received from the public. Parties may do so by posting such response using the "Add Public Comment" button on the "Public Comment" tab of the online docket card for the proceeding.

² See D.07-05-062, Appendix A, § IV.O.

9. Public Advisor

Any person interested in participating in this proceeding who is unfamiliar with the Commission's procedures or has questions about the electronic filing procedures is encouraged to obtain more information at <http://consumers.cpuc.ca.gov/pao/> or contact the Commission's Public Advisor at 866-849-8390 or 866-836-7825 (TTY), or send an e-mail to public.advisor@cpuc.ca.gov.

10. Filing, Service, and Service List

The official service list has been created and is on the Commission's website. Parties should confirm that their information on the service list is correct and serve notice of any errors on the Commission's Process office, the service list, and the ALJ. Persons may become a party pursuant to Rule 1.4.

When serving any document, each party must ensure that it is using the current official service list on the Commission's website.

This proceeding will follow the electronic service protocol set forth in Rule 1.10. All parties to this proceeding shall serve documents and pleadings using electronic mail, whenever possible, transmitted no later than 5:00 p.m., on the date scheduled for service to occur. Rule 1.10 requires service on the ALJ of both an electronic and a paper copy of filed or served documents, unless the ALJ orders otherwise. The ALJ orders parties to provide only electronic copies of filed or served documents to the ALJ.

When serving documents on Commissioners or their personal advisors, whether or not they are on the official service list, parties must only provide electronic service. Parties must not send hard copies of documents to Commissioners or their personal advisors unless specifically instructed to do so.

Persons who are not parties but wish to receive electronic service of documents filed in the proceeding may contact the Process Office at process_office@cpuc.ca.gov to request addition to the “Information Only” category of the official service list pursuant to Rule 1.9(f).

The Commission encourages those who seek information-only status on the service list to consider the Commission’s subscription service as an alternative. The subscription service sends individual notifications to each subscriber of formal e-filings tendered and accepted by the Commission. Notices sent through subscription service are less likely to be flagged by spam or other filters. Notifications can be for a specific proceeding, a range of documents and daily or weekly digests.

11. Receiving Electronic Service from the Commission

Parties and other persons on the service list are advised that it is the responsibility of each person or entity on the service list for Commission proceedings to ensure their ability to receive e-mails from the Commission. Please add “@cpuc.ca.gov” to your e-mail safe sender list and update your e-mail screening practices, settings and filters to ensure receipt of e-mails from the Commission.

12. Assignment of Proceeding

Commissioner Darcie L. Houck is the assigned Commissioner and Valerie U. Kao is the assigned ALJ in this proceeding.

IT IS RULED that:

1. The scope of this proceeding is described above and is adopted.
2. The schedule of this proceeding is set forth above and is adopted.
3. Evidentiary hearing is not needed.
4. The category of the proceeding is quasi-legislative.

5. Parties may file comments on the local and tribal government technical assistance staff proposal no later than September 30, 2021, and reply comments no later than October 14, 2021.

This order is effective today.

Dated September 16, 2021, at San Francisco, California.

/s/ DARCIE L. HOUCK

Darcie L. Houck
Assigned Commissioner

ATTACHMENT 1

DRAFT Staff Proposal on Local Agency Technical Assistance

1. Purpose

The purpose of this Staff Proposal is to propose for comment rules to implement SB 156 (Chapter 156, Statutes of 2021) section 7, amending Public Utilities Code section 281(b), and AB 164 (Chapter 84, Statutes of 2021) section 35, Item 8660-062-8506, which allocated funding for the creation of a Local Agency Technical Assistance Fund within the California Advanced Services Fund (CASF) from the state's Coronavirus Fiscal Recovery Fund of 2021. Parties are invited to comment on any of the proposed rules.

This proposal aims to advance the goal of Public Utilities Code section 281 to encourage deployment of broadband to all Californians. Specifically, this proposal provides for technical assistance grants to be made available to local governments and tribal governments to reimburse such entities for costs related to the development of broadband network deployment projects, including the costs of outside consulting for joint powers authority¹ formation, environmental studies, network design, and engineering study expenses.

Because funding for the Local Agency Technical Assistance Grant Program stems from federal Coronavirus State and Local Fiscal Recovery Funds, projects authorized through this program will be subject to federal rules in addition to the rules proposed herein. Under the federal rules, funds may be used for broadband infrastructure projects that are designed to provide service to unserved or underserved households and businesses² and that are designed to, upon completion, reliably meet or exceed symmetrical 100 Mbps download speed and upload speeds.³ Federal guidance clarifies that pre-project costs are also eligible for funding and should be tied to an eligible project as described above, or should be reasonably expected to lead to such a project.⁴

¹ A "joint powers agency" or "joint powers authority" means an agency or entity formed pursuant to the Joint Exercise of Powers Act (Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1) that is formed for the local performance of governmental functions that includes the provision of municipal services. Cal. Gov. Code § 56057.7.

² "Unserved and underserved households or businesses" means one or more households or businesses that are not currently served by a wireline connection that reliably delivers at least 25 Mbps download speed and 3 Mbps of upload speed." Coronavirus State and Local Fiscal Recovery Funds, 86 Fed. Reg. 26,786, 26,823 (May 17, 2021) (to be codified at 31 C.F.R. pt. 35). The unserved or underserved locations need not be the only locations served by the proposed project. Dept. of the Treasury, Coronavirus State and Local Fiscal Recovery Funds Frequently Asked Questions at 30 (as of July 19, 2021), available at <https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf>.

³ The federal rules further state that, in cases where it is not practicable, because of the excessive cost of the project or geography or topography of the area to be served by the project, to provide service meeting those symmetrical standards, the infrastructure should be designed to reliably meet or exceed 100 Mbps download speed and between at least 20 Mbps and 100 Mbps upload speed; and be scalable to a minimum of 100 Mbps download speed and 100 Mbps upload speed. Coronavirus State and Local Fiscal Recovery Funds, 86 Fed. Reg. 26,786, 26,823 (May 17, 2021) (to be codified at 31 C.F.R. pt. 35).

⁴ Dept. of the Treasury, Coronavirus State and Local Fiscal Recovery Funds Frequently Asked Questions at 31 (as of July 19, 2021), available at <https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf>.

Here, Staff proposes rules for the Local Agency Technical Assistance Grant Program similar to the CASF Tribal Technical Assistance Grant Program rules. In August 2020, the California Public Utilities Commission (CPUC) adopted rules for its Tribal Technical Assistance Grant Program, authorizing Staff to approve applications for funds that tribes can use for communications technical assistance, including but not limited to, feasibility studies, market studies, and/or business plans.⁵ As of August 2021, Staff has approved \$1,638,550 of Tribal Technical Assistance Grants, which have been authorized for 14 Tribes. Building on the success of that program's framework will allow Staff to expeditiously begin approving grants for technical assistance; this in turn will assist local agencies in preparing project proposals to improve broadband access in their respective jurisdictions, some of which may qualify for further CASF funding, last-mile federal funding, or loan loss reserve funding.

These rules also propose folding the Tribal Technical Assistance Grant Program into the new Local Agency Technical Assistance Grant Program prospectively. Through this proposal, the rules for Tribal Technical Assistance would be amended to match the rules for Local Agency Technical Assistance. This would expand the scope of pre-project activities for which tribes could request reimbursement and would increase administrative efficiency. The proposal sets aside a portion of the Local Agency Technical Assistance budget that would be dedicated solely to funding projects from tribal applicants. If these rules are approved, all new applications for Tribal Technical Assistance received after the date that these rules are made final would be reviewed and administered under the Local Agency Technical Assistance Grant Program. Tribal Technical Assistance grants awarded prior to the adoption of these rules would continue to be administered under the Tribal Technical Assistance program rules.

2. Amount Available for Grants

To support local agencies in these pursuits, SB 156 and AB 164 allocate \$50 million (\$22.397 million in fiscal year 2021-22) to be made available for technical assistance grants. Staff here proposes to disburse grants to qualifying local agencies in amounts not to exceed \$150,000 per local agency, per fiscal year.

A portion of the total authorized budget amount, equaling no less than the remaining Tribal Technical Assistance Grant Program budget balance on the date the final Local Agency Technical Assistance rules are adopted, will be set aside for tribal applicants. In addition to the remaining Tribal Technical Assistance budget, 10 percent of the funding allocated for this program under AB 164 will be set aside for tribal grantees.

3. Definitions:

- A. Technical assistance: For the purpose of the Local Agency Technical Assistance Grant Program, "technical assistance" means reimbursement for work product resulting from activities such as the preparation of environmental, feasibility, and engineering design

⁵ D.20-08-005, Appendix 1, at 1.

studies or reports, and/or assistance in the development of market studies and business plans which support local agencies in their pursuit of the provision of service to unserved and underserved communities. Assistance may also include, but is not limited to, Staff training or outside legal consulting in pursuit of forming a Joint Powers Authority for the purposes of the provision of broadband service to unserved and underserved communities. "Technical Assistance" does not include reimbursement for local agency staff hours, though up to 15 percent of the total requested for reimbursement may be used to reimburse the local agency for administrative costs associated with the securing or completion of reimbursable work products, other than the cost of local agency Staff hours.⁶

- B. Local agency: For the purposes of the Local Agency Technical Assistance Grant Program, local agencies are eligible applicants; "local agency" has the same meaning as that provided in Government Code section 53167 (e), as amended by SB 156, wherein "local agency" means any agency of local government authorized by law to provide broadband internet access service, including the following:
- i. A city
 - ii. A county, including a county service area
 - iii. A community services district
 - iv. A public utility district
 - v. A municipal utility district
 - vi. A joint powers authority
 - vii. A local educational agency, as defined in section 47640 of the Education Code
 - viii. A sovereign tribal government
 - ix. An electrical cooperative, as defined in section 2776 of the Public Utilities Code
- C. Reimbursable work product: For the purpose of the Local Agency Technical Assistance Grant Program, a "reimbursable work product" is the final report, study, or agreement resulting from any one of the eligible activities listed as reimbursable "Technical Assistance," above. Applicants may propose multiple reimbursable work products per application, with a total requested reimbursement not to exceed \$150,000 per local agency, per fiscal year. For payment, grantees must submit a copy of the reimbursable work product authorized for funding, as further described in Section 11. Before payment, grantees must also submit the invoice(s) and supporting documentation described in Section 11, showing the costs of each individual reimbursable work product authorized for funding. Grantees may request reimbursement for a reimbursable work product when that reimbursable work product is completed, and need not wait for all reimbursable work product authorized under one grant to be completed before requesting reimbursement for completed reimbursable work product. Staff may

⁶ We define administrative costs as "indirect overhead costs attributable to a project, per generally accepted accounting principles (GAAP), and the direct cost of complying with Commission administrative and regulatory requirements related to the grant itself." Applicants seeking additional funds will require Commission approval via draft resolution.

authorize only one CASF grant per reimbursable work product; that is, if funding has already been authorized for completion of a reimbursable work product, that reimbursable work product is not eligible for additional funding under the Local Agency Technical Assistance Grant Program.

- D. Sovereign Tribal Government: For the purpose of the Local Agency Technical Assistance Grant Program and consistent with the Commission's Tribal Land Transfer Policy, "a sovereign tribal government" means a Native American tribe located in California that is on the contact list maintained by the Native American Heritage Commission for the purposes of Chapter 905 of the Statutes of 2004, (see Cal. Pub. Res. Code § 21073), represented by one of its leadership or government entities, with or without federal recognition.

4. Proposed Eligibility Criteria

Local agencies, as defined in 3(B), above, are deemed eligible for Local Agency Technical Assistance Grants. The Commission may approve applications for technical assistance from separate local agencies operating in the same geographic jurisdiction through the resolution process; eligible agencies that have overlapping jurisdictions with other eligible agencies are encouraged to collaborate on the efficient use of resources. As further described in Section 6, below, these proposed rules would require agencies to include with their applications a support letter from the county or other relevant political subdivision (such as a City Council) that details the efforts made towards this collaboration, if applicable. Tribes would be required to submit a letter of support from the tribal chair, administrator, or council.

Proposals for reimbursable work products that are tied to or reasonably expected to result in broadband infrastructure projects that will be designed to provide service to unserved or underserved households and businesses and that are designed to, upon completion, reliably meet or exceed symmetrical 100 Mbps download speed and upload speeds are eligible for Local Agency Technical Assistance Grants.⁷

5. Proposed Subsidy Level

For applications that meet Ministerial Review Criteria (Section 8 below), the Commission may authorize grants to fund 100 percent of the cost of technical assistance, not to exceed \$150,000 per award, per local agency, in any one fiscal year. As noted above, only 15 percent of the total requested for reimbursement may be used to reimburse local agencies for their administrative costs, other than the costs of local agency staff hours, which are not eligible for reimbursement.

Applications not meeting the funding criteria noted above may only be approved by the Commission via resolution; the Commission will conduct a reasonableness review and may

⁷ See notes 2 and 3, above.

adjust budgets via the Resolution Review process (Section 9 below). All applications shall be approved or denied through the Ministerial Review process or marked for further review with potential award by the Commission through a resolution.

6. Proposed Application Requirements:

To be considered, applicants must submit a completed Commission Staff-provided application form (to be made available on the Commission's website) and required supporting documents. This applicant is required to provide the following information as part of its application for technical assistance:

- a project summary.
- confirmation that the technical assistance will advance the CASF program goal "to encourage deployment of high-quality advanced communications services to all Californians that will promote economic growth, job creation, and the substantial social benefits of advanced information and communications technologies[.]"⁸
- confirmation that the technical assistance is tied to (or that it could reasonably be expected to lead to) a broadband infrastructure project designed to provide service to unserved or underserved households and businesses and that are designed to, upon completion, reliably meet or exceed symmetrical 100 Mbps download speed and upload speeds.⁹
- agreement that the scope of work contemplated by the local agency contract(s) included in the application will be concluded within 24 months of the date of Commission approval. Applications not agreeing to this statement will not be approved.
- affirmation, under penalty of perjury, that to the best of their knowledge all statements and representations made in the application are true and correct with the accompanying appropriate signature of a person authorized to act on behalf of the local agency or tribe.

Applications that do not include each item listed above will not be approved.

As supporting documents, the local agency applicant must provide a proposed contract(s) ("contract") or a written estimate with scope of work from the local agency's contractor(s) for the purpose of the technical assistance. This contract or estimate must state details of the proposed work, including a statement of work, a detailed cost estimate, and a proposed timeline for completion of the work performed under the scope of the contract. The application should identify each reimbursable work product expected to result from the contract(s) or estimates. While more than one reimbursable work product may result from a contract or written estimate, every reimbursable work product proposed in the application must be supported by a contract or written estimate.

Applications must also include a letter of support from the local agency's relevant political subdivision (city, county, or tribe). This letter must include information relating to coordination

⁸ Pub. Util. Code § 281(a).

⁹ See notes 2 and 3, above.

performed with other eligible local agencies with geographic jurisdiction that overlaps with the local agency applicant's geographic jurisdiction.

In addition to the application, supporting documents and letter of support noted above, applicants must also submit a notarized affidavit containing, at minimum, the following attestations, the final form of which will be made available on the Commission's website:

- An applicant must attest that the individual completing the application has the authority to do so on behalf of the local agency applicant and personal knowledge of the facts contained in the application.
- An applicant must further agree to abide by the CASF program rules the Commission establishes, as well as all other applicable state and federal rules and regulations concerning broadband services.
- An applicant agrees that by receiving a CASF grant, the grantee agrees to comply with the terms, conditions, and requirements of the grant and thus submits to the jurisdiction of the Commission with respect to the disbursement and administration of the grant.
- An applicant agrees to comply with the Commission Rules of Practice and Procedure, in particular Rules 1, 1.11, and 2.2, and to be subject to Public Utilities Code sections 2108, 2110 and 2111 for failure to meet the program and project compliance requirements as the Commission determines.

7. Proposed Submission Requirements and Timelines:

As noted above, applicants must submit a Commission Staff-provided application form. Applicants may electronically submit their completed application form, along with required supporting documents and attestation, using the Commission's email address at CASF_Application_Questions@cpuc.ca.gov. Larger files can be submitted via secure file transfer (url: <https://cpucftp.cpuc.ca.gov/>); please contact CASF_Application_Questions@cpuc.ca.gov for more information on submitting larger application files.

Applications may be submitted at any time. However, Staff will consider applications submitted on a monthly basis, ending on the last day of each calendar month, until the funding is exhausted. If the last day of the calendar month falls on a weekend or state holiday, the monthly application period will be extended to the close of the next business day. Staff shall notify an applicant by letter specifying reasons for rejection/denial should an application fail to meet the Local Agency Technical Assistance eligibility criteria.

Notice of applications received will be published on the Commission's web page on a monthly basis.

8. Proposed Criteria for Ministerial Review

The Commission assigns to Communications Division Staff the task of approving applications that meet all of the following criteria:

- A. Applicant requests a grant not exceeding \$150,000 per fiscal year per local agency.
- B. The Commission has not received a separate application for Local Agency Technical Assistance from an agency with a jurisdiction overlapping that of the subject application during the current application period or within the prior year. This limitation does not apply to applications from sovereign tribal governments, which may be reviewed ministerially if they satisfy items A and C in this subsection.
- C. The application meets all the other requirements of a Local Agency Technical Assistance grant included in Sections 4, 5, 6, and 7 of these Rules.

9. Proposed Criteria for Resolution Review

When an application does not meet the ministerial review criteria, Staff may refer the application to the Commission for review and approval via the resolution process.

Staff will evaluate applications not meeting the requirements for ministerial review based on meeting all the Application Requirements listed in Section 6, as scored under the criteria below. . Applications will be objectively evaluated on how well they meet the goals of the Local Agency Technical Assistance Grant Program. Judgment regarding each criterion listed below will be rendered in the form of a numerical score. Each application referred to the Commission for approval via resolution will be assigned a total score. Those applicants who meet a minimum score of 70 points out of a possible 100 points will be considered for funding. Staff will notify the applicant by letter specifying reasons for rejection should an application fail to meet the minimum scoring criteria.

The Commission will issue approval of qualifying applications, together with the grant amount per application, through a Commission resolution(s).

The following table summarizes the scoring criteria and weight:

Criterion	Weight (Points)
Evaluation of Proposed Reimbursable Work Product(s)	40
Evaluation of Contractor’s Relevant Experience	30
Support Letter and Scope of Coordination with Eligible Local Agencies with Overlapping Geographic Jurisdiction	15
Budget	15
Total	100

10. Proposed Rules for Award Notification, Monthly and Completion Reporting, and Public Posting

The Communications Division Director or his/her/their designee will notify grantees of awards made via ministerial review by letter. Award letters will be regularly posted to the Commission's website.

Staff will create a mechanism for the monthly reporting required by SB 156. SB 156 requires each entity that receives CASF funding to report the following information to the Commission monthly:

- A. The name and contractor's license number of each licensed contractor and subcontractor undertaking a contract or subcontract in excess of twenty-five thousand dollars (\$25,000) to perform work on a project funded or financed pursuant to this section.
- B. The location where a contractor or subcontractor described in subparagraph (A) will be performing that work.
- C. The anticipated dates when that work will be performed.

Upon completion of the technical assistance and before final payment, the applicant must provide a signed completion form stating that the technical assistance work has been completed. This form includes a request for a short summary of the reimbursable work product(s) performed under the contract, suitable for posting on the Commission's web page. A short summary of the work/activities completed pursuant to the Local Agency Technical Assistance Grant will be posted on the Commission's web page.

Upon completion of the reimbursable work product and before payment, local agency grantees must provide Staff a copy of each reimbursable work product's final report(s), plan(s), studies, etc., produced under the scope of the contract.

In addition to the reporting required above, local agency grantees must also comply with reporting requirements found in the American Rescue Plan Act State and Local Fiscal Recovery Funds "Compliance and Reporting Guidance," detailed in Section 13, below.¹⁰

11. Proposed Rules for Payment

Payment will be made directly to the local agency as the grant recipient. Local agency grantees may request partial reimbursement if they complete one or more of the approved reimbursable work products prior to completion of other reimbursable work products approved in the same grant authorization. Payment will be based upon receipt and approval of an invoice(s) submitted by the local agency showing the expenditures incurred for the reimbursable work product, along with the reimbursable work product final report/study/joint powers agreement, etc., and, if the request is for final payment, the completion reporting required in Section 10, above. The invoice(s) must be supported by documentation including but not limited to the actual cost of labor and any other expense that will be recovered by the grant.

¹⁰ <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-funds/recipient-compliance-and-reporting-responsibilities>

To the extent that any portion of an award was used to reimburse a local agency for administrative costs associated with securing or completing a reimbursable work product, the local agency must submit an itemized accounting of such costs, demonstrating the total requested for reimbursement does not exceed 15 percent of the total authorized award.

If the grantee cannot complete the project within the 24-month timeline, the grantee must notify the Commission or Director of Communications Division as soon as they become aware that they may not meet the project deadline. In the event the grantee fails to notify the Commission or Director of Communications Division, the Commission may withhold or reduce payment.

If any portion of reimbursement is found to be out of compliance, grantees will be responsible for refunding any disallowed amount along with appropriate interest rates determined in accordance with applicable Commission decisions.

Grantees are required to maintain records such as files, invoices, and other related documentation for five years after final payment. Grantees shall make these records and invoices available to the Commission upon request and agree that these records are subject to a financial audit by the Commission at any time within five years after the final payment made to a grantee.

12. Proposed Rules for Execution and Performance

The Commission has the right to conduct any necessary audit, verification, and discovery for work proposed or completed under the technical assistance for local agencies to ensure that CASF funds are spent in accordance with Commission rules and with the terms of approval granted by the Commission. The grantee must complete the project with the 24-month timeframe. If the grantee is unable to complete the proposed project within the required 24-month timeframe, it must notify the Commission or Director of Communications Division as soon as it becomes aware of this prospect. The Commission reserves the right to reduce or withhold payment for failure to satisfy this requirement.

Invoices from the local agency or its approved contractor will be subject to financial audit by the Commission at any time within five years of completion of the work. The grantee must complete all performance on the project before the termination date in accordance with the terms of approval granted by the Commission. In the event that the applicant or contractor fails to complete the work in accordance with the approval granted by the Commission, and as described in the contract, the local agency must reimburse some or all of the funds that it has received.

All grantees must sign and submit a Consent Form within 30 calendar days from the date of the award agreeing to the terms stated in the resolution or award letter authorizing the CASF

award. Should the grantee not accept the award through failure to submit the Consent Form within 30 calendar days from the date of this letter's adoption, the CPUC will deem the grant null and void. The agreement will provide the name of the person who is managing the contract and must be signed by an authorized agent of the grantee.

The grantee must communicate in writing to the Communications Division Director any changes to the substantive terms and conditions underlying Commission approval of the grant (such as changes to a reimbursable work product contract, work plan, or budget) at least 30 days before the anticipated change is to be effected. Substantive changes may require approval by either the Communications Division Director or by Commission resolution before becoming effective.

13. Reporting consistent with the American Rescue Plan Act State and Local Fiscal Recovery Funds "Compliance and Reporting Guidance."¹¹

Reporting is required. This is guidance to Staff on reporting guidelines and completion report templates to publish in order to collect information necessary to comply with American Rescue Plan Act (ARPA) State and Local Fiscal Recovery Funds (SLRF) reporting. Staff is directed to use information already within its possession to the extent practicable to report on authorized projects.

For specific reporting, Staff is directed to ensure the required information in the Compliance and Reporting Guidance for broadband infrastructure projects is available for each Local Agency Technical Assistance Grant. A summary of the required information includes the following:

- Projected/actual construction start date (month/year)
- Projected/actual initiation of operations date (month/year)
- Location (for broadband, geospatial location data)
- Speeds/pricing tiers to be offered, including the speed/pricing of its affordability offering
- Technology to be deployed
- Miles of fiber
- Cost per mile
- Cost per passing
- Number of previously unserved households (broken out by households on Tribal lands and those not on Tribal lands) projected to have increased access to broadband meeting the minimum speed standards
- Number of previously unserved institutions and businesses (broken out by institutions on Tribal lands and those not on Tribal lands) projected to have increased access to broadband meeting the minimum speed standards, in each of the following categories: business, small business, elementary school, secondary school, higher education institution, library, healthcare facility, and public safety organization

¹¹ <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-funds/recipient-compliance-and-reporting-responsibilities>

- Specify the number of each type of institution with access to the minimum speed standard of reliable 100 Mbps symmetrical upload and download; and
- Specify the number of each type of institution with access to the minimum speed standard of reliable 100 Mbps download and 20 Mbps upload

(END OF ATTACHMENT 1)