

Appendix A:

Federal Funding Account Program Rules and Guidelines

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1. Background and Purpose

This document sets out rules, guidelines, and application materials for the newly established Federal Funding Account within the California Advanced Services Fund program.

The COVID-19 public health emergency has underscored the importance of universally available, high-speed, reliable, and affordable broadband as millions of Americans rely on the internet to participate in, among critical activities, remote school, healthcare, and work. Recognizing the need for such connectivity, the American Rescue Plan Act (ARPA) provides funds to State, territorial, local, and Tribal governments to, among other things, make necessary investments in broadband infrastructure.¹

On July 20, 2021, Governor Gavin Newsom signed Senate Bill (SB) 156 into law, creating the Federal Funding Account (FFA). SB 156 revises and recasts the California Advanced Services Fund (CASF) program (Cal. Pub. Util. Code § 281), among other things, to establish as the goal of the Broadband Infrastructure Grant Account, rather than the CASF fund, by not later than December 31, 2026, to approve funding for infrastructure projects that will provide broadband access to no less than 98% of California households and establishes the Federal Funding Account in the CASF program. The statute directs the Commission to use state or federal infrastructure moneys deposited into the Federal Funding Account to implement a program to expeditiously connect unserved and underserved communities by applicable federal deadlines.² SB 156 further provides that until June 30, 2023, the Commission must allocate one billion dollars (\$1,000,000,000) in urban counties and one billion dollars (\$1,000,000,000) in rural counties. The Commission must initially allocate five million dollars (\$5,000,000) in each county. The Commission must allocate the remaining moneys based on each county's proportionate share of the households without access to broadband internet access service with at least 100 megabits per second download speeds, as identified and validated by the Commission pursuant to the most recent broadband data collection, as of July 1, 2021.

¹ American Rescue Plan Act of 2021 (ARPA), sec. 9901, Public Law 117-2, codified at 42 U.S.C. 802 et seq. Section 9901 of ARPA amended Title VI of the Social Security Act 17 (the Act) to add section 602, which establishes the Coronavirus State Fiscal Recovery Fund, and section 603, which establishes the Coronavirus Local Fiscal Recovery Fund (together, the Fiscal Recovery Funds). The Fiscal Recovery Funds are intended to provide support to State, local, and Tribal governments in responding to the impact of COVID-19, including investment in broadband infrastructure.

² Cal. Pub. Util. Code § 281(n)(1).

SB 156 provides that projects funded by the Federal Funding Account shall be implemented consistent with Part 35 of Title 31 of the Code of Federal Regulations and any conditions or guidelines applicable to these one-time federal infrastructure moneys. On January 6, 2022, the United States Treasury Department (Treasury) issued the Final Rule to implement the Coronavirus State Fiscal Recovery Fund and the Coronavirus Local Fiscal Recovery Fund (SLFRF) established under ARPA. This Final Rule sets out rules and regulations in Part 35 of Title 31 of the Code of Federal Regulations.³

The following proposed rules are based on SB 156, previous infrastructure program guidelines,⁴ and the federal ARPA SLFRF requirements and guidance.

2. Eligible Areas

The Final Rule requires investments in eligible “projects designed to provide service to households and businesses with an identified need for additional broadband infrastructure investment.”⁵

The Final Rule further explains that, “Households and businesses with an identified need for additional broadband infrastructure investment do not have to be the only ones in the service area served by an eligible broadband infrastructure project. Indeed, serving these households and businesses may require a holistic approach that provides service to a wider area, for example, in order to make ongoing service of certain households or businesses within the service area economical.”

2.1. Project Identification and Application Process

Communications Division Staff will publish priority areas, a subset of the eligible unserved areas, on the CPUC website. Staff will publish priority areas that are coordinated with the Commission’s obligation to assist in preparing definitive plans for deploying necessary infrastructure in each county, including potential coordination across contiguous counties. The priority areas will account for projects that may not fall strictly within county lines. In addition, Communications Division will publish demographic and digital equity information and analysis about the priority areas such as the number of low-

³ Department of the Treasury, Final Rule, Coronavirus State and Local Fiscal Recovery Funds, 31 C.F.R. Part 35, 87 FR 4338-4454 (January 27, 2022) (Final Rule), available at: <https://www.federalregister.gov/documents/2022/01/27/2022-00292/coronavirus-state-and-local-fiscal-recovery-funds>.

⁴ Decision 21-03-006, Appendix A, Broadband Infrastructure Account Requirements, Guidelines and Application Materials, March, 2021, <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/communications-division/documents/casf-infrastructure-and-market-analysis/2021-casf-guidelines/d2103006-appendix-a-revised-casf-guidelines-w-header.pdf>.

⁵ 87 FR 4443.

income households within each priority area, median household income, disadvantaged community status, and other measures of broadband need and digital equity.

Communications Division staff will provide notice, at a minimum, on the proceeding service list and the CASF proceeding service list that the priority areas have been published. Communications Division may update the priority areas as other broadband data becomes available.

Potential applicants will have an opportunity to add to or subtract from a priority area consistent with the eligible area requirements.

3. Funding Criteria and Commission Evaluation of Applications

Consistent with federal guidelines, eligible projects must be designed to reliably offer, upon completion, speeds at or above 100 Mbps download and upload. In some cases, 100 Mbps symmetrical speeds may be impracticable and lower speeds of 100 Mbps download and 20 Mbps upload may be considered.⁶

The Commission will evaluate eligible project applications based on the following criteria:

- a. Match (up to 10 points). An application will receive credit based on the percentage of matching funds the applicant proposes to invest in its project and the variety of sources of matching funding provided by others. Applicants may include other funding sources such as other federal or state funds which are not duplicative.⁷
- b. Project technology choice (up to 10 points). Fiber optic infrastructure is scalable and enables the next generation of application solutions for all communities. An application proposing to invest in fiber optic infrastructure will receive credit.
- c. Type of Partnership (up to 20 points). Public and tribal entities have less profit-making pressure and are committed to providing service serving their communities. An application proposing to build a broadband network owned, operated by, or affiliated with local governments; non-profits; a California tribal government, or their wholly-owned tribal corporation, or tribal non-profit; and cooperatives will receive credit. If a Tribe and other entities apply for the same proposed funding area which includes Tribal land, then special consideration will be given to the Tribal applicant.
- d. Offers California LifeLine and/or federal Lifeline (up to 10 points). An application that will offer or commits to offering California LifeLine and/or

⁶ 87 FR 4443.

⁷ 87 FR 4422.

federal Lifeline service will receive credit.

- e. Existing broadband service need (up to 20 points). An application proposing to serve an entire priority area as identified by the Communications Division (see Section 2). Projects proposing to serve disadvantaged communities, as identified by the demographic information Communications Division provides and information submitted by the applicant, will be considered in scoring the existing broadband service need.
- f. Applicant capacity and performance (up to 10 points). An application that demonstrates the financial, technical, and operational capacity to execute the project successfully and completely in the timeframe will receive credit.
- g. Technology, Network, and Budget (up to 10 points). An application that demonstrates a well-planned project with a reasonable budget that shows it will deliver speeds and service proposed and be sufficiently robust to meet increasing demand for bandwidth will receive credit.
- h. Leveraging Statewide Middle Mile (up to 10 points). An application that proposes to leverage the statewide open-access middle mile network will receive credit, unless not in reasonable proximity to the network.

The Commission reserves the right to reject any application as filed, and determine the terms of a grant award, including the award amount, with the selected applicant prior to offering the grant. If negotiations cannot be concluded successfully with an applicant, as determined solely by the Commission, the Commission may withdraw its award offer.

4. Definitions

“Broadband Map” means the California Interactive Broadband Map (available at <http://www.broadbandmap.ca.gov/>) showing served status and eligibility, maintained by the Commission or successor map showing Federal Funding Account eligibility and/or proposed project areas.

“Eligible Project” is capable of offering wireline broadband service at or above 100/100 Mbps, or 100/20 Mbps if symmetrical service is not practicable.

“Location” means an individual, serviceable location that is identified by street address (if one exists) and latitude/longitude coordinates, as well as potential subscriber type.

“Low-income customers” are households with incomes that would qualify for

CARE pursuant to Pub. Util. Code §739.1(a) and D.16-11-022 at 18 (or as updated in a successor decision). As noted above, for a household of four the income threshold is \$52,400 through May 31, 2021. The threshold is updated regularly in the CARE proceeding, A.19-11-003, et. al.

“Low cost broadband plans” are subscriptions costing no more than a benchmark price, currently \$40 per month, and consistent with affordability requirements in the Decision. This definition may be updated from time to time consistent with inflation, analysis and findings from the Commission Affordability proceeding, and related federal and state activities. The benchmark price and requirement can be modified by a waiver process to account, for example, for inflation.

“Low-income broadband plans” are income-qualified broadband plans offered to low-income customers.

An “unserved” area means an area for which no wireline broadband provider reliably offers broadband service at speeds of at least 25 Mbps downstream and 3 Mbps upstream to the entire community.⁸

5. Eligible Entities

The following entities are eligible for a FFA grant:

- Entities with a Certificate of Public Convenience and Necessity (CPCN) that qualify as a “telephone corporation” as defined under Public Utilities (Pub. Util.) Code section 234; or
- Non-telephone corporations that are facilities-based broadband service providers; or
- Local governmental agencies; or
- Electric utilities; or
- Non- profits
- Co-operatives
- California Tribes⁹

6. Middle Mile Funding

Consistent with the Final Rule, recipients may use payments from the Funds for middle-mile infrastructure, but recipients are encouraged to focus on projects that

⁸ To determine if an area is unserved, the Commission will rely on data from a variety of services, including broadband deployment data, subscriber data, crowdsourced data, service quality data, and qualitative data.

⁹ Eligible California Tribal entities include California tribal governments, their wholly-owned tribal corporations, and tribal non-profits.

will achieve last-mile connections – whether by focusing on funding last-mile projects or by ensuring that funded middle-mile projects have potential or partnered last-mile networks that could or would leverage the middle-mile network.¹⁰

For projects that include funding for middle-mile infrastructure, Staff will evaluate and verify that the proposed middle-mile infrastructure is needed to achieve the last-mile connections. Additionally, the Commission will evaluate whether the proposed middle mile infrastructure can be provided by the statewide middle-mile network.

Staff will verify if existing middle-mile infrastructure in a proposed project area has sufficient capacity, is reasonably affordable, and is open-access prior to granting or making a recommendation to the Commission to grant a proposed project. Staff will post guidance regarding specifications for middle-mile funded through FFA on its website.

6.1. Open Access

Open access requires that FFA funded middle-mile infrastructure be made available to provide nondiscriminatory interconnection, internet access, and the provision of dark fiber, at reasonable and equal terms to any communications service provider that wishes to interconnect with that infrastructure, wherever technically feasible.¹¹ For projects awarded FFA funding to deploy middle-mile infrastructure, the middle-mile segment(s) shall be deemed open access for the duration of the lifetime of that infrastructure.

6.2. Interconnection

FFA grant recipients must provide open access at any technically feasible interconnection point in the network. Providers must make a good-faith effort to find a technically feasible solution where possible.

Interconnection includes, at a minimum, the physical interconnection of the FFA recipient's facilities to a requesting party's facilities for the exchange of traffic. Service offerings may include, but not be limited to, lease of dark fiber, local transmission services, transport, and dedicated Internet access services.

Examples of feasible location types include, at least:

- any previously defined interconnection points;

¹⁰ 87 FR 4420.

¹¹ See, e.g., BroadbandUSA, Fact Sheet: Broadband Technology Opportunities Program, Nondiscrimination and Interconnection Obligations (Nov. 10, 2010), *available at* https://www2.ntia.doc.gov/files/Interconnection_Nondiscrimination_11_10_10_FINAL.pdf.

- new and existing network exchange locations;
- splice points; and
- where wireline infrastructure has been damaged and repairs have been made or are planned to be within 500 meters of an unserved community.

Consistent with the requirement to negotiate in good faith, the FFA grant recipient must provide information detailing the FFA-funded infrastructure to parties requesting interconnection such as route maps, interconnection points, splice points, and type of fiber.

FFA grant recipients must make all reasonable efforts to allow requesting parties to interconnect and procure transport service or wholesale a direct connection. In addition, FFA grant recipients must provide requesting parties with an ability to connect to the Internet irrespective of whether the FFA grant recipient connects to the Internet directly or indirectly.

6.3. Interconnection with Statewide Open-Access Middle Mile Network

Projects will interconnect with the statewide open-access middle mile network, where reasonable and feasible.

6.4. Interconnection and Pricing

Pricing, and terms and conditions for other providers to interconnect with FFA-funded middle mile shall be just, reasonable, and nondiscriminatory.

Grant recipients must offer tiered pricing and a range of options to fit different business models. The service levels must be at least equivalent for similarly situated entities such as Wholesale (ISP) / Government / Public Anchor Institution / etc. Pricing, tariffs, and the framework identifying standard terms and conditions must be provided to the Commission's Communications Division as part of the FFA application for middle-mile funding and may be updated by the grantee from time to time. Terms and conditions should address essential elements of network operations such as cybersecurity, circuit provisioning, network outages, future capital investment costs, and operations and maintenance costs.

Grant recipients shall negotiate in good faith with all requesting parties (i.e., public, private, non-profit, or other parties) making a bona fide request for interconnection or wholesale services.¹² Reasonable prices, terms, and conditions for last-mile provider access to middle-mile infrastructure may vary depending on local circumstances such as physical and network conditions, or the types of

¹² See FCC 04-164 Report and Order, Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers (FCC Docket No.: CC 01-338). <https://docs.fcc.gov/public/attachments/FCC-04-164A1.doc>

services and service levels requested by the last-mile provider.

6.5. Open Access Decision Enforcement

In the event that the FFA grant recipient fails to comply with the open access requirement for middle mile funded by the FFA in accordance with the terms of approval granted by the Commission, or in the event that the FFA grant recipient does not negotiate in good faith with a requesting party, the requesting party may file a complaint with the Commission.

6.6. Open Access Reporting

For the life of the middle-mile infrastructure, the FFA grant recipient must provide, in its confidential annual report to the Commission, a detailing of the number of interconnection requests and executed service agreements. The report must include: date of request, requesting party, location of requested interconnection, service requested, outcome of request, pricing, tariffs (if applicable), and terms and conditions.

7. Performance Criteria

At a minimum, all FFA projects must meet the performance criteria outlined below:

- a. **Project Completion:** All CEQA-exempt projects must be completed within 18 months, and all other projects shall be completed within 24 months after receiving authorization to construct.
- b. **Pricing:** All applicants shall commit to serve customers in the project area at prices not exceeding those provided in the application for 10 years after project completion. Should the need arise for grant recipients to adjust prices due to externalities outside their control (e.g. inflation), grant recipients may file and serve, on the R.20-09-001 proceeding service list, a request to modify this requirement with the Communications Division.
- c. **Speeds:** All households in the proposed project areas must be offered a broadband Internet service plan with speeds of at least 100 Mbps download and 100 Mbps upload, or speeds of at least 100 Mbps download and 20 Mbps upload if applicable.
- d. **Latency:** All projects shall provide service at no higher than 100 ms of latency.
- e. **Data Caps:** Data caps are strongly disfavored and may be an indication that the proposed infrastructure is insufficient. If including a data cap, an applicant must include a justification about how the cap does not limit reliability of the connection to the users. In any event, data caps shall provide a minimum of 1000 GBs per month.

- f. **Affordability:** All projects shall provide a low-cost broadband plan, as defined in the Definitions section and consistent with the Decision adopting these program guidelines. All projects shall participate in the Affordable Connectivity Program (ACP) or otherwise provide access to a broad-based affordability program to low-income customers in the proposed service area of the broadband infrastructure that provides benefits to households commensurate with those provided under the ACP. Should the ACP program end, the Commission will identify a successor low-income subsidy program participants must participate in.

8. Reimbursable Expenses

The costs the Commission may reimburse are as follows:

- a. Costs directly related to the deployment of infrastructure;
- b. Costs to lease access to property or for Internet backhaul services for a period not to exceed five years; and
- c. Costs incurred by an existing facility-based broadband provider to upgrade its existing facilities to provide for interconnection.
- d. Costs incurred during the period beginning March 3, 2021 and ending December 31, 2024.¹³

Additionally, administrative expenses directly related to the project shall be capped at 2 percent of the grant amount and a maximum of 15 percent contingency on direct infrastructure costs.¹⁴

9. Information Required from Applicants

A single application must be submitted by each applicant for eligible project areas.

Non-contiguous project areas may be considered as a single project.

Applicants proposing projects with middle-mile infrastructure must show that it is indispensable for accessing the last-mile infrastructure and must commit to open access requirements. All applications must include the items listed below:

9.1. Application Item 1 – Project Summary (Distributed Publicly)

The applicant must submit a Project Summary, which Communications Division Staff will post on the website. The applicant also must submit the Project Summary to the CASF Distribution [List](#). The summary must include the following information:

- Company/Applicant's name.

¹³ 31 C.F.R. 35.5(a), FAQ Question 4.7.

¹⁴ 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 a Commission exemption included in a draft resolution.

- CPCN/U-Number or pending CPCN application number, if applicable.¹⁵
- Contact person.
- Project title.
- Named project location (Community/County).
- Project type (Last-mile or Hybrid Last-mile/Middle-mile).
- Amount of FFA grant funding requested and project cost.
- Map of the proposed project area.
- The number of unserved households or locations the project will serve.
- The maximum Mbps downstream and upstream speed currently offered to households.
- Median Household Income of the project area.
- The number of businesses, anchor institutions and public safety locations in the project area that will receive new or improved service.
- A description of the major infrastructure to be deployed: miles of planned fiber, Central Offices used, number of remote terminals/fiber huts to be built, and if an Indefeasible Right of Use (IRU) is used.
- Estimated breakdown of aerial and underground installation.
- Major equipment expenses (e.g., nodes, hubs, switches, etc.). Estimated project plan with major milestones and construction timeline.
- Description of proposed broadband project plan for which FFA funding is being requested, including the type of technology to be provided in the proposed service areas:
 - Download speed capabilities of proposed facilities.
 - Upload speed capabilities of proposed facilities.
 - The project description will provide enough construction detail to enable a preliminary indication of the need for a California Environmental Quality Act (CEQA) review and if proposed project areas contain any environmentally sensitive areas. For example, when trenching is required, the applicant will state and describe the manner in which the site is to be restored, post-trenching.
 - Identification of the leveraging of existing available facilities.

¹⁵ A CPCN is not a requirement to apply for or be awarded an FFA grant. CPCN information is available at www.cpuc.ca.gov/General.aspx?id=1019.

- A statement of whether the applicant is revising the area for which it is requesting funding.
- A statement of whether the applicant is seeking Ministerial Review and, if so, information that the application meets all requirements for Ministerial Review.
- An explanation of why any Middle Mile facilities in the proposed project are necessary for accessing the proposed last-mile infrastructure.
- A statement accepting the open access requirements for any Middle Mile facilities in the proposed project.

9.2. Application Item 2 – Applicant Entity Information

The applicant must provide at least the following information, as necessary:

- Certificate of Good Standing issued by the Secretary of State;
- Organizational Chart, Company History, and Statement of Readiness to Build, Manage, and Operate Broadband;
- Key Contact Information (Name, Title, Address, Email Address, and Phone number);
- Key Company Officers.

9.3. Application Item 3 – Description of the Applicant’s Current Broadband Infrastructure and Existing Infrastructure in the Area

The applicant must provide:

- A description of the provider’s current broadband infrastructure and service within five miles of the proposed project;
- A description of other providers’ infrastructure within the project area which can be leased, purchased or accessed via interconnection.

9.4. Application Item 4 – Project Location Data

The applicant must provide the following:

- Any proposed revisions to the priority area. For example, if the applicant wants to revise the priority area’s geographic location, the applicant must specify those changes. See section 9.6 below for further information.
- The geographic location of all households and housing units. This information will be provided in a plain-text, comma-separated values (CSV format) file, or kmz/kml file or shapefile, that contains geo-located street address information, including latitude and longitude coordinates.¹⁶

¹⁶ There are a several possibilities for acquiring geolocated street address level data. This document from USAC

Additional information about how to format this item is available on the FFA website.

- The geographic location of the project related key network equipment, such as router facilities, remote terminals, network interconnection, etc. Additional information about how to format this item is available on the CASF webpage.
- The specific geographic boundary of the project area within which all project locations will fall (shapefile or .kml).

9.5. Application Item 5 - Median Income

The applicant must report the median household income for each Census Block Group (CBG) that intersects the project area. The California Broadband Map (<http://www.broadbandmap.ca.gov/>) includes census derived population and income data and information regarding existing service providers and their reported service speeds. Using the census block group layer data return, the median income and CBG code can be obtained. For reference, CBG codes are formatted as follows:

- CBG(s) must be based on the latest decennial census. CBG(s) must be in a twelve-digit format, as follows:¹⁷

<u>State</u>	<u>County</u>	<u>Tract</u>	<u>Block Group</u>
2 digits	3 digits	6 digits	1 digit

9.6. Application Item 6 - Project Eligibility

The applicant must rely on the project areas published by the Communications Division to identify project eligibility, as discussed in Section 2 of these Program Rules. The applicant must:

- Provide evidence, such as the following, if revising the priority areas:
 - The applicant may provide CalSPEED tests to show actual speeds or denials of service or other public feedback as evidence on unserved status. The Commission's public feedback tools are available on the Communications Division website:
<https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone/broadband-mapping-program/broadband-public-feedback>.
 - The applicant may provide other crowdsourced speed test data from other platforms, such as Ookla, provided a speed test for each location also include the plan subscribed to at that location.
 - The applicant may present data contesting the reliability of service

provides an overview of geolocation methods: <https://www.usac.org/wp-content/uploads/high-cost/documents/Tools/HUBBGeolocationMethods.pdf>.

¹⁷ For example, a census block in the town of Fort Bidwell in Modoc County is 060490040001.

provided by existing providers (e.g., service quality information).

- The applicant may provide qualitative information (e.g., interviews and testimonial from the impacted community).
- Other available data, including but not limited to documentation of existing service performance, federal and/or state-collected broadband data, user speed test results, interviews with residents and business owners, data that addresses a variety of factors, including whether users actually receive service at or above the speed thresholds at all hours of the day, whether factors other than speed such as latency or jitter, or deterioration of the existing connections make the user experience unreliable, and whether the existing service is being delivered by legacy technologies, such as copper telephone lines (typically using Digital Subscriber Line technology) or early versions of cable system technology (DOCSIS 2.0 or earlier).

If served households or locations are included in a project, the application must include the rationale for why providing service to these households or locations is essential to the project.

9.7. Application Item 7 - Deployment Schedule

The applicant must provide a complete and reasonable project plan which demonstrates that project funds will be expended by the required deadline. The project plan includes at least:

- A schedule for obtaining necessary permits prior to construction. The schedule must include the timeline required for the California Environmental Quality Act (CEQA) review, as applicable.
- A schedule for project construction following receipt of permits, to complete the project within 24 months, or within 18 months if the project is categorically exempt from CEQA. The schedule needs to identify and describe construction milestones and include start and end dates for each milestone.
- If the applicant is unable to construct and complete the proposed project within the approved timeline, it must notify Staff as soon as it becomes aware and explain reasons for the delay and when the project will be completed.

9.8. Application Item 8 - Proposed Project Expenditures

The applicant must provide:

- Identification of expense categories; direct and or indirect expenses;
- Identification of direct expenses; equipment/materials, labor/construction wages

and permitting/CEQA review;

- Identification of individual cost elements and their cost amount with associated costs for last-mile and middle-mile infrastructure separated. The applicant must identify all the equipment to be funded by the FFA by category, (buildings, poles, network and access equipment, operating equipment, customer premise equipment, materials), and the type of equipment (new building, prefabricated building, rehab of existing building, poles, modification of poles, broadband switching equipment, cable, etc.);
- Identification of allocated indirect costs; General and Administrative expenses, such as repair & maintenance expenses for equipment and facilities, utilities, rent of equipment and facilities, administrative costs, indirect materials and supplies, insurance on equipment & machinery, indirect labor and contract supervisory wages, production period interest expense;
- Administrative expenses, including executive salaries, are limited to 2 percent of the total grant amount. 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.

9.9. Application Item 9 – Economic Life of All Assets to be Funded

The applicant must identify all the equipment to be funded by category (buildings, outside plant, poles, network and access equipment, operating equipment, customer premise equipment), the type of equipment (new building, prefabricated building, rehab of existing building, new poles, modification of existing poles, broadband switching equipment, office furniture and fixture, etc.), and the estimated useful life (10, 15, 20, etc. years).

9.10. Application Item 10 – Letter of Credit Requirement

An eligible applicant that is not a local government, Tribal government, or does not hold a CPCN issued by the Commission is required to submit a Letter of Credit. The Letter of Credit must be irrevocable and will permit the Commission to immediately reclaim any funds provided in the event of non-compliance with the Commission's rules or requirements. The applicant must provide a letter of credit covering the full FFA grant amount issued to the applicant. The letter of credit must be valid throughout its entire 24-month project construction period.

Local and Tribal governments are exempt from the requirement to obtain a letter of credit,

provided they can demonstrate administrative capability and expertise in financial administration; demonstrate relationships with financial advisors; in-house or contracted expertise in evaluating broadband infrastructure project feasibility; and demonstrate relationships with, and support from, experienced public or nonprofit broadband system operators. These types of applications must be approved by Commission resolution.

9.11. Application Item 11 – Pricing Commitment

An applicant must submit the monthly service subscription rates that it will offer to all consumers, which will be capped for 10 years. To encourage adoption, installation charges must be waived during the commitment period. The applicant shall identify in its application:

- Monthly service level subscription rates that cannot be raised for 10 years.
- Waived installation/service connection charges.
- Specify any commitments and/or requirements that the customer must accept in order to receive equipment, such as return of equipment.
- Any broadband plan(s) for low-income customers detailing prices, data caps and speeds to be offered.
- Applicants must participate in the Federal Communications Commission's Affordable Connectivity Program or offer an equivalent service plan for the life of the Affordable Connectivity Program. Should the ACP program end, the Commission will identify a successor low-income subsidy program participants must participate in.
- Applicants must provide a low-cost broadband plan for all customers for the life of the infrastructure. The low-cost plan must meet the following minimum standards:
 - Must not include data usage caps;
 - Must offer speeds that are sufficient for a household with multiple users to simultaneously telework and engage in remote learning, which is defined as 50/50 Mbps;¹⁸
 - Must be no more than \$40 per month;
 - The grantee must not charge for installation or setup;
 - The grantee must provide a free modem or router; and
 - The service does not require a minimum term.

Grant recipients also may submit a request to the Communications Division to waive or modify these requirements in the future, should the need to adjust these requirements arise. In addition, the Commission will update these

¹⁸ Applicants that demonstrate 100/100 Mbps speeds are not feasible may offer a low-cost broadband plan at 50/20 Mbps speeds.

requirements as needed.

Applicants requesting funding for middle-mile infrastructure must submit open access offerings including tiered pricing structures and the standard terms and conditions that will be available to entities requesting interconnection.

9.12. Application Item 12 – Marketing/Outreach Plan

The applicant must provide a plan that encourages subscription of the service in the project location. The submission shall explain the marketing and outreach plans the applicant will employ to attract residents to sign up for service during the pricing commitment period.

9.13. Application Item 13 – Government and Community Support

The applicant may submit endorsements or letters of support from state and local government, community groups, and anchor institutions supporting the deployment of the broadband infrastructure.

9.14. Application Item 14 – Funding Sources

The applicant must identify each applicable project funding source, such as: loans, bond offerings, financial contributions from the service provider, public or private broadband adoption or deployment program funds, and/or federal and state grants or loans.

Applicants proposing to combine FFA funds with funds from a separate broadband grant program must explain how FFA funds would address an identified need for additional broadband investment that is not met by existing federal or state funding commitments. Applicants must also itemize project costs, detail how funds will not be used for costs that will be reimbursed by the other federal or state funding streams and explain the public benefit that additional funds will provide.

9.15. Application Item 15 – Financial Qualifications

The following must be submitted by applicant regarding the company:

- CPA Audited/ Attested Financial Statements for the last three years:
 - Balance Sheet
 - Income Statement
 - Statement of Cash Flows
- Pro Forma Financial Forecast for a five-year period, including a list of assumptions supporting the forecast. Projections must include:
 - Balance Sheet

- Income Statement
- Statement of Cash Flows
- Five-year annual EBIT (Earnings Before Income and Tax) projection for the company.

CPA Audited or Attested Financial Statements will be accepted from parent companies in lieu of financial statements from subsidiaries that have no audited or attested financial statements. If applicant has been in existence for less than three years, financial statements for as long as applicant has been in existence, e.g. one or two years, will be considered. For newly formed organizations, financial statements from the parent or sponsoring organization should be submitted, including the relationship between those organizations.

9.16. Application Item 16 – Project Viability

The applicant must provide a five-year projected project business plan showing project grant funding, profitability, revenues, and expenses. That plan must include an annual EBIT for the project. The project viability forecast must include projected revenue from customers, showing changes in subscriptions and service rates and charges through the pricing commitment period and the period thereafter, years three through five, as applicable.

9.17. Application Item 17 – Providing Voice Service

The applicant must provide information about the following:

- Availability of voice service that meets California and FCC requirements for 9-1-1 service.
- Deployment plans for applicable Federal and state requirements for battery back-up;

9.18. Application Item 18 – CEQA Attestation

The applicant must provide information about their project demonstrating how CEQA compliance is to be obtained. The applicant shall attest that they have contacted the Commission’s Energy Division CEQA section in advance of the filing and have consulted with CEQA Staff regarding the process of developing and filing a Proponent’s Environmental Assessment (PEA) or other CEQA documents and are aware of their responsibilities if their proposed project is not exempt from CEQA. Information on PEA and CEQA requirements is available on the Commission’s website at: www.cpuc.ca.gov/ceqa.

9.19. Application Item 20 – Affidavit

Applicants must submit an affidavit, under penalty of perjury, that to the best of

their knowledge all the statements and representations made in the application information submitted is true and correct.

10. Submission and Timelines

Staff will announce application submission information and other deadlines.

Applications should be due every six months and staff will target to review them in no more than 6 months. An organization will have 14 days, inclusive of weekends and holidays to object to an application. Application Summaries and Maps will be posted to the CPUC website and notification sent to the CASF Distribution List. In the event any date falls on a weekend or holiday, the deadline is the next business day.

11. Posting of Applications

The Commission will post a list of all pending applications, deadlines, and notices on the CPUC website

12. Objections

The Commission will provide a period during which interested persons may review the grant applications that have been submitted and file written comments objecting to an application under review. The Commission will consider these comments in reviewing the application. Any party that objects to a proposed area as already served must provide definitive evidence that the area is in fact already served.

An objection must identify and discuss an error of fact, or policy or statutory requirement that the application has contravened. Comments must be submitted no later than 14 calendar days, or a different date set by Staff, from when the entity serves notice of the application on the CASF Distribution List. Comments filed after the deadline will be deemed denied. Comments must be filed with the Commission and served on the CASF Distribution List.

The Final Rule states, “recipients must ensure that SLFRF funds are designed to address an identified need for additional broadband investment that is not met by existing federal or state funding commitments.” An objection asserting an existing agreement exists to build a wireline service to address the need should provide evidence of the existing agreement, and plans indicating the construction route, beginning and ending construction dates, service area boundaries, and other pertinent construction details. Consistent with the Final Rule, a project is not disqualified by proposing to provide service to served households or locations. An objection asserting existing wireline communications infrastructure meets or exceeds the 25/3 Mbps unserved definition may still be provided. These objections must include the following to be

considered:

- An attestation that all information provided is true and accurate in accordance with the Rule 1 of the Commission's Rules of Practice and Procedure.
- An attestation that the households or locations identified are offered service and have the capability to reliably receive minimum speeds of 25 Mbps download and 3 Mbps upload.
- An attestation as to whether or not the households or locations identified are offered service and have the capability to reliably receive speeds of at least 100 Mbps download and 100 Mbps upload or, or at least 100 Mbps download and 20 Mbps upload and information on why provision of 100 Mbps upload is not practicable.
- The geographic location of all households or locations it serves in the area(s) for which the objection is filed. This information must be provided in a plain- text, comma- separated values (CSV) file, that contains geo-located street address information, including latitude and longitude coordinates.
- The number of subscribers and the level of service subscribed to in the area being disputed, including billing statement information to verify subscribership. This information shall be submitted unredacted to the Commission under seal; and
- At least two of the following: (1) permits, (2) easements, or (3) pole attachment applications submit and approved when infrastructure was built, and (4) pictures of provider infrastructure in the area (i.e., wires, huts, vaults, etc.). For example, street-view pictures of poles on which the attached communications infrastructure can be identified.

Comments that do not meet these requirements will be deemed denied.

An applicant may respond to any objection filed by an interested party within 14 days. A response to an objection must provide a public notice on the CASF Distribution List.

Communications Division Staff will review this information, along with the applicant's documentation, as it develops its recommendations to the Commission for the disposition of each application.

13. Ministerial Review

The Commission delegates to Communications Division Staff the authority to approve applications, including determinations of funding, that meet all of the

following criteria:

1. Applicant meets the program eligibility requirements.
2. The application has not received a valid objection or objections, or Staff has determined that the project area is not unserved.
3. The total grant does not exceed \$25,000,000.
4. The project must be California Environmental Quality Act (CEQA)-exempt, or approval letter must state that authorization to construct and release funds will be provided in a forthcoming resolution.
5. There must be no competing applications for the same project area in the same application period.
6. Costs per household are low, proposed project costs \$9,300 per household or less.
7. Does not propose to leverage funding from other state or federal programs or propose a project area that overlaps with areas with existing commitments to provide broadband service that is reliable and offer speeds of 100/20 Mbps.
8. Does not propose a project areas that include areas that have been identified by the Communications Division as having an existing provider that offers 25/3 Mbps wireline service.
9. Does not request a waiver of any program requirements.

Applications not meeting these criteria may only be approved by the Commission via resolution.

Ministerial Process	Resolution Process
Maximum Cost per location of \$9,300	Does not meet all criteria under Ministerial Process
Maximum Grant Amount: \$25,000,000	
Must be CEQA-exempt, or approval letter must state that authorization to construct and release funds will be provided in a forthcoming resolution.	

Ministerial review shall not provide an applicant with an advantage over other applicants,

and Communications Division shall ensure that all applications are reviewed holistically (e.g., applications within a county).

14. Reporting Requirements

Staff will provide guidance and a template for reporting which is consistent with the Treasury Final Rule.¹⁹ Grantees are required to file progress reports on at least a quarterly basis. These reports will be publicly posted by the Commission. Progress reports shall contain the following:

- Description of project accomplishments during this period.
- Identification of project milestones and the percent complete to date. If the percent completed is different from the estimated target milestones from the FFA application, it is necessary to provide a narrative description explaining what occurred.
- Major construction milestones (including a reporting on all CEQA mitigation implementation and monitoring activities, if CEQA review was required), date of completion of each task/milestone as well as problems/issues encountered, and actions taken to resolve these issues/problems during construction (including CEQA compliance, if applicable).
- Description of any challenges or issues and any risks faced during this past quarter in achieving planned progress on the project, including environmental compliance and permitting challenges if applicable.
- Description of significant project milestones or accomplishments planned for the following reporting period
- Subscribership information to date.
- Certification that each progress report is true and correct, under penalty of perjury.

Grantees also must submit completion reports prior to receiving the final payment. These reports shall contain the following, for example:

- Comparison of approved versus actual costs of construction.
- Description of the project, including any changes in the project construction and alignment, if applicable.
- Milestones and completion dates for each milestone.

¹⁹ Treasury, Compliance and Reporting Guidance State and Local Fiscal Recovery Funds (November 15, 2021 Version 2.1), available at <https://home.treasury.gov/system/files/136/SLFRF-Compliance-and-Reporting-Guidance.pdf>.

- Number of paying subscribers enrolled in the service provided by the funded construction, number of low-income customers enrolled in ACP, number of customers enrolled in any low-income plans, and the number of low-cost broadband plan customers enrolled.
- Final date of completion of the project, problems/issues encountered since last semi-annual report and actions taken to resolve these issues/problems during construction (and comprehensive reporting on CEQA mitigation compliance, if applicable).
- Speed test data at the address level for the project area, including:
 - Test results for download and upload speeds;
 - A representative sample of speed test results at dispersed locations in the project area, including locations at the edge of the project area; number of tests will vary based on project;
 - Maps and associated data of speed test locations and results in a .kmz/ .kml file, shapefile, or .csv spreadsheet.
 - A screenshot of results of CalSPEED speed tests, which can be accessed at <http://www.calspeed.org/index.html>.²⁰
 - An attestation that all locations within the project area are offered service at minimum speeds of 100 Mbps download and 100 Mbps upload or higher or 100 Mbps download and 20 Mbps if applicable.
- Maps and associated data of all locations served
 - The geographic coordinates of all locations that are served. This information will be provided in a plain-text, comma-separated values (.csv) file, or .kmz/ .kml file or shapefile that contains geo-located street address information, including latitude and longitude, as well as census block code (GEOID);
 - Projected subscribers versus actual subscribers (by subscriber type), as of the date of the completion report;
 - The actual number of current subscribers by subscriber type and subscriber speed;
 - The potential number of subscribers of each type that could be served using the FFA project's existing facilities at the same minimum defined speed;
 - Both the number of low-income customers in the project area and the number of low-income customers subscribing to low-income

²⁰ The technically available speed at the location shall be tested, not a customer's subscribed speed.

plans;

- Identification of the number of served locations in the project area that have broadband availability at or above the aforementioned minimum speeds.
- Documentation of advertisements, billing inserts and marketing information, by speed tier and prices.
- Open access interconnections (if applicable).
 - The number of interconnection requests and executed service agreements.

Further, grant recipients are required to report speed, pricing, and any data allowance information, consistent with the Final Rule. Recipients must report annually to the Communications Division the speed, pricing, subscription data (including number of customers enrolled in ACP, low-cost, and low-income broadband plans), and any data allowance information on all offered plans. The report must also include a weblink with information on the recipient's income-qualified and affordable plans. The associated webpage should provide all plan information, ways to subscribe, and any necessary forms.

15. Payment

Staff will provide instructions and a template for payments that is consistent with the Treasury's Final Rule and the Decision adopting these Program Guidelines.

Requests for payments may be submitted as the project is progressively deployed. The prerequisite for first payment is the submittal of a progress report to the Commission showing that at least 10 percent of the project has been completed. Subsequent payments are made at the following deadlines: 35 percent completion, 60 percent completion, 85 percent completion and 100 percent completion. The final 15 percent payment request (from 85 to 100 percent) will not be paid without an approved completion report. Payments are based on submitted receipts, invoices and other supporting documentation showing expenditures incurred for the project in accordance with the approved FFA funding budget included in the FFA grantee's application.

In the event that the recipient fails to notify the Communications Division of any delays in the project completion and the project fails to meet the approved completion date, the Commission may impose penalties to be adopted in a Commission resolution. This may include rescinding the grant. Invoices submitted will be subject to a financial audit by the Commission at any time within 3 years of completion of project. If portions of reimbursements are found

to be out of compliance, Grantees will be responsible for refunding any disallowed amounts along with appropriate interest at rates determined in accordance with applicable Commission decisions.

All funds must be obligated within the statutory period between March 3, 2021 and December 31, 2024, and expended to cover such obligations by December 31, 2026.²¹

Projects that are not progressing must be quickly dissolved to free up funds and eligible areas for alternate applicants. As such, projects must demonstrate progress toward meeting grant objectives on the 182- or 24-month timeline, as applicable. On an annual basis, Communications Division Staff will place a resolution before the Commission with recommendations from Staff as to whether the applications that have not demonstrated substantial progress should be modified, revised, or rescinded.

16. CEQA Payment

CEQA consultant costs shall be paid directly by the Commission to the contractor. Following award of a grant the Energy Division CEQA Section Staff will obtain a contractor to review the CEQA documents for the project. The FFA will pay directly the project's CEQA PEA preparation costs, but those costs will be identified as costs associated with the grant and will have no effect on the applicable shares of grantee assigned and program supported total project costs.

The applicant may file with the Energy Division's CEQA Section a completed CEQA review conducted by another agency acting as the Lead Agency pursuant to CEQA. Should this occur, grantees may request funds to pay for preparation of a PEA.

17. Execution and Performance

Staff and the grant recipient shall determine a project start date after the grant recipient has obtained all approvals, commonly 30 days after approval of the resolution or ministerial review approval. Grant recipients shall consult with California Tribes consistent with CPUC policy, at the planning stage and throughout the life of the project. Should the recipient or Contractor fail to commence work at the agreed upon time, is not following the project plan in a reasonable manner, the Commission, upon ten days written notice to the FFA recipient, reserves the right to terminate the award.

In the event that the FFA recipient fails to complete the project, in accordance

²¹ See, FAQ Question 6.11.
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with the terms of approval granted by the Commission, the FFA recipient must reimburse some or all of the FFA funds that it has received. The FFA grant recipient must complete all performance under the award on or before the termination date of the award.

Failure of an applicant to comply with the Commission's Order or grant agreement, as amended, or required by the U.S. Treasury Department may result in cancellation of the award. The Commission or the Recipient may terminate a grant award, at any time at its sole discretion by delivering ten (10) days written notice to the applicant/ grant award recipient. In the event that the applicant terminates the grant award, for any reason whatsoever, it will refund to the Commission within 30 days of said termination, all payments made hereunder by the Commission to the applicant for work not completed or not accepted by the Commission. Such termination will require written notice to that effect that is delivered by the applicant to the Commission not less than ten (10) days prior to said termination. Communications Division Staff will notify the applicant of intent to prepare for Commission approval, a draft resolution that would rescind a FFA grant due to nonperformance.

Grant recipients shall provide for compliance with the American Rescue Plan Act and all other applicable federal statutes, regulations, and executive orders.²²

18. Construction Phase

A grantee must notify the Commission within five days of determining that the grantee is planning to sell or transfer its assets. The grantee shall notify the Director of the Commission's Communications Division in writing of its intent to sell or transfer company assets within five days of becoming aware of these plans. The grantee shall also provide documentation, including an affidavit, stating that the new entity will take full responsibility and ownership to comply with the requirements of the FFA award and required by the U.S. Treasury Department. The new entity shall agree in writing to such. The grantee shall provide the Commission with any necessary documents requested in its review of the transfer. This will include all documents that are generally required of all entities applying for the FFA grants. The grantee shall not transfer FFA funds or the built portion of the project to the new entity prior to Commission approval via a resolution/order. If the Commission does not provide approval, it will rescind the grant.

²² See, Department of the Treasury, Final Rule, Coronavirus State and Local Fiscal Recovery Funds, 31 C.F.R. Part 35, 87 FR 4338-4454 (January 27, 2022) (Final Rule), available at: <https://www.federalregister.gov/documents/2022/01/27/2022-00292/coronavirus-state-and-local-fiscal-recovery-funds>.

Pursuant to P.U. Code 281(l), grantees must report monthly to the commission all of the following information throughout the construction phase:

- (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.

The Commission will, on a monthly basis, post the information reported pursuant to this subdivision on the commission's FFA internet website.

19. Post-Construction Phase

For three years after project completion, a grantee must notify the Commission within five days of determining that the grantee is planning to sell or transfer its assets. The grantee shall notify the Director of the Commission's Communications Division in writing of their intent to sell or transfer company assets within five days of becoming aware of these plans. The grantee shall also provide documentation, including an affidavit, stating that the new entity will take full responsibility and ownership to comply with the requirements of the FFA grant and requirements of the U.S. Treasury Department. The new entity shall agree in writing to such.

Additionally, grant recipients must file a Tier 2 Advice Letter with the following information:

- Purchase price;
- Copy of the agreement;
- Binding agreement from the purchaser or lessee to fulfill the terms and conditions relating to the project after such sale or lease; and,
- An explanation as to how the transaction would be in the best interests of those served by the project.

20. Audit Compliance Changes

All applicants are required to sign a consent form agreeing to the terms and conditions of the Federal Funding Account. These will be stated either in the Resolution approving the project, or in a letter sent by Staff to the successful applicant. The agreement will provide the name of the applicant, names of officers and members, and must be signed by the applicant. All recipients of federally funded grants exceeding \$750,000 will need to include a budget for a

federal audit.²³

21. Penalties

Non-telephone corporation grantees must agree to the following language in the affidavit found in Attachment A to this document.

²³ Treasury, Compliance and Reporting Guidance State and Local Fiscal Recovery Funds (November 15, 2021 Version 2.1), available at <https://home.treasury.gov/system/files/136/SLFRF-Compliance-and-Reporting-Guidance.pdf>.
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ATTACHMENT A
Guidance to Staff on Information to Require for Telephone Corporations
NOTARIZED AFFIDAVIT

Name of Carrier/Company _____
Utility Identification Number _____ or _____ check here if Application for
CPCN is pending and the CPUC assigned application no., if available.
My name is _____. I am _____ (Title) of
_____ (Company). My personal knowledge of the facts stated
herein has been derived from my employment with _____
(Company)

I swear or affirm that I have personal knowledge of the facts stated in this Application
for the California Advanced Services Fund, I am competent to testify to them, and I
have the authority to make this Application on behalf of and to bind the Company.

I further swear or affirm that _____ [Name of Carrier/Company]
agrees to comply with all federal and state statutes, rules, and regulations, covering
broadband services and state contractual rules and regulations, if granted funding from
the California Advanced Services Fund.

I swear and affirm that I agree to comply with Rules 1.11 and 2.2 of the California Public
Utilities Commission's rules of practice and Procedure.

I swear or affirm, under penalty of perjury, and under Rule 1.1 of the California Public
Utilities Commission's Rules of Practice and Procedure, that, to the best of my
knowledge, all of the statements and representations made in this Application are true
and correct.

Signature and title

Type or print name and title

SUBSCRIBED AND SWORN to before me on the _____ day of _____, 20_____.

Notary Public In and For the State of _____

My Commission expires: _____

Guidance to Staff on Information to Require
on-Telephone Corporations
NOTARIZED AFFIDAVIT

Name of Carrier/Company _____
Utility Identification Number _____ or _____ check here if Application for
CPCN is pending and the CPUC assigned application no., if available.
My name is _____. I am _____ (Title) of
_____ (Company). My personal knowledge of the facts stated
herein has been derived from my employment with _____
(Company)

I swear or affirm that I have personal knowledge of the facts stated in this Application
for the California Advanced Services Fund, I am competent to testify to them, and I
have the authority to make this Application on behalf of and to bind the Company.

I further swear or affirm that _____ [Name of Carrier/Company]
agrees to comply with all federal and state statutes, rules, and regulations, covering
broadband services and state contractual rules and regulations, if granted funding from
the California Advanced Services Fund.

I swear and affirm that I agree to comply with Rules 1.11 and 2.2 of the California Public
Utilities Commission's rules of practice and Procedure.

I swear or affirm, under penalty of perjury, and under Rule 1.1 of the California Public
Utilities Commission's Rules of Practice and Procedure, that, to the best of my
knowledge, all of the statements and representations made in this Application are true
and correct.

If [Grantee Name] violates the terms and conditions of a program 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.

Signature and title

Type or print name and title

SUBSCRIBED AND SWORN to before me on the _____ day of _____, 20____.

Notary Public In and For the State of _____

My Commission expires: _____

(END OF APPENDIX A)