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**FLORIDA DEPARTMENT *of*  
ECONOMIC OPPORTUNITY**

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Capital Projects Fund  
Broadband Infrastructure Program Guidelines

February 2023

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# 1. Program Overview

The Florida Department of Economic Opportunity's ("DEO") mission is to advance and enable a connected economy in Florida by championing the state's economic development vision and by administering state and federal programs and initiatives. These programs include broadband development to help visitors, citizens, businesses, and communities stay connected and leverage digital technologies. DEO's Office of Broadband ("Office") actively provides guidance and works with entities throughout the state to increase the availability and effectiveness of broadband internet by utilizing mapping initiatives to achieve the goals set forth in The Florida Strategic Plan for Broadband ("Florida Strategic Plan").

Established by the U.S. Department of the Treasury ("Treasury") as part of the American Rescue Plan Act of 2021 ("ARPA") which provides funds to eligible states to carry out critical capital projects that directly enable work, education, and health monitoring, including remote options, in response to the public health emergency, the Capital Projects Fund ("CPF") program allows eligible entities to invest in capital assets that meet communities' critical needs in the short and long term. A key emphasis of the CPF is to make funding available for broadband infrastructure, especially in rural America, Tribal communities, and low-and moderate-income communities.

The State of Florida was awarded approximately \$366 million in grant funding for broadband initiatives. Broadband is a critical component in Florida's plan to build a robust and modern broadband infrastructure throughout the state and more specifically in areas where broadband Internet service infrastructure is not yet available. These funds are expected to encourage job creation, capital investment, and the strengthening and diversification of local economies.

Through the Broadband Infrastructure Program ("BIP") subgrant program, the Office aims to provide CPF funds to eligible communities for the purpose of expanding and improving broadband internet infrastructure and ensuring broadband internet minimum speeds of 100/20 megabits per second ("Mbps") scalable to at least 100/100 Mbps.

The availability and use of these funds is governed by the State of Florida and Federal regulations and guidance.

## 2. Purpose

The BIP Program Guidelines provide guidance on the steps and requirements that the Office will take in administering the CPF program funds as well as identifying eligible projects that meet program guidelines and the requirements from Treasury. The administration process is based on the Florida Strategic Plan and the CPF Broadband Infrastructure Program Plan developed by the DEO and approved by Treasury, utilizing information derived from surveys, studies, conversations, webinars, and mapping carried out so far by the Office.

The primary objective of the BIP is to expand last mile access to homes and businesses in communities throughout Florida. The BIP plans to achieve this objective by providing funds to subrecipients for the construction or improvement of broadband infrastructure necessary for participation in work, education, and health monitoring that will last into the future. The BIP will also enable investments in capital assets designed to address access to critical services.

Targeted capital assets for the BIP include but are not limited to network and access equipment (e.g., switching, routing, access, transport, etc.) and outside plant equipment (e.g., cables, fiber optics, conduits, ducts, poles, towers, repeaters, etc.).

## 2.1. Objectives of the Program

Following Treasury’s guidance and in alignment with the Florida Strategic Plan, the BIP will address each of the priorities laid out in CPF program guidance by deploying broadband infrastructure that directly enables work, education, and health monitoring.

A key priority of the CPF program is to make funding available for reliable, affordable, high-speed broadband infrastructure and other digital connectivity technology projects in the state. Additional programs under review by Treasury include the use of program funds for certain other capital projects, such as Multi-purpose Community Facilities and Digital Connectivity Technology, that enable work, education, and healthcare monitoring, including remote opportunities. The program encourages recipients to focus on economically distressed areas with limited internet access, support communities with reliable broadband infrastructure, and adopt strong labor practices.

The objectives of the CPF program are to:

- Directly support recovery from the COVID-19 public health emergency by strengthening and improving the infrastructure necessary for participation in work, education, and health monitoring that will last beyond the pandemic;
- Enable investments in capital assets designed to address inequities in access to critical services; and
- Contribute to the goal of providing every American with the modern infrastructure necessary to access critical services, including a high-quality and affordable high-speed broadband internet connection.

DEO plans to allocate approximately \$247 million of the CPF funding for broadband infrastructure projects, noting that a majority of the program funding will be directed to achieve the highest level of adoption and use related to expanding Florida’s broadband infrastructure.

## 3. Program Schedule

DEO anticipates that eligible entities will be obligated/awarded grant funds by December 31, 2024 and that all broadband infrastructure projects will be completed by December 31, 2026.

DEO currently estimates the following schedule relating to the BIP:

| Date              | Milestone  |
|-------------------|--|
| February 23, 2023 | Program Guidelines, Application, & Scoring Criteria posted to <a href="http://www.FloridaJobs.org/Broadband">www.FloridaJobs.org/Broadband</a> |
| February 28, 2023 | Application Window Opens   |
| March 2, 2023     | BIP Statewide Technical Assistance Webinar   |
| April 14, 2023    | Application Window Closes  |
| May 19, 2023      | Application Scoring Completed  |
| May 26, 2023      | Awards Announced   |
| December 31, 2026 | All Projects Completed   |

## 4. Eligibility

### 4.1. Eligible Applicants

#### 4.1.1. Eligible Entities

BIP is a competitive reimbursement grant program within the DEO created to expand broadband infrastructure in the State of Florida to address connectivity needs of unserved and underserved communities, which will encourage job creation, capital investment, and the strengthening and diversification of local economies. Eligible applicants include local governmental units (e.g., municipalities or counties), Indian Tribes, non-profits organizations, or private entities. Eligible entities may include co-operatives, electric co-operatives and utilities, and other entities that develop and/or operate broadband networks, including networks that are owned, operated by, or affiliated with local governments. Eligible private entities can be in the form of corporations, limited liability companies, general partnerships, or limited partnerships.

#### 4.1.2. Participation in Affordability Connectivity Program

- All BIP applicants must participate in the Federal Communications Commission’s (“FCC”) Affordable Connectivity Program (“ACP”) to qualify for the grant award, and applicants must show evidence of their participation in the program (<https://www.fcc.gov/acp>).
- If a BIP applicant is planning to participate in ACP, but has not yet done so, they must provide evidence of their Eligible Telecommunications Carrier (“ETC”) status and other forms of communication or documents attesting to their intent to participate.
- If a BIP applicant is pursuing ACP participation at the time of a grant award, the applicant must provide an affidavit confirming their status as an ACP participant within six months of signing a grant agreement or their grant award will be revoked, and any funds received by the grantee during that time shall be repaid in full to the DEO.

#### 4.1.3. Public Private Partnerships

Public private partnerships (where a government entity partners with internet service provider(s) to either own, operate, or maintain broadband infrastructure or service in unserved areas where there is no provider) are encouraged to apply for this program.

### 4.2. Eligible Projects

#### 4.2.1. Eligible Projects

Eligible projects under this program are capital projects that directly enable work, education, and health monitoring in response to the COVID-19 public health emergency. For a project to be an eligible use of CPF grant funds, it must meet all of the following criteria:

- The project invests in capital assets designed to directly enable work, education, and health monitoring.
- The project is designed to address a critical need that resulted from or was made apparent or exacerbated by the COVID-19 public health emergency.
- The project is designed to address a critical need of the community to be served by it.

- Rural broadband infrastructure and connectivity projects that include the construction and deployment of broadband Internet infrastructure in rural areas, prioritizing the deployment of broadband Internet infrastructure in areas where broadband Internet service is not currently available from a terrestrial provider.
- General broadband infrastructure and connectivity projects that include the build-out of broadband Internet infrastructure, prioritizing projects serving underserved areas throughout the state.
- Emergency services broadband infrastructure and connectivity projects that focus on emergency services and future resiliency efforts in local communities and include the build-out of broadband Internet infrastructure.

## 4.2.2. Middle Mile Projects

Middle mile projects are eligible projects with the intent to provide backhaul connectivity to eligible broadband service to support the future deployment of last mile services by one or more last mile internet service providers. Middle mile applicants should identify one or more last mile partners that will deploy last mile services to unserved locations should the middle mile project be approved under this program. Applicants should note that middle mile infrastructure is high-bandwidth infrastructure that provides backhaul connectivity to enable eligible broadband service in last mile connectivity. Additionally, applications that include middle mile infrastructure will be evaluated utilizing the same scoring criteria and process as any other application.

## 4.3. Eligible Broadband Service

Projects funded through the BIP grant program must deliver “broadband service” to eligible locations. “Broadband service” means the facilities, infrastructure, or services that directly support the transport of data across a network that enables continuous end-user internet connection at a symmetrical rate of at least 100 Mbps downstream and upstream (often written as 100/100 Mbps).

If it would be impracticable, due to extreme geography, topography, or excessive cost, for a BIP grant project to be designed to deliver the minimum broadband service at 100/100 Mbps, the project must be designed so that it reliably meets or exceeds a download speed of 100 Mbps and an upload speed between 20 Mbps and 100 Mbps, and be scalable to a minimum of 100 Mbps symmetrical for download and upload speeds.

Applicants must submit additional information related to the impracticability of delivering the minimum service speed of 100/100 Mbps if they plan to provide service with an upload speed between 20 Mbps and 100 Mbps.

Note that applications proposing service that does not meet the 100/100 Mbps minimum delivery speed will only be reviewed in partnership with Treasury to ensure the evidence of impracticability meets their standards as the administrator of the CPF program.

## 4.4. Eligible and Ineligible Locations

### 4.4.1. Eligible Locations

Eligible locations are those lacking access to internet service of at least 100 megabits per second downstream and 20 megabits per second upstream, from at least one (1) internet service provider.

Eligible locations proposed for service are not required to be contiguous within a single grant application. However, collections of eligible locations proposed for internet service within a single application should be reasonably adjacent.

## 4.4.2. Ineligible Locations

The following locations are considered ineligible:

- Service addresses that have received funding or that have been selected to receive funding as part of an awarded grant in the Broadband Opportunity Program; and
- Service addresses that have been allocated from the federal Rural Digital Opportunity Fund (“RDOF”), and Connect America Fund (“CAF”).

Note that for proposed project areas that have received RDOF funds and CAF funds, a portion of the project may be eligible to receive CPF BIP grant awards if there is not a material overlap in service addresses and if the proposed infrastructure in CPF application in terms of footprint acts complimentary to the infrastructure in grants awards of RDOF and/or CAF.

## 4.5. Eligible and Ineligible Costs

### 4.5.1. Eligible costs

- Pre-project but post-award, development cost and uses, including data-gathering, feasibility studies, community engagement and public feedback processes, equity assessments and planning, and needs assessments; permitting, planning, architectural design, engineering design, and work related to environmental, historical, and cultural reviews;
- Costs of repair, rehabilitation, construction, improvement, and acquisition of real property, equipment (e.g., devices and office equipment), and facilities (e.g., telecommunications equipment, including infrastructure for backhaul and last mile networks);
- Cost of long-term leases (for terms greater than one year) of facilities required to provide qualifying broadband service, including infeasible right-of-use (“IRU”) agreements and capital leases;
- Personnel costs including salaries and fringe benefits for staff and consultants required for carrying out a Capital Project (such as project managers, program directors, subject matter experts, equity consultants, grant administrators, financial analysts, accountants, and attorneys);
- Ancillary costs necessary to operationalize and put the capital assets to full use, including costs to increase broadband adoption and improve digital literacy;
- Costs associated with monitoring of and reporting on Capital Projects in compliance with Treasury requirements, including award closeout costs; and
- Project specific costs associated with collecting and measuring performance data and conducting activities needed to establish and maintain a performance management and evaluation regime.

### 4.5.2. Ineligible costs

Ineligible costs include, but are not limited to:

- Costs associated with completing or filing an application for the grant;
- Any expense incurred prior to the formal acceptance and execution of the grant agreement;

- Acquisition of spectrum licenses;
- Operating expenses;
- Short-term operation leases;
- Payment of interest or principal on outstanding debt instruments;
- Fees or issuance costs associated with the issuance of new debt; and
- Satisfaction of any obligation arising under or pursuant to a settlement agreement, judgment, consent decree, or judicially confirmed debt restructuring plan in a judicial, administrative, or regulatory proceeding.

## 5. Technical Assistance

Office staff are available to provide support throughout the application process. Applicants are strongly encouraged to attend all scheduled webinars and any technical assistance opportunities provided by the Office. Applicants can find current information about the Capital Projects Fund Program at [www.FloridaJobs.org/Broadband](http://www.FloridaJobs.org/Broadband). Questions regarding the program should be sent to [Broadband@DEO.MyFlorida.com](mailto:Broadband@DEO.MyFlorida.com).

Technical Assistance Web Portal: The Office maintains the following website (<https://FloridaJobs.org/Broadband>) to provide potential applicants resources and guidance on the program.

In addition, the Office will continue to host technical assistance webinars. The schedule and related links to past recordings of these webinars will be posted here (<https://FloridaJobs.org/Broadband>). In addition, the Office will provide technical assistance throughout the program through virtual meetings. Information and process will be provided in the links provided above.

## 6. Prioritization and No Maximum Limits

### 6.1. Priority Projects

Priority will be given to projects that achieve the following. This prioritization will be reflected in the application scoring criteria.

- Address a critical need that resulted from or was made apparent or exacerbated by the COVID-19 public health emergency;
- Provide access to broadband education, awareness, training, access, equipment, and support to libraries, schools, colleges and universities, health care providers, and community support organizations;
- Encourage the sustainable adoption of broadband Internet service in primarily underserved areas by removing barriers to entry;
- Work toward encouraging investments in establishing affordable and sustainable broadband service in unserved areas of the state;
- Facilitate the development of applications, programs, and services, including, but not limited to, telework, telemedicine, and e-learning to increase the usage of, and demand for, broadband service in the state;
- Leverage other funding sources for the project including local and private sources;

- Demonstrate consistency with the Florida Strategic Plan;
- Address digital equity and inclusion;
- Promote adoption of the proposed broadband infrastructure; and
- Received strong local community support.

## **6.2. Fiber as Preferred Technology**

In addition to the above criteria, priority will be given to fiber-optic networks deployed directly to the home or business. Other technologies capable of delivering broadband service at the levels mentioned in Treasury guidance may be deployed where fiber-optic networks are not economically feasible, or other environmental factors make fiber-optic deployment impractical. Clear rationale and supporting data must be provided for any exception to the use of fiber technology in projects.

## **6.3. Open Comment Period**

There will be a two-week open comment period for the Office of Broadband to receive public comment on the applications submitted for the Capital Projects Fund- Broadband Infrastructure Program. Any comments submitted or received during the open comment period will be collected by the Office of Broadband for consideration and information purposes only. Comments must be directly addressed to a specific application. Please note, the DEO is under no obligation to act on every or any comment received.

## **6.4. No Maximum Limit**

There is no limit on the requested grant award amount per application. In addition, there is no limit on the cumulative grant award per applicant across awards.

This is a competitive grant application and eligibility for funding is based on scoring a minimum of 250 points out of a maximum 500 points. Based on the number of applicants, the amounts applied for and awarded, and the score given to each application, the potential exists that not all applicants scored as eligible for funding will be awarded funding.

# **7. BIP Application Evaluation**

## **7.1. Evaluation Process**

### **7.1.1. Overview**

The evaluation of an application to the BIP and selection of an applicant for an award will be based on the information submitted in the application, including any required attachments and documentation. Failure to respond to each of the requirements in the application may form the basis for rejecting an application. DEO will accept applications for the BIP through a competitive process that results in awards to applicants proposing projects that score the highest on the application.

All applications will undergo an initial review for eligibility and completeness, followed by a scoring review based upon the DEO scoring guidelines (as reflected herein). To maximize chances of receiving an award, applicants must be mindful of two key objectives while preparing the application:

- Level of Responsiveness: Provide all required information along with the specified attachments. Responses provided should be comprehensive, detailed, and clear.

— **Scoring Criteria:** Review this section to ensure that the application comprehensively addresses all requirements listed in the Evaluation Criteria and Consideration Factors section.

### 7.1.2. Responsiveness Review

All applications will go through a responsiveness review to ensure each application has provided the necessary information required for further evaluation and scoring.

### 7.1.3. Scoring Review

Applications meeting the eligibility requirements will undergo a screening against the scoring criteria outlined herein and subsequently assigned a calculated score. The scoring criteria focuses on the following characteristics:

- A. Project Readiness and Deployment
- B. Digital Equity and Inclusion
- C. Economic and Community Impact
- D. Project Budget
- E. Non-Federal Funding Sources and Community Support
- F. Network Capability and Scalability
- G. Project Viability and Sustainability
- H. Affordability and Adoption Assistance

## 7.2. Evaluation Criteria and Consideration Factors

### 7.2.1. Evaluation Criteria Overview

Applications will be reviewed and evaluated by the DEO using the criteria and associated point values set forth below. Each category uniquely contributes to the DEO’s mission to increase the availability and effectiveness of broadband service throughout the state and its economy.

| <b>Evaluation Criteria</b>                                     | <b>Maximum Points (500)</b> |
|--|-----------------------------|
| <b>A. Project Readiness and Deployment</b>                     | <b>50</b>                   |
| A.1 Detailed, Reasonable Project Schedule                      | 10                          |
| A.2 Detailed Engineering Design                                | 20                          |
| A.3 Network Map  | 20                          |
| <b>B. Digital Equity and Inclusion</b>                         | <b>50</b>                   |
| B.1 Monthly Cost of Service                                    | 10                          |
| B.2 Data Caps  | 10                          |
| B.3 Participation in ACP or Other Low-Cost Service Offering(s) | 10                          |
| B.4 Opportunity Zones  | 10                          |
| B.5 Digital Literacy Training                                  | 10                          |
| <b>C. Economic and Community Impact</b>                        | <b>100</b>                  |
| C.1 Broadband Impact and Percentage of Premises Passed         | 25                          |
| C.2 Economic and Workforce Impact                              | 25                          |

|  |            |
|--|------------|
| C.3 Benefits to Targeted Customer Segments and the Community | 50         |
| <b>D. Project Budget</b>                                     | <b>50</b>  |
| D.1 Project Budget and Cost Metrics                          | 50         |
| <b>E. Non-Federal Funding Sources and Community Support</b>  | <b>100</b> |
| E.1 Leverage of Non-Federal Funding                          | 50         |
| E.2 Financial Commitment from Community Stakeholders         | 10         |
| E.3 Public Private Partnerships                              | 10         |
| E.4 Evidence of Community Support                            | 10         |
| E.5 Local Technology Planning Teams                          | 20         |
| <b>F. Network Capacity and Scalability</b>                   | <b>75</b>  |
| F.1 Network Capacity and Scalability                         | 75         |
| <b>G. Project Viability and Sustainability</b>               | <b>50</b>  |
| G.1 Financial Capability and Sustainability                  | 30         |
| G.2 Organization's Capability                                | 10         |
| G.3 Track Record / Past Experience                           | 10         |
| <b>H. Affordability and Adoption Assistance</b>              | <b>25</b>  |
| H.1 Low Price Service Tier                                   | 10         |
| H.2 Commitment to Improving the Adoption Rate                | 15         |

To maximize chances of receiving a high score under this review, applicants must be mindful to provide complete, comprehensive, and clear responses for all sections of the application and information requested.

This is a competitive grant application and eligibility for funding is based on scoring a minimum of 250 points out of a maximum 500 points. Based on the number of applicants, the amounts applied for and awarded, and the score given to each application, the potential exists that not all applicants scored as eligible for funding will be awarded funding.

### 7.2.2. Evaluation Criteria Consideration Factors

There are eight (8) major evaluation criteria listed below with sub-categories and consideration factors identified for each. Under each sub-category, factors are listed for consideration that will be used to assign scoring points. The applicant should answer all questions to enable a comprehensive, detailed filing of the application.

#### 7.2.2.1. Project Readiness and Maps (50 points)

This evaluation criteria assesses the readiness of a project by evaluating the details of the project schedule, design, technology, network routes, and the degree to which the project utilizes existing resources as leverage.

| <b>A.1 Detailed, Reasonable Project Schedule (Maximum 10 points)</b>   |   |
|--|---|
| <b>Key Areas</b>   | <b>Factors for Consideration</b>  |
| <ul style="list-style-type: none"> <li>• Details regarding project schedule.</li> <li>• Details regarding how that project schedule is viable and achievable.</li> </ul> | <ul style="list-style-type: none"> <li>✓ Degree that project schedule is detailed, structured, clear, and consistent with committed deadlines.</li> <li>✓ Detailed narrative on project schedule.</li> <li>✓ Less than two years till full deployment.</li> </ul> |

|  |  |
|--|--|
|  | ✓ Identification of key execution risks and mitigation plan. |
|--|--|

| <b>A.2 Detailed Engineering Design (Maximum 20 points)</b>  |  |
|---|--|
| <b>Key Areas</b>  | <b>Factors for Consideration</b>   |
| <ul style="list-style-type: none"> <li>• Details regarding the technology, design, and network routes.</li> </ul> | <ul style="list-style-type: none"> <li>✓ Clear, detailed network route map that is consistent with route miles.</li> <li>✓ Technology specifications that clearly indicate purported speeds and network indicators can be met.</li> <li>✓ Vendors details (particularly for new technologies or new applications of technology).</li> </ul> <p><i>Note: Professional Engineer, Society of Cable Telecommunications Engineers, or similar certification is required</i></p> |

| <b>A.3 Network Map (Maximum 20 points)</b>  |   |
|---|---|
| <b>Key Areas</b>  | <b>Factors for Consideration</b>  |
| <ul style="list-style-type: none"> <li>• Degree to which project leverages existing network and non-network resources.</li> </ul> | <ul style="list-style-type: none"> <li>✓ Clear identification of network assets being leveraged – e.g., middle-mile, data centers, colocation facilities, towers, etc.</li> <li>✓ Clear description of non-network resources and assets being contributed (e.g., personnel, premises, offices, etc.).</li> <li>✓ Maps of the proposed project area should be included in both PDF version, and a spatial data version, preferably in .kmz, or .kml, as an electronic attachment.</li> <li>✓ Information provided on these files should be provided individually within the above-mentioned formats with no accompanying data.</li> <li>✓ The applicant should ensure the functionality of these files within Google Earth to ensure the data is properly loading/displaying.</li> </ul> |

#### 7.2.2.2. Digital Equity and Inclusion (50 points)

This evaluation criteria measures the affordability and usability of the proposed networks. Digital equity and inclusion efforts ensure that once a connection is available, residents and businesses are able use the connection and are aware of the benefits of being connected to high-speed internet service, all of which contribute to the long-term viability of newly deployed networks. This scoring criteria section relies on data related to the delivery of last mile internet service. For middle mile projects, applications will be scored based on the impact the proposed middle mile infrastructure will have on the deployment of last mile service to unserved areas. Middle mile applicants must demonstrate commitments and partnerships with last mile internet service providers that will leverage the proposed middle mile infrastructure to deploy service to unserved locations. Middle mile applicants must gather and present the relevant information by which the application will be scored.

| <b>B.1 Monthly Cost of Service (Maximum 10 points)</b>   |  |
|--|--|
| <b>Key Areas</b>   | <b>Factors for Consideration</b>   |
| <ul style="list-style-type: none"> <li>• The cost of service is affordable to those they intend to serve.</li> </ul> | <ul style="list-style-type: none"> <li>✓ Participation in ACP is mandatory.</li> </ul> |

| <b>B.1 Monthly Cost of Service (Maximum 10 points)</b> |   |
|--|---|
| <b>Key Areas</b>                                       | <b>Factors for Consideration</b>  |
|  | <ul style="list-style-type: none"> <li>✓ The ratio of the proposed cost of the minimum service offering compared to the national benchmark standard published by the FCC for the same level of service. DEO uses the FCC's Broadband Reasonable Comparability Benchmark tool to compare the applicant proposed service costs for the minimum speed offered to customers to a national standard for the same type of service.</li> </ul> <p><i>Note: Please see table below for how this criterion will be scored.</i></p> |

**Monthly Cost of Service Scoring Table:**

| <b>Ratio of Proposed Cost of Service to FCC Reasonable Comparability Benchmark Calculator</b> | <b>Points</b> |
|---|---------------|
| Greater than or equal to 85%  | 0             |
| 75% - 84.9%   | 4             |
| 65% - 74.9%   | 7             |
| Less than 65%   | 10            |

| <b>B.2 Data Caps (Maximum 10 points)</b>  |   |
|---|---|
| <b>Key Areas</b>  | <b>Factors for Consideration</b>  |
| <ul style="list-style-type: none"> <li>• Applicants are encouraged to deploy services that do not have a data cap of any kind.</li> </ul> | <ul style="list-style-type: none"> <li>✓ Applicants proposing data usage caps of any kind will receive zero points in this category.</li> </ul> |

| <b>B.3 Participation in ACP or Other Low-Cost Service (Maximum 10 points)</b>  |   |
|--|---|
| <b>Key Areas</b>   | <b>Factors for Consideration</b>  |
| <ul style="list-style-type: none"> <li>• Applicants are encouraged to establish a low-cost service offering that when coupled with FCC's Affordable Connectivity Program (ACP) provides eligible households with a net \$0 monthly cost of service.</li> </ul> | <ul style="list-style-type: none"> <li>✓ The low-cost service offering must meet the minimum speed requirements for the program (100/100 Mbps) and those of the ACP.</li> <li>✓ Applicants offering a low-cost service option will receive full points in this section. Those without such an offering will receive zero points.</li> </ul> |

| <b>B.4 Opportunity Zones (Maximum 10 points)</b>  |  |
|---|--|
| <b>Key Areas</b>  | <b>Factors for Consideration</b>   |
| <ul style="list-style-type: none"> <li>• Applicants are encouraged to include federal Qualified Opportunity Zones ("QOZs") in their applications, in whole or in part.</li> </ul> | <ul style="list-style-type: none"> <li>✓ QOZs are an economic development tool with the purpose of spurring economic growth and job creation in low-income communities.</li> <li>✓ QOZs are designated at the Census Tract level and a listing and map of QOZs can be found here: <a href="https://www.cdfifund.gov/opportunity-zones">https://www.cdfifund.gov/opportunity-zones</a></li> </ul> <p><i>Note: Please see table below for how this criteria will be scored; The State of Florida does not make any guarantees or warranties as to any preferential tax treatment afforded or not afforded to an Applicant due to the deployment of broadband service within a QOZ.</i></p> |

Opportunity Zones Scoring Table:

| Opportunity zones included in application                | Points |
|--|--------|
| Proposed service area does not include any part of a QOZ | 0      |
| Proposed service area contains part of a least one QOZ   | 5      |
| Proposed service area wholly contains at least one QOZ   | 10     |

| <b>B.5 Digital Literacy Training (Maximum 10 points)</b>  |   |
|---|---|
| Key Areas   | Factors for Consideration   |
| <ul style="list-style-type: none"> <li>Applicants are encouraged to establish meaningful partnerships with organizations in the proposed project area that support the development of digital skills, workforce development, cyber safety, and other related skillsets among residents and businesses.</li> </ul> | <ul style="list-style-type: none"> <li>✓ Evidence of partnerships with libraries, schools, senior centers, related non-profit organizations, and other similar entities, or any consortia thereof to provide digital skills training to community members including letters of support, MOUs, or other similar documents, if applicable. Applicants should also include information on any training they plan to provide to subscribers of the newly deployed service.</li> </ul> |

**7.2.2.3. Economic and Community Impact (100 points)**

This evaluation criteria measures the potential impact that broadband infrastructure expansion could have within the proposed project area. Specifically, this criterion measures the degree to which the project will increase access to broadband service and promote community and economic development within the project area. Projects that offer access to greater numbers of underserved or unserved locations will be scored higher. This is measured by the anticipated percentage of premises passed within the project area. This scoring criteria also evaluates and measures the benefits to the communities that will be served within the project area and the degree to which broadband access will enable workforce, education, and healthcare.

| <b>C.1 Broadband Impact and Percentage of Premises Passed (Maximum 25 points)</b>   |  |
|---|--|
| Key Areas   | Factors for Consideration  |
| <ul style="list-style-type: none"> <li>Degree of unserved or underserved premises and improvement in broadband speeds.</li> </ul> | <ul style="list-style-type: none"> <li>✓ Percentage of premises passed within the project area – including homes, businesses, community anchor institutions (including but not limited to, libraries, educational institutions, public safety facilities, and health care facilities), farms, and government facilities.</li> <li>✓ Degree of broadband unavailability – extremely unserved (below 10/1 Mbps), unserved (below 25/3 Mbps) or underserved (below 100/20 Mbps) See table for scoring.</li> <li>✓ Anticipated improvements in broadband speed offerings from pre-existing broadband service levels to proposed service levels e.g., above 25/3, 100/10, or 1G/1G+.</li> <li>✓ List of businesses and institutions being passed or covered.</li> </ul> <p><i>Note: Please see table below for how this criterion will be scored.</i></p> |

Percentage of Anticipated Premises Passed Scoring Table:

The percentage of anticipated premises passed will be scored using a multiplier that is proportional to the percent of passings currently in each speed category. For example, a proposed project that anticipates serving 100% of passings with 1G/1G Mbps, where 25% of the area has current speeds at 25/3 Mbps (23 points) and 75% currently have 10/1 Mbps (25 points), the applicant would receive a total score of 24.5 points (i.e. (23 points \* 0.25) + (25 points \* 0.75) = 24.5 total points)

| % of Total Passings | Current Speed (Mbps)                       | ≤ 10/1: Extremely Unserved |         |       | ≤ 25/3: Unserved |         |       |
|---------------------|--|----------------------------|---------|-------|------------------|---------|-------|
|                     | Maximum Available Speed After Build (Mbps) | 100/20                     | 100/100 | 1G/1G | 100/20           | 100/100 | 1G/1G |
| ≤ 25%               | Points Awarded                             | 0                          | 0       | 0     | 0                | 0       | 0     |
| 25% - 40%           |  | 10                         | 13      | 16    | 8                | 11      | 15    |
| 40% - 80%           |  | 13                         | 16      | 20    | 11               | 14      | 18    |
| 80%- 100%           |  | 16                         | 20      | 25    | 15               | 19      | 23    |

| C.2 Economic and Workforce Impact (Maximum 25 points)  |   |
|--|---|
| Key Areas  | Factors for Consideration   |
| <ul style="list-style-type: none"> <li>Proposed impact in traditionally hard-to-serve areas where infrastructure is deficient.</li> <li>Proposed impact to strengthen broadband as a tool for workforce, education, and healthcare.</li> <li>Examples of potential uses of proposed broadband availability.</li> <li>Proposed impact to workforce development and job creation.</li> <li>Proposed economic impact to the community.</li> </ul> | <ul style="list-style-type: none"> <li>✓ Residents: ability to telework, remote learning engagement, ability to facilitate telehealth, including the use of telemedicine and electronic health records, new housing starts, etc.</li> <li>✓ Businesses: degree of competitiveness, market expansion, workforce development, job creation, attracting new business establishments, etc.</li> <li>✓ Farmers and agricultural use customers: farming efficiency and productivity, new applications for precision agriculture, etc.</li> <li>✓ Community anchor institutions: enhancement to capabilities to execute mission in more effective and efficient manner (across schools, libraries, hospitals, clinics, social service centers, community gathering centers, etc.).</li> <li>✓ Other: public safety improvements; other complementary infrastructure improvements; etc.</li> <li>✓ Degree to which project will include local hires and provide opportunities for local hires such as apprenticeship programs, job fairs, and training programs.</li> <li>✓ Substantive evidence provided demonstrating the impact of broadband within the project area.</li> <li>✓ Documents describing project impact – specific to the target customers' circumstances.</li> </ul> |

|  |   |
|--|---|
|  | <ul style="list-style-type: none"> <li>✓ Petitions or listings of a significant number of the available households and businesses expressing a strong desire to subscribe to broadband service provided from the proposed project.</li> </ul> |
|--|---|

| <b>C.3 Benefits to Targeted Customer Segments and the Community (Maximum 50 points)</b>                      |  |
|--|--|
| <b>Key Areas</b>   | <b>Factors for Consideration</b>   |
| <ul style="list-style-type: none"> <li>• Critical Need identified or exacerbated by the pandemic.</li> </ul> | <ul style="list-style-type: none"> <li>✓ Impediments that would be remediated by the proposed project including lack of access to work, education, and health monitoring.</li> <li>✓ Extent to which the proposed project addresses disadvantaged communities that have experienced disproportionately poor work, education, and health outcomes demonstrated by federal, state, and other relevant data, reports from the targeted community/communities.</li> <li>✓ Established an active Local Technology Planning Team within the project area or was an active participant or member of a planning team and document critical needs.</li> </ul> |

#### 7.2.2.4. Project Budget (50 points)

The applicant should provide information on the budget narrative and should identify all major expenditure categories and the total sums for those categories. The applicant should describe the steps that will be taken to achieve efficiencies in expenditures. These can include a) leveraging existing assets; b) engaging in competitive procurement through request for proposals (RFPs) for major purchases; etc. The applicant should also provide a detailed budget schedule and cost metrics for fiber optic deployment.

| <b>D.1 Project Budget and Cost Metrics (Maximum 50 points)</b>   |  |
|--|--|
| <b>Key Areas</b>   | <b>Factors for Consideration</b>   |
| <ul style="list-style-type: none"> <li>• Degree of budget efficiency.</li> <li>• Budget schedule.</li> </ul> | <ul style="list-style-type: none"> <li>✓ Narrative should identify all major expenditure categories and the total sums for those categories.</li> <li>✓ The cost elements should include engineering design; permitting; pre-construction costs (e.g., make ready); outside plant materials (e.g., fiber, poles, hardware, conduit, splitters, etc.); labor; and construction management.</li> </ul> |

#### 7.2.2.5. Non-Federal Funding Sources and Community Support (100 points)

With respect to cost-sharing, this evaluation criteria evaluates the percentage of non-federal funding that the applicant has available to cover the cost of the project. Applicants demonstrating the ability to cover a larger percentage of the project's total cost with non-federal funding will score higher. This evaluation criteria also measures the level of community support within the proposed project area. Applicants who are able to provide quantitative/substantive evidence of community support will score higher.

### E.1 Leverage of Non-Federal Funding (Maximum 50 points)

| Key Areas   | Factors for Consideration   |
|---|---|
| <ul style="list-style-type: none"> <li>Degree of non-federal funds.</li> <li>Viable public-private partnerships.</li> </ul> | <ul style="list-style-type: none"> <li>✓ Greater points will be assigned to projects that utilize a higher portion of non-federal funds for the total project costs as a direct indicator of the local commitment, longevity of the project, and accountability for project completion.</li> <li>✓ Details regarding public-private partnerships established or the coordination between the applicant and local entities to finance, implement, operate, and sustain the project.</li> </ul> <p><i>Note: Please see table below for how this criterion will be scored.</i></p> |

#### Non-Federal Funds Provided Scoring Table:

| Percent of Eligible Project Costs Covered by Non-Federal Funds | Points |
|--|--------|
| 64.9% or more  | 50     |
| 55 – 64.9%   | 30     |
| 45 – 54.9%   | 20     |
| 35 – 44.9%   | 15     |
| 25 – 34.9%   | 10     |
| 15 – 24.9%   | 5      |
| 0 – 14.9%  | 0      |

### E.2 Financial Commitment from Community Stakeholders (Maximum 10 points)

| Key Areas  | Factors for Consideration   |
|--|---|
| <ul style="list-style-type: none"> <li>Financial investment by community members and organizations.</li> </ul> | <ul style="list-style-type: none"> <li>✓ The percentage of financial contribution from community-based members and institutions.</li> <li>✓ In-kind resource commitments from community-based members and institutions.</li> <li>✓ Evidence to support verification of pledge.</li> <li>✓ Evidence to support verification of public-private partnerships.</li> </ul> |

### E.3. Public-Private Partnerships (Maximum 10 points)

| Key Areas  | Factors for Consideration   |
|--|---|
| <ul style="list-style-type: none"> <li>Demonstration of viable public-private partnership(s).</li> </ul> | <ul style="list-style-type: none"> <li>✓ Details regarding public-private partnership(s) established to implement, operate, and sustain the project.</li> </ul> |

### E.4 Evidence of Community Support (Maximum 10 points)

| Key Areas   | Factors for Consideration   |
|---|---|
| <ul style="list-style-type: none"> <li>Degree of breadth and depth of community support for the project.</li> </ul> | <ul style="list-style-type: none"> <li>✓ Documents that reflect a broad spectrum of community members.</li> </ul> |

#### E.4 Evidence of Community Support (Maximum 10 points)

| Key Areas  | Factors for Consideration  |
|--|--|
| <ul style="list-style-type: none"> <li>Evidence of Community Support and demonstration of community engagement.</li> </ul> | <ul style="list-style-type: none"> <li>✓ Degree to which project fits into an existing community strategic plan or Florida Strategic Plan for Broadband.</li> <li>✓ Recent survey or other similar community-focused analyses or study that covers broad spectrum of community with statistically meaningful results regarding level of need, gaps, and project support.</li> <li>✓ Evidence of community outreach efforts to gauge interest in the project.</li> <li>✓ Other community feedback or documentation that shows compelling need and project support.</li> </ul> |

#### E.5 Local Technology Planning Team or Broadband Committee (Maximum 20 points)

| Key Areas   | Factors for Consideration   |
|---|---|
| <ul style="list-style-type: none"> <li>Demonstration and evidence of the establishment and/or participation in an active county or regional Local Technology Planning Team to support the expansion of broadband within the community.</li> <li>Demonstration of an active broadband committee guiding efforts to address broadband availability and adoption.</li> </ul> | <ul style="list-style-type: none"> <li>✓ Established an active Local Technology Planning Team within the project area or was an active participant or member of a planning team.</li> <li>✓ Conducted and/or participated in regular team meetings.</li> <li>✓ Degree to which teams conducted community-level activities and research to determine the community's broadband needs, utilization, gaps, barriers, and opportunities.</li> <li>✓ Degree to which the Local Technology Planning Teams completed and submitted to the Office of Broadband the results of the activities and reports identified in the Broadband Planning Toolkit.</li> </ul> |

#### 7.2.2.6. Network Capability and Scalability (75 points)

This evaluation criteria measures the level of scalability of transmission speeds that the project will provide within the proposed project area. Projects that provide for greater scalability will be scored higher (see table below).

#### F.1 Network Capability and Scalability (Maximum 75 points)

| Key Areas   | Factors for Consideration  |
|---|--|
| <ul style="list-style-type: none"> <li>Demonstration that the capital investment today delivers a network that meets demand today and for the long-term.</li> </ul> | <ul style="list-style-type: none"> <li>✓ Useful life and capacity of the technology.</li> <li>✓ Priority will be provided to fiber-optic networks deployed directly to the home or business.</li> <li>✓ Process and investment for long-term network scalability, operation, and maintenance.</li> <li>✓ Degree of evidence provided that demonstrates the installed broadband infrastructure is scalable.</li> </ul> <p><i>Note: Please see table below for how these criteria will be scored</i></p> |

#### Extent to which Fiber Optic Technology is deployed (25 points)

Network Scalability Scoring Table (50 points):

| Network Scalable to | Points |
|---------------------|--------|
| ≥100mbps/20mbps     | 17     |
| ≥100mbps/100mbps    | 23     |
| ≥250mbps/250mbps    | 28     |
| ≥500mbps/500mbps    | 34     |
| ≥1gb/1gb            | 50     |

**7.2.2.7. Project Viability and Sustainability (50 points)**

These criteria evaluate the likelihood that the project can be successfully deployed and financially sustained beyond the project period. Scoring in this section will focus on how clearly the applicant identifies project sustainability.

| <b>G.1 Financial Capability and Sustainability (Maximum 30 points)</b>  |   |
|---|---|
| Key Areas   | Factors for Consideration   |
| <ul style="list-style-type: none"> <li>• Demonstration of financial sustainability.</li> <li>• Demonstration regarding financing viability to enable deployment today and long-term operations.</li> <li>• Demonstration of the ability to obligate and expend funds by program deadlines.</li> <li>• Business case analysis to demonstrate project's financial viability.</li> </ul> | <ul style="list-style-type: none"> <li>✓ Audited financial statements and other documentation to demonstrate financial standing (which may include SEC filings, or financial records of a parent company along with clear documentation establishing that corporate relationship).</li> <li>✓ Clear identification of additional funding sources and proof of financing being available.</li> <li>✓ Detailed financial statements (cash flow, balance sheet, income statement) for project period (deployment and operational sustainability) – enables review of capital deployment stage and recurring revenue and operating expenditures.</li> <li>✓ Degree to which the applicant demonstrated the ability to obligate and spend funds in compliance with the program deadlines.</li> <li>✓ Detailed narrative explaining how the grant recipient will obligate and spend funds in compliance with the program deadlines.</li> <li>✓ Key metrics regarding the financial targets required by non-federal fund contributors and how the business plan achieves those objectives.</li> <li>✓ Discussion of key financial risks that could impede sustainability (e.g., revenue shortfalls, cost overruns) and mitigation strategy.</li> <li>✓ Discussion of plans to ensure supply-chain, available materials and workforce, and project resiliency.</li> </ul> |

| <b>G.2 Organizational Capability (Maximum 10 points)</b>   |  |
|--|--|
| Key Areas  | Factors for Consideration  |
| <ul style="list-style-type: none"> <li>• Demonstration that the applicant and partners are strongly positioned to deploy and operate network.</li> </ul> | <ul style="list-style-type: none"> <li>✓ Details regarding key personnel (e.g., qualifications, resume).</li> <li>✓ Identification of key partners, roles, and letters of project commitment.</li> </ul> |

### G.3 Track Record/Past Experience (Maximum 10 points)

| Key Areas  | Factors for Consideration   |
|--|---|
| <ul style="list-style-type: none"><li>Demonstration of experience deploying and operating a network.</li></ul> | <ul style="list-style-type: none"><li>✓ Details regarding experience and results in having deployed similar networks.</li></ul> |

### 7.2.2.8. Affordability and Adoption Assistance (25 points)

This evaluation criteria evaluates the services, activities, and strategies that will be used to actively promote the adoption and affordability of broadband service within the project area.

#### H.1 Low Price Service Tier (Maximum 10 points)

| Key Areas   | Factors for Consideration   |
|---|---|
| <ul style="list-style-type: none"><li>Low Price Service Tier and program subscriptions.</li></ul> | <ul style="list-style-type: none"><li>✓ Special programs and partnerships that provide significant discounts to economically disadvantaged customers, including discounted devices or services, such as E-rate.</li></ul> |

#### H.2 Commitment to Improving Adoption Rate (Maximum 15 points)

| Key Areas  | Factors for Consideration   |
|--|---|
| <ul style="list-style-type: none"><li>Communication plan and strategies to enable adoption to general public.</li><li>Program to raise awareness and adoption.</li><li>Level of commitment to improving the adoption rate.</li></ul> | <ul style="list-style-type: none"><li>✓ The communications plan should indicate how the applicant will provide information to homes, businesses, and institutions impacted by the proposed project, and should promote the use of an internet connection for improving a consumer's quality of life, access to resources, economic opportunity, telehealth, distance learning, etc. Special discounted rates for small businesses and community anchor institutions.</li><li>✓ Detailed description of broadband adoption activities planned for project – e.g., training, technical support, community networks, etc.</li><li>✓ Technology strategies to enable adoption to general public (e.g., community networks that provide public Wi-Fi, others).</li></ul> |

## 8. Grant Agreement and Terms and Conditions

Once the DEO validates the application's completeness and the applicant eligibility for funding by achieving the threshold score of 250 points, the Applicant's authorized representative will execute a Grant Agreement with the DEO. DEO expects applicants to fully execute grant agreements within 60-days of award announcement. Please note, these are competitive grants and eligibility for funding is based on scoring a minimum of 250 points out of a maximum 500 points. Based on the number of applicants, the amounts applied for and awarded, and the score given to each application, the potential exists that not all applicants scored as eligible for funding will be awarded funding.

The Grant Agreement will, among other things, contain terms and conditions related to the following:

1. Description of the services;
2. Roles and responsibilities;
3. Grant payment schedule;
4. Eligible uses of funds;

5. Period of performance;
6. Accounting and reporting requirements;
7. Compliance requirements;
8. Remedies for noncompliance including but not limited to return of funds;
9. Audit practices;
10. Recording keeping;
11. Internal controls; and
12. Other terms required by the State of Florida and Federal law.

## 9. Compliance and Reporting Requirements

*Guidance provided in this document is meant to be used as a helpful resource but is not intended to be exhaustive and does not guarantee compliance with the federal requirements. Federal requirements included here are those that may be of particular importance to subrecipients who may receive federal funding for broadband programs. The descriptions below are only general summaries and all recipients and subrecipients are advised to carefully review the full requirements as well as any additional regulatory and statutory requirements applicable to the program from the respective sources.*

### 9.1. Specific Guidance

#### 9.1.1. Program Income

*Program income is gross income earned by the non-federal entity that is directly generated by a supported activity or earned as a result of the Federal award during the period of performance. Ordinarily, program income must be deducted from total allowable costs to determine the net allowable costs, as per [2 C.F.R. Part 200.307](#). Any program income must be used for current costs unless the federal awarding agency authorizes otherwise.*

Program income includes but is not limited to:

- i) Income from fees for services performed;
- ii) The use or rental of real or personal property acquired under federal awards;
- iii) The sale of commodities or items fabricated under a federal award, license fees and royalties on patents and copyrights; and
- iv) Principal and interest on loans made with federal award funds. Interest earned on advances of federal funds is not program income.

Except as otherwise provided in Federal statutes, regulations, or the terms and conditions of the Federal award, program income does not include:

- i) Interest earned on advances of Federal funds, rebates, credits, discounts;
- ii) Interest on rebates, credits, or discounts;
- i) Governmental Revenues. Taxes, special assessments, levies, fines unless specifically identified in the Federal award or Federal regulations as program income (2 C.F.R. 200 Part 307(c)); and

- iii) Property. Proceeds from the sale of real property, equipment, or supplies are not program income.

There are no federal requirements governing the disposition of income earned after the end of the period of performance for the federal award, unless the federal awarding agency regulations or the terms and conditions of the federal award provide otherwise. The federal awarding agency may negotiate agreements with recipients regarding appropriate uses of income earned after the period of performance as part of the grant closeout process.

## 9.1.2. Procurement Standards

Recipients and subrecipients must follow the procurement requirements outlined in [2 C.F.R. Parts 200.317 through 200.326](#) for the acquisition of property or services required under a federal award or subaward. Non-federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

**Competition Requirements.** All procurement transactions for acquisition of property or services required under a federal award must be conducted in a manner providing full and open competition. Contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. A non-federal entity must have written procedures for procurement transactions and ensure that all solicitations:

- Have clear and accurate description of technical req's for material/product/service to be procured; and
- Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals

**Methods.** The Uniform Guidance establishes that all procurement transactions for property or services must be conducted in a manner providing full and open competition consistent with standards outlined in [2 C.F.R. Part 200.320](#). 2 CFR 200.320 describes methods of procurement based on two procurement thresholds: the Micro purchase threshold (MPT) and the Simplified Acquisition Threshold (SAT).

**Micro-purchase threshold (MPT)** - 2 CFR 200.320(a)(1): Purchase of supplies and services for a price below the MPT, currently set at \$10,000, are not required to be solicited competitively. However, there are circumstances when a recipient may have a MPT that is greater than \$10,000. For example, all non-federal entities may increase their MPT up to \$50,000 if they follow the protocols described in 200.320(a)(1)(iv). Additionally, non-federal entities such as metropolitan cities, counties, non-entitlement units of local government, and Tribes may use their own MPT if they follow the protocols described in 200.320(a)(1)(iv).

**Simplified Acquisition Threshold (SAT)** - 2 CFR 200.320(a)(2): Purchases of property and services at a price above the recipient's MPT and below the SAT, currently set at \$250,000, may be made following the small purchase procedures described in the definition of SAT in 2 CFR 200.1 and 2 CFR 200.320(a)(2). Procurement of property and services at a price above the SAT must follow the formal procurement methods outlined in 2 CFR 200.320(b).

**Non-Competitive Procurements.** Recipients may conduct non-competitive procurements under the Uniform Guidance if:

- The Item in question is below the micro-purchase threshold;
- The Item is only available from a single source (sole source);
- Public exigency/emergency doesn't permit delay; or
- Solicitation of a number of sources, competition is determined inadequate.

Contracting with Small, Minority-Owned, and Women-owned Businesses. As per [2 C.F.R. Part 200.321](#), all non-federal entities must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

Domestic Preferences for Procurements. As per [2 C.F.R. Part 200.322](#), to the greatest extent practicable, non-federal entity recipients should provide preference for purchase, acquisition, use of goods, products, or materials produced in the United States. The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products.

In addition to meeting the federal requirements outlined above, the subgrantee needs to meet applicable state and local requirements for procurement.

### 9.1.3. Labor Agreements and Standards

Awardees must comply with all applicable federal labor laws and regulations, and with all requirements for state, and local laws and ordinances to the extent that such requirements do not conflict with federal laws. Recipients and subrecipients of federal funds will be required to comply with federal labor standards, including but not limited to:

- a. Labor Standards Provisions of [29 C.F.R. Part 5](#)
- b. Contract Work Hours and Safety Standards Act of 1962, as amended ([40 U.S.C. 3701-3708](#))
- c. Federal Fair Labor Standards Act of 1938, as amended ([29 U.S.C. 201-219](#))
- d. Copeland "Anti-Kickback" Act (18 U.S.C. 874).

U.S. Treasury encourages recipients of Capital Projects Funds funding to incorporate strong labor standards, including project labor agreements and community benefits agreements that offer wages at or above the prevailing rate. Potential applicants should become familiar with federal requirements and guidance specific to the Capital Project Fund. Federal Davis-Bacon Act prevailing wage rate requirements do not apply to projects funded solely by the Capital Projects Fund (CPF) program. If, however, CPF funds are used on a construction project in conjunction with another source of federal funds which requires Davis-Bacon Act compliance, then the project may be subject to compliance with the Davis-Bacon Act. Additionally, corollary state prevailing-wage-in-construction laws (commonly known as "baby Davis-Bacon Acts") may apply to projects.

The following reporting requirements apply to CPF-funded projects receiving \$5 million or more in CPF funding based on expected total cost:

- i) Grantees may provide a certification that, for the relevant project, all laborers and mechanics employed by contractors and subcontractors in the performance of such project are paid wages at rates not less than those prevailing, as determined by the U.S. Secretary of Labor in accordance with [subchapter IV of chapter 31 of title 40, United States Code](#) (commonly known as the "Davis-Bacon Act"), for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the civil subdivision of the State in which the work is to be performed, or by the appropriate State entity pursuant to a corollary State prevailing-wage-in construction law (commonly known as "baby Davis-Bacon Acts").
- ii) **If the above certification is not provided, a recipient must provide a project employment and local impact report detailing:**
  - The number of employees of contractors and sub-contractors working on the project;
  - The number of employees on the project hired directly and hired through a third party;

- The wages and benefits of workers on the project by classification; and
  - Whether those wages are at rates less than those prevailing. (As determined by US Secretary of Labor in accordance with subchapter IV of chapter 31 of Title 40, United States Code (“Davis-Bacon Act”)
  - Grantees must maintain sufficient records to substantiate this information upon request.
- iii) In addition, Grantees may provide a certification that a project includes a project labor agreement, meaning a pre-hire collective bargaining agreement consistent with section 8(f) of the National Labor Relations Act ([29 U.S.C. 158\(f\)](#)).
- iv) **If the recipient does not provide such certification, the recipient must provide a project workforce continuity plan, detailing:**
- How the recipient will ensure the project has ready access to a sufficient supply of appropriately skilled and unskilled labor to ensure high-quality construction throughout the life of the project;
  - How the recipient will minimize risks of labor disputes and disruptions that would jeopardize timeliness and cost-effectiveness of the project; and
  - How the recipient will provide a safe and healthy workplace that avoids delays and costs associated with workplace illnesses, injuries, and fatalities; including descriptions of safety training, certification, and/or licensure requirements for all relevant workers (e.g., OSHA 10, OSHA 30);
  - Whether workers on the project will receive wages and benefits that will secure an appropriately skilled workforce in the context of the local or regional labor market; and
  - Whether the project has completed a project labor agreement.
- v) Grantees will also report on whether the project prioritizes local hires.
- vi) Grantees will report on whether the project has a Community Benefit Agreement, with a description of any such agreement.

## 9.2. General Guidance

**Applicability** Under [2 C.F.R. Part 200.101](#), the terms and conditions of federal awards generally flow down to subcontracts and subawards. This means that non-federal entities must comply with requirements regardless of whether the non-federal entity is a recipient or subrecipient of a federal award.

**Internal Controls** Per [2 C.F.R. Part 200.303](#), all non-federal entities must establish effective internal controls to ensure that funding decisions constitute eligible uses of funds and document determinations.

**Allowable Costs.** As outlined in the Uniform Guidance at [2 C.F.R. PART 200, Subpart E](#) regarding Cost Principles, allowable costs are based on the premise that a recipient is responsible for the effective administration of federal awards, application of sound management practices, and administration of federal funds in a manner consistent with the program objectives and terms and conditions of the award. Any costs reimbursed with program funds must be reasonable and allocable, as described in [2 C.F.R Parts 200.404 and 200.405](#), respectively.

The costs related to the project are only allowed to be charged to the grant if they are necessary and reasonable for the performance of the grant program award. Costs must be consistently charged as either indirect or direct costs but may not be double charged or inconsistently charged as both, as described in [2 C.F.R. Part 200.403](#). Direct costs are those that are identified specifically as costs of implementing the program objectives, such as contract support, materials, and supplies for a project. Indirect costs are general overhead costs of an organization where a portion of such costs are allocable to the grant award such as the cost of facilities or administrative functions like a director’s office contract support, materials,

and supplies for a project. If a recipient has a current Negotiated Indirect Costs Rate Agreement (“NICRA”) established with a federal cognizant agency responsible for reviewing, negotiating, and approving cost allocation plans or indirect cost proposals, then the recipient may use its current NICRA. Alternatively, if the recipient does not have a NICRA, the recipient may elect to use the de minimis rate of 10 percent of the modified total direct costs pursuant to [2 C.F.R. Part 200.414\(f\)](#).

**Real Property and Equipment.** Equipment and real property acquired with federal funds must be used for the originally authorized purpose. Consistent with [2 C.F.R. Part 200.311](#) and [2 C.F.R. Part 200.313](#), any equipment or real property acquired using federal funds shall vest in the non-federal entity. A non-federal entity must request disposition instructions for real property from the awarding agency, which may include the retention of the title, sale of the property, or transfer of the title. In the event that original or replacement grant-funded equipment is no longer needed for the original project or program, the non-federal entity must dispose of the property in accordance with 2 C.F.R. Part 200.313.

The Uniform Relocation Assistance and Real Property Acquisition Act of 1970 ([42 U.S.C. 4601-4655](#)) (URA) and implementing regulations in [49 C.F.R. Part 24](#) are also applicable.

*Prohibition on Certain Telecommunications and Video Surveillance Services, Equipment, and Costs.* Recipients and subrecipients may not use grant funds to procure or obtain certain telecommunications and video surveillance services or equipment provided or produced by designated entities, including certain entities owned or controlled by the People’s Republic of China, [2 C.F.R. Part 200.216](#). Under [2 C.F.R. Part 200.471](#), certain telecommunications and video surveillance costs associated with 2 C.F.R. Part 200.216 are unallowable.

**Remedies for Noncompliance.** Recipients and subrecipients shall comply with the terms of the grant agreement and applicable federal laws, regulations, and guidance. Noncompliance may result in actions set forth in [2 C.F.R. Part 200.339](#)

**Closeout.** Any funds not obligated or expended for eligible uses in the eligible cost timeframe must be returned to the federal agency, including any unobligated or unexpended funds that have been provided to subrecipients and contractors as Part of the award closeout process pursuant to [2 C.F.R. Part 200.344\(d\)](#).

**Audits.** Pursuant to the Single Audit Act and its implementing regulation at [2 C.F.R. Part 200, Subpart F](#), recipients and subrecipients expending \$750,000 or more from all federal sources within a fiscal year are required to have a Single Audit conducted for that fiscal year. For-profit subrecipients that receive subawards are not subject to Single Audit requirements, however, they are subject to other audits as deemed necessary by authorized governmental entities, including Treasury and Treasury’s OIG. Note that the Compliance Supplement provides information on the existing, important compliance requirements that the federal government expects to be considered as a Part of such audit.

**Contract Provisions for Non-Federal Entity Contracts Under Federal Awards.** In addition to other provisions required by the federal agency or non-federal entity, all contracts made by the non-federal entity under the federal award must contain provisions covered in [2 C.F.R. Part 200 - Appendix II](#). All contracts made by a recipient or subrecipient in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with certain provisions of the Contract Work Hours and Safety Standards Act, [40 U.S.C. 3702 and 3704](#), as supplemented by Department of Labor regulations ([29 C.F.R. Part 5](#)). Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all overtime hours. Working conditions must not be unsanitary, hazardous, or dangerous.

**Suspension and Debarment Requirements.** All recipients and subrecipients, their prime contractor, and subcontractors (including contracted administrators and engineers) must comply with all financial management and federal requirements, and document that they are not suspended, debarred, or otherwise excluded prior to contract execution (no exclusions stated), [2 C.F.R. Part 200.214](#).

The Uniform Guidance, pursuant to [2 C.F.R. Part 180](#), requires an infrastructure for competitive bidding and contractor oversight, including maintaining written standards of conduct and prohibitions on dealing with suspended or debarred Parties.

**Civil Rights.** Recipients and subrecipients must comply with applicable statutes and regulations prohibiting discrimination, including:

- a. [Title VI of the Civil Rights Act of 1964](#) (42 U.S.C. 2000d et seq.), and the Treasury's implementing regulations, [31 C.F.R. PART 22](#), which prohibits discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance
- b. [Section 504 of the Rehabilitation Act of 1973](#), as amended (29 U.S.C. 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance
- c. [Title IX of the Education Amendments of 1972](#) (Title IX), 20 U.S.C. 1681 et seq., and the Department of Justice's implementing regulations, [31 C.F.R. PART 28](#)
- d. [The Age Discrimination Act of 1975](#), as amended (42 U.S.C. 6101 et seq.), and the Treasury implementing regulations at [31 C.F.R. Part 23](#), prohibits discrimination on the basis of age in programs or activities receiving federal financial assistance
- e. Title II of the Americans with Disabilities Act of 1990, as amended ([42 U.S.C. 12101 et seq.](#)), prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

**Environmental Review.** National Environmental Policy Act (NEPA) does not apply to the Treasury's administration of the funds. Projects supported with payments from the funds may still be subject to NEPA review if they are also funded by other federal financial assistance programs.

**SAM.gov Registration.** Pursuant to [2 C.F.R. Part 25](#), each applicant must obtain a Unique Entity Identifier from the federal System for Award Management (SAM) prior to receiving a subgrant agreement.

**Other:** In addition, subgrantees must comply with applicable federal laws, including the 2019 National Defense Authorization Act (NDAA). Among other requirements contained in 2 C.F.R. Part 200, 2 C.F.R. 200.216 implements certain provisions of the NDAA and contains prohibitions on the use of grant funds to procure or obtain certain telecommunications and video surveillance services or equipment provided or produced by designated entities, including certain entities owned or controlled by the People's Republic of China. In addition, 2 C.F.R. 200.471 provides that certain telecommunications and video surveillance costs associated with 2 C.F.R. 200.216 are unallowable.

## 9.3. Reporting Requirements

**Monitoring and Reporting.** Pursuant to [2 C.F.R. Part 200.332](#), recipients are responsible for monitoring and overseeing subrecipients' use of funds and other activities related to the award to ensure that subrecipients comply with the applicable statutory and regulatory requirements, and the terms and conditions of the award.

**Financial Reporting.** Financial and performance information will be required at least annually, using OMB-approved standard government-wide information collections, as per [2 C.F.R. Part 200.328](#).

**Construction Performance Reports.** [2 C.F.R. Part 200.329](#) includes additional monitoring and reporting requirements. For the most Part, onsite technical inspections and certified percentage of completion data are relied on heavily by federal awarding agencies and pass-through entities to monitor progress under federal awards and subawards for construction.

**Reporting on Real Property.** As per [2 C.F.R. Part 200.330](#), reports will be required at least annually on the status of real property in which the federal government retains an interest unless the federal interest in the real property extends 15 years or longer.

**Access to Records.** Pursuant to [2 C.F.R. Part 200.337](#), representatives have the right of access to any documents, papers, or other records of the non-federal entity which are pertinent to the federal award, in order to make audits, examinations, excerpts, and transcripts. The rights of access in this section are not limited to the required retention period but last as long as the records are retained.

## 9.4. Other Requirements

The requirements and regulations above provide a broad overview of the requirements and regulations that apply to federally funded broadband programs and are not meant to be an exhaustive list of all the requirements and regulations that subrecipients will be subject to. Other requirements include, but are not limited to:

- a. The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards ([2 C.F.R. Part 200](#)) in general.
- b. The Hatch Act ([5 U.S.C. 1501-1508 and 7324-7328](#))
- c. Governmentwide Requirements for Drug-Free Workplace ([31 C.F.R. Part 20](#))
- d. New Restrictions on Lobbying ([31 C.F.R. Part 21](#))
- e. Protections for Whistleblowers ([41 U.S.C. 4712](#))
- f. False Claims Act ([31 U.S.C. 3729-3733](#))
- g. Rules and Procedures for Efficient Federal-State Funds Transfers ([31 C.F.R. Part 205](#))
- h. Single Audit Act Amendments of 1996 ([31 U.S.C. 7501-7507](#)).