



ARPA CAPITAL PROJECTS FUND “OKLAHOMA BROADBAND INFRASTRUCTURE GRANT” (OBIG) NOTICE OF FUNDING OPPORTUNITY

DISCLAIMER

This Notice of Funding Opportunity (NOFO) is intended to be a guide to the application process for perspective applications applying for consideration of funding through the ARPA-CPF Oklahoma Broadband Infrastructure Grant Program. This guidance is not exhaustive, binding, or final.

I. OVERVIEW

The Oklahoma Broadband Office (“OBO”) hereby notifies interested applicants for the opportunity of funds allocated for the Oklahoma Broadband Infrastructure Capital Projects Fund (“CPF Grant Program”). The availability and use of funds is subject to all applicable State, local, and Federal laws including guidance from the U.S. Department of Treasury (Treasury) regarding the Capital Projects Fund (CPF) established by Section 604 of the Social Security Act, as added by Section 9901 of the American Rescue Plan Act (ARPA) of 2021, Pub. L. No. 117-2 (Mar. 11, 2021), codified at 42 U.S.C. 804. The OBO will be facilitating this broadband infrastructure CPF grant program in accordance with the Treasury’s Capital Projects Fund Guidance for States, Territories, and Freely Associated States, the Treasury’s FAQs and updated supplemental guidance published by the Treasury, and the regulatory requirements under the Uniform Guidance of the Code of Federal Regulations. The Oklahoma Broadband Infrastructure Grant (O-BIG) CPF program will help reduce the financial barriers for internet service providers to build out broadband infrastructure in areas of the state where infrastructure investment has historically been cost prohibitive due to low population density and geographic constraints.

According to the Treasury’s September 2021 Guidance for the Coronavirus Capital Projects Fund, the American Rescue Plan appropriated these CPF funds to carry out critical capital projects directly enabling work, education, and health monitoring, including remote options, in response to the public health emergency with respect to COVID-19.¹ Specifically, the CPF allows for investment in high-quality broadband infrastructure as well as other connectivity infrastructure, devices, and equipment.² The COVID-19 public health emergency highlighted that access to high-quality internet can enable work, education, and health access, and that individuals and communities that lack affordable access to such high-quality internet are at a marked disadvantage.

The O-BIG CPF Grant Program is investing in broadband for communities that have historically experienced disadvantages, such as lack of access to affordable, reliable, high-quality broadband internet that is necessary for full participation in school, healthcare, employment, social services, government programs, and civic engagement. To address this need, the O-BIG CPF Grant Program is seeking applications to provide funding for Broadband Infrastructure Projects, that reliably meet or exceed download and upload speeds of 100 Mbps, and that address a critical need related to access, affordability, reliability, and/or consistency in Oklahoma. Applicants are strongly encouraged to consult and engage with the impacted community(ies) as part of this application process to ensure that consideration is made to address the need for access as well as affordability levels for the underserved and unserved. Additionally, applicants for the O-BIG CPF Grant Program must participate in the Affordable Connectivity Program

¹ *Guidance for the Coronavirus Capital Projects Fund: For States, Territories & Freely Associated States*, pg. 1, (September 2021) <https://home.treasury.gov/system/files/136/Capital-Projects-Fund-Guidance-States-Territories-and-Freely-Associated-States.pdf>

² *Id.*



(“ACP”) and are strongly required to provide at least one low-cost, affordable option offered at speeds that are sufficient and at a minimum of 100/20 Mbps.

Effective from the date this NOFO is published, there will be three business days of public comment on the Oklahoma Broadband Office website. At the close of the public comment window, the OBO will publish FAQs and a brief tutorial outlining the application process. To submit comments, questions, or clarifications during the public comment window, please email CPF@broadband.ok.gov. During the grant application window, only staff designated by the OBO as the primary grants contact can be contacted for assistance. Any additional questions and assistance please email CPFQuestions@broadband.ok.gov.

II. FUNDING AVAILABLE FOR AWARD

The OBO will subaward \$159,299,559.65 in available funding for the O-BIG CPF program. Eligible investment locations include rural areas throughout the state where infrastructure investment has historically been cost prohibitive due to population density and geographic constraints. Priority service areas (discussed in more detail below) are identified using the Oklahoma State Broadband Map, specifically the “Oklahoma Unserved BSL Location Map” found on the website. The OBO reserves the right to fund, in whole or in part, any, all, or none of the applications submitted in response to this NOFO.

III. PERIOD OF PERFORMANCE

All CPF funds must be expended by December 31, 2026, which is the end of the period of performance. Projects must reach substantial completion with service operations and management systems infrastructure operational by October 2, 2026. Substantial completion is defined by Treasury as the date in which the Project can fulfill the primary operations that it was designed to perform, delivering services to end-users.

IV. ELIIGBLE INVESTMENT PROJECTS AND APPLICANTS

The OBO is committed to awarding projects that satisfy the following CPF requirements:

- a. Broadband Infrastructure deployment designed to directly enable work, education, and healthcare monitoring;
- b. Address a critical need that resulted from or was made apparent or exacerbated by the COVID-19 public health emergency; and
- c. Address a critical need of the community to be served by it.

Applicants must explain why the proposed service area has a critical need for the O-BIG project as is related to access, affordability, reliability, and/or consistency.

The construction and deployment of broadband infrastructure projects are presumed eligible for funding under CPF if the infrastructure is designed to deliver, upon project completion, service that reliably meets or exceeds symmetrical download and upload speeds of 100 Mbps.³ If it would be impracticable, because of geography, topography, or excessive cost, for a Broadband Infrastructure Project to be designed to deliver services at such speed, then the Project must be designed so that it reliably meets or exceeds 100 Mbps download speeds and between 20 Mbps and 100 Mbps upload speeds and be scalable to a minimum of 100 Mbps symmetrical for download and upload speeds. The Treasury also prioritizes investments in

³ *Guidance for the Coronavirus Capital Projects Fund: For States, Territories & Freely Associated States*, pg. 2, (September 2021) <https://home.treasury.gov/system/files/136/Capital-Projects-Fund-Guidance-States-Territories-and-Freely-Associated-States.pdf>



fiber-optic infrastructure where feasible, as such advanced technology better supports future needs. Treasury also prioritizes projects that involve broadband networks owned, operated by or affiliated with local governments, non-profits, and co-operatives, as these providers have less pressure to generate profits and with a commitment to serving entire communities.⁴ Additionally, the OBO will also require that services provided by a subawardee to include at least one low-cost option offered at speeds that are sufficient for a household with multiple users to simultaneously telework and engage in remote learning.

Applicants are encouraged to work closely with communities to establish project buy-in and ensure alignment with local plans, permitting, and priorities. According to the Treasury, the OBO may award funds to subawardees, such as other levels or units of government (e.g., municipalities or counties), non-profits, or private entities.⁵ For example, a subawardee of a broadband infrastructure project may include co-operatives, electric utilities, and other entities that build or operate broadband networks, including networks that are owned, operated by, or affiliated with local governments.⁶ If the applicant's broadband infrastructure project is within or traverses a Tribal area, the applicant must request Tribal consent, as shown through written documentation from the appropriate Tribal official and submitted with their application.⁷

Applicants must design their submitted projects to serve all serviceable entities located within the proposed project area (based on the most updated census data and FCC Broadband Map). Applicants will be required to provide broadband service to all unserved and underserved locations within the selected designated areas. A project area is considered “ineligible” if at any point the federal government has awarded funding under a competitive process to support the deployment of broadband service to addresses within the project area. Proposed project areas that have received or have been designated to receive federal funding for the purposes stated above are considered ineligible. Additionally, applicants that wish to apply for multiple project areas will need to submit separate applications for each of the eligible project areas.⁸ In selecting the eligible project areas, the OBO will consider the unserved nature of the county, with the project area selection on counties with the greatest needs. Areas of greatest needs would include areas with high percentages and high numbers of unserved locations without funding commitments (State, Federal, private, etc.). Unserved locations are those currently lacking a terrestrial connection that reliably delivers minimum speeds of 25 Mbps download and 3 Mbps upload. All broadband serviceable locations identified for the proposed project must, as of the date of issuances of the NOFO, lack access to broadband service with speeds at or greater than 100 megabits per second (Mbps) download and 20 Mbps upload (100/20 Mbps) and should not be scheduled to receive broadband service prior to the start of the proposed project. The proposed project must be designed to deliver minimum network requirements capable of providing broadband service speeds of at least 100 Mbps for downloads and 100 Mbps for uploads (100/100 Mbps) to all broadband serviceable locations within the proposed project area that lack access to broadband service at speeds at or greater than 100/20 Mbps. Applicants may not submit a single application that includes a

⁴ *Id.* pg. 3.

⁵ *Id.*, pg. 2.

⁶ Subawardees receive a subaward from a Recipient to carry out a Capital Project on behalf of the Recipient with the Recipient's federal award funding. Recipients are responsible for monitoring and overseeing Subawardees' use of funds and other activities related to the award to ensure that the Subawardees complies with the statutory and regulatory requirements and the terms and conditions of the award. Recipients remain responsible for reporting to Treasury on their Subawardees' use of funds.

⁷ *Guidance for the Coronavirus Capital Projects Fund: For States, Territories & Freely Associated States*, pg. 11, Section E. (September 2021) <https://home.treasury.gov/system/files/136/Capital-Projects-Fund-Guidance-States-Territories-and-Freely-Associated-States.pdf>

⁸ A proposed project area is limited to a county, multiple counties will require separate applications. However, an ISP is not required to cover a county in its entirety.



project comprising buildout speeds of both a minimum 100/100 Mbps and minimum 100/20 Mbps. Such projects must be subdivided into separate applications that only contain a single buildout speed level. Additionally, applicants must also subdivide projects deploying multiple types of technologies. Allowable technologies include fiber, coaxial cable, terrestrial fixed wireless.

In determining areas for investment, the OBO may choose to consider any available data, including but not limited to documentation of existing broadband internet service performance, federal and/or state collected broadband data, user speed test results, interviews with community members and business owners, reports from community organizations, and any other information the OBO deems relevant. In addition, the OBO will consider the actual experience of current broadband customers when making its determinations, whether there is a provider serving the area that advertises or otherwise claims to offer broadband at a given speed is not dispositive. All submitted applicants are required to have a Tier D license to be considered eligible for potential funding. Licensing information and assistance is located on the OBO website.

At the end of the O-BIG CPF Grant Program application window, the OBO will be conducting a CPF Overbuild Prevention Contest Process, allowing eligible broadband providers to contest any of the submitted proposed project areas. Providers wishing to participate in the CPF Overbuild Prevention Process who did not submit a CPF Application, will be required to obtain a Tier E license. Applicants who are wanting to participate in the CPF Overbuild Prevention Process can use their previously obtained Tier D license. This Overbuild Prevention Contest Process will serve as an opportunity for providers with a) existing infrastructure within the proposed project areas to submit the addresses that are already served or will be served within twelve (12) months, or up to eighteen (18) months if extended by the OBO, or b) grant program funds awarded by other governmental entities that cannot be matched with CPF funding. Following the Overbuild Prevention Contest Process, the OBO, with the approval of the Oklahoma Broadband Governing Board, will award selected eligible applicants.

Per the OBO's Treasury approved CPF Program Plan, every O-BIG CPF Grant Program must have a minimum 25% funding match. This means in order to apply with a successful application, the applicant must commit to providing matching funds in the amount of at least 25% of the total funding award. The OBO reserves the right to deny any application that does not demonstrate evidence of (a) compliance with state and federal CPF requirements and (b) performing services as a good steward of public dollars.

V. SCORING PREFERENCES

The OBO will require, with several exceptions, broadband infrastructure projects that are designed to deliver, upon project completion, service that reliably meets or exceeds symmetrical download and upload speeds of 100 Mbps to all proposed locations and delivers the greatest public benefit relative to cost⁹. To evaluate the CPF applications for the greatest public net benefits, in compliance with Treasury, OBO will give preference to projects that prioritize investments in fiber-optic infrastructure, where feasible. Preferred proposed projects will be designed to provide last-mile broadband service to end users.

The OBO will also prioritize support for broadband networks owned, operated by, or affiliated with local governments, non-profits, and co-operatives, noting the critical role that networks owned, operated, or affiliated with local governments and community organizations can play in providing sufficient coverage, affordable access, or increased competition in the broadband sector. Following the Treasury's guidance, the OBO requires broadband service providers to include at least one low-cost option offered without data

⁹ *Id.* pg. 9.



usage caps at sufficient speeds for a multiple user household, offered to all subscribers regardless of income. Treasury also encourages investments in broadband infrastructure to be performed in ways that produce high-quality infrastructure, avert disruptive and costly delays, promote efficiency, and encourage strong workforce standards, including project labor agreements and community benefits agreements that offer wages at or above the prevailing rate and include local hire provisions. The OBO also prioritizes selecting subawardees a) who can demonstrate that their workforce meets high safety and training standards (e.g., professional certification, licensure, and/or robust in-house training), b) that hire local workers and/or workers from historically underserved communities, and c) who directly employ their workforce while maintaining high workforce standards or have policies and practices in place to ensure contractors and subcontractors meet high workforce standards.

VI. AFFORDABILITY REQUIREMENT

All O-BIG CPF subawardees must participate in the Federal Communications Commission's Affordable Connectivity Program, which provides eligible households with discounts on broadband internet access services and devices.¹⁰ The Treasury encourages Projects that address affordability as a barrier to full use of the internet, as affordability of broadband is necessary to directly enable its use by all Americans. Therefore, when selecting O-BIG projects, the OBO requires that the broadband service options offered by potential subawardees will be affordable to their target markets in the proposed service area. The OBO will prioritize projects that demonstrate consultation with the community within the proposed service area to better assess what affordability means and that provide documentation of their process for considering affordability in the proposed service area.¹¹ The Treasury also requires subawardees to report pricing data as part of the program performance and monitoring.

VII. ELIGIBLE PROJECT COSTS

Allowable costs are determined in accordance with the cost principles identified in 2 C.F.R. Part 200, Subpart E. Please refer to the Treasury's SLFRF and CPF Supplementary Broadband Guidance, Treasury's FAQ, and the Grant Agreement for additional information on cost principles and the Single Audit requirement. Below is a non-exhaustive list of project costs that may be eligible¹²:

- Costs associated with completing the grant or Application and Grant Plan;
- 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, middle, and last mile networks);
- Cost of long-term leases (for terms greater than one year) of facilities required to provide qualifying broadband service, including indefeasible 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);

¹⁰ *Coronavirus Capital Projects Fund FAQ*, pg. 12, FAQ 5.4. (April 28, 2022).

https://home.treasury.gov/system/files/136/Coronavirus-Capital-Projects-Fund-FAQs_FINAL.pdf.

¹¹ *Guidance for the Coronavirus Capital Projects Fund: For States, Territories & Freely Associated States*, pg. 4, (September 2021) <https://home.treasury.gov/system/files/136/Capital-Projects-Fund-Guidance-States-Territories-and-Freely-Associated-States.pdf>

¹² *Id.*, pg. 11.



- 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 Projects in compliance with Treasury requirements, including award closeout costs;
- Costs associated with collecting and measuring performance data and conducting activities needed to establish and maintain a performance management and evaluation regime related to Projects funded by the Capital Projects Fund program.

Dependent on the subawardee's risk level, there are three possible cash management policies outlined in the Grant Agreement to determine how the grant program will receive funding. For low-risk subawardees, they can receive funding up to one-hundred and twenty (120) days in advance for approved budgeted expenses with proper documentation. The documentation required for advanced funding includes a budget forecast of how the advanced funding will be spent in during the period of performance and/or estimates/invoices detailing the proposed expenditure. For high-risk subawardees, they can receive funding either on a reimbursement basis, or if the subawardee does not have the operating capital to operate on a reimbursement basis, they may request a cash advance in accordance with the working capital policy. The working capital cash management policy requires satisfactory documentation detailing how the funds will be expended within the applicable timeframe based on the subawardees risk category. High risk subawardees are eligible for a working capital advance of sixty (60) days of projected project expenditures, while moderate risk subawardees are eligible for a working capital advance of ninety (90) days of projected project expenditures. Working capital advances will then operate on a reimbursement-based process, in accordance with the post-payment reimbursement cash management policy.

Applicants are required to provide a financial match, match in kind, or partner with another ISP to match funding for their project of at least 25% of the overall funding request. Applicants are required to adequately document their source of matching and percent contributed to the overall cost of the project. The use of funds would be subject to the deadline of expending funds no later than December 31, 2026. Even if a project is only partially funded with CPF funds, then the project must be for an eligible CPF use and the funds must be expended by December 31, 2026. In either case, the applicant must be able to, at a minimum, determine and report to the OBO on the amount of CPF funds obligated and expended and when such funds were obligated and expended.¹³

Treasury encourages use of funds that promote strong, equitable growth, including racial equity, in communities with a critical need, such as high-poverty and rural areas. For the purposes of CPF, equity and underserved communities are defined in the Executive Order 13985 on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government, as issued on January 20, 2021 (EO 13985).¹⁴ Subawardees must describe efforts and outcomes during the project period to promote equity and address critical needs.

VIII. APPLICATION REVIEW, NOTIFICATION, AND GRANT AGREEMENT

From the date the O-BIG CPF application window opens, eligible projects and applicants will have 14 calendar days to submit their application through the portal. All applications will be reviewed for eligibility and completeness, and then evaluated based on the priorities and criteria identified herein. Any application

¹³ *Coronavirus Capital Projects Fund Compliance and Reporting Guidance For States, Territories, and Freely Associated States*, pg. 6, (September 2023) <https://home.treasury.gov/system/files/136/Revised-CPF-State-Guidance.pdf>

¹⁴ *Id.*, pg. 11.



submitted incorrectly (i.e., incorrect shapefile, format, etc.) and not corrected by the close of the application window will not be considered. All certifications and statements made in furtherance of the O-BIG CPF application, CPF Overbuild Prevention Contest Process, and/or additional matters related to the CPF grant award, will be subject to civil penalty under 31 U.S. Code §3729, the False Claims Act.¹⁵

Applicants may designate portions of information provided on their application and/or any supporting documentation as confidential in accordance with the provisions of the Oklahoma Trade Secret Act and the Oklahoma Open Records Act.¹⁶ Such claims must be clearly articulated and made at the time of submittal in accordance with OAC 260:115-3-9. Once the OBO has reviewed all completed applications, they will be scored in accordance with the terms, conditions, and requirements of applicable law and this NOFO. In making final award recommendation(s), the OBO may consider a variety of information or materials. The highest scoring applications will be evaluated by the Oklahoma Broadband Governing Board for final approval. All applicants will be notified via email that the selected projects have been published to the website (i.e., “Notice of Award” date). The OBO will promptly post to the OBO website the list of awarded projects. Each applicant is solely responsible for reviewing this website to determine their award status. Following the publication of the awarded projects, the OBO will distribute the Grant Agreements and an accompanying risk assessment for the successful applicants review and signature. Each project’s risk assessment is based on their application and will determine their cash management policy and monitoring schedule. Selected applicants’ acceptance of the award is the applicant entering into the Grant Agreement with the Oklahoma Broadband Office. An approved applicant will have five business days from the Notice of Award date to sign and return the Grant Agreement to the Oklahoma Broadband Office.

Applications will be reviewed by the OBO in a two-step process. In Step 1, the OBO will evaluate applications against a minimum set of Pass/Fail requirements. An application is disqualified if it fails one or more of the requirements outlined in Step 1. If an application meets the minimum requirements in Step 1, then it is evaluated and scored through a multi-criterion driven process in Step 2. All applications are scored on a 100-point scale. Please see the OBO website for the Board approved and adopted CPF scoring rubric.

Step 1: Application Requirement

Application Requirement	P/F
Applicant provides fabric ID and addresses of locations currently unserved and underserved in the project service area	
Applicant provides evidence that communities identified to be served have a critical need for the project as is related to access, affordability, reliability, and/or consistency	

¹⁵ 31 U.S. Code §3729, False Claims Act.

¹⁶ 78 O.S. § 86 (OSCN 2023), *Uniform Trade Secrets Act.*; 51 O.S. § 24A.3 (OSCN 2023), *Oklahoma Open Records Act.*



Applicant certifies that the project is designed to deliver, upon completion, service that reliably meets or exceeds symmetrical download and upload speeds of 100 Mbps (or 100/20 scalable with documented exceptions)	
Applicant commits to provide at least one low-cost option (not ACP) providing at least 100/20 Mbps or greater sufficient for households with multiple users to simultaneously telework and engage in remote learning	
Applicant certifies participation in FCC's Affordable Connectivity Program committed to participating in the FCC Affordable Connectivity Program	
Applicant certifies that it shall comply, as applicable, with all federal labor and construction standard requirements as required by the Department of Treasury	
Project must be completed no later than 12/31/2026	
Applicant submits all other applicable documentation	



Step 2: Competitive Criteria Evaluation. The OBO will evaluate and score the applications based on the following categories and criteria.

The first category is “Number of Broadband Connections and Speeds”, which evaluates the applications proposed improvements in broadband speed and number of connections to be served by the project. Speeds are evaluated based on anticipated broadband speed/scalability improvements from pre-existing broadband service levels to proposed service levels. The number of broadband connections are evaluated based on the number of total locations potentially served, broken down by the type of location (i.e., households, businesses, and community anchor institutions). Points will only be awarded for the eligible underserved and unserved locations.

The second category, “Matching Fund Amount”, will allot points based on the percent of the total eligible project cost that is being matched by the applicant. Applicant matching funds that exceed the minimum 25% match of eligible project costs will result in a higher score. Any funding partner contributions are included in applicant matching funds for points. Preference will be given to applicants who have financial commitments from qualified community partners (e.g., county, city, town, tribal entity, etc.).

The third category, “Project Readiness”, is evaluated on the applicants demonstration of their organizational capacity to initiate, construct, and launch the project. An applicant must demonstrate how their project is “shovel-ready” and how quickly the applicant can begin construction following the grant award. Full points will be awarded to applicants who have concretely demonstrated a comprehensive knowledge for – and detailed preparation for – the proposed project. Detailed preparation includes providing the complete project schedule and financial requirements, including but not limited to: all budget materials in a detailed, yet clearly understandable manner, with sources and uses of funds being realistic and eligible, all funding partners are secured, documentation of project design and plans including scalable equipment, and all preconstruction requirements (e.g., construction permits, rights-of-way, etc.) are identified and included in the detailed project timeline and schedule. Project implementation includes the projects proposed speed tiers and service pricing, 5-year service commitment, and proposed marketing strategies.

The third category, “Project Sustainability”, is evaluated on the applicants demonstration of their strong internal capacity to effectively support and sustain their broadband infrastructure proposal. An applicant must demonstrate project sustainability in four main areas: technical expertise, organizational support, financial viability, and future scalability. Technical expertise includes prior experience in providing broadband services. Organizational support includes how the organization will sustain broadband service delivery and maintenance. Financial viability includes the applicants most current audited financial statements. Future scalability is how the applicant will scale broadband service delivery beyond the scope of the proposed project.

The fourth category, “Community Support or Engagement”, is evaluated on the applicant’s demonstration of the proposed projects community support and the critical need the project is addressing. Community support can be demonstrated by evidence of how the impacted community has participated and informed the design, implementation, and/or operation of the proposed project. Applications should include a letter of support or commitment from the appropriate community, local government, and/or tribal entity. Evidence of the critical need this proposed project is addressing relates to broadband access, affordability, and reliability. To be awarded the full points, an applicant must provide strong evidence of community support or engagement and strong evidence to explain why this is a critical need and how this proposed project will address the need.



The fifth category, “Economic Development and Community Impact”, is evaluated on the applicant’s demonstration of how this proposed project will impact the economic development and community enhancement of the service area. Evidence that the proposed project area will serve the economically distressed can be shown by unemployment, poverty, or population decline based on most recent data from the Qualified Census Tracts, CDC’s Social Vulnerability Index, ACP eligibility data, etc. Applicants must identify the number of households, businesses, farms, agricultural-use customers, and other significant community anchor institutions and educational facilities in the proposed project area which may benefit from the improved broadband service. For businesses and community anchor intuitions customers, applicants must identify how improved broadband speeds and coverage will benefit the economic development of the proposed area.

The sixth and final category, “Broadband Adoption Assistance and Project Completion”, is evaluated on demonstration of the necessary broadband adoption strategies that are in place and/or will be used to assist in the success of the overall proposed project along with affirmation that the project will be completed prior to December 31, 2026. Broadband adoption activities may include providing prospective customers with digital literacy training and/or technical support required to successfully adopt and utilize broadband service. Project completion is evaluated on the applicants demonstration in their application that they have the organizational capacity to initiate, construct, and launch the project. Evidence to be considered in determining this comprehensive knowledge and preparation include detailed budget materials that outline the funding for the project including a detailed funding schedule, and preconstruction documentation (e.g., construction permits, rights-of-way, etc.) including certified engineering design and diagrams. Any application that does not successfully demonstrate the project can be completed prior to December 31, 2026, will not move forward.

IX. O-BIG SUBAWARD ADDITIONAL TERMS AND CONDITIONS

The OBO will promptly post to the OBO website the list of awarded projects. All applicants are solely responsible for reviewing this website to determine their award status.

In the administration of the grant program authorized by this section, the OBO shall secure service testing data to ensure grant recipients provide the service or services proposed by such recipients when applying for such grants. All grant awards authorized pursuant to the provisions of this section shall include a claw-back provision. For purposes of this subsection, a "claw-back provision" shall mean a condition precedent to participate in the program whereby a grant recipient formally agrees to reimburse the program all or part of a grant award upon the failure of the recipient to fulfill contract terms included in the grant award. Subawardees of funds from the O-BIG CPF Grant Program shall comply with all applicable federal, state, and local laws at all times during the project performance (i.e., applicable construction, environmental and permitting laws/regulations, and applicable zoning ordinances), including requirements identified in Title 31 Code of Federal Regulations (CFR) Part 35 (7-1-2021 Edition), as amended by 87 Fed Reg. 4338 (Jan. 27, 2022), adopted and incorporated herein by reference for use throughout this NOFO and available at the Oklahoma Broadband Office website. CPF payments are subject to requirements of the Cash Management Improvement Act (P.L. 101-453) and Treasury’ implementing regulations at 31 CFR part 205. All capital expenditure projects using CPF funds must be undertaken and completed in a manner that is technically sound, meaning the project must meet design and construction methods and use materials that are approved, codified, recognized, fall within standard or acceptable levels of practice, or otherwise are determined to be generally acceptable by the broadband industry.



X. COMPLIANCE AND MONITORING

All Recipients (including subawardees) of federal funds must complete financial, performance, and compliance reporting as required by the Grant Agreement, 2 CFR § 200.328, 2 CFR § 200.329, and as outlined in the Coronavirus Capital Projects Fund Compliance and Reporting Guidance.¹⁷ Recipients must maintain accounting records for compiling and reporting accurate financial data in accordance with appropriate accounting standards and principles.

Subawardee's will be required to report pricing data as part of program performance and monitoring.¹⁸ Investments in Capital Projects must be carried out in ways that comply with applicable federal laws, including the 2019 National Defense Authorization Act (NDAA).¹⁹ 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.

Furthermore, in 2 CFR Part 200, Appendix II states that all contracts made by a recipient or subawardees in excess of \$100,000 with respect to broadband infrastructure projects that involve 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 CFR Part 5).²⁰ Although the Davis-Bacon Act requirements (prevailing wage rates) do not apply to projects funded solely with CPF funds, recipients may be otherwise subject to the requirements of Davis-Bacon when CPF award funds are used on a construction project in conjunction with funds from another federal program that requires enforcement of the Davis-Bacon Act. Treasury has indicated in its reporting guidance the requirement to provide documentation of wages and labor standards for capital expenditure projects and infrastructure projects over \$5 million. The Treasury has outlined three ways that these labor requirements can be met, either with certification of a project labor agreement, certification of compliance with the Davis-Bacon Act, or documentation of the project workforce continuity plan.²¹ The Treasury and OBO will require programmatic information on subawardees workforce plans to support transparency and competition by enhancing available information on the services being provided.

Treasury's updated Broadband guidance specifies that under the Uniform Guidance, all non-federal entity subawardees are subject to the audit requirements in subpart F, including ISPs. Non-federal entity subawardees are required to submit single audits or program-specific audits to the Federal Audit Clearinghouse (FAC), the government-wide repository for audits of financial assistance programs.²² The

¹⁷ *Coronavirus Capital Projects Fund Compliance and Reporting Guidance For States, Territories, and Freely Associated States*, pg. 13, (September 2023) <https://home.treasury.gov/system/files/136/Revised-CPF-State-Guidance.pdf>

¹⁸ *Guidance for the Coronavirus Capital Projects Fund: For States, Territories & Freely Associated States*, pg. 4, (September 2021) <https://home.treasury.gov/system/files/136/Capital-Projects-Fund-Guidance-States-Territories-and-Freely-Associated-States.pdf>

¹⁹ *Id.*

²⁰ *Id.*, pg. 12; 2 C.F.R., Subtitle A, Appendix II to Part 200, Title 2. <https://www.ecfr.gov/current/title-2/part-200/appendix-Appendix-II-to-Part-200>.

²¹ *Coronavirus Capital Projects Fund Compliance and Reporting Guidance For States, Territories, and Freely Associated States*, pg. 6-7, (September 2023) <https://home.treasury.gov/system/files/136/Revised-CPF-State-Guidance.pdf>

²² *SLFRF and CPF Supplementary Broadband Guidance*, (May 17, 2023). <https://home.treasury.gov/system/files/136/SLFRF-and-CPF-Supplementary-Broadband-Guidance.pdf>.



OBO will require applicants to submit the past three years of financial audits for risk assessment and compliance purposes. Please refer to the “SLFRF and CPF Supplementary Broadband Guidance” from May 17, 2023.²³

The OBO will require the subawardees to track, monitor, and detail specific project information throughout the duration of the project. In further compliance with the Treasury, the OBO will require quarterly programmatic and expenditure reports for each project. This detailed project information includes, but is not limited to, the project technology type(s) (Planned/Actual) either fiber, coaxial cable, terrestrial fixed wireless; the total miles of fiber deployed (Planned/Actual); total number of funded locations served (Planned/Actual) broken out by speeds (pre-CPF award and post-CPF Investment); total number of funded locations served broken out by type of service (Planned/Actual) either residential (total housing units), business, or community anchor institution²⁴; and the type of speed tiers offered, corresponding non-promotional prices including associated fees, and the data allowance for each speed tier of broadband service (collection will be on a rolling basis for future reporting). For each location served by a Project, the subawardees are also required to report the latitude/longitude at the structure where service will be installed, and the technology used to offer service at the location. Programmatic location-by-location project information includes the type of location (if residential, number of housing units); type of speed tier at the location pre-CPF investment (either 25/3 Mbps or below, or between 25/3 Mbps and 100/20 Mbps); speed and latency at the location post-CPF investment (maximum download speed offered and delivered, maximum upload speed offered and delivered, and the latency); and the standardized FCC identifies (Fabric ID # and FCC Issue Provider ID #). All the location-by-location project tracking and monitoring will be reported to the Oklahoma Broadband Office to report to the U.S. Treasury.²⁵

²³ *Id.*

²⁴ Treasury July 2022 PE Report User Guide defines “community anchor institution to mean an entity, such as a school, library, health clinic, health center, hospital or other medical provider, public safety entity, institution of higher education, public housing organization, or community support organization that facilitates greater use of broadband service by vulnerable populations, including, but not limited to, low-income individuals, unemployed individuals, children, the incarcerated, and aged individuals.” <https://home.treasury.gov/system/files/136/July-2022-PE-Report-User-Guide.pdf>

²⁵ *Coronavirus Capital Projects Fund Compliance and Reporting Guidance For States, Territories, and Freely Associated States*, pg. 7-8, (September 2023) <https://home.treasury.gov/system/files/136/Revised-CPF-State-Guidance.pdf>