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TO PARTIES OF RECORD IN RULEMAKING 20-08-021:

This is the proposed decision of Commissioner Darcie L. Houck. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's May 19, 2022 Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties of record may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

/s/ ANNE E. SIMON
Anne E. Simon
Chief Administrative Law Judge

AES:sgu
Attachment

Decision **PROPOSED DECISION OF COM HOUCK (Mailed 4/13/2022)**

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

DECISION ADOPTING MODIFICATIONS TO BROADBAND PUBLIC HOUSING ACCOUNT, BROADBAND ADOPTION ACCOUNT, AND RURAL AND URBAN REGIONAL BROADBAND CONSORTIA ACCOUNT PROGRAM RULES; AND FISCAL YEAR 2022-2023 ALLOCATION OF CALIFORNIA ADVANCED SERVICES FUND BUDGET

TABLE OF CONTENTS

Title **Page**

DECISION ADOPTING MODIFICATIONS TO BROADBAND PUBLIC HOUSING ACCOUNT, BROADBAND ADOPTION ACCOUNT, AND RURAL AND URBAN REGIONAL BROADBAND CONSORTIA ACCOUNT PROGRAM RULES; AND FISCAL YEAR 2022-2023 ALLOCATION OF CALIFORNIA ADVANCED SERVICES FUND BUDGET 1
Summary 2
1. Background 2
2. Jurisdiction 4
3. Changes to the CASF Public Housing Account 5
3.1. Expansion of Eligibility for Public Housing Account Grants and Program Definitions 5
3.2. Modification to Project Speed Delivery Requirements 19
3.3. Modifications to Standards for Expedited (Ministerial) Review 22
3.4. Coordination and Overlap with Other Broadband Subsidy or Social Service Programs 24
3.5. Public Housing Account Technical Requirements 28
3.6. Any Other Recommended Changes to the Public Housing Account Guidelines? 31
4. Changes to the Adoption Account 34
4.1. Modifications to Applicant and Project Eligibility Requirements 35
4.2. Modifications to Standards for Expedited (Ministerial) Review of Adoption Account Applications 39
4.3. Adoption Account Project Budget Requirements 44
4.4. Per Device Subsidy Levels 46
4.5. Expansion of Eligible Program Costs 50
4.6. Application of Cap on Reimbursement for Administrative Costs 52
4.7. Payment Schedules 53
4.8. Any Other Recommended Changes to the Adoption Account Guidelines 56
5. Changes to the Consortia Account 57
5.1. Allowable Consortia Activities 57
5.2. Annual Maximum Funding Amount per Consortia Grant 60
5.3. Clarifying Consortia Regional Boundary Requirements 61

5.4. Any Other Recommended Changes to the Consortia Account Guidelines 63
6. Program budget and subaccount budget allocations for fiscal year 2022-2023 65
7. Comments on Proposed Decision 67
8. Assignment of Proceeding 67
Findings of Fact 67
Conclusions of Law 68
ORDER 68

Appendix 1 – Public Housing Account Guideline
Appendix 2 – Adoption Account Guidelines
Appendix 3 – Consortia Account Guidelines

DECISION ADOPTING MODIFICATIONS TO BROADBAND PUBLIC HOUSING ACCOUNT, BROADBAND ADOPTION ACCOUNT, AND RURAL AND URBAN REGIONAL BROADBAND CONSORTIA ACCOUNT PROGRAM RULES; AND FISCAL YEAR 2022-2023 ALLOCATION OF CALIFORNIA ADVANCED SERVICES FUND

Summary

This decision modifies the program rules for the California Advanced Services Fund Broadband Public Housing Account, Broadband Adoption Account, and Rural and Urban Regional Broadband Consortia Account. In addition, this decision adopts a total program budget and subaccount budget allocations for fiscal year 2022-2023.

1. Background

The Commission established the California Advanced Services Fund (CASF) in Decision (D.) 07-12-054 and the Legislature subsequently codified the CASF in order to spur the deployment of broadband facilities in unserved and underserved areas of California. The CASF provides financial support in the form of grants for broadband infrastructure projects selected by either Commission or Communication Division (CD) staff through an application and scoring process. In addition, it provides support to rural and urban regional broadband consortia to fund activities that are intended to facilitate broadband deployment other than funding the capital costs of specific deployment projects. The CASF is funded by a surcharge rate on revenues collected by telecommunications carriers from end-users for intrastate telecommunications services.

In 2021, Governor Gavin Newsom signed into law Senate Bill (SB) 156, SB 4, Assembly Bill (AB) 164, and AB 14, each of which affected program administration of the CASF, either through creation of new CASF subaccounts,

adoption of individual program modifications, or through increase or extension of total program funding.

On September 16, 2021, the assigned Commissioner issued an amended scoping memo (First Amended Scoping Memo) that included a staff proposal addressing those aspects of SB 156 and AB 164 that authorized funding for a Local Agency Technical Assistance program. This amended scoping memo also set a schedule in which a staff proposal for a Broadband Loan Loss Reserve Fund (BLLRF) would be released in the first quarter of 2022. Finally, the First Amended Scoping Memo contemplated issuance of a further "amended scoping ruling in late 2021 or early 2022 to set the scope and schedule for addressing CASF program changes."

On February 24, 2022, the Commission adopted final rules for the Local Agency Technical Assistance program.[1]

On March 1, 2022, the assigned Commissioner issued an amended scoping memo (Second Amended Scoping Memo) requesting comment on various proposed changes and issues related to the CASF Broadband Public Housing Account (Public Housing Account), Adoption Account, and Rural and Urban Regional Consortia Account (Consortia Account). This Second Amended Scoping Memo also requested comment on proposed CASF budget and individual subaccount allocations for fiscal years 2022-2023, 2023-2024, and 2024-2025, though the amended scoping memo noted that a final decision on fiscal years 2023-2024 and 2024-2025 budgets would not be made in the near-term, and parties would have an additional opportunity to provide comment on those proposed budgets.

[1] Decision (D.) 22-02-026.

On or before March 18, 2022, the Commission received comments in response to the Second Amended Scoping Memo from the California Community Foundation (CCF), California Cable and Telecommunications Association (CCTA), California Emerging Technology Fund (CETF), Center for Accessible Technology (CforAT), Inland Empire Regional Broadband Consortium (IERBC),[2] Los Angeles County Economic Development Corporation (LAEDC), National Diversity Coalition (NDC), the Public Advocates Office of the Public Utilities Commission (Cal Advocates), Southern California Association of Governments (SCAG), The Utility Reform Network (TURN), and UNITE-LA, Inc (UNITE-LA). On March 24, 2022, the Commission received reply comments from CCTA, CforAT, Human-I-T, the Office of the Mayor of the City of Los Angeles (Los Angeles Office of the Mayor), the San Diego Association of Governments (SANDAG), and TURN. We address parties' comments within context of discussing the changes adopted by this decision.

2. Jurisdiction

The Commission's authority under California Public Utilities Code (Pub. Util. Code) Section 281 et seq, as amended by SB 156, includes administration of a Public Housing Account, an Adoption Account, and a Consortia Account.[3] Specifically, and pertaining to what has been referred to as the Public Housing Account, Pub. Util. Code Section 281(i)(2) and (3) require the Commission to make funding available "to low-income communities to finance projects to connect broadband networks that offer free broadband service that meets or exceeds state standards, as determined by the commission." Pub. Util.

[2] By ruling dated March 22, 2022, IERBC's March 21, 2022 request for leave to late-file comments on the Second Amended Scoping Memo was granted.

[3] Pub. Util. Code, § 281 (c)(2), (c)(3), & (c)(4).

Code Section 281(j)(1) requires the Commission to make funding available for "grants to increase publicly available or after school broadband access and digital inclusion, such as grants for digital literacy training programs and public education to communities with limited broadband adoption […]." Pub. Util. Code Section 281(g)(1) requires the Commission to make grants available "to eligible consortia to facilitate deployment of broadband services by assisting infrastructure applicants in the project development or grant application process."

Pub. Util. Code Section 281(d), as amended by SB 4, authorizes the Commission to collect up to $150,000,000 per year through surcharges to fund the CASF program.[4] SB 4 further eliminated the minimum appropriation amounts set for each CASF subaccount, allowing the Commission to establish appropriation amounts for each subaccount either through making recommendations to the Legislature or through its own regulatory processes.

3. Changes to the CASF Public Housing Account

The Second Amended Scoping Memo proposed changes to the Public Housing Account and sought comments on related issues, as described below.

3.1. Expansion of Eligibility for Public Housing Account Grants and Program Definitions

Public Housing Account rules currently limit program eligibility to "publicly served communities."[5] However, SB 156 expanded eligibility for

[4] AB 14 also extended the duration of the CASF program through December 31, 2032. Pub. Util. Code, § 281.1.

[5] D.20-08-005, Appendix 2, Broadband Public Housing Account Revised Application Requirements and Guidelines (Public Housing Account Guidelines), at 1.

Public Housing Account grants to allow the Commission to award such grants "to a low-income community that otherwise meets eligibility requirements and complies with program requirements established by the commission."[6] SB 156 further specified that "'low-income community' includes, but is not limited to, publicly supported housing developments, and other housing developments or mobilehome parks with low-income residents, as determined by the commission."[7] The Second Amended Scoping Memo posed a number of questions to which parties responded with comments related to the appropriate scope of eligibility for the Public Housing Account.

1. *Aside from categorical inclusion of publicly supported housing developments, other housing developments and mobile home parks with low-income residents, how should the Commission define "low-income" for the purpose of program eligibility?*

Most parties support a broad definition of "low-income" that aligns with other established definitions or criteria used by other programs intended to support low-income residents, most notably California Alternate Rates for Energy (CARE) and the Federal Communications Commission's Affordable Connectivity Program (ACP), both of which set a threshold of 200 percent of the federal poverty guideline. TURN opposes use of this threshold alone, noting that it would only include the most impoverished in California, even excluding residents who qualify for publicly subsidized housing assistance under other low-income standards.[8] CCF, LAEDC, UNITE-LA and SANDAG further support program eligibility for projects that will serve residents enrolled in California

[6] Pub. Util. Code, § 281 (i)(2).

[7] Pub. Util. Code, § 281 (i)(1).

[8] *Reply Comments of The Utility Reform Network on the Proposed CASF Rule Changes*, filed March 24, 2022 (TURN Reply Comments) at 12.

public assistance programs such as Medi-Cal, CalFresh, SNAP, CalWORKs, and other similar programs.[9] Cal Advocates recommends using the California Department of Housing and Community Development's definition of low-income as a means to determine eligibility of non-categorically included applicants.[10]

CETF maintains that grants provided through the Public Housing Account should first and foremost go to funding infrastructure connectivity in publicly subsidized housing complexes, whereas mobilehome parks and low-income communities can and should be encouraged to seek last-mile funding from the Federal Funding Account or the Broadband Infrastructure Grant Account.[11] CETF recommends clarifying that publicly-subsidized and publicly-supported housing complexes include all farmworker housing, which they assert has historically been ignored in policy and regulations.[12]

In reply comments, TURN recommends that publicly supported housing developments should be categorically eligible for Public Housing Account grants without further demonstration of the income of residents, while eligibility of

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[9] *Opening Comments of California Community Foundation on the Assigned Commissioner's Second Amended Scoping Memo and Ruling*, filed March 18, 2022 (CCF Opening Comments) at 5; Comments of the Los Angeles County Economic Development Corporation in Response to the Assigned Commissioner's Second Amended Scoping Memo and Ruling, filed March 18, 2022 (LAEDC Comments) at 3-4; *Public Comments of UNITE-LA, Inc as Part of the Assigned Commissioner's Second Amended Scoping Memo and Ruling*, filed March 18, 2022 (UNITE-LA Opening Comments) at 3; *Reply Comments of the San Diego Association of Governments (SANDAG) on the Assigned Commissioner's Second Amended Scoping Memo and Ruling*, filed March 24, 2022 (SANDAG Reply Comments) at 3.

[10] *Public Advocates Office's Opening Comments on Assigned Commissioner's Second Amended Scoping Memo and Ruling*, filed March 18, 2022 (Cal Advocates Opening Comments) at 2.

[11] *Comments of the California Emerging Technology Fund on Phase II.B Issues*, filed March 18, 2022 (CETF Opening Comments) at 4.

[12] CETF Opening Comments at 6.

applicants representing "other housing developments and mobilehome parks," i.e., non-publicly supported housing developments, would depend on an analysis of two factors: income eligibility and eligibility of the housing structure(s).[13] TURN further recommends that for applicants that are not publicly supported, the Commission should adopt a "broad" definition of "low-income" that incorporates the greater of (1) 80 percent of the area's median household income and (2) low-income as defined by the California Department of Housing and Community Development, rather than the standard based on 200 percent of the federal poverty guidelines, which does not consider regional considerations of low-income standards.[14] Finally, TURN notes that an evaluation of the evidence an applicant puts forth to demonstrate the income status of its residents will be a discretionary review and so should be made by Commission resolution.[15]

Other parties provided comments on the appropriate definition of the term "community" in response to Question 3, though these responses are also relevant to the instant discussion of eligibility. For example, CCTA recommends clarifying the proposed definition to specify that an eligible housing development must be owned and/or managed by a single organization, to avoid an unintended outcome of supporting a "community" comprised of a publicly supported low-income housing development adjacent to a luxury condominium.[16]

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[13] TURN Reply Comments at 8-20.

[14] TURN Reply Comments at 11.

[15] TURN Reply Comments at 20.

[16] *Comments of the California Cable and Telecommunications Association on the Assigned Commissioner's Second Amended Scoping Memo and Ruling*, filed March 18, 2022 (CCTA Opening Comments) at 3.

Importantly, TURN's reply comments also raised the issue of tenant protections for residents of non-publicly supported housing developments, noting that applicants representing such communities "might choose to raise rents after receiving valuable, publicly funded building improvements (depending on local landlord-tenant laws)" and that this could risk displacement of the residents we intend to serve.[17] TURN recommends that the Commission host a joint workshop and collaborate with staff from the Commission's Energy Savings Assistance (ESA) program and others to discuss issues surrounding eligibility of and protections of low-income tenants, as the ESA has addressed similar issues in the past.[18]

While the Second Amended Scoping Memo Question 1 implied that "publicly supported housing developments, other housing developments and mobile home parks with low-income residents" would be categorially eligible for Public Housing Account grants, we agree with TURN's recommendation that publicly supported housing developments, as defined below, should be considered categorically eligible for Public Housing Account grants and these applicants should not be required to verify or demonstrate the income eligibility of their residents. We also acknowledge and support CETF's position that publicly-subsidized and publicly-supported housing complexes include farmworker housing, which has historically been ignored in policy and regulations and which can reasonably be assumed to house low income Californians. We adopt guidelines that make publicly supported housing developments and farmworker housing categorically eligible for Public Housing

[17] TURN Reply Comments at 3.

[18] TURN Reply Comments at 7.

Account grants, as shown in Appendix 1. However, we decline at this time to adopt categorical eligibility for all "other housing developments and mobile home parks with low-income residents" (aside from farmworker housing) or, as TURN refers to these entities, non-publicly supported housing developments.

We agree with TURN that a continued discussion of eligibility, verification of eligibility, and tenant protections for these developments is warranted here. While comments showed some consensus regarding income eligibility parameters, parties recommended various references for and means of validating income eligibility. The record does not contain enough information for the Commission to adopt adequate tenant protections at this time. While we do not adopt provisions related to these items at this time, we reject the recommendation of CETF to limit Public Housing Account eligibility to publicly supported housing developments until all such housing developments are served. We agree with other commenters that SB 156 indicated a clear intention for the Commission to begin serving low-income Californians who are not living in publicly subsidized housing developments or farmworker housing, using Public Housing Account funds, and that there is equal urgency to serve both groups.[19]

Therefore, while we adopt eligibility rules here for publicly supported housing developments and farmworker housing, Communications Division staff may coordinate with ESA staff and shall produce a staff proposal proposing rules for eligibility, verification of eligibility, and protections for tenants of other housing developments and mobile home parks. This proposal should reflect the comments submitted in the record of this proceeding and will be available for

[19] *Comments on Phase IIB Issues in Assigned Commissioner's Second Amended Scoping Memo and Ruling*, filed March 18, 2022 (CforAT Opening Comments) at 3.

comment before being voted on by the Commission. The Staff's proposal should include proposed definitions for "low-income," "other housing development," and "mobile home park" that have considered any coordination with ESA staff as well as the comments submitted in response to the Second Amended Scoping Memo for those items. The Commission declines to adopt definitions for those terms at this time. The assigned Commissioner may schedule a hearing or other public meeting to receive additional feedback after review of comments on the proposal and prior to issuing a proposed decision adopting final definitions for "low-income," "other housing development," and "mobile home park."

2. *Is it reasonable to require communities to demonstrate that a majority of residents' incomes are equal to or less the income thresholds used for the CARE program, (i.e., equal to or less than 200 percent of the federal poverty guidelines) to establish that the community is low-income? Is there another method the Commission should consider establishing to determine that an applicant is or represents a low-income community? How can the Commission verify income eligibility?*

Most parties addressing this question do not support requiring communities to provide such demonstration, which they assert imposes costly, time-intensive, and intrusive canvassing of residents / community members. A simpler alternative, these parties assert, would be to require documentation that the census tract or block the project is serving meets the threshold through American Community Survey or other verified data sources.[20]

CETF notes that California State University (CSU) Chico has in the past produced, and maintains the ability to produce, a list of census tracts with 50 percent or more poverty (or any other threshold).[21] CETF maintains that the

[20] *See, e.g.,* CCF Opening Comments at 5; CETF Opening Comments at 5.

[21] CETF Opening Comments at 5.

Commission should prioritize Public Housing Account funds for those living in publicly-subsidized housing, and to prioritize high-poverty unserved areas for funding through the Federal Funding Account and the Broadband Infrastructure Grant Account.[22] Barring adoption of that recommendation, CETF supports requiring applicants to demonstrate eligibility of at least 80 percent of all residents who will benefit from the project.[23] For the reasons discussed above, we decline here to adopt rules for verifying that a project application satisfies income requirements. Parties have put forward a number of verification methodologies and resources the Commission intends for Communications Division staff to explore further, particularly after investigating the eligibility requirements for other public purpose programs that provide benefits to low-income tenants. It is also reasonable to determine how to verify income eligibility at the same time we will decide what constitutes eligible "low income" levels. As mentioned above, this question will be addressed in the Public Housing Account staff proposal required above.

3. *Are the Public Housing Account definitions proposed in Appendix 1 reasonable? What modifications or additional definitions are needed and why?*

We first address the issue of the definition of "publicly supported housing community." IERBC recommends clarifying that "publicly supported housing developments" include city-chartered housing authorities, regardless of whether they have authorization from the United States (U.S.) Department of Housing and Urban Development (HUD), or to specifically include these entities within

[22] CETF Opening Comments at 4.

[23] CETF Opening Comments at 5.

the meaning of "other housing developments" or "low-income communities."[24] Noting that neither the Second Amended Scoping Memo nor SB 156 provides a definition of "publicly supported housing development," TURN agrees with IERBC, adding that the definition of "publicly supported housing developments" should not be limited to HUD-authorized housing, and should include all housing that is subsidized by federal, state, local, or Tribal monies.[25] CETF recommends clarifying that publicly subsidized and publicly supported housing complexes includes housing authorities and non-profit housing organizations, as well as all farmworker housing, which they assert has historically been ignored in policy and regulations.[26]

We agree with parties that a broad definition of "publicly supported housing development" is preferable, without unjustified distinction as to the source of public subsidy funds. We agree with IERBC that city-chartered housing developments are eligible "publicly supported housing developments." The definition for "publicly supported housing development" shown in Appendix 1 is based on the definitions of "Publicly subsidized" and "Publicly supported community" included in Public Housing Account guidelines effective up to today, amended to incorporate the elements noted above. We further agree with CETF that farmworker housing should be immediately categorically eligible for Public Housing Account grants, though we create a separate definition for farmworker housing that does not require the housing to be publicly subsidized or supported, and instead relies on Health and Safety Code Section 50199.7 (h),

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[24] *Comments of the Inland Empire Regional Broadband Consortium (IERBC) on Phase IIB Issues in Assigned Commissioner's Second Amended Scoping Memo and Ruling*, filed March 21, 2022 (IERBC Opening Comments) at 3.

[25] TURN Reply Comments at 9.

[26] CETF Opening Comments at 6.

which requires at least 50 percent of the units in the development to be available to and occupied by farmworkers. This definition of "farmworker housing" casts an initial wide net. Application requirements to establish eligibility for farmworker housing are adopted as specified in Appendix 1.

NDC recommends modifying the definition of "project" to simply refer to the established definition of "low-income community" rather than repeat and/or elaborate upon what is meant by that term.[27] The Commission agrees with this recommendation and adopts this definition with a minor modification to refer to awarded projects as well as requested projects, as shown in Appendix 1.

CCTA recommends specifying that "free broadband service" means service for which residents of the low-income community do not pay out-of-pocket costs.[28] Related to this, CforAT recommends clarifying that a broadband service provider offers free broadband service to all (as opposed to some) low-income residents in the project area.[29] The Commission finds both CCTA's and CforAT's recommendations helpful and makes corresponding changes to the adopted definitions as shown in Appendix 1.

We address parties' comments on the definition of "state standard" and "inside wiring", *infra*, in response to Questions 7 and 16, respectively. As noted *supra*, at this time we decline to adopt definitions for "other housing development," "mobile home park," "low-income," as these definitions will be addressed along with tenant protections in an upcoming staff proposal.

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[27] *Opening Comments of the National Diversity Coalition on the Assigned Commissioner's Second Amended Scoping Memo and Ruling, Phase IIB Issues*, filed March 18, 2022 (NDC Opening Comments) at 5.

[28] CCTA Opening Comments at 4.

[29] CforAT Opening Comments at 1.

4. *How can the Commission ensure that approved projects reflect the statewide distribution of low-income communities? For example, should the distribution be reflected in the location or in the income level?*

CETF and LAEDC assert the statewide distribution of approved projects should be reflected in relation to the concentration of poverty, to match the distribution pattern of low-income communities across the state.[30] CCF and UNITE-LA similarly support distributing funds in a manner that reflects community income level rather than geographic location, noting the concentration of low-income communities is unevenly distributed within the state.[31] CETF further stresses the importance of conducting outreach to areas with the highest concentrations of poverty, and recommends the Commission mail information to every publicly-subsidized housing complex in the state, of which CSU Chico and CETF have already compiled a comprehensive list.[32] IERBC also supports use of the lists developed by CSU Chico and CETF, among a number of helpful suggestions.[33]

Also similar to CETF, TURN urges the Commission to develop a more holistic process for ensuring equitable distribution of Public Housing Account funds, including monitoring the distribution of applications and grants, modifying outreach strategies and program rules, as needed to better ensure equitable distribution of funds, and adopting safeguards to ensure grant-funded improvements benefit low-income communities into the future.[34] With respect to

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[30] CETF Opening Comments at 6-7; LAEDC Opening Comments at 5.

[31] CCF Opening Comments at 5.

[32] CETF Opening Comments at 6-7.

[33] IERBC Opening Comments at 4.

[34] TURN Opening Comments at 1-3.

the last element, TURN recommends requiring grantees to attest they will maintain the structure as public housing for a set amount of time after the grant-funded improvements are completed.[35]

The Commission agrees that conducting outreach in areas with the highest concentrations of poverty should be prioritized, and further that monitoring the distribution of applications and grants is necessary to consider whether outreach and program rules need to be modified to better ensure the program serves those we most intend for it to serve. We acknowledge and confirm the Commission's intent, as stated in D.22-02-026, to actively monitor and evaluate outreach efforts to ensure alignment with the Commission's Environmental and Social Justice Action Plan.

Regarding TURN's last recommendation, we note the current guidelines specify that applicants must attest they expect the property to be in residential use as public housing for a minimum of ten years; the Commission agrees to retain this requirement as a basic safeguard for grant-funded improvements to benefit low-income communities into the future.

5. *How can the Commission identify other low-income communities that would benefit from this program?*

LAEDC recommends the Commission work with different counties' Department of Public Social Service to identify recipients of California public assistance programs such as Cal-Fresh, Medi-Cal, or the National School Lunch program; LAEDC notes these program recipients would also qualify for enrollment in the ACP, so the Commission could support adoption programs to expedite the process for these residents.[36] TURN and UNITE-LA similarly

[35] TURN Opening Comments at 3-4.

[36] LAEDC Opening Comments at 5.

encourage the Commission to work with other state and local agencies to identify participants in public assistance programs; TURN highlights the California Department of Housing and Community Development's grants to preserve, rehabilitate, and create affordable housing structures that are subject to affordable rent and homeownership requirements as a potentially valuable information resource.[37] CETF recommends using the list of all publicly-subsidized housing complexes developed by CSU Chico and CETF, and a list of high-poverty census tracts that CSU Chico can produce; if the Commission succeeds in getting connected to all residents in the communities included in these two lists, the Commission could then focus on other low-income communities.[38]

The Commission acknowledges and agrees generally with parties' recommendations for leveraging the expertise of other state agencies to better coordinate outreach and enrollment in all assistance programs for which residents are eligible. To this end, Commission staff intend to work both with other state agencies and with staff responsible for other assistance programs overseen or administered by the Commission, and the Commission may seek interagency agreements of memoranda of understanding as needed.

6. *Prior to SB 156, eligibility was limited to unserved applicants, defined as "a housing development where at least one housing unit within the housing development is not offered broadband Internet service."[39] The Public Housing Account rules provided ISPs an opportunity to challenge an application by providing evidence to the Commission showing that the ISP serves or has offered to serve the applicant. However, SB 156 eliminated the*

[37] TURN Opening Comments at 4; UNITE-LA Opening Comments at 3.

[38] CETF Opening Comments at 7.

[39] D.20-08-005, Appendix 2 at 4.

> *requirement that applicants be unserved; rather, now a "low-income community may be an eligible applicant if the low-income community does not have access to any broadband service provider that offers free broadband service that meets or exceeds state standards, as determined by the commission, for the residents of the low-income community."*
>
> a. *Should the Commission eliminate the challenge process, now that it is no longer required by statute and now that eligible entities are no longer required to be unserved? Why or why not?*

Most parties addressing this question support eliminating the challenge process, generally asserting this process has often stalled proposed applications and has not assisted in connecting more residents. The Commission acknowledges CCTA's and NDC's comments recommending that the challenge process be retained.[40] We note, however, that even if a service provider provides access to free broadband service to an eligible community, there is currently no general requirement that the service provider continue to provide such access for any duration into the future. In this context, the challenge process poses an obstacle to providing free broadband service to eligible communities. Further, removal of the challenge process does not preclude a service provider from notifying the Commission or Commission staff that it already provides service to a community for which the Commission has received an application. Removal of the challenge process simply means applications will not automatically be denied on the basis that a service provider already provides access to the community, again with no guarantee of continued access into the future. The Commission, however, maintains discretion to deny applications on the basis that a community already has access to free broadband service.

[40] CCTA Opening Comments at 6-8; NDC Opening Comments at 6.

In favor of removing this obstacle to a more expeditious process, the Commission adopts this change as shown in Appendix 1.

> *b. How should the Commission verify that the low-income community does not have access to any broadband service provider that offers free service that meets or exceeds state standards? Would an attestation to that factual question be sufficient?*

Parties that support eliminating the challenge process assert a simple attestation (with penalty for falsifying information by applicants), that the low-income community the project seeks to serve does not have access to free broadband service that meets or exceeds state standards, is sufficient.[41] The Commission agrees and adopts this modification as shown in Appendix 1.

3.2. Modification to Project Speed Delivery Requirements

Pub. Util. Code Section 281 (i)(3) requires Public Housing Account grants to "finance projects to connect broadband networks that offer free broadband service that meets or exceeds state standards, as determined by the commission." Current program rules allow staff to approve project proposals that, among other requirements, will provide for "download and upload data rate/speed capabilities for an average user within the property at a given time of peak and off-peak hours must meet at least 6 megabytes-per-second (Mbps) downstream and 1 Mbps upstream.[42] SB 156 updated speed requirements for the Broadband Infrastructure Grant Account to require projects to deliver at least 100 Mbps download and 20 Mbps upload.

The Second Amended Scoping Memo included the following issues for party comment:

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[41] *See, e.g.,* IERBC Opening Comments at 7; CCF Opening Comments at 5.

[42] D.20-08-005, Appendix 2, Public Housing Account Guidelines, at 8.

7. What minimum speeds should the Commission require Public Housing Account funded projects to deliver?

Most parties addressing this question urge the Commission to establish a 100 Mbps download speed and, at minimum, 20 Mbps upload speed (100 Mbps down and 20 Mbps up), as the state standard in accordance with Pub. Util. Code Section 281(i)(3).[43] A major reason articulated by these parties is consistency with speed requirements for other state-supported efforts (i.e., projects funded through the Broadband Infrastructure Grant Account, Federal Funding Account, and Executive Order N-73-20), and a corresponding call for equity and the need to address historic disinvestment by communications providers in low-income communities.[44]

The Commission recognizes the need to enable low-income communities to realize their full potential as a matter of equity. We are also cognizant that setting a minimum speed of 100 Mbps up and 20 Mbps down may prove prohibitively costly for many mobile home park owners or owners of other low-income developments, who bear the cost of providing and maintaining Internet service for free to their residents. Establishing a minimum speed of 25 Mbps down and 3 Mbps up will better encourage these owners, when eligible, to seek to provide free Internet service to their residents, and thereby increase the potential reach of broadband deployment through the Public Housing Account.

The Commission also acknowledges that average available Internet speeds are continually increasing, and agrees with maintaining consistency with other public benchmarks/standards. To maintain consistency, the Commission will set

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[43] *See, e.g.,* CCF Opening Comments at 5; CETF Opening Comments at 8; CforAT Opening Comments at 3 (recommending a 100 Mbps symmetrical speed requirement); IERBC Opening Comments at 6; NDC Opening Comments at 7; UNITE-LA Opening Comments at 4.

[44] *Id.*

minimum speed requirements for the Public Housing Account to reflect the speed benchmark specified as delivering advanced telecommunications capability in the Federal Communications Commission's (FCC) most recently published broadband deployment report. According to the Fourteenth Broadband Deployment Report, the current speed benchmark is 25 Mbps down and 3 Mbps up.[45] If and when an annual broadband deployment report specifies a speed benchmark that is faster than 25 Mbps down and 3 Mbps up, applications submitted three months after the issue date of that report, and thereafter, must meet the speed benchmark specified by that report. The Commission adopts this minimum speed requirement as shown in Appendix 1.

8. *Should the Commission prioritize 802.11ax projects over 802.11n projects?*

802.11ax (also referred to as Wi-Fi 6) and 802.11n (Wi-Fi 4) are protocols and standards for wireless network devices, which would enable a wireless network in an area with a broadband service connection. CETF, LAEDC and NDC recommend prioritizing 802.11ax projects over 802.11n projects, as 802.11ax is far superior to 802.11n, supporting much greater speeds, among other significant advantages.[46] NDC recommends prohibiting projects from using 802.11n and requiring, at minimum, 802.11AC wave2.[47] CETF does not recommend requiring 802.11ax, which could have the unintended consequence of barring applicants who had already purchased 802.11n equipment, or of

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[45] https://www.fcc.gov/document/fcc-annual-broadband-report-shows-digital-divide-rapidly-closing and FCC Fourteenth Broadband Deployment Report, 36 FCC Rcd 836, 841-42, available at https://docs.fcc.gov/public/attachments/FCC-21-18A1.pdf.

[46] CETF Opening Comments at 9; LAEDC Opening Comments at 7-8; NDC Opening Comments at 8-10.

[47] NDC Opening Comments at 10.

precluding the use of devices that do not contain the new Wi-Fi 6 standard.[48] Similarly, IERBC recommends encouraging 802.11ax but still allowing 802.11n depending on whether the project's site conditions justify the final design and engineering.[49]

The Commission generally agrees with the intent of supporting fast, reliable, and affordable service into the future to the greatest extent practicable. The Commission finds reason to require that only projects using 802.11AC wave2 or 802.11ax will be approved. Both 802.11AC wave2 and 802.11ax are backwards compatible with 802.11n, meaning the vast majority of Wi-fi products will work with those protocols even if they do not support those protocols. In cases where an applicant has already purchased 802.11n equipment, they may still apply and be eligible for reimbursement of those costs if they provide documentation that they purchased such equipment prior to the issue date of this proposed decision.

The Public Housing Account funds costs related to infrastructure (but not costs related to operation), thus it is reasonable to require deployment of infrastructure that enables throughput of significantly higher speeds (500 Mbps for 802.11AC wave2 and 1000 Mbps for 802.11ax), with anticipation that housing development owners could support higher-speed Internet service for their residents over time. These changes are adopted as shown in Appendix 1.

3.3. Modifications to Standards for Expedited (Ministerial) Review

Current Public Housing Account rules require project proposals to request no more than $75,000 in order for the project to be eligible for Ministerial

[48] CETF Opening Comments at 9.

[49] IERBC Opening Comments at 6.

Review.[50] Current guidelines also limit the per-unit amount that can be approved ministerially. However, this overall cap and the per unit caps have not been updated since they were adopted in 2014.[51] The Second Amended Scoping Memo posed the following issues for party comment:

> 9. *Should the overall project budget cap be increased from $75,000 to $150,000 as shown in Section VII of Appendix 1? Is there justification for a higher or lower cap for applications processed via Ministerial Review?*
> 10. *Should the per-unit budget caps applied under Ministerial Review be increased as proposed in Appendix 1?*
> 11. *Should the Commission apply per-unit cost caps to all Public Housing Account applicants as a criterion of Ministerial Review? Are there justifications for different caps to apply to different applicant types? If so, why?*

CETF, IERBC and LAEDC recommend against setting limits on the amount of grant funds eligible for Ministerial Review. These parties note the wide variability of factors, such as property layout and configuration of buildings, and building materials that impact the overall cost of connectivity solutions.[52] LAEDC stresses that any limits on applications eligible for Ministerial Review presents a barrier to the state's most disadvantaged residents.[53] The Commission does not disagree, but must provide clear, non-discretionary instructions to staff when delegating the task of approving requests for funding.

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[50] D.20-08-005, Appendix 2 at 11.

[51] D.14-12-039, Appendix B at 13.

[52] CETF Opening Comments at 9-10; IERBC Opening Comments at 6; LAEDC Opening Comments at 8.

[53] LAEDC Opening Comments at 8.

Given inflationary factors as well as the increase in required delivered speeds from projects, it is reasonable to increase the cap under which project proposals may be approved ministerially. Increasing these caps may increase the number of projects that are eligible for Ministerial Review, which would ease the administrative burden for both staff and applicants of issuing and responding to project approvals through the resolution process. In response to party comments, the Commission modifies the proposed per-unit budget caps to provide greater flexibility, as follows:

- For projects connecting up to 50 units, the proposed project costs shall be $1,200 per unit or less.
- For projects connecting 51 to 100 units, the proposed project costs shall be $900 per unit or less.
- For projects connecting more than 100 units, the proposed project costs shall be $600 per unit or less.

The overall cap and per unit caps applied for a project to qualify for ministerial review are adopted as shown in Appendix 1.

The per unit project caps continue to allow for standardization of grant approvals. At this time, we extend the per unit cost caps to all Public Housing Account applicants seeking ministerial approval. Commission staff will review project applications and may recommend adjusted per unit caps for different Public Housing Account applicant types via resolution.

3.4. Coordination and Overlap with Other Broadband Subsidy or Social Service Programs

As noted in the Second Amended Scoping Memo, Pub. Util. Code Section 281 (i)(5) requires the Commission to:

> consider the availability of other funding sources […], any financial contribution from the broadband service provider to the project, the availability of any other public or private broadband adoption or deployment program, including tax

> credits and other incentives, and whether the applicant has sought funding from, or participated in, any reasonably available program. The commission may require an applicant to provide match funding, and shall not deny funding for a project solely because the applicant is receiving funding from another source.

The Second Amended Scoping Memo posed the following questions for party comment:

> 12. *How should the Commission evaluate and weigh the availability of other funding sources for projects, potential financial contributions from project service providers, the availability of any other public or private broadband adoption or deployment program, including tax credits and other incentives, and whether the applicant has sought funding from, or participated in, any reasonably available program when considering project applications?*
> 13. *How can the Public Housing Account program be coordinated with other social service programs?*
> 14. *How can the Public Housing Account program be coordinated with ongoing telecommunications and broadband subsidy programs, such as the state and federal Lifeline programs and the Affordable Connectivity Program?*
> 15. *Could ongoing telecommunications and broadband subsidy programs, such as the state and federal Lifeline programs and the Affordable Connectivity Program, pay for the ongoing network interconnection and maintenance costs of Public Housing Account projects? What modifications to these programs would be required to enable this?*

Parties had somewhat varying responses to how the Commission should evaluate availability of other funding sources. CCF and UNITE-LA recommend against weighing this factor heavily in scoring applications, arguing that communities with the greatest need are often those with the least access to

funding sources.[54] LAEDC and NDC suggest the Commission should prioritize projects that leverage other grant programs or other sources of funding.[55]

CETF asserts the Commission should consider only other funding sources that it can identify to applicants, and encourages the Commission to establish a working relationship with HUD to obtain reliable information for CASF Public Housing Account applicants to seek other funding, rather than expecting applicants to seek out such information.[56] IERBC similarly recommends the Commission identify other funding sources for broadband installation in publicly subsidized housing, and ask applicants to confirm whether they have sought or received funding through those sources.[57]

Regarding coordination with other social service programs, many parties encourage the Commission to coordinate with state agencies that have a role in delivering social services, including the California Department of Social Services and the California Department of Housing and Community Development. TURN provides a novel recommendation that the Commission coordinate with the California Department of Housing and Community Development grants directed to preserve and rehabilitate public housing structures, comparable to a "dig once" policy so that a housing structure could be fitted for inside wiring and broadband equipment while it undergoes structural improvements.[58] The Commission agrees and intends to engage in information sharing with the California Department of Housing and Community Development for this

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[54] CCF Opening Comments at 6; UNITE-LA Opening Comments at 4.

[55] LAEDC Opening Comments at 10-11; NDC Opening Comments at 12-14.

[56] CETF Opening Comments at 11-12.

[57] IERBC Opening Comments at 8.

[58] TURN Opening Comments at 5.

purpose and other opportunities for coordination. Similarly, CETF recommends the Commission establish a working relationship with HUD, as described in response to Question 12.[59] The Commission will explore the full range of opportunities to coordinate with federal, state and local agencies that provide low-income individuals with social services, including LifeLine and ACP.

NDC advocates that customers and households enrolled in other communications subsidy programs like LifeLine and ACP should be able to participate in BPHA networks by demonstrating the same eligibility criteria, or simply showing proof of enrollment.[60] IERBC notes a likely challenge to such coordination for public housing, which is that public housing owners typically provide Internet service to tenants as a monthly benefit, meaning tenants do not receive a monthly Internet bill, making them ineligible for federal LifeLine or ACP discounts.[61] UNITE-LA advocates for coordination between the Public Housing Account and the Adoption Account so that once a project is approved for public housing, an Adoption Account grantee is connected to the beneficiaries of the new project to support enrollment in telecommunications and broadband subsidy programs.[62] CETF suggests requiring applicants to explain how Internet connectivity will enable the coordination of other social services, and that the Commission request relevant state agencies to coordinate the delivery of social services with the publicly-subsidized housing complex

[59] CETF Opening Comments at 12.

[60] NDC Opening Comments at 13-14.

[61] IERBC Opening Comments at 8.

[62] UNITE-LA Opening Comments at 4-5.

owners.[63] Similarly, but more strongly, TURN suggests requiring grant recipients to inform their low-income tenants about other public purpose programs.[64]

The Commission will consider whether a project could leverage other public and private resources, but applications will not be rejected if they do not leverage these other sources. We agree that the application form could list any other public or private sources of funding that Commission staff have identified, and ask applicants to confirm whether they have participated in these or any other available programs, and encourage applicants to seek such resources to the extent they have not already done so.

The Commission further acknowledges the benefit of, and indeed the need for, coordinating the Public Housing Account with other public assistance programs and especially other telecommunications and broadband support programs, to leverage support for ongoing network connections, as well as other programs overseen by the Commission to more effectively target outreach and provide assistance to eligible entities. Commission staff intends to increase outreach to and coordination with these agencies and programs to better serve eligible residents.

3.5. Public Housing Account Technical Requirements

Current Public Housing rules define inside wiring as "[t]elephone wiring inside a residential unit or multi-dwelling unit (MDU) building."[65] Public Housing grantees may be reimbursed for the costs of inside wiring installation, as a subset of eligible project costs. However, given the

[63] CETF Opening Comments at 12.

[64] TURN Opening Comments at 5.

[65] D.20-08-005, Appendix 2 at 2, n1.

Public Housing Account's proposed expansion in eligibility to include mobile home parks, some potentially eligible applicants may have a need for "inside wiring" that is not found within a residential unit or an MDU building. The Second Amended Scoping Memo posed the following questions for party comment:

> 16. *Given expansion of the types of entities eligible for Public Housing Account grants, is it necessary for the Commission to update the definition of "inside wiring?" If so, what should be included in the updated definition?*
> 17. *Existing Public Housing Account rules require wireless networking projects equipment to meet at least the 802.11n standard. Should the Commission update wireless networking project equipment standards to maintain the option for Public Housing Account applicants to use 802.11n standard equipment, while offering priority review to projects that will adopt 802.11ax (Wi-Fi-6/6E)? Should the Commission mandate use of 802.11ax (Wi-Fi-6/6E) equipment?*
> 18. *Should DSL networks still be eligible for funding? Do any other technical definitions or requirements (e.g., "minimum point of entry," etc.) in the Public Housing Account guidelines require updating?*

On the question of defining "inside wiring," CCF, IERBC and NDC recommend modifications to align with the expansion of entities eligible to apply for Public Housing Account funding.[66] CCF also seeks to encourage competition within MDU buildings, and to ensure no single service provider controls or can otherwise restrict access to the existing inside wiring.[67] NDC cites D.20-08-005 to suggest the Commission intended Public Housing Account funds to cover the

[66] CCF Opening Comments at 6; IERBC Opening Comments at 9-10; NDC Opening Comments at 14-17.

[67] CCF Opening Comments at 6.

costs of wiring and cabling to provide power and connectivity for broadband network equipment.[68]

Parties' comments regarding Question 17 are generally consistent with their responses to Question 8, regarding projects using 802.11n as opposed to 802.11ax.

Most parties agree that DSL service is obsolete, and should no longer be eligible for funding.[69] LAEDC recommends that DSL projects should not be given preference.[70] CETF does not recommend making DSL ineligible, as doing so would contravene a technology-neutral approach.[71] IERBC similarly recommends establishing best practices instead of mandating specific kinds of equipment.[72] NDC points out that some projects may seek to only deploy broadband networks that make existing DSL service more accessible in an area (such as providing free Wi-Fi), which remain appropriate as long as they provide customers with appropriately fast service that meets state standards.[73]

Regarding the definition of "inside wiring," the Commission aims to leverage the cost advantage of utilizing existing copper while still enabling competition with respect to outside wiring. The definition further clarifies that the costs of installing inside wiring are reimbursable only to the extent that the building or units in which the wiring is installed are owned by the project

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[68] NDC Opening Comments at 14-15.

[69] *See*, e.g., CCF Opening Comments at 6.

[70] LAEDC Opening Comments at 12.

[71] CETF Opening Comments at 14.

[72] IERBC Opening Comments at 9-10.

[73] NDC Opening Comments at 16-17.

applicant, rather than residents of the low-income community. The proposed definition is adopted as shown in Appendix 1.

As discussed in Section 3.2 of this decision, the Commission will require that only projects using 802.11AC wave2 or 802.11ax will be approved, with the intent of supporting fast, reliable, and affordable service into the future to the greatest extent practicable.

The Commission will not make DSL service ineligible for funding at this time. The technical requirements for very high-speed DSL (VDSL) will be maintained. If and when the Federal Communications Commission's annual broadband deployment report[74] specifies a higher than current 25 Mbps down and 3 Mbps up statutory definition of advanced telecommunications capability speed benchmark, applications using DSL technology submitted three months after the issue date of that report, and thereafter, will not be accepted.

3.6. Any Other Recommended Changes to the Public Housing Account Guidelines?

The Second Amended Scoping Memo included a catch-all question, allowing parties the opportunity to recommend any other proposed changes to the Public Housing Account Guidelines:

19. *Are there any other Public Housing Account program modifications the Commission should consider at this time?*

CETF repeats its overarching recommendation that the Commission must prioritize grants to publicly-subsidized housing complexes until they all have

[74] Section 706 of the Telecommunications Act of 1996, as amended (1996 Act), requires Federal Communications Commission (FCC) to "determine whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion" and report annually. Telecommunications Act of 1996 | Federal Communications Commission (fcc.gov) ; Telecommunications Act of 1996, Pub. L. No. 104-104, § 706(b), 110 Stat. 153 (codified at 47 U.S.C. S 157 note) (1996 Act).

high-speed Internet connectivity.[75] However, we agree with other commenters, including CforAT who note that SB 156 did not adopt a hierarchy of low-income communities and we decline to adopt such a hierarchy here.[76]

CETF further notes the necessity for public housing residents to have a computing device and digital literacy skills to take full advantage of an available broadband network, and therefore recommends the Commission consider developing a joint application for funding from both the Public Housing Account and the Adoptions Account for publicly-subsidized housing complex applicants, and/or otherwise maximize the ease for publicly-subsidized housing complex owners to get all their residents connected to the Internet and digitally proficient.[77] IERBC recommends allowing applicants to submit several locations under its ownership in one application, instead of having to submit a separate application for each location.[78] The Commission may consider combined and/or expanded application scenarios in the future but declines to adopt such changes at this time due to a lack of sufficient record on the potential efficiencies or inefficiencies of such proposals with regards to staff processing of these applications.

IERBC also advocates for allowing public housing authorities to apply for a grant through Ministerial Review based on rough conceptual designs and estimates, and then (assuming their application is granted) allow these agencies enough time to go through legally required procurement processes before

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[75] CETF Opening Comments at 14.

[76] *Reply Comments on Phase IIB Issues in Assigned Commissioner's Second Amended Scoping Memo and Ruling*, filed March 24, 2022 (CforAT Reply Comments) at 2-4.

[77] CETF Opening Comments at 14.

[78] IERBC Opening Comments at 10.

considering the project to have commenced.[79] Not having sufficient design information during application review affects both the proper vetting of the proposed architecture and the ability to form a basis for a grant award. This inefficient process could result in approving projects that were not viable or changes to costs that can increase total project budgets over the approved grant funding. We reject IERBC's recommendation to allow applications to be submitted with rough design and estimates.

IERBC further notes that current guidelines do not provide information on the review process or timeline in cases where applicants must submit an Environmental Assessment, pursuant to California Environmental Quality Act (CEQA) requirements. IERBC suggests that the Commission clarify a project is not considered to have commenced until after CEQA clearance is completed.[80] The Commission and the public have an interest in seeing projects proceed in a timely manner, including the permitting phase of project development; adopted timelines by which project milestones need to be completed, including permitting milestones, are necessary for the Commission to ensure funds dedicated to projects are quickly used to deploy broadband access. We therefore reject this request.

IERBC further recommends eliminating the requirement for HUD documentation for public housing authorities, noting that not all public housing authorities have HUD authorization (as noted previously) and, even with HUD authorization, not all public housing authorities have Public Housing Assessment System (PHAS) scores.[81] This recommendation is reasonable, and

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[79] IERBC Opening Comments at 10-11.

[80] IERBC Opening Comments at 12.

[81] IERBC Opening Comments at 13.

program rules are amended to require a publicly supported housing development that is not in contract with HUD must include in its submission the program details of the publicly supported housing development program, including any applicable income eligibility requirements for the program residents, and the housing development contact or relevant agreement from the source of the public subsidy supporting the development, as shown in Appendix 1.

Finally, IERBC recommends the Commission adopt certain practices employed by other state agencies, including providing advance payment of grant funds, to be placed in a separate interest-bearing bank account, and use of a simple spreadsheet report to document grant payments and what the funds were used for, instead of more detailed reviews of invoices and backup documentation.[82] We decline to adopt IERBC's recommendation at this time since the Commission and State Controller Office process payments in accordance with the State Administrative Manual (SAM). Pursuant to SAM, "Transactions should be supported by documents such as purchase orders, invoices, billing statements, receiving reports, bank statements, payroll data, and other documents that support and substantiate the transaction."[83]

4. Changes to the Adoption Account

The Second Amended Scoping Memo proposed changes to the Adoption Account and sought comments on related issues, as described below.

[82] IERBC Opening Comments at 12-13.

[83] SAM State Accounting Section 7231.

4.1. Modifications to Applicant and Project Eligibility Requirements

As noted in the Second Amended Scoping Memo, for the purposes of the Adoption Account, eligible applicants are local governments, senior centers, schools, public libraries, nonprofit organizations, and community-based organizations with programs to increase publicly available or after school broadband access and digital inclusion, such as digital literacy training programs.[84] The Seconded Amended Scoping Memo proposed additional criteria for non-profit applicants and applicants for digital literacy projects grants and posed the following questions for party comment:

> 20. *Is it reasonable to add additional criteria nonprofits must meet to be eligible for adoption grants, including, for example, that they must have existed for at least one year prior to eligibility? Is it reasonable to require that digital literacy project applicants must have at least one year's experience conducting such projects or must have completed at least one digital literacy project to be eligible, as proposed in Appendix 2? Is it reasonable to require broadband access project applicants to have at least one year's experience conducting such projects or to have completed one broadband access project to be eligible, as proposed in Appendix 2?*

Many parties addressing this question assert that requiring one year of experience or completion of at least one prior project is not necessarily indicative of performance or quality of service. NDC suggests the length of existence and prior relevant experience may be appropriate to qualify applicants for Ministerial Review, but does not support barring organizations that do not meet the one-year criteria.[85] UNITE-LA recommends the Commission increase the amount

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[84] D.18-06-032, Appendix 1 at 4.

[85] NDC Opening Comments at 17-18.

that current digital skills training providers may apply for.[86] CETF asserts, instead of focusing on length of existence, applicants must have a documented track record of delivering quantifiable outcomes with an explicit work plan for integrating digital inclusion into their existing programs to achieve adoptions.[87] LAEDC urges the Commission not to adopt unnecessarily restrictive criteria that would limit otherwise qualified new organizations, which LAEDC characterizes as knowledgeable, capable, linguistically and culturally competent, and with sufficient capacity to perform the programs they propose.[88] CforAT raises a similar concern as LAEDC, and urges the Commission to allow community based organizations (CBO) applying for digital literacy funding to request a waiver of certain requirements on the grounds that the CBO is best suited to offer digital literacy training.[89] IERBC does not support imposing additional criteria for non-profits to be eligible for adoption grants; IERBC does agree that qualified applicants should have experience conducting digital literacy training.[90]

TURN recommends that the Commission require non-profit applicants to submit original documentation of their nonprofit registrations and good standing confirmation from the U.S. Internal Revenue Service, the California Secretary of State, or the California Department of Justice. TURN further recommends that the Commission factor in the successful digital literacy or broadband access programs' number of consumers impacted, scale of growth,

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[86] UNITE-LA Opening Comments at 5.

[87] CETF Opening Comments at 18.

[88] LAEDC Opening Comments at 13-14.

[89] CforAT Opening Comments at 5.

[90] IERBC Opening Comments at 13-14.

length of time the program was successful, and any innovative approaches used, as opposed to length of the organization's existence.[91]

The Commission agrees that organizations not meeting the proposed criteria should not be barred from applying, but will maintain these criteria as factors that qualify an application for Ministerial Review, as NDC suggests. The Commission also finds it reasonable to require non-profit applicants to submit documentation confirming their good standing with the U.S. Internal Revenue Service, the California Secretary of State, or the California Department of Justice as TURN recommends. These changes are adopted as shown in Appendix 2.

21. Is it reasonable to require broadband access projects to provide such access within 6 months of the CASF grant award approval for the project to be eligible for an Adoption Account grant?

Most parties addressing this question agree that grantees should deliver results within six months. IERBC also supports allowing community resource centers, on a case-by-case basis, that could be used to start digital training sooner than six months.[92]

While current Adoption Account rules require project timelines to include a ramp up period of no more than six months, there is no explicit requirement that broadband access actually be delivered within those six months. To make clear the Commission's intention that these projects should get off the ground in an expeditious matter, it is reasonable to add such a requirement to Adoption Account rules, as shown in Appendix 2. Further, and for the reasons listed above, it is reasonable to extend this requirement to digital literacy training classes, such that classes must commence within the six-month ramp up period.

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[91] TURN Opening Comments at 7-9.

[92] IERBC Opening Comments at 14.

22. Is it reasonable to require digital literacy training projects to have designated an in-person or virtual space for such training in its project application for the project to be eligible for an Adoption Account grant?

NDC and CforAT suggest it is not reasonable to require digital literacy training projects and/or broadband access projects to have designated an in-person or virtual space for training in the application.[93] CforAT observes that CBOs may need to rent a space or purchase equipment without knowing whether they would receive funding, and suggests instead asking applicants to describe how they intend to obtain appropriate space if they have not designated such a space in their applications; grantees would be required to provide such a showing prior to receipt of funds.[94] LAEDC similarly suggests it may not be reasonable to require applicants to have secured an in-person or virtual space, and further that the definition of "designated training space" be flexible to allow innovative approaches to delivering training.[95] IERBC also notes that many affordable housing complexes do not have their own community center sites and should have flexibility to use other spaces to provide training.[96]

The Commission agrees that requiring applicants to have designated an in-person or virtual space for training places undue risk on organizations with very limited resources and no assurance that their application will be granted. An application showing that digital or in-person space for digital literacy training has been designated will, however, qualify for Ministerial Review, as many project costs could be dependent upon the space or software used to

[93] NDC Opening Comments at 19; CforAT Opening Comments at 6.

[94] CforAT Opening Comments at 6.

[95] LAEDC Opening Comments at 14.

[96] IERBC Opening Comments at 14.

deliver services, and thus having physical space or software for training identified at the time of the application will allow for more specific and accurate review of actual project costs. The Commission further agrees that, in lieu of designating a specific training space, applicants seeking approval via Ministerial Review may provide information about how they intend to obtain an appropriate space if their application is approved. The modified requirement is adopted as shown in Appendix 2.

4.2. Modifications to Standards for Expedited (Ministerial) Review of Adoption Account Applications

As noted in the Second Amended Scoping Memo, Adoption Account applications requesting $100,000 or less per project are currently eligible for approval via Ministerial Review.[97] However, given other recommended program changes set forth in the attached Appendix 2, if adopted, projects may be funded at higher cost per participant rates than previously authorized. Additionally, Adoption Account guidelines do not provide criteria related to per-participant caps on Adoption Program budgets. In practice, staff has adjusted submitted project budgets per each application's proposed participant count, based on historical average cost-per-participant benchmarks, in order to standardize funding and constrain program expenditures. The Second Amended Scoping Memo asks the following questions regarding Ministerial Caps for Adoption Account application review:

> 23. *Is it reasonable to increase the cap to $150,000 or do other program changes suggest a different cap is more reasonable?*
> 24. *Should the Commission adopt a per-participant cost cap for Adoption Projects? If so, what should be the cap? Should the cap be a soft cap for Ministerial Review, such that applicants with*

[97] D.18-06-032, Appendix 1 at 10.

> *proposed cost-per-participant figures exceeding the Ministerial Review cap could be approved via resolution? Should the Commission adopt an overall cost-per-participant cap? If caps should be adopted, at what level(s)? See Sections 1.7, and 1.10 of Appendix 2 for proposed changes to the rules related to this question.*

On the proposed overall cap of $150,000, IERBC and LAEDC would support an even higher cap, noting the varying demands based on community size and participants' needs, and the difficulty the current cap imposed on some past applicants.[98] NDC is supportive of increasing the overall cap for Ministerial Review eligibility to amounts that are clearly reasonable for such projects.[99]

In response to both Questions 23 and 24, CETF urges the Commission and staff to instead think in terms of how many adoptions a prospective grantee can deliver based on their past track record, and based on its analysis, CETF suggests a maximum of $250 per adoption plus an additional $100 for delivering all three elements of digital literacy training (cost, relevance, and digital literacy).[100] In reply comments, CforAT asserts such an approach would likely prevent communities in sparsely populated areas or other "hardest to reach" communities from receiving digital literacy training.[101]

IERBC and LAEDC do not support a per-participant cost cap for adoption projects, asserting such a cap is administratively burdensome and does not account for participants' varying digital literacy needs.[102] LAEDC further asserts such caps do not consider the comprehensive approaches often required

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[98] IERBC Opening Comments at 15; LAEDC Opening Comments at 15.

[99] NDC Opening Comments at 20.

[100] CETF Opening Comments at 19-20.

[101] CforAT Reply Comments at 8.

[102] IERBC Opening Comments at 15; LAEDC Opening Comments at 15.

to develop programs under more challenging circumstances, which may represent many of the types of projects for which applicants would seek funding.[103] CforAT supports a "soft cap" for Ministerial Review, meaning any applications requesting more than the cap may be approved via resolution.[104]

Given the expansion in eligible program costs noted below and in light of inflationary factors, it is reasonable to increase the overall cap for Ministerial Review to $150,000 per project to allow similar numbers of applications to be reviewed ministerially as were reviewed ministerially before eligible costs were expanded. This will ease administrative burdens and increase efficiency. The Commission acknowledges parties' calls for a higher overall cap; at this time, we find it reasonable to adopt a more conservative threshold amount for Ministerial Review.

Adopting per-participant caps for Adoption Projects approved ministerially will allow for standardization of costs and preservation of program funding. Adopting caps will also provide applicants with more certainty and transparency as to staff review processes. Adopting these caps as criteria for Ministerial Review will preserve program flexibility, allowing applications for projects that exceed the caps the opportunity to be approved via resolution. For these reasons, the overall project cost cap for Ministerial Review is increased and per-participant cost caps are established as shown in Appendix 2. Commission staff may review project applications and may recommend adjusted per participant caps that do not meet Ministerial Review criteria via resolution, if necessary.

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[103] LAEDC Opening Comments at 15.

[104] CforAT Opening Comments at 6-7.

Finally, current Adoption Account guidelines provide Ministerial Review criteria for staff approval of Adoption Account applications. However, there may be situations in which it would be reasonable to reject applications for reasons not listed under current Ministerial Review criteria. The Second Amended Scoping Memo posed the following question for party comment:

> 25. *Are there additional circumstances in which staff should be able to reject an Adoption Account grant application that are not currently provided for in Adoption Account Guidelines or proposed in Appendix 2? What mechanisms should be adopted to ensure there is transparency around staff's determinations based on the proposed changes set out in Section 1.10 of Appendix 2, if adopted?*

Appendix 2 of the Second Amended Scoping Memo listed the following proposed addition to the Adoption Account Guidelines:

> The Commission further assigns to staff the task of rejecting applications that meet any of the following criteria:
>
> a. The applicant submitted an incomplete application and has not responded to a follow-up request for the missing material, sent to the designated contact on the application.

This additional criterion will preserve staff resources and can help ensure project funds are awarded to organized and reliable candidates. Two additional criteria were proposed in the Second Amended Scoping Memo with regards to the Public Housing Account and are adopted as reasonable additional criteria under which staff must reject Adoption Account applications:

> b. The applicant has previously had a Commission grant award rescinded for violation of Commission or program rules;
>
> c. The applicant has made false statements to the Commission or to the Federal Communications Commission (FCC).

NDC supports the proposed criteria and recommends including the requirements applicable to the Consortia Account regarding past bankruptcy or sanctions or other legal actions taken against the organization's officers or members. NDC also recommends disqualification of applicants that have previously completed projects funded by Commission grants and were found by evaluation reports to have shown poor performance.[105]

LAEDC does not address the proposed criteria, but advocates for clear guidelines that enable applicants to determine if their application meets the requirements of the Adoption Account criteria, and a structured process to inform rejected applicants of the reason(s) for rejection, with an opportunity to revise and resubmit.[106] IERBC also recommends sending both a letter and an e-mail for rejected applications, with a clear (future) date by which those applications will be rejected due to non-responsiveness, and that the Commission post all applications received on its CASF Adoption website with monthly status updates.[107]

TURN recommends the Commission reject applications for non-profit applicants who are not registered with, or are not in good standing with, the U.S. Internal Revenue Service, the California Secretary of State, or the California Department of Justice.[108]

The Commission agrees with NDC's recommendation to adopt the same criteria that apply to Consortia Account applicants, including that an application be rejected if the applicant has previously had a Commission award rescinded

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[105] NDC Opening Comments at 20-22.

[106] LAEDC Opening Comments at 16.

[107] IERBC Opening Comments at 15.

[108] TURN Opening Comments at 10.

for violation of Commission or program rules and/or the applicant made false statements to the Commission or to the Federal Communications Commission. As shown in Appendix 2, the recommendations will be incorporated into Adoption Account guidelines in the same manner as in Consortia Account guidelines, with an applicant required to attest to certain statements in its application for an application to be deemed complete, while other disqualifying criteria will be confirmed or excluded by staff. The Commission also agrees that staff should be able to reject applications of non-profit organizations that fail to provide documentation of their non-profit registration or documentation showing good standing with the U.S. Internal Revenue Service and the California Secretary of State. To LAEDC's point, we note that Adoption Account guidelines are attached to this decision as Appendix 2 and that these guidelines will be posted to the Commission's website.

4.3. Adoption Account Project Budget Requirements

As discussed in the Second Amended Scoping Memo, existing rules cap Adoption Account grant reimbursement at 85 percent of eligible program costs.[109] This cap applies both to individual budget line items as well as to the overall adopted program budget.[110] Project budgets are approved by Commission staff, and changes to the amounts projected in each budget line currently must be approved by staff or the program would risk not being reimbursed for costs that differ from those projected, despite being reasonable costs. The Second Amended Scoping Memo posed the following questions for comment:

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[109] D.18-06-032, Appendix 1 at 4.

[110] D.18-06-032, Appendix 1 n7.

26. *In order to allow grantees flexibility in project implementation, should the Commission remove the 85 percent cap per budget line item (maintaining the cap on all approved costs)? Additionally, should the Commission allow grantees to make modifications to their approved budgets not to exceed authorized grant funding and to make changes to their milestone/activity timelines within the approved project timeline given that they provide the Commission notice of such changes? Is the proposed language in Section 1.15 of Appendix 2 clear? Are there other ways the Commission can increase budget flexibility for the benefit of Adoption grantee programs?*

NDC, IERBC, LAEDC and CETF support removing the 85 percent cap per budget line item to provide more flexibility to grantees.[111] NDC supports the proposed changes as specified in Appendix 2 to the Second Amended Scoping Memo.[112] IERBC also suggests allowing grantees to modify their approved budgets and their milestones/activity timelines, within the overall approved limits and given they provide notice to the Commission of such changes; IERBC also asks the Commission to consider providing advance payment of a portion of the grant at the beginning of the grant period, and quarterly payments thereafter.[113] CETF urges the Commission to eliminate the reimbursement process whereby grants are paid at "85 percent of eligible program costs," arguing this process is time-consuming, labor-intensive, and irrelevant to actual deliverables and outcomes. CETF advocates for paying grantees a set amount per adoption, plus additional for digital literacy training, and that a 15 percent

[111] NDC Opening Comments at 22; IERBC Opening Comments at 16; LAEDC Opening Comments at 17; CETF Opening Comments at 21.

[112] NDC Opening Comments at 22.

[113] IERBC Opening Comments at 16.

required match be on top of the amount paid per adoption and simply documented by grantees.[114]

In the interest of providing greater flexibility for project implementation, the Commission finds it reasonable to remove the 85 percent cap per budget line item, to permit grantees to modify line items within their approved budgets and to make changes to their milestone/activity timelines if those modifications consist only of a reallocation of funds within the approved budget and/or a change of milestone/activity timelines within the approved project timeframe, without seeking approval from the Commission again. Grantees must provide notice prior to making any such adjustment. The Commission acknowledges IERBC's and CETF's calls for more fundamental changes to how budgets are set and grantees are paid but declines to consider such changes at this time in favor of an established process for responsible disbursement of public funds. The adopted changes are as shown in Appendix 2.

4.4. Per Device Subsidy Levels

The Adoption Account rules currently cap reimbursement of eligible take-home devices to $150 per device, limited to one computing device per eligible household, and limited to $10,000 per application/project location.[115] The Second Amended Scoping Memo posed the following question related to take-home device costs:

> 27. *Should the Commission increase the allowable reimbursement amount for take-home devices? Is an increase in the amount eligible for reimbursement to $300 per device and increasing the total amount available or reimbursement for eligible device costs to $20,000 per application/project locations reasonable?*

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[114] CETF Opening Comments at 21.

[115] D.18-06-032, Appendix 1 at 5.

IERBC, NDC, LAEDC, UNITE-LA and Cal Advocates are generally supportive of the proposed per-device cap; IERBC supports removing the cap altogether.[116] Cal Advocates recommends raising the cap on the number of take-home devices per household, and a corresponding increase of the application/project location cap, to $40,000. Cal Advocates cites Census data suggesting most households that lack a desktop or computer also have more than one person, coupled with studies analyzing the unequal outcomes for students lacking access to a home computer, compared with students with access to a home computer.[117] CforAT does not comment on the specific amounts, but urges the Commission to ensure that reimbursement amounts for take-home devices are sufficient to ensure individuals with disabilities are able to obtain any necessary assistive technology.[118] In reply comments, CforAT expresses support for increasing per-device subsidy levels for take-home devices, eliminating the cap on the number of devices per designated space/project, and expanding eligible equipment costs.[119]

CETF asserts the Commission (or the State) should not be buying and giving away computers, but rather convening all ISPs to ensure they agree to offer the ACP device benefit, and then providing any supplemental funding for a device with Adoption Account funds. CETF emphasizes that only about 40 percent of households that are eligible for ACP are aware of affordable offers,

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[116] IERBC Opening Comments at 16; NDC Opening Comments at 22-23; LAEDC Opening Comments at 17-18; UNITE-LA Opening Comments at 6.

[117] Cal Advocates Opening Comments at 3-4.

[118] CforAT Opening Comments at 7.

[119] CforAT Reply Comments at 8.

and that computer labs are not the optimal way to deliver an adoption for unconnected residents.[120]

The Commission finds it reasonable to increase the allowable reimbursement for take-home devices, as proposed in the Second Amended Scoping Memo. We acknowledge and support Cal Advocates' recommendation to also increase the cap on the number of devices per household, in recognition that many eligible households have two or more people, each with their own needs for accessing the Internet. Given limited resources, there is a tension between maximizing the number of people who may receive their own devices and maximizing the number of households that can benefit from this program. At this time, the Commission determines to increase the per-household cap to two devices (with no per device cost cap) and to increase the total project cap to $40,000 (with no cap on specific number of devices) while also advancing a strategy, as CETF recommends, of encouraging all eligible California households to enroll in the ACP, which provides a discount of up to $100 to purchase a laptop, desktop computer, or tablet for participants who contribute at least $10 toward the purchase price.[121] While CETF urges the Commission to only promote enrollment in the ACP and not provide take-home devices, we note that doing so would also limit support to a single device per household, per the current rules of the ACP. The Commission adopts the per-device subsidy levels proposed by the Second Amended Scoping Memo, and increases the per-household and total application/project location cap, as shown in Appendix 2.

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[120] CETF Opening Comments at 22.

[121] *See* the Federal Communications Commission's Affordable Connectivity Program webpage: https://www.fcc.gov/acp (last accessed March 29, 2022).

Adoption Account rules also currently cap reimbursement for computing devices used in classrooms, community centers, and other public locations at $750 per device, with a cap of 15 devices per designated space or project.[122] The Second Amended Scoping Memo posed the following question related to reimbursement for the costs of devices used on-site by Adoption Account programs:

> 28. *Should the Commission eliminate the cap on the number of devices per designated space or project in favor of a total device reimbursement amount? If so, is $11,250 a reasonable limit? Would such a proposed change provide flexibility, and could this flexibility better serve participant needs?*

IERBC, NDC, LAEDC and UNITE-LA are generally supportive of eliminating the cap on the number of devices per designated space.[123] IERBC states the Commission could suggest an amount but allow applicants to propose what they think their program will need to be successful.[124] NDC states the proposed limit on total device reimbursement of $11,250 is reasonable.[125] CETF asserts that an assumed cost/limit of $750 per device is exorbitant, and repeats its position that purchasing devices to give to unconnected Californians is less optimal than maximizing use of the ACP device benefit.[126] In reply comments, CforAT asserts CETF's suggested $250 subsidy for take-home devices would effectively limit Adoption Account participants to purchasing refurbished or

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[122] D.18-06-032, Appendix 1 at 5.

[123] IERBC Opening Comments at 16-17; NDC Opening Comments at 23; LAEDC Opening Comments at 18; UNITE-LA Opening Comments at 6.

[124] IERBC Opening Comments at 16-17.

[125] NDC Opening Comments at 23.

[126] CETF Opening Comments at 22.

older devices with lower standards of hardware specifications, which goes against an objective of providing more future-proof technology and devices.[127]

The Commission finds it reasonable to eliminate the cap on the number of devices per designated space or project, in favor of a total device reimbursement limit as proposed in the Second Amended Scoping Memo. This change affords greater flexibility for project implementation, while still controlling for overall device expenditures. We decline to adopt IERBC's recommendation to not impose a cost cap, as this would render every review discretionary, slowing processing timelines. These changes are adopted as shown in Appendix 2.

4.5. Expansion of Eligible Program Costs

As discussed in the Second Amended Scoping Memo, current rules limit program costs eligible for reimbursement.[128] Currently, hotspots, switches, modems, and computer warranties are not considered costs eligible for reimbursement. The following questions were posed for comment in the Second Amended Scoping Memo:

> 29. *Should the Commission expand eligible program costs to include hotspots, modems, switches and warranties for computers as reimbursable costs? Should there be caps for reimbursement on these items? If so, what should the caps be? Should reimbursement for these items be excluded from and authorized above the $11,250 cap proposed for publicly used devices, as set forth in Appendix 2?*
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> 30. *Are there costs other than those for modems, switches, hotspots and computer warranties that should be added to the list of costs eligible for reimbursement?*

[127] CforAT Reply Comments at 8-9.

[128] *See* D.18-06-032, Appendix 1 at 4.

IERBC, LAEDC and NDC are supportive of expanding eligible program costs to connect computers to broadband networks.[129] LAEDC supports reimbursing technical support for distributed devices.[130] Noting that a goal of the Adoption Account is to promote Internet literacy and access, NDC also supports reimbursing costs for software and cloud services, and setting reasonable cost caps for these items based on market data. NDC asserts subscription-based costs, which are typical for some software licenses, should not be part of the $11,250 cap.[131] IERBC recommends that the Commission allow applicants to suggest items that are not explicitly identified as eligible for reimbursement and to explain their value to the program.[132] UNITE-LA argues generally for flexibility in program costs.[133] CETF repeats its recommendation that the Commission focus on achieving adoptions through the Adoption Account, and not funding devices or other associated equipment for connecting to the Internet.[134]

CforAT recommends the Commission explicitly add costs for making digital inclusion projects accessible to the list of costs eligible for reimbursement, noting that many individuals with disabilities need assistive technology to operate off-the-shelf computers and other devices. CforAT further recommends clarifying that reimbursable education and outreach expenses include marketing,

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[129] IERBC Opening Comments at 17; LAEDC Opening Comments at 19; NDC Opening Comments at 24.

[130] LAEDC Opening Comments at 19.

[131] NDC Opening Comments at 24.

[132] IERBC Opening Comments at 17.

[133] UNITE-LA Opening Comments at 6.

[134] CETF Opening Comments at 23.

education and outreach communications in accessible formats such as large print, braille and audio.[135]

The Commission finds it reasonable to expand eligible program costs to include hotspots, modems, switches and computer warranties, as proposed by the Second Amended Scoping Memo. Technical support for subsidized devices and software are already-eligible program costs. The Commission declines to include those items recommended by IERBC, as requests for reimbursement of costs not included on an approved list would render the approval discretionary, requiring Commission resolution. The Commission agrees with CforAT's recommendation to explicitly include costs for making digital inclusion projects accessible, and to clarify that reimbursable education and outreach expenses include marketing, education and outreach communications in accessible formats such as large print, Braille and audio. These changes are adopted as shown in Appendix 2.

4.6. Application of Cap on Reimbursement for Administrative Costs

The Second Amended Scoping Memo proposed limiting reimbursement for eligible administrative costs[136] to 15 percent of the total proposed Adoption Program budget. The Second Amended Scoping Memo posed the following question related to reimbursement of administrative costs:

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[135] CforAT Opening Comments at 8-9.

[136] "Administrative costs" are defined here 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," consistent with other CASF program rules. Adoption Account rules prohibit reimbursement for "Facility rent, utilities, internet service costs, food costs, lodging, marketing incentives for participation (gift cards, giveaways, etc.), certain classroom supplies and accessories, and other items not listed [as eligible costs.]" These items continue to be ineligible for reimbursement.

> 31. *Should the rules be amended to limit reimbursement for administrative costs (as listed in the definition [in note 19]) to administrative costs representing 15 percent or less of the overall approved budget (for allowable expenses as listed in Section 1.5 of Appendix 2)? Are modifications to application requirements needed to effectuate changes to this requirement? See Section 1.5 of Appendix 2.*

IERBC and NDC are generally supportive of the proposed limit on reimbursable administrative costs.[137] LAEDC recommends the Commission continue the existing rules of not capping reimbursement on eligible administrative costs, noting this could further constrain CBO partners whose resources are already constrained. LAEDC also encourages the Commission to look to expand the scope of allowable activities, for instance to development of marketing collaterals, incentive programs, and other activities to encourage participation.[138] CETF repeats its recommendations for performance-based grants, with a set amount per adoption and additional digital literacy training.[139]

The Commission finds it reasonable, and consistent with other CASF programs/accounts, to limit reimbursable administrative costs to 15 percent of total project costs. This requirement is adopted as shown in Appendix 2.

4.7. Payment Schedules

Current Adoption Account rules tie project reimbursement to a reporting schedule that requires a Ramp Up report, a Year 1 report, and a Year 2 Completion Report.[140] The Second Amended Scoping Memo posed the following questions related to the timing of project reimbursements:

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[137] IERBC Opening Comments at 17; NDC Opening Comments at 25.

[138] LAEDC Opening Comments at 20.

[139] CETF Opening Comments at 23.

[140] D.18-06-032, Appendix 1 at 11.

32. *Should the Commission separate the reporting requirements referenced above from reimbursement timelines, as proposed in Section 1.14 of Appendix 2? That is, should grantees continue to be required to submit the reports tied to the calendar year schedule noted above in order for the Commission to ensure that projects are rolling out in a timely fashion, while being allowed to submit requests for reimbursement of already-incurred costs outside of the reporting cycle, totaling no more than three requests for reimbursement in total?*
33. *Does the proposed revised payment scheme allow programs sufficient flexibility to request reimbursement when needed? Does the proposed revised payment procedure retain sufficient safeguards to ensure Adoption projects are implemented in a timely fashion and according to their respective authorized budgets?*

LAEDC advocates generally for flexibility to request reimbursement when needed, and supports separating the reporting requirements from reimbursement timelines, and further to prioritize advanced payments over reimbursement of costs, which would encourage more CBOs to participate.[141] NDC identifies several concerns with the proposed language in Appendix 2, most notably the limit of three payment requests and the apparent requirement for payment requests to accompany the required reports, which would require carriers to carry costs for six to twelve months. NDC agrees that payment requests should not be required to accompany the calendar year reports, but instead, should be limited to once (or one request) every three months.[142]

CETF asserts the current payment framework, which is based on reimbursement of incurred expenses, is too infrequent and the Commission should consider implementing a monthly or quarterly payment schedule as

[141] LAEDC Opening Comments at 21.

[142] NDC Opening Comments at 25-27.

immediately as possible. More generally, CETF asserts even the proposed revisions are unworkable and the Commission should instead move to a performance-based approach for paying grantees, i.e., a set amount per adoption achieved. CETF urges the Commission to convene current and past grantees to receive direct feedback on the current payment schedule.[143]

IERBC expresses similar concerns with the current payment framework, stressing the significant challenge the current payment framework poses to non-profit organizations working in disadvantaged, low-income communities to cover the cash flow needed for these types of projects, and asks the Commission to advance 50 to 80 percent of funding and use reporting to show what the funds were spent on, and then allow quarterly payment requests as needed.[144]

The Commission acknowledges party comments asking for greater flexibility, including requests for base funding and/or advance payments, but must execute the role of disbursing public funds responsibly and seek to optimize administrative burdens between grantees and Commission staff who are responsible for overseeing funds disbursement and processing each request for payment. We aim to increase flexibility where it is feasible to do so in the near term, in order to begin accepting new applications; this includes separating reporting requirements from payment requests. Therefore, the Commission finds it reasonable to adopt the proposed changes shown in Appendix 2.

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[143] CETF Opening Comments at 24-25.

[144] IERBC Opening Comments at 18.

4.8. Any Other Recommended Changes to the Adoption Account Guidelines

The Second Amended Scoping Memo included a catch-all question, allowing parties the opportunity to recommend any other proposed changes to the Adoption Account Guidelines:

> *34. Are there any other Adoption Account program modifications the Commission should consider at this time?*

CETF and LAEDC provide a number of recommendations for significant process and rule reforms for the Adoption Account, including:

- Convene periodic "Learning Community Grantee Workshops" for grantees to share experiences and lessons learned; and provide a stipend for grantees to attend.[145] In reply comments, SANDAG expresses support for this recommendation.[146]
- Eliminate reimbursement-based payment of grants in favor of "performance-based" payment.[147]
- Provide financial support for collection of measurement and evaluation data of grantees' projects.[148]
- Authorize and invite applications to award one or more grants for management of collaboratives of multiple eligible non-profit CBOs with programs designed to increase broadband Internet adoption.[149]

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[145] CETF Opening Comments at 25-26.

[146] SANDAG Reply Comments at 4.

[147] CETF Opening Comments at 27.

[148] LAEDC Opening Comments at 22.

[149] CETF Opening Comments at 27-28.

The City of Los Angeles Office of the Mayor requests that the Commission hold a workshop and listening session with Los Angeles area organizations on how the CASF can better address the digital divide in the Los Angeles area.[150]

The Commission acknowledges parties' recommendations for further Adoption Account reforms, many of which would require much greater consideration than allowed by our intent to begin accepting applications as expediently as possible. In lieu of workshops, the Commission may meet with grantees, as needed, in order to share best practices, to receive feedback from grantees, and to provide information to grantees specific to program procedures and other relevant information. Additionally, in response to comments, the Commission will encourage Adoption Account grantees to inform participants about affordable home Internet service offers (such as the ACP).

5. Changes to the Consortia Account

The Second Amended Scoping Memo proposed changes to the Consortia Account and sought comments on those proposed changes and related issues, as described below.

5.1. Allowable Consortia Activities

The Second Amended Scoping Memo noted that implementation of additional programs created by SB 156, including the Local Agency Technical Assistance grant program, the Broadband Loan Loss Reserve Fund, and the Federal Funding Account, will create opportunities for additional Consortia engagement. However, current Consortia Account rules limit eligible Consortia activities to assistance with CASF infrastructure applicants project development

[150] *Reply Comments of the Office of the Mayor, City of Los Angeles, Regarding Assigned Commissioner's Second Amended Scoping Memo and Ruling*, filed March 24, 2022 (City of Los Angeles Office of Mayor Reply Comments) at 3.

or grant applications.[151] The Second Amended Scoping Memo posed the following questions for comment:

> 35. *Should the Commission expand the scope of allowable Consortia activities by adding references to "broadband deployment projects" related to new programs created under SB 156 and AB 164, as set forth in Appendix 3?*
>
> 36. *Do the proposed allowable Consortia activities set forth in Appendix 3 encompass the roles Consortia should undertake with regards to new programs created under SB 156 and AB 164? If not, what modifications to allowable Consortia activities should the Commission adopt?*

CCF, CETF, IERBC, LAEDC and SANDAG advocate for expanding the scope of allowable Consortia activities to include outreach and technical assistance, and to support applications for project funding to close broadband access, adoption, and digital literacy gaps.[152] LAEDC asks for more detail on what constitutes activities "that assist the Commission in promoting broadband deployment in California," and urges the Commission to apply a broad scope to enable broadband adoption and digital literacy.[153]

UNITE-LA similarly advocates for a more holistic view of broadband deployment and achieving adoption and digital literacy, and asserts the current scope limits a Consortium's ability to leverage other resources that would advance the goal of providing access to 98 percent of California households.[154]

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[151] D.18-10-032, Appendix 1 at 4.

[152] CCF Opening Comments at 6; CETF Opening Comments at 29-30; IERBC Opening Comments at 19; LAEDC Opening Comments at 22-23; SANDAG Reply Comments at 4.

[153] LAEDC Opening Comments at 24.

[154] UNITE-LA Opening Comments at 6-7.

CETF, acknowledging the statutory limit on the scope of activities in which Consortia are authorized to engage, recommends the Commission seek reforms to explicitly expand the role of Consortia.[155]

The Commission acknowledges parties' comments on including assistance for adoption and public housing projects and other projects beyond new programs created under SB 156 and AB 164 as allowable Consortia activities. As CETF acknowledges, Pub. Util. Code Section 281(g)(1) provides that the Consortia Account no longer funds adoption activities, therefore the Commission declines to extend Consortia responsibility beyond assistance with deployment-geared applications. Any eligible applicants interested in CASF funding for Adoption and Public Housing Account assistance may apply to those accounts. Consortia may choose to assist other projects beyond the programs created under SB 156 and AB 164, but these activities are not within the scope of the Consortia Account and will not be reimbursed by the Consortia Account. In response to LAEDC's request for specification of activities that assist the Commission in promoting broadband deployment, Appendix 3 specifies that such activities include Consortia activities directly related to and in support of Federal Funding Account applicants and CASF infrastructure applicants, and other programs including Middle-Mile, Broadband Loan Loss Reserve, and Local Agency Technical Assistance created under SB 156 and AB 164. This includes identifying potential applicants and assisting them with applications, as described in Section 1.4 of Appendix 3.

[155] CETF Opening Comments at 31.

5.2. Annual Maximum Funding Amount per Consortia Grant

Consortia grants are currently limited to $150,000 per year per Consortium.[156] The Second Amended Scoping Memo proposed increasing the annual Consortia grant limit to $200,000 and asked the following question for party comment:

> 37. *Should the Commission increase the annual funding cap per Consortia to $200,000? Is the proposed annual funding cap reasonable, given the expansion of Consortia allowable activities and accounting for inflation? If not, why?*

SCAG is supportive of increasing the annual funding cap per Consortium to $200,000.[157]

CCF, CETF, IERBC, LAEDC, and UNITE-LA urge the Commission to raise the annual funding cap to at least $300,000 per year per Consortium, and CETF asserts the base funding for Consortia should be $1 million.[158] CCF, LAEDC and UNITE-LA recommend the Commission develop a formula for funding Consortia based on size of the region and number of people who are underserved or unserved.[159]

The proposed annual funding cap of $200,000 is comparable with the expansion of Consortia Account allowable activities, therefore the Commission finds it reasonable to adopt this proposal. The Commission acknowledges but

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[156] D.18-10-032, Appendix 1 at 2. On top of this award amount, Consortia may also receive "$10,000 (per consortium for up to 5 representatives) for attendance to at least one of the annual public workshops as required by AB 1665." (*Id.*)

[157] *Comments of the Southern California Association of Governments on the Assigned Commissioner's Second Amended Scoping Memo and Ruling*, filed March 17, 2022 at 2-3.

[158] CCF Opening Comments at 6; CETF Opening Comments at 31; IERBC Opening Comments at 20; LAEDC Opening Comments at 24-25; UNITE-LA Opening Comments at 7.

[159] CCF Opening Comments at 6; LAEDC Opening Comments at 24-25; UNITE-LA Opening Comments at 7.

declines parties' requests to increase the annual funding cap to at least $300,000 or more per year per Consortium, and/or to utilize a formula to set funding amounts. Such a formula, if practicable, would require careful consideration that would likely delay acceptance and awarding of new applications, which the Commission chooses to prioritize at this time. Commission staff may provide recommendations regarding changing the annual funding cap if reasonable following administration of future applications cycles.

5.3. Clarifying Consortia Regional Boundary Requirements

The Second Amended Scoping Memo proposed a new definition for Consortia Boundaries and requested comment on that proposed definition, as follows:

> 38. *Should the Commission revise the definition of "Consortia region" to "a California region with boundaries largely consistent with county boundaries or the boundaries of multiple counties, or other geographic lines due to geographic characteristics/barriers, such as mountains and basins, for hard-to-serve areas, as long as the areas do not overlap with other Consortia regions?"*
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> 39. *Is it reasonable to require Consortia boundaries to coincide with county boundaries in most cases? If so, in which cases should Consortia be authorized to have boundaries that do not coincide with county boundaries? How should applicants be required to demonstrate the reasonableness of proposed Consortia boundaries that do not coincide with county boundaries?*
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> 40. *When requesting to represent only a portion of a county, what additional information, if any, should the consortium applicant provide to the Commission, other than the following: (1) its justifications and reasons for the request, with supporting data and facts (e.g., shapefile geodata), (2) a clear definition of the areas within the county it wishes to represent, including a description of the area(s) and a map, (3) a jointly signed agreement letter with any other consortia representing the same county, and (4) demonstration that there will be no geographic*

> *overlap with other consortia, including a map showing no boundary overlap? Is this information sufficient to allow consideration of such proposals?*

CCF, CETF, IERBC, LAEDC and UNITE-LA support keeping Consortia region boundaries consistent with county boundaries.[160]

In cases of a special project area that is within a county or is shared by two counties across boundaries, CETF recommends the Commission support the relevant existing Consortia rather than create a new one.[161] IERBC notes that it has addressed a situation where a particular community was located in a different county, by actively participating in the neighboring county Consortia activities.[162]

In cases of communities within geographic proximity and not being served by a Consortium, LAEDC supports enabling an existing Consortium to request to extend its boundaries to serve these residents.[163] Similarly, UNITE-LA notes that if a region is not being served by a Consortium, it may be reasonable for a Consortium to have multiple regions if those regions are contiguous.[164]

CETF and LAEDC support maintaining a rule of a single Consortium for each county.[165] UNITE-LA advocates for giving preference to applications that serve an entire county as opposed to a portion of a county.[166]

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[160] CCF Opening Comments at 7; CETF Opening Comments at 32-33; IERBC Opening Comments at 21; LAEDC Opening Comments at 26-27; UNITE-LA Opening Comments at 8.

[161] CETF Opening Comments at 33.

[162] IERBC Opening Comments at 21.

[163] LAEDC Opening Comments at 27.

[164] UNITE-LA Opening Comments at 8.

[165] CETF Opening Comments at 33; LAEDC Opening Comments at 28.

[166] UNITE-LA Opening Comments at 8.

With respect to Question 38, the Commission clarifies that the proposed revised definition does not eliminate the option for Consortia applicants to represent a Consortia region consistent with county boundaries. Although the Commission agrees that Consortia boundaries should coincide with county boundaries in most cases, and further that preference should be given to applications that serve an entire county or several entire counties (as opposed to a portion of a county), we do not find good reason to prohibit Consortia boundaries that do not coincide with county boundaries, or single sub-county areas, in the future. As CETF and IERBC acknowledge, there may exist a need to support a portion of a county. It will be the responsibility of each Consortium applicant to assemble its own membership and to delineate its geographical region of responsibility. The Commission will not predetermine geographic region or mandate the precise number of Consortia to receive CASF grants, but confirms that CASF Consortia grants will be awarded only to one Consortium per geographic region. The Commission will not organize Consortia but will select eligible Consortia among those submitting applications, and award grants via resolution based on the identified criteria. The application requirements for describing a proposed Consortia boundary and justifying proposed boundaries that do not coincide with county boundaries are adopted as stated in Appendix 3.

5.4. Any Other Recommended Changes to the Consortia Account Guidelines

The Second Amended Scoping Memo included a catch-all question, allowing parties the opportunity to recommend any other proposed changes to the Consortia Account Guidelines:

> 41. *Are there any other Consortia Account program modifications the Commission should consider at this time?*

CCTA recommends retaining reference to the statutory goal, to ensure broadband access to no less than 98 percent of California households in each Consortia region.[167]

IERBC recommends the Commission provide experienced Consortia an opportunity to be funded annually based on a simple application update that can be approved via Ministerial Review.[168]

CETF and SCAG call for more sweeping reforms, including:

- Provide an initial advance grant payment and a quarterly grant payment schedule to ensure adequate cash flow.
- Invite existing Consortia that have successfully completed their past grants to renew funding at a base $1 million level over three years with a simple amendment to the existing grant agreement.
- Provide a simple application to focus on accelerating assistance for broadband deployment for both middle-mile and last-mile projects and for engaging local governments to achieve adoption by all low-income households.[169]

In response to CCTA's comments, we note that the program rules still reference the statutory goal of 98 percent of California households in each Consortia, in Section 1.4 of Appendix 3 (Account Objective and Allowable Activities); deletion of this language in Section 1.1 (Background) was primarily to remove reference to the outdated target date.

The Commission declines to consider parties' recommendations for more fundamental changes to administration of the Consortia Account. The Consortia Account has a competitive grant process, based on established criteria, to ensure

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[167] CCTA Opening Comments at 10.

[168] IERBC Opening Comments at 22.

[169] CETF Opening Comments at 34; SCAG Opening Comments at 4.

responsible use of public funds. We note that the Consortia Account usually awards grants for a period of two to three years, without a need for annual renewal. In addition, Consortia grantees may request an initial start-up costs payment, up to 25 percent of the entire grant.

6. Program Budget and Subaccount Budget Allocations for fiscal Year 2022-2023

Cal Advocates recommends reallocating funds proposed for the Line Extension Program to the Tribal Technical Assistance Program, asserting the Commission has already allocated the maximum amount set in statute, pursuant to D.19-04-022.[170]

CETF, IERBC and SCAG urge the Commission to immediately allocate a minimum of $225 million over the next three years, as follows:

- $75 million to the Public Housing Account;
- $100 million to the Adoptions Account; and
- $50 million to the Regional Broadband Consortia Account.[171]

CCTA urges the Commission to wait until at least the third quarter of 2022 to set the 2023-2024 CASF budget, and to reassess allocations based on documented need to address remaining broadband access and adoption gaps.[172]

The Commission acknowledges the statutory limit on funds to be allocated to the Line Extension Program, as noted by Cal Advocates. With remaining funds still available for the Tribal Technical Assistance Program, combined with funds that will be available to tribes under the Local Agency Technical

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[170] Cal Advocates Opening Comments at 5-7.

[171] CETF Opening Comments at 34-37; IERBC Opening Comments at 22; SCAG Opening Comments at 4.

[172] CCTA Opening Comments at 11-12.

Assistance Program, and an anticipated greater increase in Adoption Account applications, the Commission determines to allocate the portion of funds proposed for the Line Extension Program to the Adoption Account. As of March 30, 2022, the Commission has only awarded $297,778 in the Line Extension Program, with approximately $4.7 million remaining.[173]

The Commission acknowledges parties' comments, both for greater commitments to the Public Housing, Adoptions and Consortia Accounts, and CCTA's urging not to establish future funding levels at this time. The allocations and amounts proposed in the Second Amended Scoping Memo are reflective of past applications and anticipated increases in grant amounts due to proposed rule changes, such as additional allowable costs, and basic assumptions such as two rounds of application cycles for the Public Housing Account. The Commission agrees generally with CCTA that budgets beyond fiscal year 2022-2023 should be based on actual activity for each program. The Commission delegates staff to propose, via resolution, future years' budgets and allocations for Commission approval.

The fiscal year 2022-2023 budget and allocation is adopted as shown in Table 1, below.

[173] This figure does not include state operations.

Table 1: Fiscal Year 2022-2023 Allocation of CASF Budget[174]

$000s	Adoption	Consortia	Line Extension	Infrastructure	Public Housing	Tribal Technical Assistance	Total
Allocation (%)	26.20%	14.7%	0%	42.50%	13.8%	2.8%	
Allocation ($)	$19,024	$10,710	$0	$30,860	$10,000	$2,000	$72,611[175]

7. Comments on Proposed Decision

The proposed decision of Commissioner Darcie L. Houck in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on _____, and reply comments were filed on _____ by _____.

8. Assignment of Proceeding

Darcie L. Houck is the assigned Commissioner and Valerie U. Kao is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. SB 156, AB 164 and AB 14 enacted changes that impact program administration of the CASF through creation of new CASF subaccounts, adoption of individual program modifications, or through increase or extension of total program funding.

2. The assigned Commissioner provided notice and opportunity to comment on proposed changes to program rules of the Public Housing Account,

[174] The numbers may not add up to 100% due to rounding and due to the removal of $13,746,000 annually for internal program administration costs.

[175] This proposal assumes that $13.746 million of the total $86.357 million are State Operations Funds the CPUC uses to administer the program.

Adoption Account and Consortia Account, and on the fiscal year 2022-2023 CASF budget and subaccount allocations.

3. Farmworker housing has historically been ignored in policy and regulations.

4. Establishment of Public Housing Account program rules for eligibility, verification of eligibility, and protections for tenants of non-publicly supported housing developments requires deliberation beyond what was provided for by the Second Amended Scoping Memo and may require consultation with staff who oversee the ESA program.

Conclusions of Law

1. It is reasonable to modify program rules of the Public Housing Account as shown in Appendix 1 of this decision.

2. It is reasonable to modify program rules of the Adoption Account as shown in Appendix 2 of this decision.

3. It is reasonable to modify program rules of the Consortia Account as shown in Appendix 3 of this decision.

4. It is reasonable to adopt a fiscal year 2022-2023 CASF budget and subaccount allocations as shown in Table 1 of this decision.

5. The Commission's Communications Division staff should have the authority to prepare resolutions for administrative changes to the Public Housing Account, Adoption Account, and Consortia Account program rules, and present these resolutions to the full Commission for a vote.

O R D E R

IT IS ORDERED that:

1. California Public Utilities Commission Communications Division staff shall prepare a staff proposal for establishing Broadband Public Housing

Account eligibility, verification of eligibility, and protections for tenants of non-publicly supported housing developments, as specified in Section 3.1 of this decision.

2. The Broadband Public Housing Account program rules, adopted as shown in Appendix 1 of this decision, are effective as of the issue date of this decision.

3. The Adoption Account program rules, adopted as shown in Appendix 2 of this decision, are effective as of the issue date of this decision.

4. The Rural and Urban Regional Consortia Account program rules, adopted as shown in Appendix 3 of this decision, are effective as of the issue date of this decision.

5. The fiscal year 2022-2023 California Advanced Services Fund budget and account allocations are adopted as shown in Table 1 of this decision.

6. California Public Utilities Commission Communications Division staff may propose administrative changes to the Broadband Public Housing Account, Adoption Account, and Rural and Urban Regional Consortia Account program rules via resolution for full Commission review and approval of those changes.

7. Rulemaking 20-08-021 remains open.

This order is effective today.

Dated _____, at Sacramento, California.

APPENDIX 1

Broadband Public Housing Account

Revised Application Requirements and Guidelines

I. Background

Senate Bill (SB) 156 was signed into law on July 20, 2021.[1] SB 156 made significant changes to the Broadband Public Housing Account (BPHA) that require funds be made available for grants and loans to finance projects to build broadband networks offering free broadband service for residents of low-income communities.

II. Grant Funding

The Commission will award grants to finance up to 100 percent of the costs to install inside wiring and broadband network equipment but will not finance operations and maintenance costs through this program.

The Commission will reimburse the following project-related expenses after a review of the project progress or completion reports and supporting documentation:

- All broadband networking equipment (hardware and software), wirelessaccess points, wireless bridge(s), modem(s), switches, router(s), and firewall(s) for network security but not personal computers, laptops, handheld or human interface devices.
- Low voltage contracting work including the installation of inside wiring,network cabinets, NEMA boxes,[2] conduits, patch panels, cable tray or ladders, and other cabling requirements to provide power and connectivity for the broadband network equipment funded as part of theproject. Major rehabilitation, demolition or construction work will not befunded.
- Broadband network engineering and designing documentation.
- Hardware warranty of broadband network equipment as needed.

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[1] SB 156 is codified at Pub. Util. Code Section 281 et seq.

[2] The National Electrical Manufacturers Association defines standards used in North America forvarious grades of electrical enclosures typically used in industrial applications

- Installation, provisioning, and configuration labor costs at the Minimum Point of Entry (MPOE), MDFs (Main Distribution Frame), IDFs (Intermediate Distribution Frame), WAPs (Wireless Access Point), Wireless Bridges such as P2P and P2MP (Point to Point and Point to Multi-point) Radios, Switched Ethernet, and xDSL (Digital Subscriber Line) modems.
- Taxes, shipping and insurance costs (if applicable) that are directly relatedto broadband network equipment deployed under the BPHA.

For wireless networking projects, equipment must meet at least the 802.11AC Wave2 (WiFi-5 wave2)[3]or 802.11ax standard.[4] Staff will accept applications that rely on 802.11n technology[5] to the extent that the applicant can demonstrate that this equipment was purchased prior to the issue date of the decision adopting these Guidelines. For wireline networking projects, equipment must meet at least DOCSIS 3.1,[6] VDSL[7]

[3] Wi-Fi standard, also known as Wi-Fi 5 wave2 or 802.11ac wave2, is a wireless networking standard that operates on 2.4 GHz and 5 GHz frequency bands providing high-throughput wireless local area networks, introduced by the Wi-Fi Alliance in 2016

[4] Wi-Fi standard, also known as Wi-Fi 6/6E, that operates on 2.4 GHz, 5 GHz and 6 GHz frequency bands, maintained by the Institute of Electrical and Electronics Engineers IEEE 802.11 working group. https://www.ieee802.org/11/Reports/tgax_update.htm

[5] A widely used wireless computer networking protocol standard by IEEE (The Institute of Electrical and Electronics Engineers) for Wi-Fi communication that operates on 2.4 GHz and 5 GHz frequency bands.

[6] The Data Over Cable Service Interface Specification (DOCSIS) is a widely used broadband data transfer standard using cable systems, originally used to transmit cable television signals, for Internet Protocol (IP) data services. Originally released by CableLabs in 2013, DOCSIS is an internationally accepted telecom standard by the ITU Telecommunication Standardization Sector (ITU-T).

[7] Very high-speed digital subscriber line (VDSL) is digital subscriber line (DSL) technology providing data transmission of up to 52 Mbit/s and 16 Mbit/s per ITU Telecommunication Standardization Sector (ITU-T) G.993.1 standard, faster than the earlier standards of asymmetric digital subscriber line (ADSL) G.992.1, G.992.3 (ADSL2) and G.992.5 (ADSL2+).

or the 100BASE-X standard.[8] If and when the FCC[9] specifies a higher speed benchmark than the current 25 Mbps down and 3 Mbps up statutory definition of advanced telecommunications capability speed benchmark, applications using DSL technology submitted three months after the issue date of that report, and thereafter, will not be accepted.

III.Definitions

A "dwelling unit" is a structure or the part of a structure that is used as a home, residence, or sleeping place by one person who maintains a household or by two or more persons who maintain a common household. Also referred to as a residential unit throughout.

"Farmworker housing" is housing that is consistent with the definition of "farmworker housing" set forth in California Health and Safety Code Section 50199.7 (h), which includes the requirement that "farmworker housing" means housing in which at least 50 percent of the units are available to, and occupied by, farmworkers and their households.

"Free broadband service" means broadband service that meets or exceeds state standards for the residents of a low-income community, and for which residents of the low-income community do not pay out-of-pocket costs, and provided that all residents of the low-income community have access to that service.

"Inside Wiring" means telephone wiring inside a residential unit or multi-dwelling unit (MDU) building. To the extent that this definition is applied to a mobilehome park or other development that may have resident-owned units, this inside wiring definition excludes any inside telephone wiring installed in a

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[8] Fast Ethernet is a variation of Ethernet standards that carry data traffic at 100 Mbps, under the IEEE 802.3u standard by the Institute of Electrical and Electronics Engineers (IEEE). 100 represents its maximum throughput of 100 Mbit/s, BASE indicates its use of baseband transmission, and X indicates the type of medium used.

[9] Section 706 of the Telecommunications Act of 1996, as amended (1996 Act), requires Federal Communications Commission (FCC) to "determine whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion" and report annually. Telecommunications Act of 1996 | Federal Communications Commission (fcc.gov) ; Telecommunications Act of 1996, Pub. L. No. 104-104, § 706(b), 110 Stat. 153 (codified at 47 U.S.C. S 157 note) (1996 Act)

residential unit or MDU building that is not owned by the mobilehome park or other development.

A "low-income community" is a publicly supported housing development or farmworker housing, as defined herein.

A "minimum point of entry" (MPOE) is either the closest practicable point to where wiring crosses a property line or the closet practicable point to where the wiring enters a MDU building or buildings.

"Project" means the work to connect a broadband network to a low-income community, as defined herein, that is requesting or has been authorized funds for a grant under one application from the BPHA.
A "service connection" means wire or cable or wireless transmission equipment, and associated supporting structure, from the point of connection from the provider's distribution facilities to the customer premises network interface device. A service connection serves only the property on which it is located.

For the purposes of the BPHA, the "state standard" for broadband service is a network that is able to provide a minimum of 25 Mbps download and 3 Mbps upload service for an average user during peak and off-peak hours.[10] If and when the Federal Communications Commission's annual broadband deployment report[11] specifies a higher speed benchmark than the current 25 Mbps down and 3 Mbps up statutory definition of advanced telecommunications capability speed benchmark, applications submitted three months after the issue date of that report, and thereafter, must, at minimum, meet the speed benchmark specified by that report as the "state standard".

"Publicly supported" means either that the housing development receives financial assistance from the United States Department of Housing and Urban

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[10] Peak hours mean 7 p.m. to 11 p.m. local time. ; https://www.fcc.gov/reports-research/reports/measuring-broadband-america/measuring-fixed-broadband-eleventh-report

[11] Section 706 of the Telecommunications Act of 1996, as amended (1996 Act), requires Federal Communications Commission (FCC) to "determine whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion" and report annually. Telecommunications Act of 1996 | Federal Communications Commission (fcc.gov) ; Telecommunications Act of 1996, Pub. L. No. 104-104, § 706(b), 110 Stat. 153 (codified at 47 U.S.C. S 157 note) (1996 Act); Broadband Progress Reports | Federal Communications Commission (fcc.gov) ; FCC Annual Broadband Report Shows Digital Divide Is Rapidly Closing | Federal Communications Commission and https://docs.fcc.gov/public/attachments/FCC-21-18A1.pdf

Development (HUD) pursuant to an annual contribution contract or is financed with low-income housing tax credits, tax-exempt mortgage revenue bonds, general obligation bonds, or local, state, or federal loans or grants and the rents of the occupants, who are lower-income households, do not exceed those prescribed by deed restrictions or regulatory agreements pursuant to the terms of the financing or financial assistance.

"Publicly supported housing development" is a publicly supported multi-unit housing development that is wholly owned by either of the following:

> (i) A public housing agency that has been chartered by the state, or by any city or county in the state.
>
> (ii) An incorporated nonprofit organization as described in Section 501 (c)(3) of the Internal Revenue Code (26 U.S.C. Sec. 501(c)(3))[12] that is exemptfrom taxation under Section 501 (a) of that code (16 U.S.C. Sec. 501(a)) andthat has received public funding to subsidize the construction or maintenance of housing occupied by residents whose annual income qualifies as "low" or "very low" income according to federal poverty guidelines.

IV.Eligible Applicants

An applicant is eligible for a BPHA award if it is a low-income community as defined in Section III above and if it does not have access to any broadband service provider that offers free broadband service that meets or exceeds state standards for the residents of the low-income community, also as defined in Section III.[13]

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[12] Non-profit housing developers involved in limited partnerships with for-profit entities participating may also be eligible since the IRS considers an exempt organization's participation as a general partner in a limited partnership with for-profit limited partners as consistent with the organization's exempt status under Internal Revenue Code Section 501(c)(3).

[13] Pub. Util. Code § 281(i)(3).

V. Information Required from Applicants

Applicants must submit the following information to the Commission for each proposed project. Application forms can be found on the CASF BPHA webpage. Applications and supporting material must be submitted online. Staff will post a list of applications submitted by the deadline on the CASF webpage.

Applicants are required to provide the following information as part of their respective applications. Applications that do not include each item listed below will not be considered for approval.

1. **Funds Requested**

The applicant must indicate the amount of funding requested.

2. **Project Location**

The applicant must include a physical address for each project locationalong with an image of the location on the map. The Commission will accept a screenshot image from online maps or similar images.

3. **Key Project Contact Information**
   - First name
   - Last name
   - Physical mailing address
   - E-mail address
   - Phone number(s)

4. **Key Management Contact Information**
   - First name
   - Last name
   - Position title
   - E-mail address
   - Phone number(s)

5. **Key Vendor Contact Information (if applicant has identified vendor)**
   - First name
   - Last name
   - Position title
   - Company name
   - Physical mailing address

- E-mail address
- Phone number(s)

6. Assertion of Community need for Affordable Broadband Service that Meets State Standards

An applicant must attest to whether the low-income community that will be connected through the proposed project has access to a broadband internet service provider that offers the community residents free broadband service that meets or exceeds state standards, as defined in Section III.

7. Proposed Project Description

An applicant must provide a detailed description of the broadband project that will be funded under the CASF BPHA program, including but not limited to the elements listed below.

a. Detailed broadband project plan proposal that includes:
   - The type of technology that will be used on the project with all technical specifications, network topology, schematic diagram, engineering, and design documentation.
   - Project plan showing the number of residential units in the low-income community to be connected.
   - Entities that will provide broadband Internet service on the project site (E.g., The type of Internet service and the bandwidth offered by a named ISP)
   - Download and upload data rate/speed capabilities for an average user within the property at a given time of peak and off-peak hours must meet at least 25 Mbps downstream and 3 Mbps upstream (for an average user) or current state standard.
   - Project budget outlining all the budget costs, both actual line items and the matching funds.

b. Actual budget cost line items proposed to be funded by the grant, including:
   - The cost for all eligible equipment as listed in Section II.
   - The cost for low voltage contracting work as described in Section II.
   - Broadband network engineering and designing cost with required supporting documentation.
   - The cost of any required hardware warranty for broadband network equipment.
   - The cost of installation, provisioning, and configuration labor as

described in Section II.
- Any applicable taxes, shipping, and insurance costs that are directly related to broadband network equipment deployed under the BPHA.

c. Matching Funds to be provided by the application that include:
   - Monthly recurring Internet bandwidth cost for the five-year project period, post-project completion.
   - Operations and Maintenance (O&M) cost to ensure the network and broadband services are operational for at least five years post completion of the project.

d. Project milestones with a delineated deployment schedule that includes:
   - A commitment timeline to complete the project within 12 months of Commission approval of the application.
     - The schedule identifying major prerequisites such as a detailed project plan with a timeline including low voltage construction, network installation, provisioning and configuration, testing, submission of closeout package with project completion report, and any other milestones that can be verified by the Commission staff.
     - While developing the schedule, the applicant must include the timeline required for California Environmental Quality Act (CEQA) or other relevant government agency permit review, if needed.
     - While developing the schedule, the applicant must include the timeline required for California Environmental Quality Act (CEQA) or other relevant government agency permit review, if needed.

8. Organizational Chart and Background

The applicant must submit an organizational chart showing the parent organization, subsidiaries, and affiliates.

9. Economic Useful Life of Assets to be Funded

The applicant must identify the expected economic useful life of the assets funded by the BPHA grant.

10. Commitment to Providing Broadband Service at No-Cost-to-Residents

The applicant must attest to committing to offer broadband service that meets or exceeds state standards as defined by these Guidelines at no cost to residents of the low-income community(ies).

11. Permitting Compliance

The applicant should state whether the project is statutorily or categorically

exempt from CEQA requirements and cite the relevant authority, as applicable. If a project does require review under CEQA, thegrantee must provide the Proponent's Environmental Assessment (PEA) prior to the first 25 percent payment. The PEA submission should includeinformation on any land crossing sites requiring discretionary or mandatory permits or environmental review pursuant to CEQA (include the type of permit required, the name of the permitting agency/agencies and the Lead Agency if an environmental review is required).

Additionally, applicants must include any applicable permit review timeline in its construction schedule, with a reference to the government agencies that will issue the permits. Grantees must provide staff with proof of permit approvals before seeking reimbursement.

12. Affidavit

An applicant must submit an affidavit, under penalty of perjury, containing at minimum the following attestations, the final form of which will be made available on the Commission's website:

- 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.
- Applicant agrees to abide by the CASF program rules the Commission established as well as all other applicable state and federal rules and regulations concerning broadband services.
- Applicant agrees to abide by the Commission's Rules of Practice and Procedure and applicable statutes, and to be subject to Public Utilities Code Sections 2108 and 2111.
- Applicant agrees that no officer, director, or partner of the Applicant or its Fiscal Agent has: 1) filed for bankruptcy; 2) was sanctioned by the Federal Communications Commission or any state regulatory agency for failure to comply with any regulatory statute, rule, or order; nor 3) has been found either civilly or criminally liable by a court of appropriate jurisdiction for violation of § 1700 et. seq. of the California Business and Professions Code, or for any action which involved misrepresentations to consumers, nor is currently under investigation for similar violations.
- Applicant affirms that the low-income community the project seeks to serve does not have access to free broadband service that meets or exceeds state

standards as defined in these Guidelines.

- Applicant agrees to provide broadband service that meets or exceeds state standards as defined by these Guidelines at no cost to residents of the low-income community the project is intended to serve upon project completion.

13. Applicant-Specific Documents and Information Required

A publicly supported housing development applying for BPHA funds must include in its submission the Annual HUD Contributions Contract and HA Code, allowingstaff to verify its certification along with its most recent HUD Public HousingAssessment System (PHAS) score. A publicly supported housing development that is not in contract with HUD must include in its submission the program details of the publicly supported housing development, including any applicable income eligibility requirements for the program residents, and any housing development contracts or agreements between the applicant and the source of the public subsidy, as defined above.

If staff is unable to confirm the eligibility of a publicly supported housing development that is not in contract with HUD using the documents and information submitted pursuant to the paragraph above, the application will not be approved ministerially and will instead be subject to resolution review.

Non-profit applicants must submit an IRS letter approving the applicant's status as a 501(c)(3) entity incorporated for the purposes of providing affordable housing, which must include the applicant's Tax Identification Number, along with an award letter from a public agency such as the California Tax Credit Allocation Committee (TCAC), proving its receipt of public funding for affordable housing purposes.

Applicants representing farmworker housing must provide (1) the total number of units in the housing development and (2) the number of units available to and occupied by farmworkers at the time the application is submitted.

VI. Submission and Timelines

Applicants must electronically file their completed applications using the Commission's FTP file server (https://kwftp.cpuc.ca.gov).

Because applications are not filed with the Commission's Docket Office, they will

not be assigned proceeding numbers.

Applications may be submitted at any time. However, staff will consider applications submitted on or before each deadline listed below as a batch.

Staff shall notify an applicant by a letter specifying reasons for rejection should an application fail to meet the BPHA eligibility criteria.

Deadlines:

- July 1, 2022
- January 1, 2023
- July 1, 2023
- January 1, 2024
- July 1, 2024

Any deadline falling on a holiday or a weekend will be extended to the following business day.

Additionally, after each deadline, staff will post notice of all applications received on the Commission's website.

VII. Ministerial Review

The Commission assigns to staff the task of approving applications that meet all of the following criteria:

- Applicant meets the eligibility requirements under Pub. Util. Code, § 281(i)(1), § 281(i)(2) and (i)(3)
- Applicant attests that no broadband service provider offers free service that meets state standards, as defined in Section III, to the subject low-income community
- Applicant requests a grant of up to $150,000 in BPHA infrastructuregrant funds per project.
    - For projects connecting 50 units or less, the proposed project costs $1,200 per unit or less.
    - For projects connecting 51-100 units, the proposed project costs $900 per unit or less.
    - For projects connecting 101 units or more, the proposed project costs $600 per unit or less.
- Applicant must attest that it expects the property to be in residential use as

a low-income community as defined above for at least the next 10 years.

- The property qualifies for an exemption pursuant to CEQA Guidelines.
- For wireless networking projects, the equipment must meet at least the 802.11AC Wave2 (WiFi-5 wave2) standard or 802.11ax (WiFi-6/6E) standard. Staff will accept, for Ministerial Review, applications that rely on 802.11n technology to the extent that the applicant can demonstrate that this equipment was purchased prior to the issue date of the decision adopting these Guidelines.
- For wireline networking projects, the equipment must meet at least DOCSIS 3.1, VDSL, or 100 BASE-X standards.
- Applicant attests that it will operate and maintain project equipment, broadband technology, and internet services for at least five years after successful completion of the project and that it has sufficient funds to do so. In addition, the Applicant attests that it will acquire the necessary hardware warranty and service agreement to support the operation of the proposed network for the five-year period.
- The proposed project network is capable of providing broadband internet service speeds of at least 25 Mbps downstream and 3 Mbps upstream for an average user during peak and off-peak hours, or current state standard, whichever is higher (supported by submitted documentation).
- Applicant attests that it will not charge residents for broadband internet services.
- Applicant has signed an affidavit agreeing that the statements and representations made in the application are true and correct, agrees that no officer, director, or partner of the Applicant or its Fiscal Agent has: 1) filed for bankruptcy; 2) was sanctioned by the Federal Communications Commission or any state regulatory agency for failure to comply with any regulatory statute, rule, or order, nor 3) has been found either civilly or criminally liable by a court of appropriate jurisdiction for violation of §1700 et. seq. of the California Business and Professions Code, or for any action which involved misrepresentations to consumers, nor is currently under investigation for similar violations, and to abide by the CASF program rules established by the Commission, Commission rules of practice and procedure and statutes, and Pub. Util. Codes, §§ 2111 and 2108.
- Applicant agrees to complete the project within 12 months from the dateof the Commission approval.
- Applicant has an identified internet service provider with the required

internet bandwidth capacity at the MPOE.
- Applicant agrees to secure project funded hardware to prevent theft and vandalism.

Applications not meeting the above ministerial review criteria may only be approved by the Commission via Resolution.

The Commission assigns to staff the task of rejecting applications that meet any of the following criteria:

- The applicant has previously had a Commission grant award rescinded for violation of Commission or program rules;
- The applicant has made false statements to the Commission or to the Federal Communications Commission (FCC).
- The applicant submitted an incomplete application and has not responded to a follow-up request sent to the designated contact on the application to provide missing material.

All applications shall be approved,denied, or marked for further review by the Commission through a Resolution.

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

VIII. Project Status and Reporting

BPHA project grantees are required to submit a project status reportwithin six months of the project award date if the project has not been completed, irrespective of whether the grantee requests reimbursement or payment. The project status report must include the following:

- Project Plan and deployment schedule showing major milestones with planned and actual completion dates.
- Any variance between planned and actual dates need to support with proper reasoning.
- Project Risk Mitigation plan.14

[14] Plan that identifies, evaluates, selects, and implements options in order to balance the BPHA projectcost and schedule implications associated with risk response or mitigation plan by setting risk at acceptable levels given program constraints and objectives.

- Budget Plan with a cost line item matched with the application.

Grantees must certify that each project status report submitted is true and correct under penalty of perjury.

BPHA project grantees must submit a project completion report with all required supporting documentation in order to receive final payment. The project completion report contains, total project cost, project cost summary breakdown, project milestone deployment details, CalSPEED15 test results, bill of materials (BOM), invoices supporting BOM, network and low-voltage engineering and design documentation, installation and commissioning checklist, provisioning and configuration files, as-built documentation with pictures showing labels and annotations, and project expenses summary. The project completion report template can be found on the BPHA website.

BPHA project grantees are required to maintain the broadband network for a period of five years after the network is installed and internet services turned on for residential use. From the date broadband network and internet services are turned on the grantees are required to submit a KPI (Key Performance Indicator) report bi-annually for a period of five years.16 The KPI report and its supporting system data can be submitted through an online portal that can be found on the Commission website under the CASF BPHA hyperlink.

The KPI report includes the following:

1. Monthly Percentage Uptime of network and internet services
2. Monthly Bandwidth Utilization by the residents (the amount of internet datatransferred or the usage in gigabytes on the network)
3. Monthly Number of Unique User Devices Logged-in by the residents toaccess the broadband network for internet services

To support the above KPI report information, the grantee must submit the system data obtained from the network.

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[15] CalSPEED is an open source, non-proprietary, network performance measurement tool and methodology created for the Commission, funded originally via a grant from the National Telecommunications and Information Administration

[16] KPI report is to measure the broadband network service performance and to keep proper checks andbalances on the BPHA program goals and objectives

IX. Sale or Transfer of Assets

BPHA project grantees must notify the Commission about any proposedsale or transfer of ownership of the project property that occurs prior to the completion of the five-year requirement. The grantee must require the new owner to assume grant obligations of operating and maintaining the broadbandinternet services for the remaining period of the five years term. The grantee shall notify the Director of the Communication's Division in writing of its intentto sell or transfer its assets within five days of becoming aware of these plans.

The grantee shall also provide documentation, including an affidavit, stating thatthe new entity or owner will take full responsibility and ownership to comply with the terms of the CASF grant award. The new entity shall agree in writing tosuch.

X. Payment Terms

BPHA project grantees are eligible to request the payment for the expenditures incurred during the first six months if the grantee submits a six- month project status report and certifies that the status report is true and correctunder penalty of perjury.

Grantees shall submit final requests for payment no later than 90 days after completion of the project. If the grantee cannot complete the project within the 12-month timeline, the grantee must notify the Director of Communications Division as soon as they become aware that they may not meetthe project timeline. In the event the grantee fails to notify the Director of Communications Division, the Commission may withhold or reduce payment.

Grantees must submit the project status and completion reports with all required supporting documentation for the staff to review in order to receive payment.

Payments are based on submitted receipts, invoices and other supporting documentation showing expenditures incurred and work done on the project in accordance with the approved CASF funding budget included in the grantee’s application.

Payment in full can be made for the entire project upon review of the submitted

project completion report and supporting documentation and after staff approvals.

The payments will be made in accordance with, and within the time specified in California Government Code § 927 et seq.

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

The Commission has the right to conduct any necessary audit, quality check, verification, and discovery during project implementation and post-project completion to ensure that CASF funds are spent in accordance with the terms of approval granted by the Commission. Invoices submitted will be subject to financial audit by the Commission at any time within 5 years of the release of the final payment.

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

XI. Execution and Performance

The BPHA project grantee shall start the project within 30 days upon grant approval and complete the project execution within a 12-month timeframe. Should the grantee or Contractor fail to commence work within 30 days of grant approval, the Commission or Director of Communications Division, upon five (5) days written notice to the CASF recipient, reserves the right to terminate the award. If the grantee is unable to complete the proposed project within the required 12-month timeframe, it must notify the Commission as soon as it becomes aware of this prospect. The Commission reserves the right to reduce or withhold payment failure to satisfy this requirement. Grantees must operate andmaintain the network for a minimum of five years after it has been installed.

The grantee must complete all the performance on the project before the termination date in accordance with the terms of approval granted by the

Commission. In the event that the grantee fails to complete the project or subsequently operate and maintain the network service in accordance with the terms of approval granted by the Commission and compliance with CASF program guidelines, the grantee must reimburse some or all of the CASF BPHA funds that it has received.

Material changes in the entries for this application, such as discontinuing operation or bankruptcy, or change of name (DBA[17]), change of address, telephone, fax number or e-mail address must be reported immediately by a letterto the CPUC, Director of the Communications Division, 505 Van Ness Avenue, San Francisco, CA 94102.

In addition, a scanned electronic copy should be sent to cpuc_housing@cpuc.ca.gov.

XII. Consent Form

All grantees are required to sign a consent form within 30 days from the date of the award agreeing to the terms stated in the resolution or award letter authorizing the CASF award. The agreement willprovide the name of the grantee, names of officers, and must be signed by the grantee. Should the grantee not accept the award through failure to submit the consent form within 30 calendar days from the date of the award, the Commission will deem the grant null and void. The proposed wording of the consent form will be made available on the BPHA website.

XIII. Penalties

As noted above, grantees must agree to the following language in an affidavit.

If [Grantee Name] violates the terms and conditions of a CASF award or other program and project compliance requirements, it shall be subject to Public Utilities Code Sections 2108 and 2111. The Commission may impose the maximum penalties allowed under Public Utilities Code Sections 2108 and 2111 for failure to meet the program and project compliance requirements, as determined by the Commission.

[17] A DBA "Do Business As" is also known as a "fictitious business name," "trade name," or "assumedname

Submit completed applications online at https://kwftp.cpuc.ca.gov

(END APPENDIX 1)

APPENDIX 2

Broadband Adoption Account
Application Requirements and Guidelines

I. Background

Pursuant to Public (Pub.) Utilities (Util.) Code Section 281, moneys in the Broadband Adoption Account are available to the Commission to award grants to increase publicly available or after-school broadband access and digital inclusion, such as grants for digital literacy training programs and public education to communities with limited broadband adoption, including low-income communities, senior communities, and communities facing socioeconomic barriers to broadband adoption. Moneys in the Broadband Adoption Account shall not be used to subsidize the costs of providing broadband service to households.1

II. Preference

Pub. Util. Code Section 281 requires the Commission to give preference to programs in communities with demonstrated low broadband access, including low-income communities, senior communities, and communities facing socioeconomic barriers to broadband adoption.

Applicants must complete a "Preference Checklist," and the Commission will prioritize projects for funding based on preferences met.

III. Definitions

Communities with demonstrated "low broadband access" for the Adoption Account are defined as communities or areas having low broadband subscription rates (a.k.a., low broadband adoption) relative to the statewide average,2 including communities facing socioeconomic barriers to broadband and adoption.

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[1] Pub. Util. Code, § 281(j)(5).

[2] According to the annual survey conducted for the California Emerging Technology Fund (CETF), as of July 2021, California has an overall adoption rate of 91% (https://www.cetfund.org/wp-content/uploads/2021/03/Statewide-Survey-on-Broadband-Adoption-CETF Report.pdf). http://www.cetfund.org/node/9318).

"Communities facing socioeconomic barriers to broadband adoption" include low-income communities, communities with a high percentage of community members with limited English Proficiency, communities with a high percentage of community members with limited educational attainment, or communities with some other demonstrated disadvantage which affects broadband adoption.3

"Low-income communities," for the purposes of the Adoption Account, include those communities with a median household income at or below the California Alternate Rates for Energy (CARE) program income limits for a household of four.4 "Communities" can be geographically defined by a political or US Census geographic extent (such as a city or county boundary, or a census tract/block or designated place), by location (such as a public housing complex or senior center) or by the class or category of people served (such as disadvantaged youth). Income information provided by the applicant must be for the designated community.

A project is located in a "rural" area if it is located in one of the following:

a. an area that is eligible for federal program under the United States Department of Agriculture (USDA) Section 515 program;
b. a city with a population of 40,000 or less or in a non-urban area; or
c. an unincorporated area of a county and is not in an urban area.

IV. Eligible Applicants

For the purposes of the Adoption Account, eligible applicants are local governments, senior centers, schools, public libraries, nonprofit organizations, and community-based organizations with programs to increase publicly available or after school broadband access and digital inclusion, such as digital literacy training programs.5

No adoption grant recipient can charge for classes (funded by a grant) or make a profit of any kind from the grant funds.

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[3] California Broadband Report, A Summary of Broadband Availability and Adoption in California as ofJune 30, 2011, Pages 22-28, show correlation of factors relative to adoption. *See* http://www.cpuc.ca.gov/General.aspx?id=5753

[4] CARE income limits can be found here: http://consumers.cpuc.ca.gov/lowincomerates/.

[5] Pub. Util. Code, § 281 (j)(2).

V. Eligible Projects

Digital Literacy & Broadband Access Projects

Digital inclusion projects may include digital literacy training programs and public education to communities with limited broadband adoption, including low-income communities, senior communities, and communities facing socioeconomic barriers to broadband adoption.

Broadband Access projects may include those that provide free broadband access in community training rooms or other public space, such as local government centers, senior centers, schools, public libraries, nonprofit organizations, and community-based organizations. The Commission may also fund community outreach, such as analysis, comparison of Internet plans within the community, and call centers that will increase broadband access and adoption.

Broadband access project applicants must make such broadband access available within six months of submitting a consent form accepting an offered Adoption Account grant and Digital Literacy projects must commence instruction within six months of submitting a consent form accepting an offered Adoption Account grant.

Digital literacy project applicants must commit to providing at least 8 hours of digital literacy training to each participant through digital literacy classes, one on one tutoring or self-paced instruction.

The Commission may fund up to 85 percent of the eligible program costs and may reimburse the following:

a. Education and outreach efforts (including travel, up to 10% of approved grant amount) and materials;
b. Acceptable computing devices (does not include smartphones) within budgetary limits and inclusive of computer warranty;
    - In-classroom computing devices
    - Take-home computing devices (for Digital Literacy Projects only)
c. Software (inclusive of licensing for online platforms);
d. Printers
e. Network routers, switches, modems, and cabling deployed for the purpose of establishing a space for broadband access or digital literacy that

connects to an existing in-building broadband network such as Wi-Fi (inside network);

f. Mobile hotspots, only when no inside network is available;
g. Provision of technical support for the computing devices subsidized through this program;
h. Desks and chairs to furnish a designated space for digital literacy or broadband access;
i. For Digital Literacy Projects, gathering, preparing, creating, and distributing digital literacy curriculum;
j. Staff including digital literacy instructors, staff for monitoring the designated space, or staff for administering call centers (if applicable); and
k. Reimbursement for administrative costs,[6] (other than for excluded items, listed below) is limited to administrative costs representing 15% or less of the overall proposed budget.

Device technical support must be able to respond either by phone or in person within 24 hours. Refurbished devices must have at least a six-month warranty. New devices must have at least a 30-day warranty.

Facility rent, utilities, internet service costs, food costs, lodging, marketing incentives for participation (gift cards, giveaways, etc.), certain classroom supplies and accessories, and other items not listed above are not eligible for reimbursement. All funding requests will be assessed for reasonableness and may be adjusted accordingly at the discretion of the Commission. Any remaining project costs not authorized for funding by the CASF Adoption grant must be funded by other sources (leveraged or self-funding).

VI. Subsidy Levels

The Commission may fund up to 85 percent of the total eligible program costs listed above.

Reimbursement for computing devices used in community training rooms or

[6] "Administrative costs" are defined here 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," consistent with other CASF program rules.

other public space, such as local government centers, senior centers, schools, public libraries, nonprofit organizations, and community-based organizations (i.e., in-classroom computers) is capped at $11,250 per project, and limited to $750 per device (device software costs will be considered a separate expense).

Reimbursement for mobile hotspots used in community training rooms or other public spaces such as local government centers, senior centers, schools, public libraries nonprofit organizations, and community-based organizations or used by individuals in locations where no inside network exists, is limited to a cap of $300 per device and $20,000 per project.

For Digital Literacy Projects, only households with incomes at or below the thresholds required to participate in, or that participate in, the California Alternative Rates for Energy (CARE),7 the Supplemental Nutritional Assistance Program, the National School Lunch Program, or the Women, Infants, and Children Program are eligible to receive computing devices to take home after completing digital literacy training courses (take-home computers). Reimbursement for take-home computing devices is capped at $300 per device, limited to two computing devices per eligible household, and limited to $40,000 per project. Grantees should ensure proof of eligibility in their distribution of computing devices for households.

Overall costs for such computing devices and hotspots may exceed these caps; however, any portion not approved for grant funding must be funded by other sources (leveraged or self-funding).

VII. Information Required from Applicants

Applicants must complete and submit a project application form for each project, along with a signed affidavit, which will be available on the Commission's website. Separate applications must be submitted for locations which have both a digital literacy and broadband access component. Staff will post the application descriptions submitted by each deadline on the CASF webpage. Applicants must

[7] CARE income thresholds are set pursuant to D.16-11-022 at 18 and Pub. Util. Code, § 739.1(a). For a household of four, the income threshold is $53,000 through May 31, 2022. The threshold is updated regularly in the CARE proceeding, A.19-11-003, et. al. As of July 15, 2021, current CARE income guidelines are available at https://www.cpuc.ca.gov/consumer-support/financial-assistance-savings-and-discounts/california-alternate-rates-for-energy

submit the required information requested to the Commission for each proposed project. All applications will be reviewed and evaluated for completeness and overall quality. Incomplete applications will be rejected.

Digital Literacy Projects & Broadband Access Projects

a. Project Description

i. Applicant's name, description of organization
ii. Nonprofit applicants must submit an IRS letter approving the applicant's status as a 501(c)(3) entity, which must include the applicant's Tax Identification Number, along with the most recently submitted IRS Form 990, if required to file, and documentation showing good standing with the U.S. Internal Revenue Service, the California Secretary of State, or the California Department of Justice.
iii. Applicant's experience in providing digital literacy instruction or broadband access, indicating satisfaction of applicant eligibility experience requirements;
iv. Contact person, title, address, e-mail, phone;
v. Project title;
vi. Proposed Project Area/Community/ Location (Community / County / Census Block(s)) including address (if applicable);
vii. CASF Funding Requested (Amount of Grant);
viii. Efforts to leverage funds from other sources (non-CASF moneys);
ix. Area/ Community/ Location's (by census tract or other delineation), adoption levels, income, demographics;
x. Needs Assessment. Description of the need for this project: Does the community have low broadband adoption relative to the statewide average? Does the community face socioeconomic barriers to broadband access and adoption? For example, *see* NTIA Toolkit "Understand Community Needs and Opportunities"[8]
xi. Completed Preferences Checklist;
xii. Demonstration of community support: examples could include letters ofendorsements should be obtained from community-based organizations,schools, hospitals, libraries, businesses and consumers;
xiii. Description of partnerships with local Community Based

[8] "NTIA Broadband Adoption Toolkit," published May 2013, draws on the experience of the recipients ofgrants from the Broadband Technology Opportunities Program and provides examples of grants. Available at https://www2.ntia.doc.gov/files/toolkit_042913.pdf.

Organizations(CBOs)s, Internet Service Providers, media groups, for-profit companiesand other applicable organizations;

xiv. Description of planned outreach efforts, including sample promotional material, planned community events, volunteer recruitment or any otherrelevant materials;

xv. Projected number of participants reached through outreach activities;

xvi. Description of partnership with carriers and any existing affordable plans that will be offered in the community; and

xvii. Projected number of new residential broadband subscriptions resulting from the project (including documentation of all assumptions and data sources used to compile estimates);

xviii. Description of any planned improvements to an existing space or the creation of a new space, for the purposes of digital literacy training or broadband access, including the purchase of computing devices, modems, routers, switches, and cabling to connect these devices and any installation or set-up activities. Note that the Adoption Account does not pay for any inside network setup other than to connect computers and required network devices (i.e., switches and routers) purchased with fund money to an existing inside network.

Additional Information Required for Digital Literacy Projects Only

i. Curriculum for training;

ii. Description of the type of training to be provided (group and/or individual tutoring);

iii. Description of the modality of the training, i.e., whether it will be onsite, virtual, or a hybrid of the two, and, if virtual or hybrid, what digital learning platform will be used;

iv. Projected number of participants to be trained by the project; and

v. Projected number of participants who will receive tutoring or other digital literacy instruction (such as the assistance of knowledgeable volunteers during open computer lab hours) outside of the 8-hour training for each project.

Additional Information Required for Broadband Access Projects Only

i. Projected number of participants to be served by the project and the projected number of hours of access to be provided; and

ii. Projected number of participants who will receive information

regarding broadband plans in the community.

b. Work Plan

i. The Work Plan should include detailed functions, activities, and deliverables related to implementing the adoption program.

ii. The Work Plan should include a timeline identifying milestone dates for completion of key Work Plan activities and deliverables proposed to be funded; the timeline should describe each of the monthly milestones, including performance metrics to be accomplished;

iii. The schedule may incorporate a ramp-up period (a maximum of six months), followed by project deployment (a maximum of 24 months);

iv. The ramp-up period will incorporate any training room, or computer room, or online platform set-up activities as well as community outreach;

v. The project deployment period is where activities to increase digital inclusion occur or where broadband access will be monitored; community outreach may be ongoing.

c. Performance Metrics Plan

i. A detailed description of how outcomes will be measured and tracked for reporting requirements ("milestone/completion" reports). Outcomes include but are not limited to:

- The total number of participants trained or provided access;
- The total number of hours that training or access has been provided to the community and the number of participants served;
- The number of participants that subsequently subscribe to a broadband Internet service provider to use a device in their home.

ii. Methods of tracking such as verification of subscription online, such as through ISPs, bill, surveys, sign-in sheets, etc.

d. Budget

i. A detailed breakdown of cost elements for the proposed project, including a designation of administrative costs;

ii. A calculation of the proposed reimbursement-dollar amount per participant (exclusive of in-person and take-home computer or hot

spot reimbursements);

iii. A detailed breakdown of the instructor/staff pay rate relative to projected number of training or access hours and prep time; and

iv. Availability of matching funds to be supplied by applicant and/or other sources.

e. Affidavit

i. All applicants must submit an affidavit, under penalty of perjury, containing at minimum, the following attestations, the final form of which will be made available on the Commission's website. At minimum, the form will require applicants to attest to the following:

- Applicant agrees that no officer, director, or partner of the Applicant or its Fiscal Agent has: 1) filed for bankruptcy; 2) was sanctioned by the Federal Communications Commission or any state regulatory agency for failure to comply with any regulatory statute, rule, or order; nor 3) has been found either civilly or criminally liable by a court of appropriate jurisdiction for violation of § 1700 et. seq. of the California Business and Professions Code, or for any action which involved misrepresentations to consumers, nor is currently under investigation for similar violations.
- Applicant agrees that to the best of their knowledge all the statements and representations made in the application information submitted is true and correct.
- Applicant must also agree to abide by the Commission's Rules of Practice and Procedure, be subject to Public Utilities Commission Sections 2108 and 2111. The Commission may impose the maximum penalties allowed under Public Utilities Code Sections 2108 and 2111 for failure to meet the program and project compliance requirements, as determined by the Commission.

VIII. Evaluation Criteria

Applications will be evaluated based on meeting all the requirements in the Information Required from Applicants and Preference Checklist. Applicants are also required to conduct a pre and post implementation survey or report, and may submit endorsements or letters of support from the state or local government, community groups, and anchor institutions supporting their

proposed adoption project. All applications will be reviewed, prioritized, and awarded based on completeness, overall quality, and project costs reasonableness.

IX. Submission and Timelines

Applications may be submitted at any time. However, staff will consider applications submitted on or before each deadline listed below as a batch, until all funds have been awarded.

Deadlines:

- July 1, 2022
- January 1, 2023
- July 1, 2023

And every January 1 and July 1 thereafter, until funds are exhausted.

Any deadline falling on a holiday or a weekend will be extended to the following business day.

Please refer to the Commission's CASF Adoption Account website: https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone/california-advanced-services-fund/casf-adoption-account for applications instructions and package for the Adoption Account and for any updates to applications submission windows and schedule.

Staff will post a list of applicants and projects submitted by the deadline on the CASF webpage. Further, where possible, staff will post regular updates on applications on the CASF webpage.

X. Ministerial Review

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

a. Applicant requests a grant of $150,000 or less.
b. Nonprofit organizations may submit applications eligible for Ministerial Review if the nonprofit organization has existed for more than one year.
c. Digital literacy project applicants may submit applications eligible for Ministerial Review if they have at least one year's experience conducting

digital literacy training or if they have completed at least one digital literacy training project.

d. Broadband access project applicants may submit applications eligible for Ministerial Review if that have at least one year's experience conducting broadband access projects or if they have completed at least one broadband access project.
e. Applicants have a designated in person or virtual space for trainings or public computer access, or provides detailed information on how such in person or virtual space will be obtained;
f. For digital literacy projects, the proposed project costs $477 per participant or less (exclusive of in-person and take-home computer or hot spot reimbursements, if applicable);
g. For broadband access projects, the proposed project costs $42 per participant or less (exclusive of in-person and take-home computer or hot spot reimbursements);
h. For call center projects, the proposed project costs $205 per subscription or less;
i. The application meets all other Adoption Account application requirements included in Sections IV, V, VI, and VII of these Guidelines.

The Commission further assigns to staff the task of rejecting applications that meet any of the following criteria:

a. The applicant submitted an incomplete application and has not responded to a follow-up request for the missing material, sent to the designated contact on the application.
b. The applicant is a non-profit organization that that failed to provide documentation showing good standing with the U.S. Internal Revenue Service and the California Secretary of State.
c. The applicant has previously had a Commission grant award rescinded for violation of Commission or program rules;
d. The applicant has made false statements to the Commission or to the Federal Communications Commission (FCC).

XI. Resolution Review

Applications that do not meet the above Ministerial Review Criteria may be approved by Commission resolution.

XII. Staff Review

Staff shall notify an applicant by letter specifying reasons for rejection should an application fail to meet the Commission criteria or other factors.

XIII. Reporting

Staff will provide a template for all necessary reports in the Administrative Manual which will be posted on the CPUC CASF website, along with the Adoption AccountInstructions and Application forms. Up to three reports will be required throughout the course of the project:

Ramp-up period report: A "ramp-up period report" is required (if applicable), aftercompletion of the ramp up activities and when deployment is set to begin. This report must be submitted by no later than 3 months after the completion of the rampup activities. In this report, recipients will report on the completion of the ramp up activities per the work plan, milestones met, as well as request payment for relevant expenses to date. The ramp up period may not exceed 6 months from the time the application is approved.

Year 1 Progress Report: The Year 1 progress report is required at the end of the firstyear of deployment. This report must be submitted by no later than 3 months after the end of the first year of deployment. In this report, recipients will report on the status of Year 1 milestones per the work plan, as well as request payment for relevant expenses to date.

Year 2 Completion Report: The Year 2 completion report is required at the end of the 24-month period, or after the work plan milestones/deliverables have been accomplished if earlier than the 24-month period. This report must be submitted byno later than 3 months after completion of the project. In this report, recipients will report on the completion of the overall project, milestones met per the work plan, aswell as request payment for final and remaining relevant expenses.
The completion report shall include:

a. A summary of all work done including an itemized list of materials purchasedand money spent;
b. A description of each milestone in the period and how that milestone was met;
c. The total number of participants trained or hours of access provided, (if applicable); and
d. The number of participants that subsequently subscribe to a broadband

Internet service provider to use a device in their home.

Grantees must maintain files, invoices, and other related documentation for three years after final payment. Grantees shall make these records available to the Commission upon request and agree that these records are subject to audit and review by the Commission at any time within three years after the Grantee incurred the expense being audited.

XIV. Payment

a. Grantees may submit up to three payment requests throughout the project period. Payment requests may accompany the 3 reports required above (Ramp Up Period (if applicable), Year 1, Year 2). Payment requests may also be submitted separately from and in addition to the Calendar Year reporting described above, provided that each payment request includes the information provided on the most recently submitted Calendar Year report and any additional information or costs incurred since the most recent Calendar Year report was submitted. Whether tied to Calendar Year reporting or outside of that reporting schedule, no more than three payment requests may be submitted.
b. Payment request for the ramp-up period, if requested, may not exceed 25% of grant amount.
c. No more than 90% of the grant amount will be reimbursed before the completion report and final payment request;
d. All payments requests require documentation of project participation (number of participants trained or provided access and the number of participants that subsequently subscribe to a broadband Internet service provider to use a device in their home).
e. Grantees shall submit final requests for payment no later than 3 months after completion of the project.
f. Payment will be based upon receipt and approval of invoices and other supporting documents showing the expenditures incurred for the project are in accordance with their approved application and budget.
g. Grantees must notify the Director of the Communications Division as soon as they become aware that they may not be able to meet project deadlines. The Commission may withhold or reduce payment if the grantee fails to notify the Director of the Communications Division of such changes.
h. Payment will be made in accordance with, and within the time specified in California Government Code § 927 et seq.

i. The Commission has the right to conduct any necessary audit, verification, and discovery during project implementation to ensure that CASF funds are spent in accordance with the terms of approval granted by the Commission.
j. The recipient's invoices will be subject to audit by the Commission at any time within three years of final payment.

XV. Execution and Performance

Grantees must start the project within six months after submitting a consent form accepting the terms stated in the Adoption Account Award Letter or Resolution (after the ramp-up time if applicable) and complete the project within a 24-month timeframe or earlier. The Commission may withhold, reduce, or terminate grant payments if the grantee does not comply with any of the requirements set forth in its application and compliance with the CASF. In the event that the grantee fails to complete the project in accordance with the terms of approval granted by the Commission, the grantee must reimburse some or all the CASF funds that it has received.

The CASF grant recipient must complete all performance under the award on or before the termination date of the award.

Grantees may make modifications to an approved project budget without prior authorization, so long as those modifications do not cause the project budget to exceed the overall adopted project budget and so long as the proposed budget modifications are unrelated to the budgets for classroom or take-home devices, including hotspots. Grantees may change milestone/activity timelines without prior authorization, so long as those modifications do not cause the project timeframe to exceed the overall adopted project timeframe. While prior approval is not required for these modifications, the applicant must notify the Communications Division by e-mailing CASF_Adoption@cpuc.ca.gov within 30 days of making such changes.

Material changes in the entries for this application, such as discontinuing operation or bankruptcy, or change of name (DBA), change of address, telephone, fax number or e-mail address should be reported by a letter to the California Public Utilities Commission, Director of the Communications

Division, 505 Van Ness Avenue, San Francisco, CA 94102 and CDCompliance@cpuc.ca.gov.

XVI. Consent Form

All grantees are required to sign a consent form within 30 days from the date of the award, agreeing to the terms stated in the resolution or award letter authorizing the CASF award. The consent agreement will provide the name of the grantee, names of officers, and must be signed by the grantee. Should the grantee not accept the award through failure to submit the consent form within 30 calendar days from the date of the award, the Commission will deem the grant null and void. The proposed wording of the consent form is available on the CASF website.

(End of Appendix 2)

APPENDIX 3

Rural and Urban Regional Broadband Consortia Grant Account Application Requirements and Guidelines

I. Background

Public (Pub.) Utilities (Util.) Code § 281, which governs the Rural and Urban Regional Broadband Consortia Grant Account (Consortia Account) states:

> (g) (1) Moneys in the Rural and Urban Regional Broadband Consortia Grant Account shall be available for grants to eligible consortia to facilitate deployment of broadband services by assisting infrastructure applicants in the project development or grant application process. An eligible consortium may include, as specified by the commission, representatives of organizations, including, but not limited to, local and regional government, public safety, elementary and secondary education, health care, libraries, postsecondary education, community-based organizations, tourism, parks and recreation, agricultural, business, workforce organizations, and air pollution control or air quality management districts, and is not required to have as its lead fiscal agent an entity with a certificate of public convenience and necessity.
>
> (2) Each consortium shall conduct an annual audit of its expenditures for programs funded pursuant to this subdivision and shall submit to the commission an annual report that includes both of the following:
>
> (A) A description of activities completed during the prior year, how each activity promotes the deployment of broadband services, and the cost associated with each activity.
> (B) The number of project applications assisted.

II. Amount Available for Grants

The Commission will award grants based only upon the budgeted level of program activities approved for each Consortium, subject to a maximum funding cap of $200,000 per year per Consortium, plus up to $10,000 (per consortium for up to 5 representatives) for attendance to at least one of the annual public workshops held pursuant to Public Utilities Code § 281. Where an application seeks multi-year funding, however, the application must still present separate year-by-year annual Work Plans and budgets. Awards granted may be less than the allowed maximum amounts in order to leverage available funding.

Any CASF grants awarded will be limited to and apply only to activities and programs that are not already funded by any other public or private sources.

III. Definitions

A "Consortia region" is a geographic region with boundaries largely consistent with county boundaries or the boundaries of multiple counties, or other geographic lines due to geographic characteristics/barriers, such as mountains and basins, that create hard-to-serve-areas, as long as the areas included using "other geographic lines" do not overlap with other Consortia regions. In no case may an area be represented by more than one Consortium.

A "geographic region" means a regional area within California that consists of cities, counties, and/or unincorporated areas that have united to form a networkof leaders representing public, non-profit, and/or for-profit entities that share common goals and objectives regarding broadband deployment and adoption.

We define a "Regional Consortium" as a network of leaders in a geographic region that represents public, non-profit, and/or for-profit entities that share common goals and objectives.[1]

IV. Account Objective and Allowable Activities

The Commission will fund grantees for activities consistent with the statutory mandate specified in Pub. Util. Code § 281:

- Collaborating with the Commission and other state agencies to engage regional consortia, local officials, internet service providers (ISPs), stakeholders, and consumersregarding priority areas and cost-effective strategies to achieve the broadband access goal.
- Identifying potential CASF infrastructure projects or potential broadband deployment projects related to new programs created under SB 156 and AB 164, along with other opportunities, where providers can expand and improve their infrastructure and service offerings to achieve the goal of reaching 98%broadband deployment in each consortia region.
- Assisting potential CASF infrastructure applicants or potential applicants for broadband deployment projects related to the new programs created under SB 156 and AB 164 in the project development or grantapplication process.
- Conducting activities that will lead to or that can be reasonably expected to lead to CASF infrastructure projects or broadband deployment projects related to new programs created under SB 156 and AB 164, including but not limited to the following examples of allowable activities:

[1] D.11-06-038, p. 2.

  - Supporting project permitting activities.
  - Engaging local government officials and communities to better understand and explain regional broadband needs and solutions and providing technical assistance to such entities.
  - Conducting an inventory of public assets (e.g. rights-of-ways, publicly owned towers, public utility poles, equipment housing, publicly owned property) and aggregate demand, including speed tests and the identification and updates of priority areas.
- Assisting the Commission in publicizing requests for wireline testing volunteers in areas, as needed.
- Assisting the Commission in promoting broadband deployment in California, related to the Federal Funding Account and other programs including Middle-Mile, Broadband Loan Loss Reserve, and Local Agency Technical Assistance created under SB 156 and AB 164.

According to a prior Commission decision, "the California Emerging Technology Fund (CETF) partners or any other external Consortia grantees will have no formal role in the Commission's review of CASF applications for infrastructure grants. The CASF review and approval function must remain exclusively under Commission authority."[2]

The CASF program will fund consortia activity directly related to and in support of infrastructure applications. A consortium may receive CASF funding for work on an infrastructure application requesting funding from CASF and other infrastructure funding programs pursuant to the Work Plan. The CASF program will also fund consortia activities that assist the Commission in promoting broadband deployment in California, related to new programs created under SB 156 and AB 164.

V. Eligible Applicants

Pub. Util. Code, § 281(g)(1) specifies consortium eligibility criteria:

> An eligible consortium may include, as specified by the commission, representatives of organizations, including, but not limited to, local and regional government, public safety, elementary and secondary education, health care, libraries, postsecondary education, community-based organizations, tourism, parks and recreation, agricultural, business, workforce organizations, and air pollution control or air quality management districts, and is not required to have as itslead fiscal agent an entity with a certificate of public convenience and necessity.

The Commission, itself, will not organize Consortia but will select eligible Consortia

[2] D.11-06-038 at 12.

among those submitting applications, and award grants by Commission resolution based on designated criteria set forth herein. It will be the responsibility of each Consortium applicant to assemble its own membership and to delineate its geographical region of responsibility. The Commission will approve Consortia Account funding based upon eligibility and scoring.

The Commission will allow both existing and newly formed consortia to submit applications. The Commissionwill not predetermine geographic region or mandate the precise number of consortia to receive CASF grants; however, the Commission shall award Consortia grants only to one consortium per geographic region, along boundaries largely consistent with county boundaries or the boundaries of multiple counties, or other geographic lines due to geographic characteristics/barriers, such as mountains and basins, that create hard-to-serve areas, as long as the areas included using "other geographic lines" do not overlap with other Consortia regions. A consortium may represent more than one county, but a county may not be represented by more than one consortium, in most cases.

However, the Commission may approve more than one consortium representation for a county under certain circumstances, (i.e., those noted above), as long as approval would not cause two Consortia regions to overlap. When requesting to represent a portion of a county, it is the consortium applicant's responsibility to include in its application (1) its justifications and reasons for the request, with supporting data and facts, (2) a clear definition of the areas it wishes to represent, including a description of the area(s) and a map, (3) a jointly signed agreement letter with any other consortia representing the same county as any the applicant is also requesting to represent, and (4) demonstration that there will be no geographic overlap with these other consortia, including a map of both Consortia regions, pre- and post-award (if applicable), showing no boundary overlap. Preference will be given to applications that serve an entire county or several entire counties, as opposed to a portion of a county.

The Commission will continue to provide general standards and guidelines to govern the formation and membership of eligible consortia and the details regarding the membership of each consortium should be worked out within each geographic region.

VI. Information Required from Applicants

Each Consortium application shall provide the following required information:

A. Applicant Information and Experience
   - Identification (i.e., name, contact information, etc.) of each Consortium member, including which, if any members are telecommunications carriers

that are certificated by or registered with the Commission, identifying their Utility Identification number in such instances.

- Background, description, and role that each member of the Consortium will play in the proposed Consortium.
- Governing board structure in place that provides for direct representation from affected cities, counties, and tribes; the applicationmust describe the governing board structure.
- Identification and description of the geographical regions/population groups/community interests to be covered by the proposed Consortium project, including a description of the area, maps, and listof Census Blocks (CBs).
- Description of existing and past projects including: (1) budget, timelines, and funding source; (2) demonstration that there will be no overlap and/or duplication of such projects (i.e., provide description ofgeographic region served and geographic region that will be served, etc.); and (3) best practices learned from said projects.
- If the applicant requests Consortia boundaries that do not coincide with county boundaries, the application must include:
    - The geographic or terrain-related justifications and reasons for the request, with supporting data and facts (e.g., shapefile geodata),
    - a clear definition of the areas within the county it wishes to represent, including a description of the area(s) and a map,
    - a jointly signed agreement letter with any other consortia representing the same county explaining which Consortia will represent the area should the application be granted, and
    - demonstration that there will be no geographic overlap with other consortia if the award is granted, including a map showing no boundary overlap.

B. Work Plan and Performance Metrics Plan Requirements

Each Consortium applicant must submit a Work Plan and a Performance Metrics Plan as part of the application. The Work Plan and Performance Metrics Plan will serve as the tools in the initial review of the applications.[3]

The Work Plan should identify the Consortium's goals as they relate to the region's needs for broadband deployment and include detailed functions and activities related to implementation of each goal. The Work Plan documents are to be tailored to fit the needs of a given Consortium region's constituents and geography,

[3] Metrics is a measurement used to gauge quantifiable components of performance, e.g., survey of 150 community-based organizations, five project application meetings with local ISP, etc.

incorporating core responsibilities, including goals, measurable deliverables, expected outcomes, and specific timeline milestones as they relate to broadband deployment.[4]

The Work Plan should align with the activities outlined in Section IV Account Objective and Allowable Activities. The Work Plan should represent the viewpoints of a consensus of stakeholders and anchor institutions, and it should aim to increase broadband deployment, specifically assisting with the filing of infrastructure projects, identifying priority areas, assisting potential broadband deployment applicants with the broadband deployment programs created under AB 164 and SB 156, and cost-effective solutions in the Consortium's respective region. Additionally, the Work Plan should broadly describe how the Consortium would track and measure performance results with respect to broadband deployment goals of Pub. Util. Code § 281.

The Work Plan should include:

- Detailed functions, activities, and deliverables related to implementing the consortia grant program;
- A timeline identifying milestone dates for completion of key Work Plan activities and deliverables; the timeline should describe each of the monthly milestones, including performance metrics to be accomplished; and
- Identified start-up activities.

A Work Plan for each funding year shall be submitted, e.g., Work Plan Year 1, Work Plan Year 2, Work Plan Year 3. A detailed description of Work Plan Contents and sample of the Work Plan Format will be included in the Administrative Manual, which will be available on the CASF Consortia website.

Performance Metrics Plan

The Performance Metrics Plan should also explain how the performance results from the proposed functions and activities will be tracked and measured following milestone dates and/or completion of functions/activities/deliverables, as described in the Work Plan.

C. Annual Audit

Any functions and activities necessary for the preparation of the annual audit must be included in the Work Plan. The cost of the annual audits must be included in the budget requirements. Staff will provide instructions for the annual audit in the Administrative Manual, which willbe available on the CASF Consortia website.

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[4] Supporting Materials for May 25 Communications Division Staff Workshop on CASF Reform," Communications Division, May 2017 at 11-14.

D. Budget Requirements

The requested amount of Consortia grant funds shall be based upon and consistent with the total budget presented in the application. A Budget for each funding year shall be submitted, e.g., Budget Year 1, Budget Year 2, Budget Year 3. The budget must detail the expected costs directly related to the Work Plan. A sample Budget format will be included in the Administrative Manual, which will be available on the CASF Consortia website.

Each proposed consortium budget must expressly exclude any costs for activities or programs funded from other sources. CASF grants shall not duplicate funding from other sources. The proposed consortium budget must be accompanied by a description of any existing broadband deployment activities funded by any other state or federal grants within the same region, together with confirmation showing that the CASF consortium budget does not duplicate any other sources of funding.[5]

E. Assignment of Fiscal Agent

Each regional Consortium must retain at least one Fiscal Agent with lead responsibility and legal authority to represent the Consortium for purposes of sponsoring the application, administering fiscal activities between the Consortium and the Commission, receiving and dispersing Consortium grant funds and ensuring Consortium compliance with the grant.

The Fiscal Agent must affirmatively agree, on behalf of the Consortium, to comply with the Commission's directives and conditions relating to the review, approval, and administration of any consortia application grants. The Fiscal Agent must provide assurance that Consortium members or contractors retained by the Consortium are capable and committed to fulfilling the commitments.

The Fiscal Agent may be a local public institution e.g., city, county, academic institution, tribal government, etc., as defined under Section 50001 of the Government Code, or a town, as defined by Section 21 of the Government Code. The Fiscal Agent may also possibly be a certificated telecommunications carrier.

The Fiscal Agent must submit a letter stating its commitment to act as a Fiscal Agent for the Consortium. The letter must include:

- The name and contact information of the responsible party within the agency, including the person responsible for the administrative tasks, if different.
- Affirmation that the work outlined in the Consortium Work Plan will be

[5] D.11-06-038, Ordering Paragraph 11 at 40.

completed and verification by an Annual Audit instead of the previously required Attestation Report,[6] to be prepared by an independent, licensed Certified Public Accountant will be submitted annually to the Communications Division. The letter must also state the Consortium's acceptance of the Fiscal Agent's rights, duties, and responsibilities.

The Fiscal Agent shall comply with all of the rules and requirements herein and the Resolution authorizing the award, including but not limited to ensuring implementation of the approved Work Plan within the allocated budget (in conjunction with staff), and shall be responsible for notifying Communications Division of any proposed changes to Work Plan, Performance Metrics Plan, or budget during the course of the grant cycle.

Any changes to the substantive terms and conditions underlying Commission approval of the grant (e.g., changes to the Work Plan, Performance Metrics Plan, budget or designated Fiscal Agent, etc.) must be communicated in writing to the Director of Communications Division at least 30 days before the anticipated change, and may be subject to approval by either the Director or by Commission resolution before becoming effective.

Any subsequent change in the Fiscal Agent must first be approved by Commission resolution.

F. Affidavit of Application's Truth and Accuracy

As part of the application, an applicant's Fiscal Agent must sign an affidavit, under penalty of perjury, containing at minimum, the following attestations, the final form of which will be made available on the CASF Consortia website:

i. Applicant agrees that to the best of their knowledge, all statements and representations made in the application submitted are true and correct;[7] and
ii. Applicant agrees to abide by the Commission's Rules of Practice and Procedure and to be subject to Pub. Util. Code §§ 2108 and 2111; and
iii. Applicant certifies that no member, officer, director, partner of a Consortium or its Fiscal Agent has: 1) filed for bankruptcy; 2) was sanctioned by the Federal Communications Commission or any state regulatory agency for failure to comply with any regulatory statute, rule, or order; nor 3) has been found either civilly or criminally liable by a court of appropriate jurisdiction for violation of § 1700 et. seq. of the California Business and Professions Code, or for any action which involved misrepresentations to consumers, nor is currently under

[6] D.11-06-038 at 26.

[7] Rule 1.1 of the Commission's Rules of Practice and Procedure.

investigation for similar violations.

If the Consortium fails to perform in good faith, or in accordance with the expectations set forth in its Work Plan or Performance Metrics Plan, as affirmed in the affidavit, the Commission may withhold subsequent grant disbursements, suspend, or terminate the Consortium grant, as warranted.

A CASF Consortia Application Checklist will be included in the Administrative Manual, which will be available on the CASF Consortia website.

VII. Scoring and Evaluation Criteria

Applications will be evaluated based on meeting all the requirements in the Information Required from Applicants. Applicants may submit endorsements or letters of support from the state or local government, community groups, and anchor institutions supporting their application.

An evaluation team comprised of Communications Division Staff will assess all completed applications. The following table summarizes the scoring criteria and weight:

Scoring Criteria

Criterion	Weight (Points)
(1) Regional Consortium Representation and Endorsements	15
(2) Regional Consortium / Members' Experience	35
(3) Work Plan and Performance Metrics Plan	30
(4) Budget	20
Total	100

Applications will be objectively evaluated on how well they meet the goals of the CASF Consortia program. Judgment regarding each area will be rendered in the form of a numerical score. Each application 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. Where multiple Consortia apply for the same region only the applicant in a region who has the highest score will be considered for an award. If said scoring criteria threshold is not met in any region(s), no award will be disbursed for said region(s) and as a result, a second application process for said region(s) will be required and announced to the CASF Distribution List and posted on the CASF Consortia website.

The Commission will issue approval of qualifying consortia applications, together

with the grant amount per consortium, through a Commission resolution(s).

Staff shall notify an applicant by letter specifying reasons for rejection, should an application fail to meet the criteria set forth in these rules.

VIII. Submission and Timelines

The Commission will open a new application cycle on June 1, 2022. Eligible applicants must submit their proposals by July 15, 2022 via e-mail to the address below to ensure consideration.

CASF_Consortia_Grant_Administrator@cpuc.ca.gov

The Commission will allow both existing and newly formed consortia to submit applications.

Public Notice of Consortia Application Information

The Communications Division will post a list of all pending applications on the CASF Consortia Account webpage at https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone/california-advanced-services-fund/casf-consortia-account.

Given that multiple applicants may potentially be competing for the same grant money, the Commission will not post the full contents of each application on thewebpage. However, parties seeking to review the contents of a Consortium application may contact the respective Consortium to request an electronic or paper copy for review.

Prospective applicants may contact the CASF Consortia Grant Administrator for questions on the application process and program questions at: CASF_Consortia_Grant_Administrator@cpuc.ca.gov

IX. Public Workshop

Pub. Util. Code § 281 directs the Commission to consult with regional consortia, stakeholders, local governments, existing facility-based broadband providers, and consumers regarding unserved areas and cost-effective strategies to achieve the broadband access goal, through public workshops at least annually no later than April 30 of each year. All consortia receiving CASF grants shall attend at least one of the annual public workshops to be conducted by Communications Division.

Consortia may claim reimbursement for travel expenses and per diem costs associated with each public workshop hosted by staff. Expense claims must comply with the travel expense, limitation rules applicable to State of California employees

and contractors.[8] The maximum reimbursement allowable is $2,000 per person for up to five delegates for each workshop, for a total of up to $10,000 per consortium.

X. Annual Audit

Pub. Util. Code § 281 requires each consortium to conduct an annual audit of its expendituresfor grant programs funded and submit to the Commission an annual report that includes both of the following:

- A description of activities completed during the prior year, how each activity promotes the deployment of broadband services, and the cost associated with each activity.
- The number of project applications assisted.

Applicants may include such costs in its budget request.

XI. Reporting

Consortia grantees are required to submit bi-annual progress reports. Any progress payment requests shall be submitted along with bi-annual reports. Staff will provide a template for all necessary reports in the Administrative Manual, which will be available on the CASF Consortia website. Consortia grantees are required to submit bi-annual progress reports.

In addition, the Commission will allow Consortia grantees to request an initial start-up costs payment, up to 25% of entire grant. If a grantee requests an initial start-up cost payment, then a "Start-up Period Report" is required.

Start-up Period Report: "A start-up period report" is required only if the grantee requests an initial start-up cost payment. This report must be submitted no later than three months after the completion of the start-up activities. In this report, recipients will report on the completion of start-up activities per the Work Plan as well as milestones met.

Bi-Annual Progress Reports: The bi-annual progress report is required every six months, i.e., at the end of the six month period, at the end of the 12 month period, at the end of the 18 month period, of deployment, at the end of the 24 month period, etc. These reports must be submitted by no later than three months after every six months. In these report, grantees will report on the status of bi-annual milestones per the Work Plan, as well as request payment for relevant expenses to date.

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[8] *See* e.g. http://hrmanual.calhr.ca.gov/Home/ManualItem/1/2201.

Completion Report: A completion report is required at the end of the grant cycle. This report must be submitted by no later than three months after completion of the project. In this report, grantees will report on the completion of the overall project, milestones met per the Work Plan, as well as request payment for final and remaining relevant expenses.

XII. Oversight of Consortia Activities Subsequent to Grant Approval

Staff is authorized to implement administrative controls necessary to assure that funds disbursed to a Consortium are administered efficiently and cost-effectively, consistent with the stated purposes and objectives for which the funds are to be used.[9] The start of the Consortia grant program will begin upon grant approval.

Grant funds will be disbursed in accordance with, and within the time specified in California Government Code § 927. Staff has the authority to initiate any necessary audit, verification, and discovery of Consortium members relating to grant funding activities to ensure that CASF Consortia grant funds are spent in accordance with the adopted rules and standards for the Account.[10] Each Consortia grantee shall maintain books, records, documents, and other evidence sufficient to substantiate expenditures covered by the grant, according to generally accepted accounting practices. Each Consortia grantee shall make these records available to the Commission upon request and agrees that these records are subject to a financial audit by the Commission at any time within five years after the Grantee incurred the expense being audited. A Consortia grantee shall provide access to the Commission upon 24-hour notice to evaluate work completed or being performed pursuant to the grant.

Each Consortia grantee must use the grant funds solely for the approved project as described in the Grantee's Commission-approved Work Plan and Performance Metrics Plan as affirmed by the signed Affidavit. Each Consortia grantee must complete the project in accordance with and within the project performance period set forth in the Commission-approved Work Plan, *see* Section 1.14 Execution and Performance on changes to the substantive terms and conditions underlying Commission approval. Grantee's performance and completion of the project must comply with all applicable laws and regulations. The Progress Report must present the results of performance metrics.

Grantees must notify Communications Division as soon as they become aware that they may not be able to meet performance metrics set forth in the Work Plan and

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[9] D.11-06-038 at 28.

[10] D.11-06-038 at 29; Pub. Util. Code, § 270.

Performance Metrics Plan. Any changes to the substantive terms and conditions underlying Commission approval of the grant (e.g., changes to the Work Plan, schedule/timeframe, Work Plan budget or designated Fiscal Agent, etc.) must be communicated in writing to the Director of Communications Division at least 30 days before the anticipated change, and may be subject to approval by either the Director or by Commission resolution before becoming effective.

XIII. Payment

The disbursement of funds at any time is subject to Commission discretion, including a review-and-approval process of each grantee through regular site visits, progress reports on a bi-annual basis, and supporting invoices and receipts. All requests for progress payments and reimbursements must be supported by documentation, e.g., receipts, invoices, quotes, etc.

The Consortia grantee may request reimbursement of start-up costs equivalent to a maximum of 25% of the total award. Such payment requests must be supported by documentation, e.g., receipts, invoices, quotes, etc. Start-up costs include administrative expenses, e.g., rental of building, hiring of personnel, purchase of office supplies, etc. Subsequent disbursements are on a bi-annual progress report-review basis.

In order to receive a progress payment, the Consortium must first submit the Progress Report to the Communications Division, together with all requests for payment and reimbursement supported by relevant invoices receipts, etc.

All performance specified under the terms of any award must be completed on or before the termination date of the award. A project completion report is required before full payment showing that all activities in the Work Plan have been accomplished. The final disbursement will be equal to the outstanding balance due under the Consortium grant or actual expenditures, whichever is less. The grantee's final payment report, including all documentation and receipts, should be submitted no later than three months after project completion.

No payment will be made for any payment requests received three months after relevant reports are due (i.e., bi-annual progress reports and/or completion reports).

XIV. Execution and Performance

The Commission's grant of any award is subject to satisfaction of the conditions set forth in the decision adopting this proposal, and any additional conditions that may be specified in the Commission resolution approving a grant. Each grant is made

expressly only to the Consortia grantee as identified in the Commission resolution. The Consortia grantee may not assign the project in whole or in part, except as expressly provided by the Commission's approval.

By receiving a CASF Consortia 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 regard to disbursement and administration of the grant.[11]

Should the Consortia grantee fail to commence work at the agreed upon time, the Commission, upon ten business days written notice to the Consortia grantee, may terminate the award. The Commission may also impose penalties.

In the event that the Consortia grantee fails to complete the project, in accordance with the terms of approval granted by the Commission, the grantee will be required to reimburse some or all of the CASF Consortia Account funds that it has received.

If the Consortia grantee fails to perform in good faith, or in accordance with the expectations set forth in its Work Plan and Performance Metrics Plan, as affirmed in the affidavit, the Commission may withhold subsequent grant disbursement, suspend, reduce, or terminate the Consortia grant, as warranted.

Any changes to the substantive terms and conditions underlying Commission approval of the Consortium grant (e.g., changes to Work Plan, budget, or designated Fiscal Agent, etc.) must be communicated in writing to the Communications Division Director at least 30 days before the anticipated change, and may be subject to approval by either the Director or by Commission resolution before becoming effective.

XV. Consent Form

Grantees are required to sign a consent form within 30 days from the date of the award agreeing to the terms stated in the resolution or award letter authorizing the CASF award. The agreement will provide the name of the grantee, names of officers, and must be signed by the grantee. Should the grantee not accept the award through failure to submit the consent form within 30 calendar days from the date of the award, the Commission will deem the grant null and void. The proposed wording of the consent form is available on the CASF Consortia website.

[11] D.11-06-038 at 12-13.

(End of Appendix 3)