

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

January 21, 2022

Agenda ID #20272

Quasi-Legislative

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

~~This is the proposed decision of Commissioner 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 February 24, 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 COMMISSIONER HOUCK** (Mailed 1/21/2022)

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 ESTABLISHING LOCAL AGENCY
TECHNICAL ASSISTANCE GRANT PROGRAM**

Summary

This decision establishes a Local Agency Technical Assistance grant program to provide funding to eligible local agencies and sovereign tribal governments, as defined in this decision, for work product(s) associated with advancing the goal of the California Advanced Services Fund.

1. Background

On September 16, 2021, the assigned Commissioner issued an amended scoping memo outlining various changes to the California Advanced Services Fund (CASF) program approved as part of the Budget Act of 2021 and Senate Bill (SB) 156 (Stats. 2021, Chap. 84 and 112). Among other things, the state legislature provided for \$50 million to facilitate completion of the statewide broadband middle-mile network and last mile projects, the formation of municipal entities and agreements for financing broadband infrastructure and to fund projects,

distribute grants, or fund support costs associated with these projects, among other allowable uses.¹ The Commission intends to authorize a total of \$50 million in funds for technical assistance under a new tribal and local agency technical assistance program. The amended scoping memo included and invited comments on a Commission Communications Division Staff Proposal (staff proposal) for this new program.

Rural County Representatives of California (RCRC), the Public Advocate's Office of the California Public Utilities Commission (Cal Advocates), National Diversity Coalition (NDC), Central Coast Broadband Consortium (CCBC), County of Santa Clara (Santa Clara), and The Utility Reform Network (TURN) timely filed comments on the staff proposal. On October 14, 2021, the Yurok Tribe, California Emerging Technology Fund (CETF), NDC, and TURN filed reply comments.

2. Authority

The Commission's authority under California Public Utilities Code Section 281, as amended by SB 156, includes the provision of technical assistance and California Advanced Services Fund grants such as those for the Public Housing and Federal Funding Accounts. California Public Utilities Code Section 281(b)(5)(A) specifies activities including but not limited to "[p]roviding technical

¹ Section 35 ([Item 8660-062-8506 of Section 2.00](#)) of the Budget Act of 2021 provides: "~~Notwithstanding any other law, funds~~Funds appropriated in this item may be ~~transferred~~used to ~~Items 7502-062-8506, 8660-062-0001, 8660-001-0890, and 8660-162-8506.~~ These transfers shall require the prior approval of fund projects, distribute grants, or fund support costs associated with the program." See also the ~~Department of Finance.~~CPUC fact sheet on Last-Mile Broadband funding: https://www.cpuc.ca.gov/-/media/cpuc-website/industries-and-topics/documents/telecommunications/broadband--fact-sheet_083021.pdf.

assistance to local governments and providers" that lead to or are likely to lead to equitable high-speed last-mile connection.

3. Staff Proposal

The staff proposal bases the proposed Local Agency Technical Assistance (LATA) program, in large part, on the Commission's Tribal Technical Assistance program, with certain modifications to account for a broader group of eligible applicants/grant recipients and specified requirements to align with federal rules applicable to Coronavirus State and Local Fiscal Recovery Funds, which the proposed program is intended to leverage. The staff proposal includes a broader and more diverse range of activities that would be eligible for reimbursement, and includes a requirement for applicants with overlapping jurisdictions to demonstrate coordination between and among each other to minimize duplication of funding and efforts. The staff proposal would fold the Tribal Technical Assistance program into the new LATA program, and dedicate a portion of the new program's budget to funding projects from tribal applicants.

4. Establishment of Local Agency Technical Assistance Program

The Commission establishes and adopts program requirements for a Local Agency Technical Assistance program, as detailed in ~~Appendix A~~ [Attachment 1](#) of this decision. In summary, we adopt most aspects of the staff proposal, with modifications discussed herein. We address parties' comments on the staff proposal insofar as they relate to specific modifications we adopt.

4.1. The Local Agency Technical Assistance Program Will Not Absorb the Tribal Technical Assistance Program

Most parties do not explicitly address the proposal to fold the Tribal Technical Assistance program into the LATA program. TURN, however, urges

the Commission to consider maintaining the Tribal Technical Assistance program as separate from the LATA program, given the additional program requirements contemplated for the LATA program. In reply comments, the Yurok Tribe supports TURN's suggestion.

The Commission intends to minimize barriers for tribes to pursue broadband deployment through the Tribal Technical Assistance program, while also making funds available to tribes under the LATA program for additional and/or more costly work product(s), such as environmental reviews. Therefore, we agree with TURN's and the Yurok Tribe's recommendation and do not adopt the proposal to fold the Tribal Technical Assistance program into the LATA program. Eligible tribal governments have the option to apply for technical assistance grants under either program, pursuant to each program's respective rules and application requirements.

4.1.1. Dedicated Funds for Eligible Tribal Applicants

The staff proposal proposes to set aside ten percent of the funding allocated to the program, plus the remaining Tribal Technical Assistance program budget balance on the date the Commission adopts the LATA program rules, to tribal grantees. Parties responding to this element of the staff proposal are generally supportive of setting aside funds for tribal grantees, and emphasize that this set-aside should be a floor and not a ceiling for the amount of funds available for tribal grantees. The Commission agrees, and adopts Guidelines as set forth in [Appendix A Attachment 1](#) that direct Commission staff to initially set aside ~~up to~~ ten percent of the funding allocated to LATA grants for tribal grantees. The Guidelines state that staff may further set aside up to ten percent

of then-remaining funds for tribal grantees in the event that all funds previously set aside for tribal grantees have been encumbered.

4.2. Definition of Technical Assistance

Parties that address the staff proposal's definition of technical assistance are generally supportive; NDC and Santa Clara emphasize that the staff proposal indicates the activities identified in the definition are not framed as an exhaustive list of eligible activities. Even so, CCBC, RCRC and TURN recommend adding specific activities to the proposed definition. We agree in large part with the additions suggested by RCRC and TURN. The Commission therefore adopts guidelines that include needs assessments, broadband strategic plans, and consultants and community-based organization services secured to complete reimbursable work product(s) within the definition of technical assistance in Section 3.A, [while also clarifying that the identified activities are not intended to represent the entirety of activities that meet the definition of technical assistance.](#)

CCBC's recommended addition of comprehensive regional plans is supported by CETF, which also recommends we add Metropolitan Planning Organizations (MPO) to the proposed definition of local agency. Although both of these recommendations merit consideration, the Commission elects not to adopt them at this time in favor of maintaining more local entities in the primary role of grant recipients, while encouraging and requiring demonstration of coordination among geographically overlapping jurisdictions. Broader entities such as MPOs will not be precluded from participating in such coordination efforts and providing input into local agencies' grant applications and subsequent work product(s).

4.2.1. Staff Hours Will Be Eligible For Reimbursement, Provided They Are Incremental to Grantees' Pre-grant Award Scope of Work

The staff proposal specifies that technical assistance does not include staff hours, although up to 15 percent of the total requested reimbursement may be used for the local agency's administrative costs (as defined in the staff proposal) associated with completing reimbursable work products.

NDC, RCRC and Santa Clara recommend permitting reimbursement of staff hours related to reimbursable activities to varying extents; in reply comments, TURN and the Yurok Tribe generally agree. CCBC supports reimbursement of staff hours subject to certain conditions, including that Commission staff determines such work is outside the normal scope of the local agency's activities.

We agree that local agency staff hours dedicated to reimbursable activities should be eligible for reimbursement, provided that such work is incremental to a local agency's normal, or pre-grant, scope of activities. The Commission therefore replaces "normal" with "pre-grant award" to make clear that grant funds are intended to go toward work that would not be performed in the absence of grant funds.

The Commission will require applicants to attest that staff hours for which they will request reimbursement are incremental to their pre-grant award scope of work. Additionally, applications that request reimbursement for staff hours must include hourly rates and estimates of staff hours that will be dedicated to specific reimbursable work product(s), and grant recipients will need to track staff time spent on specific reimbursable work product(s) in order to receive reimbursement for staff hours.

4.3. Definition of “Sovereign Tribal Government”

In response to the staff proposal’s definition of “local agency,” the Yurok Tribe recommends adding wholly-owned tribal corporations, tribal non-profits, and tribal utilities with proof of authorization to apply from the respective tribe’s council or other governing body. We agree that such entities should be eligible to apply for and receive LATA funding, as their revenue base serves in lieu of the tax base that other types of eligible applicants possess.² The Commission therefore adopts the proposed definition of “sovereign tribal government” to include the Yurok Tribe’s recommendation of wholly-owned tribal corporations, tribal non-profits, and tribal utility companies with proof of authorization to apply by the respective Tribe’s Council or other governing body.

4.4. Clarification of Overlapping Jurisdictions

Parties commenting on the staff proposal’s requirement for separate local agencies operating in the same geographic jurisdiction to demonstrate collaboration were generally supportive of this requirement, though NDC recommends clarifying that tribal jurisdictions are not overlapping jurisdictions for the purposes of the LATA program. Similarly, TURN states that it is unclear what circumstances would present overlapping jurisdictions among sovereign tribal governments. The Commission agrees with NDC. The Guidelines set forth in ~~Appendix A~~ Attachment 1 of this decision clarify that sovereign tribal

² See, e.g., Tribal Business Structure Handbook, 2008 Edition; a Tribal Self-Governance Project of the Tulalip Tribes, sponsored and published by the United States Department of the Interior Office of the Assistant Secretary – Indian Affairs. url: https://www.irs.gov/pub/irs-tege/tribal_business_structure_handbook.pdf (accessed November 15, 2021), at II-5 – II-6 and III-1 – III-2.

governments do not constitute overlapping jurisdictions for purposes of the LATA program.

In response to NDC's comments, which recommend that cities and counties not be counted as overlapping jurisdictions, we agree it is reasonable to enable staff to approve applications from cities located in counties that have pending applications or applicable grant awards, and applications from counties that include cities with pending applications or applicable grant awards, provided that such applicants' support letters describe the coordination that occurred between the city and county to prevent duplication of efforts. The Commission adopts language in the Guidelines set forth at ~~Appendix~~ [Attachment 1](#) of this decision that reflect this recommendation.

In response to CCBC's comments, which address situations of agencies with overlapping competencies or responsibilities (*e.g.*, a city and a school district), we clarify that our intent is not to prevent each such agency from applying to the LATA program. We do however find good reason to require demonstration of collaboration among such entities to ensure efficient use of resources, as detailed in the Guidelines set forth at ~~Appendix A~~ [Attachment 1](#) of this decision and reflected in the previously issued staff proposal.

4.5. Applications Requesting No More than \$500,000 per Local Agency, per Fiscal Year will be Eligible for Ministerial Review and Approval

Party comments varied on the proposed maximum award amount that should be awarded to each local agency per fiscal year, via ministerial review and approval. CCBC, RCRC and TURN generally support the staff proposal, which set this amount at \$150,000. NDC recommends we set a higher maximum amount, and require data about projects requesting amounts greater than

\$150,000, to justify the higher amount requested. Santa Clara recommends setting a range of award caps based on the number of unserved households in the jurisdiction and the award history of the applicant and other applicants applying in the same cycle, with a maximum of one million dollars per agency per year. RCRC recommends that, if the Commission sets a range, it should be based on the proportion of unserved locations in the jurisdiction and not on population size or density. In considering a maximum award amount (per local agency, per fiscal year) eligible for ministerial review and approval, the intent is to enable Commission staff to review and approve applications through a transparent set of objective criteria, to the extent feasible. The Commission also recognizes that certain eligible work products, notably environmental reviews, may cost as much as \$500,000, and that the cost of such work product(s) may not depend on either the number or the proportion of unserved households in a jurisdiction. Given our determination to make funds available for potentially more costly work products such as environmental reviews, it is reasonable to set the threshold amount for applications that may be approved ministerially to an amount that more closely approximates the cost of this type of eligible work product. The Commission determines to increase the proposed maximum amount (per local agency, per fiscal year) eligible for ministerial review and approval to \$500,000. In making this change, staff may, but are not required to, approve every application that meets the minimum requirements for ministerial review and approval. If, for example, an application meets all ministerial review criteria and requests \$500,000 for work product(s) that are reasonably expected to cost less than \$500,000, ~~staff may refer~~ [the Commission reserves discretion to address](#) such an application ~~for Commission review and approval via~~ [through the resolution process](#).

Further, given the size of ministerially awarded grants and potential costs involved with certain reimbursable activities, the Commission further intends to periodically review and adjust the program via resolution, including the scope of reimbursable activities, to ensure that the funds are efficiently and effectively disbursed.

To confirm, and as detailed in [Appendix A Attachment 1](#) of this decision, applications meeting the following conditions will be eligible for ministerial review and approval:

1. Applicant requests a grant not exceeding \$500,000 per local agency per fiscal year.
2. The Commission has not received a separate application for Local Agency Technical Assistance from an agency with a jurisdiction overlapping that of the subject application during the current application period or within the prior year, unless such application(s) was denied. This limitation does not apply to:
 - a. applications from sovereign tribal governments.
 - b. applications from cities located in counties that have pending applications or applicable grant awards, or to applications from counties that include cities with pending applications or applicable grant awards, provided that such applicants' support letters describe the coordination that occurred between the city and county to prevent duplication of efforts.
3. The application meets all the other requirements of a Local Agency Technical Assistance grant included in Sections 4, 5, 6, and 7 of the program requirements, as detailed in [Appendix A Attachment 1](#) of this decision.

4.6. Modification to Review Process for Applications Not Eligible for Ministerial Review and Approval

NDC notes that some of the evaluation criteria listed in the resolution review process appear nebulous, and further notes that some of the criteria should be considered for all applications. For instance, NDC states, it is unclear what “evaluation of proposed reimbursable work product(s)” entails and whether the same kind of evaluation should also occur under ministerial review. We emphasize here that the criteria for ministerial review and approval are intended to enable staff to approve applications that meet the minimum requirements, as specified in Section 8 of the Guidelines set out in [Appendix A Attachment 1](#). Applications [that satisfy general Application Requirements \(Section 6\) but do not ~~meeting~~meet the ~~minimum requirements~~Ministerial Review funding criteria](#) may [only](#) be ~~considered for a grant via~~[approved by the Commission via](#) resolution, a discretionary review rather than ministerial.

Upon further consideration and review of the program rules applicable to the Tribal Technical Assistance program, and in light of the fact that the Commission will set a maximum award amount (per local agency, per year) eligible for ministerial review and approval of \$500,000, we find it is not necessary, and moreover not conducive to the type of evaluation(s) required, to identify scoring criteria for applications not eligible for ministerial review and approval. Applications not meeting the requirements for ministerial approval may require qualitative evaluation, which may not align with assigning a numerical score. Moreover, there may be other factors, beyond those identified in the staff proposal, that impact the potential value of a project proposal. These other factors may also not align with a scoring rubric. For instance, a standardized metric such as the total grant amount per number of households to

be served (expressed as dollars per household), while informative, would not account for other important factors such as the size of the relevant area, and thus it would be prohibitively difficult to assign a numerical score. For applications that ~~are referred to~~ the Commission ~~for~~will review ~~and~~for approval via resolution, the Commission determines to maintain flexibility in evaluating whether and how to approve such applications.

4.7. Modification to Completion Requirement to Demonstrate Advancement of CASF Program Goal

Cal Advocates recommends the addition of a completion reporting requirement so that work products clearly identify broadband infrastructure deployment projects that will help achieve the CASF deployment goal. In reply comments, CETF and TURN support Cal Advocates' recommendation. Noting that the staff proposal includes a requirement for a signed completion form, we agree with the intent of Cal Advocates' recommendation and therefore adopt guidelines that require demonstration that the reimbursable work product(s) identify broadband infrastructure deployment projects that will help achieve the CASF deployment goal, and identification of the area(s) where the applicant intends to deploy broadband based on the reimbursable work product(s), as part of signed completion forms under the LATA program.

4.8. Additional Guideline Provisions

The Commission Guidelines set out in ~~Appendix A~~[Attachment 1](#) include the following items that were not part of the staff proposal:

- In Section 2 (Amount Available for Grants), clarify the funding source for the total amount of \$50 million that the Commission determines to allocate to the LATA program.
- Modify Section 7 (Submission Timeline and Requirements) to provide that Commission staff will provide program information, including how to submit applications and

where to obtain information about the program, via an email notice to the service list of this proceeding.

- Specify that staff may propose changes to the LATA program guidelines and requirements via resolution. As this is a new program that will be administered by Commission staff, it is reasonable to enable staff to propose changes to the program requirements, which will be subject to Commission approval. [The Commission intends to monitor and evaluate LATA applications and awards to ensure equitable distribution of funding in accordance with the Environmental and Social Justice Action Plan.](#)

5. Actions for Advancing the Environmental and Social Justice Action Plan

RCRC recommends the Commission allow for periodic reimbursements for some categories of activities, noting that smaller jurisdictions may be unable to absorb expenses for up to two years. In reply comments, CETF and NDC support this recommendation; TURN notes that some tribes structured their Tribal Technical Assistance program applications in such a way as to receive funding for multiple awards (each with shorter timelines than two years), and encourages local agencies to do the same under the LATA program. The Commission confirms TURN's observation: LATA applicants may identify reimbursable work product(s) with timeframes shorter than two years, where feasible, in their applications.

TURN recommends that Commission staff analyze a number of available data sets to identify and then conduct targeted outreach to specific unserved communities about the LATA program. The Commission generally agrees with TURN's recommendation, and Commission staff is in the process of conducting analysis and developing an outreach plan with the objective of engaging and facilitating participation by communities with the greatest proportion of

unserved and underserved households in not only the LATA program, but more generally in all Commission programs aimed at eliminating California's digital divide. The Commission intends to monitor, evaluate and adjust outreach efforts to ensure alignment with the Environmental and Social Justice Action Plan.

6. 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 _____ February 10, 2022 by San Diego Association of Governments; NDC; Charter Communications Operating, LLC (Charter); Southern California Association of Governments; CETF; Los Angeles County Economic Development Corporation; and UNITE-LA, Inc. Reply comments were filed on February 15, 2022 by NDC, TURN, California Community Foundation, Yurok Tribe, and The Greenlining Institute.

We have modified the proposed decision in response to party comments, as summarized here:

- Clarification that the specific activities identified as meeting the definition of technical assistance are not intended to be an exhaustive list.
- Clarification that tribes can apply for and receive funds through both the Tribal Technical Assistance program and the LATA program established by this decision.
- Clarification that all applications that meet the Application Requirements (Section 6 of the Guidelines) but do not meet the Criteria for Ministerial Review (Section 8 of the Guidelines) may be approved via the resolution process.

- Addition of a requirement that applications describe specific steps the applicant has taken, and/or will take, to meaningfully address disparities in access to and adoption of advanced communications services; and confirmation that the Commission intends to monitor and evaluate both outreach efforts and LATA applications and awards to ensure equitable distribution of funding in accordance with the Commission's Environmental and Social Justice Action Plan. Although we agree with TURN that the LATA program must center equity and bridging the digital divide, we are not prepared at this time to use equity as a review criterion, as we have not articulated a reasonable criterion or standard of review, so adopting such a criterion would necessitate review of every application through the resolution process. The Commission may revise program guidelines to better ensure alignment with the Environmental and Social Justice Action Plan.

We decline to make further revisions requested by parties, as either unnecessary or unwarranted at this time. With respect to Charter's recommendation to specify that network operators should be excluded from participation as contractors, we acknowledge the validity of Charter's concern, and we confirm the Commission's intent is that LATA funds be used to engage entities that do not have a financial interest in the work product for which funds are granted. The Commission will review any such applications with greater scrutiny to ensure responsible and effective use of LATA funds.

7. 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.~~ The Budget Act of 2021 provides for the Commission to allocate funds for technical assistance to eligible local agencies to facilitate deployment of high-quality advanced communications services to all Californians.

~~2.~~The assigned Commissioner provided notice of and opportunity to comment on a staff proposal to establish a local agency technical assistance program, modeled after the Tribal Technical Assistance program, in this proceeding.

~~3.~~The staff proposal would fold the Tribal Technical Assistance program into the new LATA program, and dedicate a portion of the new program's budget to funding projects from tribal applicants.

~~4.~~The Guidelines maintain the Tribal Technical Assistance program as separate from the LATA program

~~5.~~Eligible tribal governments have the option to apply for technical assistance grants under either the Tribal Technical Assistance program or the new LATA program, pursuant to each program's respective rules and application requirements.

~~6.~~Commission staff will review and approve applications through a transparent set of objective criteria, to the extent feasible.

Conclusions of Law

~~1.~~It is reasonable to establish a local agency technical assistance program, as detailed in ~~Appendix A~~[Attachment 1](#) of this decision, to facilitate deployment of high-quality advanced communications services to all Californians.

~~2.~~The Commission's Communications Division staff should have the authority to prepare resolutions that propose administrative changes to the LATA program guidelines and requirements, as detailed in ~~Appendix A~~[Attachment 1](#) of this decision, and present these resolutions to the full Commission for a vote.

O R D E R

IT IS ORDERED that:

1. The California Public Utilities Commission establishes a new local agency technical assistance program to facilitate deployment of high-quality advanced

communications services to all Californians. Program details, including budget and application guidelines and requirements, are adopted as articulated in ~~Appendix A~~ [Attachment 1](#) of this decision.

2. California Public Utilities Commission Communications Division staff is assigned the task to make administrative changes to the Local Agency Technical Assistance program rules via resolution for full Commission review and approval of those changes.

3. Rulemaking 20-08-021 remains open.

This order is effective today.

Dated _____, at San Francisco, California

(ATTACHMENT 1)

Guidance to Staff on Local Agency Technical Assistance Rules and Application

1. Purpose

To advance the California Advanced Services Fund (CASF) goal of Public Utilities Code section 281 to encourage deployment of broadband to all Californians, these Guidelines provide rules under which technical assistance grants are available to local governments and tribal governments to reimburse such entities for costs related to the development of broadband network deployment projects to benefit unserved Californians, including the costs of joint powers authority formation,¹ environmental studies, network design, and engineering study expenses.

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

¹ A “joint powers agency” or “joint powers authority” means an agency or entity formed pursuant to the Joint Exercise of Powers Act (Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1) that is formed for the local performance of governmental functions that includes the provision of municipal services. Cal. Gov. Code § ~~56057.7~~56047.7.

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

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

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

2. Amount Available for Grants

To support local agencies and tribal governments in these pursuits, the Commission allocates \$50 million in Coronavirus Fiscal Recovery funds (pursuant to AB 164) to be made available for technical assistance grants. The Commission directs staff to disburse grants to qualifying local agencies and tribal governments in amounts not to exceed \$500,000 per local agency or tribal government, per fiscal year.

Ten percent of the funding allocated for this program will be set aside for tribal grantees. In the event that all funds set aside for tribal applicants are encumbered for specific tribal grantees, Commission staff may set aside up to ten percent of then-remaining funds for tribal grantees. The Commission's Tribal Technical Assistance Program remains an alternative program through which tribes may apply for technical assistance, allowing flexibility for tribes to decide which programs' requirements and benefits best suit their needs. These rules do not modify the rules for the Tribal Technical Assistance Grant Program, adopted in D.20-08-005.

3. Definitions:

- A. Technical assistance: For the purpose of the Local Agency Technical Assistance Grant Program, "technical assistance" means reimbursement for work product resulting from activities such as the preparation of environmental, feasibility, and engineering design studies or reports, and/or assistance in the development of needs assessments, market studies, broadband strategic plans, or business plans that support local agencies in their pursuit of the provision of service to unserved and underserved communities. Assistance may also include, but is not limited to, costs incurred in pursuit of forming a Joint Powers Authority for the purposes of the provision of broadband service to unserved and underserved communities, and consultant and community-based organization services secured to complete reimbursable work product. The aforementioned activities are not intended to constitute the entirety of activities eligible for technical assistance. "Technical Assistance" includes reimbursement for local agency or tribal staff hours that are expended on reimbursable activities and are incremental to the grant recipient's pre-grant award scope of work, i.e., the specific task performed during the hours for which reimbursement is requested would not be performed by the staff person absent the grant award. Separately, up to 15 percent of the total requested for reimbursement may be used to reimburse the local agency or tribal government for administrative costs associated with the securing or completion of reimbursable work products, other than the cost of local agency staff hours.⁵

⁵ We define administrative costs as "indirect overhead costs attributable to a project, per generally accepted accounting principles (GAAP), and the direct cost of complying with Commission administrative and regulatory requirements related to the grant itself." Applicants seeking additional funds will require Commission approval via draft resolution.

- B. Local agency: For the purposes of the Local Agency Technical Assistance Grant Program, local agencies are eligible applicants; “local agency” has the same meaning as that provided in Government Code section 53167 (e), as amended by SB 156, wherein “local agency” means any agency of local government authorized by law to provide broadband internet access service, including the following:
- i. A city
 - ii. A county, including a county service area
 - iii. A community services district
 - iv. A public utility district
 - v. A municipal utility district
 - vi. A joint powers authority
 - vii. A local educational agency, as defined in section 47640 of the Education Code
 - viii. A sovereign tribal government
 - ix. An electrical cooperative, as defined in section 2776 of the Public Utilities Code
- C. Reimbursable work product: For the purpose of the Local Agency Technical Assistance Grant Program, a “reimbursable work product” is the final report, study, or agreement resulting from any one of the eligible activities listed as reimbursable “Technical Assistance,” above (see Section 3. A). Applicants may propose multiple reimbursable work products per application, with a total requested reimbursement not to exceed \$500,000 per local agency, per fiscal year. For final payment, grantees must submit a copy of the reimbursable work product authorized for funding, as further described in Section 11. Before payment, grantees must also submit the invoice(s) and supporting documentation described in Section 11, showing the costs of each individual reimbursable work product authorized for funding. Grantees may request reimbursement for a reimbursable work product when that reimbursable work product is completed, and need not wait for all reimbursable work products authorized under one grant to be completed before requesting reimbursement for completed reimbursable work product. Staff may authorize only one Local Agency Technical Assistance grant per reimbursable work product; that is, if Local Agency Technical Assistance funding has already been authorized for completion of a reimbursable work product, that reimbursable work product is not eligible for additional funding under the Local Agency Technical Assistance Grant Program.
- D. Sovereign Tribal Government: For the purpose of the Local Agency Technical Assistance Grant Program, a “sovereign tribal government” means a Native American tribe located in California that is on the contact list maintained by the

Native American Heritage Commission for the purposes of Chapter 905 of the Statutes of 2004, (see Cal. Pub. Res. Code § 21073). For purposes of the Local Agency Technical Assistance Grant Program, “sovereign tribal government” also includes wholly-owned tribal corporations, tribal nonprofits, and tribal utility companies with proof of authorization to apply by the Tribe’s Council or other governing body.

4. Eligibility Criteria

Local agencies, as defined in 3(B) and 3(D), above, are deemed eligible for Local Agency Technical Assistance Grants. The Commission may approve applications for technical assistance from separate local agencies operating in the same geographic jurisdiction through the resolution process, unless otherwise stated below; eligible agencies that have overlapping jurisdictions with other eligible agencies are encouraged to collaborate for the efficient use of resources. For the purposes of this program, sovereign tribal governments do not have overlapping jurisdictions with other eligible local agencies. In addition, for the purposes of this program, cities do not have overlapping jurisdictions with the county or counties in which the city is located. As further described in Section 6, below, these ~~Guidelines require~~ [Guidelines require](#) agencies to include with their applications a support letter from the county or other relevant political subdivision (such as a city council) that details the efforts made towards this collaboration, if applicable. Applicants representing tribes are required to submit a letter of support from the tribal chair, administrator, or council, though these letters need not detail coordination efforts.

Proposals for reimbursable work products that are reasonably expected to result in broadband infrastructure projects that will be designed to provide service to unserved or underserved households and businesses and that are designed to, upon completion, reliably meet or exceed symmetrical 100 Mbps download speed and upload speeds are eligible for Local Agency Technical Assistance Grants.⁶

5. Technical Assistance Grant Amounts

⁶ See notes 3 and 4, above.

For applications that meet Ministerial Review criteria (Section 8), Commission staff may authorize grants to fund 100 percent of the cost of technical assistance, not to exceed \$500,000 per local agency, per fiscal year.⁷ Grant requests that would cause an applicant to exceed \$500,000 in technical assistance, if authorized, may be approved by Commission resolution, up to \$1 million, per local agency, per fiscal year. As noted above, only 15 percent of the total requested for reimbursement may be used to reimburse local agencies for their administrative costs, other than the costs of local agency staff hours, which are reimbursable to the extent that they are incremental to the staff's pre-grant award scope of work.

Applications that satisfy general Application Requirements (Section 6) but do not meet the Ministerial Review funding criteria may only be approved by the Commission via resolution; the Commission will conduct a reasonableness review and may adjust budgets via the Resolution Review process (Section 9 below). All applications shall be approved or denied through the Ministerial Review process or marked for further review with potential award by the Commission through a resolution.

6. Application Requirements:

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

- a project summary.
- confirmation that the technical assistance will advance the CASF program goal "to encourage deployment of high-quality advanced communications services to all Californians that will promote economic growth, job creation, and the substantial social benefits of advanced information and communications technologies[.]"⁸ [This confirmation should describe specific steps the applicant has taken, and/or will take, to meaningfully address disparities in access to and adoption of advanced communications services.](#)
- confirmation that the technical assistance is tied to (or that it could reasonably be expected to lead to) a broadband infrastructure project designed to provide service to unserved or underserved households and businesses and that are designed to, upon completion, reliably meet or exceed symmetrical 100 Mbps download speed and upload speeds.⁹
- affirmation, under penalty of perjury, that any staff hours expended on reimbursable activities, and for which reimbursement will be requested, are

⁷ This limitation is based on the date of grant authorization.

⁸ Pub. Util. Code § 281(a).

⁹ See notes 2 and 3, above.

- incremental to the applicant's pre-grant award scope of work, i.e., the specific task performed during the hours for which reimbursement is requested would not be performed by the staff person absent the grant award.
- agreement that the scope of work contemplated by the local agency contract(s) included in the application will be concluded within 24 months of the date of Commission approval.
 - affirmation, under penalty of perjury, that to the best of their knowledge all statements and representations made in the application are true and correct with the accompanying appropriate signature of a person authorized to act on behalf of the local agency or tribe.

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

As supporting documents, the local agency applicant must provide a proposed contract(s) from the local agency's contractor(s) with a scope of the work that will be performed for the purpose of the technical assistance. If the reimbursable work product stemming from the technical assistance is to be developed in-house, a written project proposal will suffice. This contract or project proposal must provide details of the proposed reimbursable work product(s) resulting from the contract or project proposal, including scope of work, a detailed cost estimate (including hourly rate(s) of each individual performing the technical assistance and estimated total hours for each individual), and a proposed timeline for completion of the work performed under the scope of the contract or project proposal. The application should identify each reimbursable work product expected to result from the contract(s) or project proposal. While more than one reimbursable work product may result from a contract or project proposal, every reimbursable work product proposed in the application must be supported by a contract or project proposal.

Applications must also include a letter of support from the local agency's relevant political subdivision (city, county, or tribe). This letter must include information relating to coordination performed with other eligible local agencies with geographic jurisdiction that overlaps with the local agency applicant's geographic jurisdiction, if the applicant is not a sovereign tribal government. Since tribal jurisdictions are not overlapping jurisdictions for the purposes of this program, applicants representing tribes are not required to demonstrate coordination performed with other eligible local agencies, though a letter of support from the Tribal administrator, chair, council or other applicable governing body is required.

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

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

7. Submission Requirements and Timelines:

As noted above, applicants must submit a Commission staff-provided application form. Applicants may electronically submit their completed application form, along with required supporting documents and attestation, using an email address to be provided by Commission staff via notice to the service list of Rulemaking 20-08-021. Larger files can be submitted via secure file transfer (url: <https://cpucftp.cpuc.ca.gov/>).

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

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

8. Criteria for 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 not exceeding \$500,000 per local agency per fiscal year.

- B. The Commission has not received a separate application for Local Agency Technical Assistance from an agency with a jurisdiction overlapping that of the subject application during the current application period or within the prior year, unless such application(s) was denied. This limitation does not apply to:
 - 1) applications from sovereign tribal governments, which may be reviewed ministerially if they satisfy items A and C in this subsection.
 - 2) applications from cities located in counties that have pending applications or applicable grant awards, or to applications from counties that include cities with pending applications or applicable grant awards, which may be reviewed and approved ministerially if they satisfy items A and C in this subsection and provided that such applicants' support letters describe the coordination that occurred between the city and county to prevent duplication of efforts.
- C. The application meets all the other requirements of a Local Agency Technical Assistance grant included in Sections 4, 5, 6, and 7 of these Rules.

When an application meets all of the criteria for Ministerial Review, staff is authorized to approve via ministerial approval. The Commission may also consider such applications for approval via resolution.

9. Criteria for Resolution Review

~~When an application does~~ Applications that satisfy general Application Requirements (Section 6) but do not meet the Ministerial Review funding criteria, ~~staff may refer the application to only be approved by~~ the Commission ~~for review and approval~~ via the ~~resolution process~~. The Commission will issue approval of qualifying applications, together with the grant amount per application, through a Commission resolution(s).

The Commission assigns staff to propose administrative changes to the CASF LATA via resolution for Commission review and approval of those changes.

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

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

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

- A. The name and contractor's license number of each licensed contractor and subcontractor undertaking a contract or subcontract in excess of twenty-five

thousand dollars (\$25,000) to perform work on a project funded or financed pursuant to this section.

- B. The location where a contractor or subcontractor described in subparagraph (A) will be performing that work.
- C. The anticipated dates when that work will be performed.

Upon completion of the technical assistance and before final payment, the applicant must provide a signed completion form stating that the technical assistance work has been completed. This form includes a request for a short summary of the reimbursable work product(s) performed under the contract, including demonstration that the reimbursable work product(s) identify broadband infrastructure deployment projects that will help achieve the CASF deployment goal, and identification of the area(s) where the applicant intends to deploy broadband based on the reimbursable work product(s), suitable for posting on the Commission's web page. A short summary of the work/activities completed pursuant to the Local Agency Technical Assistance Grant will be posted on the Commission's web page.

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

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

11. Guidelines for Payment

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

To the extent that any portion of an award was used to reimburse a local agency for administrative costs associated with securing or completing a reimbursable work

¹⁰

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

product, the local agency must submit an itemized accounting of such costs, demonstrating the total requested for reimbursement does not exceed 15 percent of the total authorized award.

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

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

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

12. Guidelines for Execution and Performance

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

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

All grantees must sign and submit a Consent Form within 30 calendar days from the date of the award agreeing to the terms stated in the resolution or award letter authorizing the CASF award. Should the grantee not accept the award through failure

to submit the Consent Form within 30 calendar days from the date of this letter's adoption, the CPUC will deem the grant null and void. The agreement will provide the name of the person who is managing the contract and must be signed by an authorized agent of the grantee.

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

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

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

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

- Projected/actual construction start date (month/year)
- Projected/actual initiation of operations date (month/year)
- Location (for broadband, geospatial location data)
- Speeds/pricing tiers to be offered, including the speed/pricing of its affordability offering
- Technology to be deployed
- Miles of fiber
- Cost per mile
- Cost per passing
- Number of previously unserved households (broken out by households on Tribal lands and those not on Tribal lands) projected to have increased access to broadband meeting the minimum speed standards
- Number of previously unserved institutions and businesses (broken out by institutions on Tribal lands and those not on Tribal lands) projected to have

11

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

increased access to broadband meeting the minimum speed standards, in each of the following categories: business, small business, elementary school, secondary school, higher education institution, library, healthcare facility, and public safety organization

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

(END OF ATTACHMENT 1)

Document comparison by Workshare Compare on Tuesday, February 22, 2022
12:14:05 PM

Input:	
Document 1 ID	file:///C:/Users/SGU/Desktop/PD's/5. R.20-08-021 2-24 Meeting (Comment)\ORIGINAL R.20-08-021 VUK PD 2-24 Agenda (Comment) EEO DLH.docx
Description	ORIGINAL R.20-08-021 VUK PD 2-24 Agenda (Comment) EEO DLH
Document 2 ID	file:///C:/Users/SGU/Desktop/PD's/5. R.20-08-021 2-24 Meeting (Comment)\(Rev. 1) R.20-08-021 Decision Establishing Logal Agency Technical Assistance Grant Program.docx
Description	(Rev. 1) R.20-08-021 Decision Establishing Logal Agency Technical Assistance Grant Program
Rendering set	Standard

Legend:	
<u>Insertion</u>	
Deletion	
Moved from	
<u>Moved to</u>	
Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	49
Deletions	49
Moved from	0
Moved to	0

Style change	0
Format changed	0
Total changes	98

Document comparison by Workshare Compare on Tuesday, February 22, 2022
12:11:09 PM

Input:	
Document 1 ID	file:///C:/Users/SGU/Desktop/PD's/5. R.20-08-021 2-24 Meeting (Comment)\ORIGINAL Att1_DRAFT LATA Guidelines 123021 EEO DLH.docx
Description	ORIGINAL Att1_DRAFT LATA Guidelines 123021 EEO DLH
Document 2 ID	file:///C:/Users/SGU/Desktop/PD's/5. R.20-08-021 2-24 Meeting (Comment)\Att1_DRAFT LATA Guidelines (Rev. 1).docx
Description	Att1_DRAFT LATA Guidelines (Rev. 1)
Rendering set	Standard

Legend:	
Insertion	
Deletion	
Moved from	
<u>Moved to</u>	
Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	7
Deletions	8
Moved from	0
Moved to	0
Style change	0

Format changed	0
Total changes	15