

**OFFICE OF THE CHIEF INFORMATION OFFICER  
OF THE STATE OF IOWA (“OFFICE”)**

**Broadband Grants Program—Empower Rural Iowa, Coronavirus State and  
Local Fiscal Recovery Funds (“CSLFRF”)**

**NOTICE OF FUNDING AVAILABILITY (“NOFA”) #007**

**(Exhibit A)**

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## SECTION 1—Program Overview/Administrative Issues

**1.1. Purpose.** Governor Reynolds has authorized the allocation and expenditure of \$200,000,000 from the American Rescue Plan Act (“ARPA”) Coronavirus State and Local Fiscal Recovery Funds (“CSLFRF”) to provide a substantial infusion of resources to help turn the tide on the pandemic, address its economic fallout, and lay the foundation for a strong and equitable recovery. Likewise, pursuant to Section 16 (Public Health Disaster Emergency Grants) of 2020 Iowa Acts, Senate File 2400, the Office of the Chief Information Officer (“OCIO” or “Office”) is afforded significant flexibility in administering the disbursement of CSLFRF to Communication Service Providers to Facilitate Broadband Services in this State. *Id.* (“Notwithstanding section 8B.11 and any rules adopted by the office of the chief information officer pursuant to chapter 8B, the office of the chief information officer may provide grants of federal monies obtained as a result of the public health disaster emergency proclaimed by the Governor on March 17, 2020 to communication service providers to install broadband infrastructure in the state or facilitate broadband service in this state so long as the office of the chief information officer complies with the federal requirements for the use of federal moneys.”).<sup>1</sup>

Consistent with the foregoing, the Office is seeking Proposals from Responsible Applicants to Facilitate broadband service to Broadband Units within Eligible Service Areas of the State of Iowa. Applications submitted to this NOFA must be designed to provide last-mile broadband service to homes, schools, and businesses in unserved and underserved areas as defined in 35 C.F.R. § 35.1 (“Unserved and Underserved Households and Businesses”) that: (1) reliably meets or exceeds 100/100 Broadband; or (2) in cases where it is not practicable, because of the excessive cost of the project or geography or topography of the area to be served by the project, to provide 100/100 Broadband that reliably meets or exceeds 100/20 Broadband. However, 100/20 Broadband projects must be scalable to 100/100 Broadband within three years of the Project Completion Date. These two speed categories are referred to as “Covered Speeds” in this NOFA. Applicants may request up to 60% in federal matching funds for eligible Projects under this NOFA.

Pursuant to the guidelines set forth in the CSLFRF Frequently Asked Questions issued by the United States Department of Treasury on July 19, 2021, Applications to this NOFA may also include expenditures associated with (1) the acquisition of middle-mile network services from a third party, or (2) construction of new middle-mile networks, provided that such expenditures are necessary, as part of an Applicant's proposed Project, to facilitate last-mile Covered Speeds in Eligible Service Areas.

**For the avoidance of doubt, this funding opportunity does not utilize any available state funds. Funds awarded under this NOFA are CSLFRF, and Grantees receiving awards hereunder will be considered Subrecipients for purposes of federal law. (2 C.F.R. § 200.1.)**

**1.2. Key Program Definitions.** The following terms shall be ascribed the following meaning:

1.2.1. **“100/100 Broadband”** means reliable one hundred (100) megabits per second of download speed or faster and one hundred (100) megabits per second of upload speed or faster.

1.2.2. **“100/20 Broadband”** means reliable one hundred (100) megabits per second of

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<sup>1</sup> Consistent with Section 16 of 2020 Iowa Acts, Senate File 2400, except where otherwise expressly noted herein, the eligibility requirements and procedures governing this application process shall be solely as set forth in this NOFA #007, including any corresponding attachments referenced or incorporated herein. For the avoidance of doubt, unless and except as otherwise expressly stated herein, the statutory and regulatory requirements of Iowa Code section 8B.11, Iowa Administrative Code chapters 129—20 and 22, or any other similar or related statutory or regulatory requirements, shall not apply to or govern this NOFA.

download speed or faster and twenty (20) megabits per second of upload speed or faster, but less than 100/100 Broadband. However, 100/20 Broadband must be scalable to 100/100 Broadband within three years of the Completion Date, meaning that Applicant will be capable of Facilitating 100/100 Broadband to all potential subscribers within the Project Area within three years of Project completion.

1.2.3. **“Allowable Expenditure(s)”** means specific types/categories of expenditures Applicants/Grantees may include in their Total Project Cost, and for which Applicants/Grantees may seek reimbursement from the Office. Examples of permissible categories of Allowable Expenditures are more fully defined and identified in the Budget Plan and, to the extent applicable, the Outside Eligible Service Area Infrastructure Worksheet. Notwithstanding anything herein or in the Budget Plan or, to the extent applicable, the Outside Eligible Service Area Infrastructure Worksheet to the contrary, Allowable Expenditures may only include expenditures:

- 1.2.3.1. Directly related to the installation of Broadband Infrastructure as defined in Iowa Code 8B.1(2) that Facilitates 100/100 Broadband or 100/20 Broadband, as applicable, in Eligible Service Areas identified in Applicant’s Core Application and forming the basis of the Project;
- 1.2.3.2. Relating to the buildout or acquisition of middle-mile service necessary for the Applicant to Facilitate 100/100 Broadband or 100/20 Broadband, as applicable in Eligible Service Areas identified in Applicant’s Core Application and forming the basis of the Project;
- 1.2.3.3. That are identified as eligible expenditures pursuant to any CSLFRF requirements;
- 1.2.3.4. That comport with the U.S. Department of the Treasury found at the following link:  
<https://home.treasury.gov/policy-issues/cares/state-and-local-governments>;
- 1.2.3.5. Incurred after March 3, 2021;
- 1.2.3.6. Incurred prior to September 30, 2026.

Allowable Expenditures may not include expenditures (in other words, **“Disallowed Expenditure(s)”**) that are:

- 1.2.3.7. Related to land buildings, structures, improvements, or equipment not directly used in the transmission of data via Broadband;
- 1.2.3.8. Related to the process of removing existing Broadband Infrastructure, fixtures, or other real property in preparation of the installation of new Broadband Infrastructure forming the basis of the Project;
- 1.2.3.9. Indirect labor costs or administrative overhead;
- 1.2.3.10. Passthrough expenditures with respect to subcontractors or other third parties operating on an Applicant’s behalf to the extent they are not the result of arm’s length transactions or are not reflective of fair market rates;
- 1.2.3.11. Identified as ineligible expenditures pursuant to any CSLFRF requirements;

- 1.2.3.12. Inconsistent with or not permitted by the U.S. Department of the Treasury guidance, which can be found at the following link: <https://home.treasury.gov/policy-issues/cares/state-and-local-governments>;  
or
- 1.2.3.13. Any other expenditures that are not reimbursable under Applicable Law, rule, or policy, as may be more fully defined and described in the Grants Management Policies and Procedures Guide.
- 1.2.4. **“Applicable Law”** means any and all applicable federal, state, foreign, and local laws, rules, regulations, codes, ordinances, policies, orders or any other legal requirements or limitations, and specifically including CSLFRF Requirements.
- 1.2.5. **“As of Date”** means the date the broadband availability maps and corresponding data sources utilized by the office in determining whether and at which speeds a Communications Service Provider Facilitates broadband service in a particular Census Block. The Broadband Availability Map in effect as of the date of the issuance of this NOFA reflects the availability of Broadband in Iowa as of July 1, 2021.
- 1.2.6. **“Broadband Availability Map”** means the statewide map that identifies whether and at which speeds a Communications Service Provider Facilitated Broadband in a particular Census Block as of the As of Date and whether a Census Block is an Eligible Service Area to receive incentives under this Program. The Broadband Availability Map was published at: <https://ocio.iowa.gov/broadband-availability-map-version-4>.
- Note:** For purposes of this NOFA, whether a Census Block constitutes a Targeted Service Area (**“TSA”**) as defined in Iowa Code Chapter 8B.1(13) does NOT impact the eligibility of the Census Block to receive or utilize incentives available through this NOFA. To comply with CSLFRF guidelines, which establish that areas without wireline 25/3 service are eligible under the CSLFRF program, the Office has identified on the Broadband Availability Map those Census Blocks within which no provider reported facilitating wireline 25/3 service or faster as of the As of Date. These Eligible Service Areas differ from Targeted Service Areas as defined in Iowa Code Chapter 8B.1(13) which are established based upon the presence of wireline *and* wireless service. Thus, Census Blocks that appear as Tier 2 TSAs, Tier 3 TSAs, or non-TSAs on the Broadband Availability may appear as Eligible Service Areas under this NOFA because no provider reported to the Office that it facilitated 25/3 or faster wireline service in the Census Block. Eligible Service Areas will be identified as an additional layer on the Broadband Availability Map. This layer will be made available for Applicants to enable and view on October 14, 2021. (See Exhibit K Project Selection and Data Export/Import Instructions for more information regarding how to identify Eligible Service Areas for this NOFA on the Broadband Availability Map).
- 1.2.7. **“Broadband Unit(s)”** means a home, school, or business within a Census Block as of the As of Date. For purposes of the Program, including for purposes of determining data inputs for Application scoring and for holding Grantees accountable for purposes of the enforcement of resulting Grant Agreements, the number of Broadband Units within a Census Block as represented on the Broadband Availability Map in effect as of the date of issuance of this NOFA shall be determinative.

- 1.2.8. **“Budget Plan”** means the worksheet identifying the Allowable Expenditures and Total Project Costs forming the basis of the Project and submitted as part of an Application. This worksheet is labeled **“Exhibit D”** in the Core Application Excel Workbook. Reference section 1.5.2 (Total Project Costs), and section 2.2.6.3 (Budget Plan) for more detailed information on the budget process. Reference the Outside Eligible Service Area Infrastructure Worksheet, labeled **“Exhibit D.1,”** for information on how to claim expenditures for Broadband Infrastructure installed outside of Eligible Service Areas forming the basis of a Project.
- 1.2.9. **“Census Block”** means a U.S. Census Bureau census block located in this state, including any crop operation located within the census block.
- 1.2.10. **“Coronavirus State and Local Fiscal Recovery Funds Requirements”** means laws, rules, regulations, procedures, guidance, reporting obligations, cost principles, audit requirements, procurement requirements and procedures, management standards or requirements of any kind, including applicable statutory or regulatory requirements or limitations governing the expenditure of CSLFRF Funds, or any interpretations thereof or guidance related to the foregoing, including but not limited to:
- 1.2.10.1. The Department of Treasury’s Interim Final Rule, 31 CFR Part 35, (<https://www.govinfo.gov/content/pkg/FR-2021-05-17/pdf/2021-10283.pdf>);
- 1.2.10.2. The State and Local Fiscal Recovery Funds Compliance and Reporting Guidance, available at <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-funds>;
- Note:** For projects with a Total Project Cost over \$10 million, additional reporting requirements will apply. (Reference page 21 of The State and Local Fiscal Recovery Funds Compliance and Reporting Guidance, Part 2, Section 1(B)(3)(h)(1). Link provided in Section 1.2.10.2, supra.)
- 1.2.10.3. The Department of Treasury’s CSLFRF Frequently Asked Questions, available at <https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf>;
- 1.2.10.4. Applicable provisions of Federal Uniform Guidance (2 C.F.R. Part 200), including but not limited to:
- 1.2.10.4.1. 2 C.F.R. § 200.303 regarding internal controls;
- 1.2.10.4.2. 2 C.F.R. §§ 200.330 through 200.332 regarding subrecipient monitoring and management;
- 1.2.10.4.3. Subpart F regarding audit requirements, including where applicable 2 C.F.R. § 200.501(a).
- 1.2.10.5. Any other specific grant award requirements set forth in any grant agreement or other similar document between the State of Iowa and federal government governing the use of CSLFRF or applicable to Projects receiving CSLFRF.
- 1.2.11. **“Covered Speeds”** means 100/100 Broadband and 100/20 Broadband, as applicable.

- 1.2.12. **“Eligible Service Area”** means a Census Block identified on the Broadband Availability Map as a Census Block within which no provider offers wireline service at speeds greater than or equal to 25 megabits per second download and 3 megabits per second upload (“25/3 Broadband”) consistent with the Coronavirus State and Local Fiscal Recovery Funds Requirements established by the U.S. Department of Treasury.
- Note:** Eligible Service Areas are not based on whether a Census Block is identified as a Tier 1 Targeted Service Area (“TSA”), Tier 2 TSA, or Tier 3 TSA on the Broadband Availability Map V4. Applicants should review Exhibit K Project Selection and Data Export/Import Instructions for more information concerning how to identify Eligible Service Areas using the Broadband Availability Map.
- 1.2.13. **“Facilitate”** means a Communications Service Provider’s ability to provide broadband service at or above Covered Speeds to a home, school, or business within a commercially reasonable time and at a commercially reasonable price upon request by a consumer.
- 1.2.14. **“Maximum Funding Request”** means sixty percent (60%) reimbursement.
- 1.2.15. **“Project”** means a proposed installation of Broadband Infrastructure by a Communications Service Provider that Facilitates Covered Speeds in one or more Eligible Service Areas within the State of Iowa. Reference Section 2.2.6.1 (Project Worksheet) and the Project Worksheet for detailed instructions on how to identify a Project.
- 1.2.16. **“Project Area”** means one or more Eligible Service Areas in which an Applicant proposes to Facilitate Covered Speeds in Eligible Service Areas of the State.
- 1.2.17. **“Project Completion”** means buildout is complete and service is being Facilitated to all applicable homes, schools, and businesses within the Project Area.
- 1.2.18. **“Total Project Cost(s)”** means the total costs/expenditures comprising a Project, and for which Applicants/Grantees may seek reimbursement from the Office. Refer to Section 1.5.2 (Total Project Costs) for a comprehensive definition of Total Project Costs. Total Project Costs shall be as identified in the Budget Plan. To the extent there is any conflict or inconsistency between the Budget Plan and any other aspect of a Proposal, the figure identified in the Budget Plan shall be determinative.

**1.3. Project Period/Contract Term.** Communications Service Providers will be required to propose anticipated Project initiation and completion timelines, including, assuming the anticipated date of Award identified in the table set forth in Section 1.7 (Schedule of Important Dates), a final Project completion date (**“Completion Date”**). Grantees will be expected to complete their Projects by that represented Completion Date. Projects must be fully completed by September 30, 2026 to receive funding under this NOFA.

**1.4. Eligibility Requirements.** Applicants/Projects must meet each of the following eligibility requirements in order to be considered:

- 1.4.1. Persons eligible to submit Applications in accordance with this NOFA include any Communications Service Provider as defined by Iowa Code chapter 8B, including but not limited to private sector carriers, local governments, utilities, and other entities that provide or intend to provide Broadband service.
- 1.4.2. Persons submitting Applications must be the entity that will be Facilitating last-mile

connection to homes, schools, and businesses.

**NOTE:** The limitation set forth in this section is solely intended to clarify who may *submit* applications, it is not intended as a limitation on who Applicants may work with to complete the proposed work set forth in their Application(s). For the sake of clarity, Applicants may:

- Hire or work with consulting firms to prepare their Applications, but an Application may not be presented or framed as work to be performed by a consulting firm or other third party, and may not be signed by a representative of any party other than the entity offering or Facilitating last-mile connections to homes, schools, and businesses.
- Subcontract portions of the proposed work as set forth in their Application(s), including for the construction or acquisition of middle-mile network services necessary for providing last-mile connections that Facilitate Covered Speeds to homes, schools, and businesses in Eligible Service Areas. Applicants may optionally describe any subcontractors they intend to use within the Executive Project or other elements of the Application, including subcontractors that will be providing middle mile services as part of the proposed Project.

1.4.3. Projects may only consist of activities resulting in the delivery of Broadband within the geographic boundaries of the State of Iowa.

1.4.4. Projects must Facilitate Covered Speeds in Eligible Service Areas.

**Note:** Applicants may NOT submit a single Application that includes a Project comprising buildout speeds of **both** a minimum 100/100 Broadband and minimum 100/20 Broadband. Such Projects must be subdivided into separate Applications that only contain a single buildout speed level.

1.4.5. Projects must be completed by September 30, 2026.

1.4.6. For Projects where geography, topography, or financial cost make buildout of 100/100 Broadband impracticable, Projects must reliably Facilitate broadband at 100/20 Broadband, and such Projects must be scalable to a minimum of 100/100 Broadband within three years of Project completion.

## 1.5. Project/Total Project Costs.

1.5.1. *Project Identification.* Applicants must identify their Projects in terms of the Census Blocks in which their Projects will Facilitate Covered Speeds. See Section 2.2.6.1 (Project Worksheet) and the Broadband Grants Program Project Worksheet for instructions on how to identify a Project by identifying each of the Census Blocks by Census Block ID, forming the basis of the Project using the Broadband Availability Map and identifying key related inputs from the Broadband Availability Map that will be used by the Office in the review, scoring, and ranking process.

1.5.2. *Total Project Costs.*

1.5.2.1. Funding. Generally. Applicants are required to state the estimated Total Project Costs forming the basis of their Project and the total amount of federal funds sought in connection therewith in the Budget Plan and, to the extent applicable, the Outside Eligible Service Area Infrastructure



Worksheet. The total amount of federal funds sought may not exceed 60% of Applicant's Total Project Cost, subject to the following:

- 1.5.2.1.1. Estimated Total Project Costs may only comprise Allowable Expenditures.
- 1.5.2.1.2. Estimated Total Project Costs may only include Allowable Expenditures incurred on or after March 3, 2021, but before September 30, 2026.

Applicants are also required to provide an additional Project budget in the [Iowa Grants](#) system in order to facilitate the Office's reporting obligations and for ease of administration. Applicants should take care to ensure that information supplied in the Iowa Grants System summary budget is consistent with the information supplied in the Budget Plan and, to the extent applicable, the Outside Eligible Service Area Infrastructure Worksheet. **In the event of any inconsistency between the information supplied in the Iowa Grants System summary budget and the information supplied in the Budget Plan, including the Outside Eligible Infrastructure Area Worksheet, the information identified in the Budget Plan and the Outside Eligible Service Area Infrastructure Worksheet shall be determinative.** The Office reserves the right to conform such summary budget information to the Budget Plan and the Outside Eligible Service Area Infrastructure Worksheet without notice to the Applicant.

- 1.5.2.2. Outside Eligible Service Area Infrastructure Process. Notwithstanding the foregoing, Applicants may include costs/expenditures that are incurred outside of Eligible Service Area(s) within their Total Project Costs and corresponding Allowable Expenditures, provided that, in order to do so, an Applicant must:
  - 1.5.2.2.1. Explain how such costs/expenditures incurred outside of the Eligible Service Area(s) Facilitate Covered Speeds within the Eligible Service Area(s) forming the basis of the Project;
  - 1.5.2.2.2. Demonstrate how claimed costs/expenditures incurred outside of the Eligible Service Area(s) are necessary to effectively complete the Project;
  - 1.5.2.2.3. Explain why claimed costs/expenditures incurred outside of the Eligible Service Area(s) cannot be excluded from the Application; and
  - 1.5.2.2.4. Set forth the specific methods or formulas that will be utilized in allocating the costs of and for such Outside Eligible Service Area(s) portions of the Total Project Cost in proportion to those costs/expenditures allocated to the actual Facilitation of Broadband within the Eligible Service Area(s) forming the basis of the Project.

This Outside Eligible Service Area Infrastructure Process is not limited to Census Blocks that are directly adjacent to Eligible Service Areas forming the basis of the Application. For more information on how to include costs/expenditures that are incurred outside of Eligible Service Area(s) forming the basis of a Project within a Project's Total Project Costs and corresponding Allowable Expenditures, reference the Outside Eligible Service Area Infrastructure Worksheet, labeled "**Exhibit D.1**" in the Core Application Excel Workbook. The Office reserves the right, in its sole discretion, to exclude claimed costs/expenditures incurred outside of Eligible Service Area(s), including in scoring a Project or in determining in what amount to Award grant funds, where an Applicant fails, in the Office's determination, to satisfy the above-outlined tests. In the event the Office excludes any claimed costs/expenditures incurred outside of Eligible Service Area(s), the Office may, in its sole discretion, notify the Applicant in advance and permit the Applicant to withdraw or amend its Application.

1.5.2.3. Disbursement of Funds. Pending the Office's receipt of required internal approvals governing prepayment of expenses, reference [State Accounting Enterprise \(SAE\), Pre-Payment of Expenses \(last revised May 18, 2017\)](#) [hereinafter "**Prepayment Policy**"], the Office anticipates the following disbursement of funds:

1.5.2.3.1. Once a Project has been awarded funds and following the execution of a Grant Agreement, up to fifty percent (50%) of the Awarded funds may be disbursed to the Grantee upon request through the Iowa Grants Management System within one year of Grant Agreement execution. Requests for advance payments must be limited to expenditures identified in the Budget Plan and be timed to be in accordance with the actual, immediate cash requirements for implementing the project.

1.5.2.3.2. The remaining fifty (50%) percent of the Awarded funds shall be reimbursed in arrears upon Project completion, consistent with the terms and conditions of the Grant Agreement.

If the Office is unable to obtain required internal approvals to accommodate the above payment schedules globally for all Applicants, the Office will work with individual Applicants on a case-by-case basis to facilitate advance payment in accordance with the limitations and restrictions outlined in the Prepayment Policy. As part of this process, the Office may require, and Grantee may be obligated to supply prior to any prepayment, by way of example only:

1.5.2.3.3. Documentation that indicates the Grantee lacks sufficient working capital to commence the Project; and

1.5.2.3.4. Additional documentation supporting the projected costs as required by the Iowa Department of Administrative Services.

**1.6. Available Funds.** Funding for the Broadband Grants Program comes from funds appropriated to the Office for such purposes.

- 1.6.1. The total amount of funds available for Award under this NOFA is up to **\$200,000,000**.
- 1.6.2. Applicants must clearly state in their Applications the amount of grant funds they seek as it relates to a Project.
- 1.6.3. The Office may, in its sole discretion, award the entire amount available under this NOFA to a single Applicant, or to multiple Applicants, subject to the limitations that:
  - 1.6.3.1. The Office will not award a grant pursuant to this NOFA that exceeds the percentage of Total Project Cost limitations set forth in section 1.5.2.
  - 1.6.3.2. A Grantee whose Total Projects Costs, as actually incurred, ultimately differs from its estimated Total Project Costs submitted for purposes of this application process will only be reimbursed for the applicable percentage stated above of the lesser amount.
  - 1.6.3.3. Available funding levels may be amended or vary from that listed in this NOFA, or funding may be withdrawn completely, depending on the availability of funding or any other grounds, as determined by the Office in its sole discretion.
- 1.6.4. The Office may, in its sole discretion, choose to award the entire or a partial amount of the grant funds requested by an Applicant in the event of Project overlap within this NOFA, with prior NOFA awarded Projects, or with prior state or federally-funded opportunities. The Office may calculate Partial Award Amounts in such cases as follows:

*Partial NOFA #007 Award Amount =*

$$\left[ \left( \frac{\text{Total Sq. Mi. of Eligible Service Areas In Project} - \text{Sq. Mi of Overlapping Eligible Service Areas}}{\text{Total Sq. Mi. of Eligible Service Areas in Project}} \right) \times \text{Total Project Budget} \right]$$

**Note:** Additional partial award deductions may also be applied in accordance with other elements provided in this section and section 1.6.5.

The decision of whether to award a partial amount in such circumstances may be guided by consideration of the following non-exclusive list of factors:

- 1.6.4.1. Where available funding is offered to Projects with overlapping areas, the higher scoring Project will be awarded the Eligible Service Area buildout, provided that the higher scoring Project proposes faster buildout speeds than the lower scoring project. In the event the lower scoring project proposes faster buildout speeds, the lower scoring Project will be awarded the overlapping portion.
- 1.6.4.2. Where a portion of the Project overlaps with an area in which any Communications Service Provider has already commenced construction or buildout.
- 1.6.4.3. Where a portion of the Project overlaps with an area in which any Communications Service Provider has preexisting Broadband expansion commitments.

- 1.6.4.4. Where a portion of the Project has already been awarded, by any state or federal program, including as it relates to prior grant rounds administered by the Office, provided that such grants were awarded to Facilitate 25/3 wireline broadband service or faster.
- 1.6.5. The Office may also, in its sole discretion, choose to award the entire or a partial amount of the grant funds requested by an Applicant for any of the following non-exclusive list of factors:
  - 1.6.5.1. Where the Office believes a partial Award would maximize the impact of available funds in furtherance of the core objectives of the Program.
  - 1.6.5.2. Where only an amount less than the funds requested by a particular Applicant remains available following the issuance of all other Awards.
  - 1.6.5.3. Where the Applicant has previously advertised Covered Speeds to locations within its proposed Project Area.
- 1.6.6. The Office will not entertain Project substitution proposals that seek to substitute an Award of funds granted under this NOFA for any funds awarded to the same Applicant to build in the same Project Area under any prior grant rounds administered by the Office.
 

**Note:** This provision is not intended to prohibit Applicants from submitting Project Areas under this NOFA that include Eligible Service Areas that may have been proposed under prior NOFA rounds, but were not awarded funds under a prior NOFA round.
- 1.6.7. The Office may elect to fully award projects irrespective of prior Broadband commitments in a proposed area.

**1.7. Schedule of Important Dates.** The following dates and times are set forth for informational purposes only. The Office reserves the right to change these timelines and deadlines at any time. All dates and times listed are local Iowa time. In addition, this Section describes the process and phases by and during which the Office will review Applications submitted to the Office pursuant to this NOFA and the manner in which Award decisions will be conducted and made.

EVENT	DATE
1.7.1 NOFA Pre-Publication Notice	10/11/2021
1.7.2 Written Questions and Responses	
1.7.2.1 Pre-Application Conference:	10/14/2021, 2:00 PM CDT
1.7.2.2 Written Questions Submissions:	10/15/2021 - 10/22/2021
1.7.2.3 Responses Posted By:	10/25/2021
1.7.3 NOFA Issuance; Application Acceptance Window Opens <b>(no Applications will be accepted prior to this date and time)</b>	10/25/2021
1.7.4 Application Acceptance Window Closes/Applications Due <b>(no Applications will be accepted after this date and time)</b>	11/22/2021, 5:00 PM CST
1.7.5 Application Review Ends:	12/31/2021
1.7.6 Final Agency Decision(s)/Notice of Intent to Award (Anticipated)	12/31/2021

- 1.7.1. *NOFA Pre-Publication Notice.* The Office will provide notice of the upcoming funding opportunity by posting this NOFA online at [Iowa Grants](#) and <https://ocio.iowa.gov/broadband> on the date specified in the table above.
- 1.7.2. *Written Questions and Responses.* Questions regarding the scope, interpretation, application, or contents of this NOFA may be addressed during the pre-application conference or as part of the formal Written Question and Response process. While the Office will make available administrative support throughout the process to Applicants as more fully described in Section 1.8 (Inquiries), only written communications made in response to questions submitted through this process shall be binding on the Office.
- 1.7.2.1. A pre-Application conference will be held virtually at the date and time listed in the table above. The purpose of the pre-Application conference is to discuss with prospective Applicants the requirements prescribed by this NOFA and allow prospective Applicants an opportunity to ask questions. Oral responses given during the pre-Application conference shall not be considered binding on the Office. The conference may be recorded. Questions asked at the conference that cannot be adequately answered during the conference may be deferred. Participation in the pre-Application conference is optional. To join the pre-Application conference, please register at the following link: [Pre-application Registration](#).
- 1.7.2.2. Written questions related to this NOFA must be submitted to the Office via e-mail to [ociogrants@iowa.gov](mailto:ociogrants@iowa.gov). Written questions must be submitted no later than the date and time specified in the table above.
- 1.7.2.3. The Office will prepare written responses to all pertinent, timely, and properly submitted questions and post such responses as an addendum to the NOFA online at <https://ocio.iowa.gov/broadband>. The Office's written responses will be considered part of the NOFA. Verbal responses to any questions will not be binding on the Office. It is the responsibility of the Applicant to check <https://ocio.iowa.gov/broadband> for written questions and responses to this NOFA.
- 1.7.2.4. Failure to raise a question or issue regarding the scope, interpretation, application, or contents of this NOFA as part of the question and response process shall be deemed a waiver or failure to exhaust administrative remedies for purposes of an appeal of an Award; such waiver is intended to ensure the Office is able to correct any material issues or errors in an efficient fashion and in a manner that is fair to all prospective Applicants.
- 1.7.3. *NOFA Issuance and Application Acceptance Window Opens.* The Office will provide notice to Communications Service Providers of this funding opportunity by posting the final version of this NOFA online at [Iowa Grants](#) and <https://ocio.iowa.gov/broadband> on the date specified in the table above. Applicants must submit Applications through [Iowa Grants](#) per the date and time specified in the table above. Applications submitted prior to the opening of the Application Acceptance Window will not be considered by the Office.
- 1.7.4. *Application Acceptance Window Closes/Applications Due.* Applications must be

submitted through [Iowa Grants](#) no later than the date and time specified in the table above. Applications submitted after the deadline will not be considered by the Office.

**Note:** Applicants are solely responsible for ensuring Applications are timely submitted. Failure to timely submit an Application within the Application Acceptance Window will result in rejection of the Application. The date and time as recorded by [Iowa Grants](#) shall serve as the official regulator for the submission date and time of Applications. Applications submitted to the Office in any manner other than that through [Iowa Grants](#) will not be considered by the Office. Applications must be fully and properly filled out and include all required forms or attachments, including those identified herein or otherwise required by [Iowa Grants](#). An incomplete Application may result in rejection of the entire Application. “**Iowa Grants Registration Instructions**,” labeled “**Exhibit J**,” gives detailed instructions on how to create, access, and submit Applications in and through [Iowa Grants](#).

- 1.7.5. *Application Review.* Following the expiration of the Application Acceptance Window, the Office will review Applications received and conduct the Application Review as more fully described below and in Section 3.1 (Quantitative Factors) and as follows:
  - 1.7.5.1. Technical Review. The purpose of the “**Technical Review**” is to review applications for completeness in accordance with Applicable Law and this NOFA, and conduct quantitative scoring. Applications that are timely submitted and that are not rejected for completeness as part of the Technical Review will be reviewed, processed, scored, and ranked in accordance with Section 3 (Scoring Methodology) and as more fully described below.
  - 1.7.5.2. Quantitative Scoring. Quantitative scoring takes place in conjunction with the Technical Review. Quantitative scores will be calculated utilizing the formulas in Section 3.1 (Quantitative Factors). A Project’s quantitative score is the outcome of predetermined formulas that require little-to-no exercise of discretion by the Office as part of the evaluation process.
  - 1.7.5.3. Disqualification and/or Ineligibility Review. Projects that do not comply with the terms, conditions, and requirements of Applicable Law and Section 1.9 of this NOFA may be disqualified or ruled ineligible for an Award.
- 1.7.6. *Final Agency Decision(s)/Notice of Intent to Award.* The Office will review all Applications received in accordance with the terms, conditions, and requirements of Applicable Law and this NOFA, and make a final agency decision regarding whether, to which Projects, and in what amount(s) to award grant funds. In making final Award decision(s), the Office may consider a variety of information or materials. In formulating its final recommendation(s), the Office is not bound by the results of the scoring process set forth in this NOFA. The Office will notify each Applicant of Office award decisions by issuing a **Notice of Intent to Award** (“NOIA”). Such NOIA shall be distributed by email to the Applicant’s Authorized Official. The Office will also post the NOIA online at <https://ocio.iowa.gov/broadband>. Unsuccessful Applicants are solely responsible for reviewing this website to determine their Award status.
- 1.7.7. *Grant Agreement Negotiation and Execution.*

- 1.7.7.1. Following the issuance of the NOIA, the Office will distribute final Grant Agreements and an accompanying Risk Assessment Questionnaire for the successful Applicants' review and signature. The Office's standard Grant Agreement is labeled as "**Exhibit E.**" Successful Applicants will be given 10 business days from the date of transmission of the final Grant Agreement and Risk Assessment Questionnaire to negotiate and sign a contract with the Office, and fill out and return the questionnaire. If a Grant Agreement and questionnaire have not been executed within this timeframe, the Office may, in its sole discretion, cancel the Award with respect to that Applicant and begin negotiations with another Applicant, as deemed appropriate by the Office. The Office may, in its sole discretion, extend the time period for negotiations of the Grant Agreement and completion of the Risk Assessment Questionnaire.
- 1.7.7.2. By submitting an Application, Applicant acknowledges its acceptance of the terms and conditions of the NOFA and the Grant Agreement without change, except as otherwise expressly stated in its Application and otherwise permitted herein. If Applicant takes exception to a provision in the Grant Agreement, it must state the reason for the exception, and set forth the specific language it proposes to include in place of that section or provision through a redline with comments in the margins. If Applicant's exceptions or proposed responses materially alter the NOFA or the requirements of Applicable Law, or if Applicant submits its own terms and conditions or otherwise fails to follow the process described herein, the Office may reject the Application, in its sole discretion. The Office reserves the right to either award grant funds without further negotiation with a successful Applicant, or to negotiate terms and conditions with a successful Applicant if the best interests of the Office, the Program, and the State would be served.

**1.8. Inquiries.** Inquiries related to this NOFA may be made in the following ways:

- 1.8.1. Formal inquiries for which Applicants seek binding responses from the Office related to this NOFA must be submitted in accordance with Section 1.7.2 (Written Questions and Responses). Only written communications made in response to questions submitted through this process shall be binding on the Office.
- 1.8.2. The Office will make available administrative support throughout the application process to Applicants. Such support includes assisting Applicants in navigating and completing required forms or attachments associated with the application process, including but not limited to transposing information from the Broadband Availability Map to Applications or corresponding forms and attachments. This is a service made available to Applicants to assist in navigating the more complex aspects of the Application process. Contact [ociogrants@iowa.gov](mailto:ociogrants@iowa.gov) for further information. Communications made in response to questions submitted through this process shall not be binding on the Office.

With the exception of the available support described above, unauthorized contact with employees of the Office or independent contractors utilized by the Office regarding this NOFA or any Application submitted in connection herewith may result in disqualification. Including as

it relates to the administrative support services described above, representations made by the Office's officers, employees, or independent contractors, whether made verbally, in writing, or otherwise, are not binding on the Office or otherwise incorporated into or made part of this NOFA, unless made in response to questions submitted through the process set forth in Section 1.7.2 (Written Questions and Responses). Likewise, any verbal information provided by an Applicant to the Office, including through the administrative support services described above, shall not be considered part of an Application. Applicants are solely responsible for ensuring their Applications are timely submitted and all required information, forms, or attachments are fully and properly filled out and submitted in accordance with the terms, conditions, or other requirements of Applicable Law.

**1.9. Rejection/Disqualification or Cancellation of NOFA.** The Office reserves the right to reject, in whole or in part, any or all Applications, disqualify an Applicant, to advertise for new Applications, to arrange to receive or itself perform the services described herein, to abandon the need for such services, or to cancel this NOFA at any time for any reason, including when in the best interests of the Office, the Program, or the State of Iowa to do so. Any Application may be rejected outright and not evaluated, or an Applicant disqualified, for any of the following reasons:

- 1.9.1. The Applicant is not an eligible Applicant in accordance with Section 1.4 (Eligibility Requirements).
- 1.9.2. The Project is not an eligible Project in accordance with Section 1.4 (Eligibility Requirements).
- 1.9.3. The Applicant is not a Responsible Applicant.
- 1.9.4. The Applicant indicates that the Project will proceed regardless of whether funds are awarded to the Applicant under this NOFA.
- 1.9.5. Reserved.
- 1.9.6. Where a portion of the Project overlaps with an area in which any Communications Service Provider has already commenced construction or build out.
- 1.9.7. Where a portion of the Project overlaps with an area in which any Communications Service Provider has preexisting Broadband expansion commitments.
- 1.9.8. Where a portion of the Project has already been awarded, by any state or federal program, including as it relates to prior grant rounds administered by the Office, provided that such grants were awarded to Facilitate 25/3 wireline broadband service or faster.
- 1.9.9. Reserved.
- 1.9.10. Where a portion of a lower scoring Project materially overlaps with a portion of any other higher scoring Project concurrently seeking funds pursuant to this NOFA.
- 1.9.11. An Application is submitted in a manner other than through [Iowa Grants](#).
- 1.9.12. An Applicant fails to include required information or fails to include sufficient information to determine whether a requirement of the NOFA has been satisfied.
- 1.9.13. An Applicant fails to follow the Application instructions or presents information requested by this NOFA in a manner inconsistent with the instructions of the NOFA.



- 1.9.14. An Applicant provides misleading or inaccurate answers.
- 1.9.15. An Applicant states that a requirement of this NOFA cannot be satisfied.
- 1.9.16. An Applicant's response materially changes a requirement of this NOFA.
- 1.9.17. An Applicant's response limits or attempts to limit any right(s) of the Office.
- 1.9.18. An Applicant fails to respond to the Office's request for information, documents, or references.
- 1.9.19. An Applicant fails to include any signature, certification, authorization, or stipulation required by this NOFA.
- 1.9.20. An Applicant alters the language in any exhibit, certification, authorization, or other form required to be submitted in connection with this NOFA.
- 1.9.21. An Applicant initiates unauthorized contact concerning or related to this NOFA with an officer, employee, or independent contractor of the Office.
- 1.9.22. An Applicant submits an Application that includes a Project proposing building out at both 100/100 and 100/20 Broadband.
- 1.9.23. An Applicant proposes to only build out middle-mile service with no last-mile service to be provided to homes, schools, or businesses in Eligible Service Areas.
- 1.9.24. An Applicant proposes to build out a wireless network, but does not demonstrate within Exhibit I Wireless Project Design Worksheet that the design of the proposed wireless network backhaul is "future proof," meaning that the network backhaul is capable of Facilitating Covered Speeds to every home, school, and business within the Project Area upon Project completion.

**1.10. Grants Management Policies and Procedures Guide.** The Office will issue a Grants Management Policies and Procedures Guide in conjunction with the Grant Agreement negotiation and execution process. This Guide will describe the financial, oversight, and administrative requirements, policies, and procedures the Office requires Grantees to follow in the Office's administration of Awards. Grantees must adhere to the Grants Management Policies and Procedures Guide, which shall be considered a contractual obligation of a successful Grantee.

**1.11. Additional Terms and Conditions.** Section 7 (NOFA Administration/Terms and Conditions Governing Application Process) sets forth standard terms and conditions that govern the administration of the NOFA, as opposed to terms and conditions in this Section 1 (Program Overview/Administrative Issues) that are designed to assist Applicants in preparing their Application. Applicants and Applications must comply with all terms and conditions set forth in this NOFA.

## SECTION 2—Form and Content of Applications

These instructions prescribe the submission, format, and content requirements of the Application. They are designed to facilitate a uniform review process. Failure to adhere to these instructions may result in rejection of an Application. Applicants must complete each Application form required by this NOFA following the instructions herein and within [Iowa Grants](#). Some forms may be in the format of web forms, otherwise uploaded forms must be in a .PDF, or in the case of the Core Application, .XLSX, as part of this application process. Redacted or “public” versions of electronic documents must also be uploaded as part of the application process to the extent an Applicant seeks confidential treatment of any information supplied to the Office in accordance with Section 7.18 (Disposition of Applications/Public Records). Applicants are solely responsible for providing the Office with a redacted/public copy of an Application and any corresponding materials or information submitted therewith. **For assistance in redacting information in the Core Application, please contact the Help Desk as identified in section 1.8.2.**

**2.1. Iowa Grants Instructions.** All Applications and corresponding forms and attachments must be submitted through [Iowa Grants](#). Registration and Application Instructions are outlined in the “**Iowa Grants Registration and Application Instructions**,” labeled as “**Exhibit J**.”

### 2.2. Required Forms/Submissions.

- 2.2.1. *General Information.* This form requires an Applicant to identify the name, address, telephone number, email address, and other general information of the Authorized Official to respond to inquiries regarding the Application and other required information.
- 2.2.2. *Business Organization.* This form requires information about Applicant’s organization, including legal name, address, alternate mailing address for warrants/payments, and identification of whether Applicant is a subsidiary of one or more parent companies and specific identification of all corresponding parent companies within any chain of ownership and a visualization of the relationship between all parent companies to one another and the subsidiary. Applicants must identify the official legal name under which they are registered with applicable authorities, including, as applicable, the Iowa Secretary of State. Applicants should not simply identify the organization’s “doing business as” name. For Applicants who are a subsidiary, an uploaded document describing the relationship between a parent and subsidiary is required.
- 2.2.3. *Executive Project Summary.* This form asks Applicants to provide:
  - 2.2.3.1. A brief description of the project;
  - 2.2.3.2. The projected construction start date of the Project;
  - 2.2.3.3. The projected initiation of operations date of the Project (*i.e.*, the estimated Completion Date);
  - 2.2.3.4. Certification that the Eligible Service Areas forming the basis of the Project have not been associated with prior federal funding initiatives designed to provide wireline 25/3 Broadband or faster;
  - 2.2.3.5. If Total Project Costs will exceed \$10,000,000, certain information may be required by the U.S. Department of Treasury Recipient Compliance and Reporting Responsibilities (see <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-loc>

[al-and-tribal-governments/state-and-local-fiscal-recovery-funds/recipient-compliance-and-reporting-responsibilities](#)).

- 2.2.4. *Demonstrated Experience.* This form requires information about Applicant’s demonstrated experience in provisioning Broadband across the State of Iowa. Applicant shall include relevant information about their experience that has prepared them to deploy their Project, such as, community partnerships and services; history of organization; number of years in business; number of years of experience providing the types of services sought by this NOFA; if the Applicant is a relatively new provider/market entrant, an explanation of the benefits, if any, of being a newer provider/market entrant; or the level of technical experience in providing the types of services sought by this NOFA. An Applicant may also submit references from up to three current or previous customers or clients knowledgeable of Applicant’s performance in providing services similar to the services described in this NOFA.
- 2.2.5. *Minority Impact Statement.* This form collects information about the potential impact of the Project on minority groups.
- 2.2.6. *Central Forms.* Applicant shall complete and upload the following central forms related to this NOFA.

**Note:** Exhibits B through D are located in separate Worksheets within the Broadband Grants Core Application Excel Workbook.

- 2.2.6.1. Project Worksheet. This form, labeled “**Exhibit B,**” requires Applicant to define its Project by identifying the Eligible Service Areas by Census Block ID and identifying key inputs from the Broadband Availability Map. These key inputs include, but are not limited to:
- 2.2.6.1.1. The total number of Broadband Units in the form of Homes, Schools, and Businesses, located within the Eligible Service Areas forming the basis of the Project;
  - 2.2.6.1.2. The number of Broadband Units in the form of Homes, Schools, and Businesses, located within the Eligible Service Areas forming the basis of the Project to which Applicant will Facilitate Covered Speeds as a result of the Project;
  - 2.2.6.1.3. The new upload/download speeds, stated in megabits per second, and which must be at least Covered Speeds in that Applicant represents will be Facilitated in Eligible Service Areas forming the basis of the Project upon Project completion;
  - 2.2.6.1.4. The type of delivery platform(s) of the Broadband Infrastructure underlying the Project;
  - 2.2.6.1.5. Key product attributes of the Broadband services to be Facilitated to consumers in the Project Area.

**Note:** Reference the “**Project Selection and Data Export/Import Instructions,**” labeled as “**Exhibit K,**” for instructions on how to properly complete this aspect of the Application, which is largely auto-populated from data to be input by Applicants into the “**ESA Input**” tab in the

Broadband Grants Core Application Excel Workbook.

- 2.2.6.2. CSLFRF Form. This form, labeled as “**Exhibit C**,” requires the Applicant to describe pricing (*i.e.*, monthly recurring cost to consumer) for the 100 megabits per second download and 100 megabits per second upload or 100 megabits per second download and 20 megabits per second upload as applicable product to be offered at the time of initiation of operations (*i.e.*, Project Completion), percentage of federal funding requested, counts of served institutions, line miles of fiber, and related information required by the U.S. Department of Treasury in connection with CSLFRF funding.
- 2.2.6.3. Budget Plan. This form, labeled as “**Exhibit D**,” requires the Applicant to state its Total Project Costs and corresponding Allowable Expenditures to deliver/complete the Project in the categories provided on the form. Reference the Outside Eligible Service Area Infrastructure Worksheet, labeled “**Exhibit D.1**,” for information on how to claim costs/expenditures outside of Eligible Service Areas forming the basis of a Project.
- 2.2.6.4. Grant Agreement. Successful applicants will be required to execute a Grant Agreement, labeled “**Exhibit E**,” with the Office. Applicants that accept the terms and conditions of the Grant Agreement as proposed will be asked to certify their acceptance. Applicants proposing changes to the Grant Agreement must upload the Grant Agreement with redlines to the Iowa Grants System. Reference Section 1.7.7 (Grant Agreement Negotiation and Execution) for details on the Grant Agreement markup, negotiation, and the execution process, and Exhibit E for a copy of the Office’s standard Grant Agreement.
- 2.2.6.5. Certification, Authorization, and Release of Information Form. This form, labeled as “**Exhibit F**,” requires:
- 2.2.6.5.1. A representative of Applicant’s with legal authority to bind the Applicant to certify to the Office the completeness, accuracy, truthfulness, performance capabilities, and satisfaction of key legal requirements of or related to the Application; and
- 2.2.6.5.2. Applicant to authorize the Office, independent contractors, or other third parties acting on behalf of or directed by the Office to obtain information about Applicant from third parties, and additionally authorizes such third parties to supply such requested information to the Office.
- 2.2.6.6. Form 22. This form, labeled as “**Exhibit G**,” permits Applicant to request confidential treatment of portions of its Application. Applicant or other persons or parties may not request confidential treatment with respect to the following information or materials:
- 2.2.6.6.1. Any data or information supplied through the Project Worksheet (Exhibit B of the Core Application).
- 2.2.6.6.2. Any data or information supplied through the Funding

Sources Form (Exhibit C of the Core Application).

- 2.2.6.6.3. Any non-cost related data or information supplied through the Budget Plan, such as budget line-item descriptions (Exhibit D of the Core Application).
- 2.2.6.6.4. The sum of the Total Estimated Cost, including but not limited to, as stated in the Budget Plan.
- 2.2.6.6.5. Any data or information supplied in response to Section 2.2.2 (Business Organization).

**Note:** Applicant must complete and submit a Form 22 regardless of whether it requests any confidential treatment.

- 2.2.6.7. Application Checklist. This form, labeled as “**Exhibit H**,” is designed to assist Applicant in ensuring Applicant has completed and submitted all forms, materials, and information required by this NOFA. **Applicant is not expected to return this form to the Office with its Application.**
- 2.2.6.8. Wireless Project Design Worksheet. This form, labeled as “**Exhibit I**,” requires Applicants that propose wireless projects to provide additional information concerning project design with a special emphasis on backhaul design. Such information will be used by the Office to assess whether Applications proposing wireless projects are capable of providing reliable Covered Speeds to Total Broadband Units Facilitated within the Project Area at the time of Project Completion. **Applicant is not expected to return this form to the Office unless a wireless project is proposed.**
- 2.2.6.9. Product Pricing Form. This form, labeled as “**Exhibit L**,” requires Applicants to provide “the speeds/pricing tiers to be offered, including the speed/pricing of [Applicant’s] affordability offering” as required by the U.S. Department of Treasury Compliance and Reporting Guidance for Coronavirus State and Local Fiscal Recovery Funds (Part 2, Section B Project and Expenditure Report, Subsection 3 Required Information, Part h Required Programmatic Data for Infrastructure Projects (EC 5), Item 3 All Broadband Projects; see <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-funds/recipient-compliance-and-reporting-responsibilities>.

## SECTION 3—Scoring Methodology

Scoring and ranking Applications submitted in response to this NOFA will occur through quantitative factors, more fully outlined below. A maximum of **100 points** is available. An addendum identifying the specific point values assigned to each evaluation factor set forth in Section 3.1 (Quantitative Factors), below, will be posted at the time of NOFA Pre-Publication as established in Section 1.7.1 (See Addendum #1 Scoring Rubric posted [online with this NOFA](#)). While the Office will utilize the points system described herein as a tool to assist in initially determining the relative merits of each Application, such scores are in no way binding on the Office. The Office will ultimately make a decision regarding whether, to which Projects, and in what amounts to award grant funds based on which Projects are most likely to have the greatest effect in reducing or eliminating Unserved and Underserved Areas in the State by awarding grants to Communications Service Providers that will Facilitate Broadband service in Census Blocks at or above Covered Speeds, and taking into consideration the factors outlined in this NOFA.

The Office recognizes that some of the factors identified below compete with each other. This is by design. Successful Projects will be expected to meet or exceed any statements or representations made in connection with questions or inputs associated with scored factors outlined below, and any related answers or inputs shall be deemed contractual obligations of Applicant and incorporated by reference into a resulting Grant Agreement as if fully set forth therein.

**3.1. Quantitative Factors.** The inputs for this Section 3.1 (Quantitative Factors) are generally to be supplied by Applicant on the Project Worksheet, the Budget Plan, and, to the extent applicable, the Outside Eligible Service Area Infrastructure Worksheet.

- 3.1.1. *Rurality.* This factor operates on the premise that Census Blocks located in rural areas are in greater need of Broadband service than other areas. For purposes of this factor, “rurality” is defined as a function of Broadband Unit density per square mile.

**Formula:** The aggregate number of Broadband Units within the Census Blocks forming the basis of the Project **divided by** ( $\div$ ) by the total square miles forming the basis of the Project.

This results in a “rurality” measure. The lower the measure, the more “rural” the Project. The resulting measure of all Applicants will be compared against each other to calculate the Rurality score for each individual Applicant.

- 3.1.2. *Efficiency.* This factor operates on the premise that the more Total Broadband Units Facilitated through lower Total Project Costs, the more efficient the delivery. Thus, Projects resulting in higher Broadband Unit facilitation per dollar spent represent more efficient use of grant dollars.

**Formula:** The estimated Total Project Cost **divided by** ( $\div$ ) by the Total Broadband Units Facilitated as represented in Section 3.1.3, upon the completion of the Project.

This results in a Project-dollars per Broadband-Units-Facilitated measure. The lower the measure, the more efficient the Project. The resulting measure of all Applicants will be compared against each other to calculate the Efficiency score for each individual Applicant. This factor is interpreted to meet the U.S. Department of Treasury’s definition of “cost per passing.”

- 3.1.3. *Total Broadband Units Facilitated.* This factor operates on the premise that Projects

Facilitating Covered Speeds to the most Unserved and Underserved Broadband Units help to achieve the core statutory goals of the Program. Accordingly, Applicant must identify the total Broadband Units the Applicant represents will be Facilitated with Covered Speeds upon the completion of the Project (“**Total Broadband Units Facilitated**”). The totals of all Applicants will be compared against each other to calculate the Total Broadband Units Facilitated score for each Applicant.

- 3.1.4. *Completeness.* This factor operates on the premise that Projects that make Covered Speeds available to a higher proportion of Broadband Units within the Eligible Service Areas forming the basis of a Project further the Program’s objectives.

**Formula:** The Total Broadband Units Facilitated as represented in Section 3.1.3, not to exceed the total Broadband Units reflected in the Broadband Availability Map within each Eligible Service Area forming the basis of the Project, upon the completion of the Project **divided by (÷)** the aggregate number of Broadband Units within the Eligible Service Areas forming the basis of the Project.

This results in a “completeness” measure. The higher the measure, the more complete the Project. The resulting measures of all Applicants will be compared against each other to calculate the Completeness score for each individual Applicant.

- 3.1.5. *Relative Speed.* This factor operates on the premise that Projects that Facilitate higher upload/download speeds further the objectives of the Program.

**Note:** Projects proposing buildout speeds of both 100/100 Broadband or faster and 100/20 Broadband or faster are prohibited, as per section 1.9.22.

**Formula:** The average upload/download speeds in terms of megabits per second that the Applicant represents will be Facilitated to all Eligible Service Areas forming the basis of the Project.

The resulting averages of all Applicants will be compared against each other to calculate the Relative Speed score for each individual Applicant.

- 3.1.6. *Prospective Product Attributes.* This factor operates on the premise that Projects that will deploy more reliable Broadband products further the objectives of the Program. Inputs relevant to this factor include, as defined and described in more detail below, Availability, Latency, Performance Credits, and Data Caps. Applicants may use the most favorable product offering that will be made available within a commercially reasonable time and at a commercially reasonable price within the Project Area upon request by a consumer as a result of the Project. The product offering selected to describe attributes (Covered Speeds) should be the same product offering used to respond to all product attribute questions/inputs. Each of the four subcategories set forth below will be allocated one fourth of the total points available within this broader Prospective Product Attributes category.

- 3.1.6.1. SubCategory 1 - Availability. “**Availability**” means the estimated percentage of total time service is operative or available when measured over a 30 day calendar month (720 hours) upon Project completion. Service is considered inoperative or unavailable when degraded to a level at which packets are not passing between the user point of demarcation and the host point of demarcation.

**Formula:**

- 3.1.6.1.1. Products Facilitating greater than or equal to 99.9% Availability will receive all of the points available within this subcategory.
  - 3.1.6.1.2. Products Facilitating greater than or equal to 99% Availability but less than 99.9% Availability will receive half of the points available within this subcategory.
  - 3.1.6.1.3. Products Facilitating less than 99% Availability will receive none of the points available within this subcategory.
- 3.1.6.2. SubCategory 2 - Latency. “**Latency**” means the average time it is estimated to take, expressed in milliseconds (ms), for data to travel from the customer edge router ingress/egress point to the “**Internet Speed Test Tool**” published at <http://iowa.speedtestcustom.com/>. Applicants must respond to this question by providing the anticipated Latency the customer will experience as measured by the Internet Speed Test Tool upon subscribing to the proposed service upon Completion Date.

**Formula:**

- 3.1.6.2.1. Products with a Latency of less than 30 ms will receive all of the points available within this subcategory.
  - 3.1.6.2.2. Products with a Latency of greater than or equal to 30 ms but less than 60 ms will receive half of the points available within this subcategory.
  - 3.1.6.2.3. Products with a Latency of greater than or equal to 60 ms will receive none of the points available within this subcategory.
- 3.1.6.3. SubCategory 3 - Performance Credits. “**Performance Credits**” means a credit or other similar discount or incentive to customers for failing to meet a minimum service level as guaranteed in a contract between the Communications Service Provider and a customer.

**Formula:**

- 3.1.6.3.1. Communications Service Providers that offer a Performance Credit will receive all of the points available within this subcategory.
  - 3.1.6.3.2. Communications Service Providers that do not offer a Performance Credit will receive none of the points available within this subcategory.
- 3.1.6.4. SubCategory 4 - Data Cap. “**Data Cap**” means a limit, stated in terms of gigabits, imposed by a Communications Service Provider at which point the amount of data that may be transferred or received by a customer at a specified level of throughput would result in either an additional fee(s) paid by the customer or a speed reduction (*i.e.*, throttling) or both. If the product



DOES NOT contain either a cost increase or throttling above a specified aggregate data level it would NOT be considered to have a data cap (*i.e.*, answer “NO”). If the product DOES contain either a cost increase or throttling above a specified aggregate data level, or both, it would be considered to have a data cap (*i.e.*, answer “YES”).

**Formula:**

3.1.6.4.1. Products with no Data Cap will receive all of the points available within this subcategory.

3.1.6.4.2. Products with a Data Cap will receive none of the points available within this subcategory.

3.1.7. *CSLFRF Areas of Emphasis.* This factor takes into consideration areas which the U.S. Department of Treasury Interim Final Rule published on May 17, 2021 encourages recipients of CSLRF to consider when providing funds for broadband projects. To conform with these areas of emphasis, the Office will award points to the following subcategories presented here. Each of the three subcategories set forth below will be allocated a proportion of total points available within the broader CSLFRF Areas of Emphasis category as identified below.

3.1.7.1. Subcategory 1 - Delivery Platform. The U.S. Department of Treasury encourages recipients to focus on broadband projects that facilitate physical broadband connections to homes, schools, and businesses. Delivery Platform will receive 35% of the points availability within this category.

**Formula:**

3.1.7.1.1. Applicants that will provide fiber optic service to Broadband Units will receive all of the points available within this subcategory.

3.1.7.1.2. Applicants that will not provide fiber optic service to Broadband Units will receive none of the points available within this subcategory.

3.1.7.2. Subcategory 2 - Applicant Business Structure. The U.S. Department of Treasury encourages recipients to focus on broadband networks that will be owned, operated by, or affiliated with local governments, non-profits, and co-operatives. Applicant Business Structure will receive 30% of the points available within this category.

**Formula:**

3.1.7.2.1. Applicants that are local governments, non-profits, or co-operatives will receive all of the points available within this subcategory.

3.1.7.2.2. Applicants that are not local governments, non-profits, or co-operatives will receive none of the points available within this subcategory.

3.1.7.3. Subcategory 3 - Affordability. The U.S. Department of Treasury encourages recipients to integrate affordability options into their program

design. In conformance with this guidance, the Office will evaluate the price per megabit of packages conforming to the minimum buildout Covered Speeds. Affordability will receive 35% of the points available within this category.

**Note:** Additional information concerning speed/pricing tiers to be offered by Applicant, including the speed/pricing of Applicant’s affordability offerings will be collected in Exhibit L, but not scored, by the Office in connection with U.S. Department of Treasury guidelines.

**Formula:** The monthly pricing (*i.e.*, monthly recurring cost to consumer) of the 100 megabits per second download and 100 megabits per second upload or 100 megabits per second download and 20 megabits per second upload as applicable subscription package offered to each of the Total Broadband Units Facilitated as a part of the Applicant’s project **divided by** ( $\div$ ) the sum of upload and download megabits offered at the 100/100 Broadband or 100/20 Broadband as applicable speeds that Applicant is minimally required to facilitate under this NOFA.

This results in a “cost per megabit to the consumer” measure. The lower the measure, the more affordable the broadband service Facilitated as a result of the proposed Project. The resulting measures of all Applicants will be compared against each other to calculate the Affordability score for each individual Applicant.

3.1.8. *Federal Matching Funds Requested.* This factor considers whether Applicants are requesting the Maximum Funding Request or a lesser amount of matching funds. This factor operates under the premise that Applicants requesting less than the Maximum Funding Request will permit the Office to more widely disburse available funds, increasing the overall impact of the program.

**Formula:**

The percentage of the Maximum Funding Request requested by Applicant will be identified by the Office and applied to the table below to determine the percentage of points awarded for this subcategory.

<u>Percentage of Maximum Funding Request requested by Applicant (X)</u>	<u>Percentage of Points Available For Category</u>
95% < X <= 100%	0%
90% < X <= 95%	25%
85% < X <= 90%	50%
80% < X <= 85%	75%
X <= 80%	100%

## SECTION 4—Attachments

The following forms and reference documents can be found on the OCIO Broadband Grants website, available at <https://ocio.iowa.gov/broadband-grants>:

- **Exhibit A.** This Notice of Funding Opportunity #007 (“NOFA”).
- **Broadband Grants Core Application or Core Application.** This is an Excel Workbook containing the central forms to be completed and submitted by an Applicant in connection this NOFA, including the following key exhibits:
  - **Exhibit B—Project Worksheet.** This is an Excel Worksheet wherein Applicant defines the Project boundaries and supplies the Office with key data elements to be utilized primarily by the Office in the quantitative aspects of reviewing, scoring, and ranking Applications. This worksheet will be used to identify your Project Area and will be incorporated into your grant agreement by reference.
  - **Exhibit C—CLSFRR Form.** This is an Excel Worksheet wherein Applicant describes pricing information for the proposed product offered, percentage of federal funding requested, counts of served institutions, line miles of fiber, and related information.
  - **Exhibit D—Budget Plan.** This is an Excel Worksheet wherein Applicant identifies the Allowable Expenditures and Total Project Costs forming the basis of a Project. Reference Section 1.5.2 (Total Project Costs), Section 2.2.6.3 (Budget Plan) and the Budget Plan in the Core Application Excel Workbook for more detailed information on the budget process.
  - **Exhibit D.1—Outside Eligible Service Area Infrastructure Worksheet.** This is also an Excel Worksheet wherein Applicant identifies Allowable Expenditures and Total Project Costs forming the basis of a Project and is part of the Budget Plan. This Exhibit is only applicable if an Applicant seeks to claim expenditures for Broadband Infrastructure installed outside of Eligible Service Areas forming the basis of a Project. Reference Section 1.5.2.2 (Outside Eligible Service Area Infrastructure Process), Section 2.2.6.3 (Budget Plan), and the Outside Eligible Service Area Infrastructure Worksheet in the Core Application Excel Workbook for information on how to claim expenditures for Broadband Infrastructure installed outside of Eligible Service Areas forming the basis of a Project. **Complete this Exhibit ONLY IF you are seeking expenditures for Broadband Infrastructure installed OUTSIDE of Eligible Service Areas.**
- **Exhibit E—Grant Agreement.** This is the standard grant agreement to be entered between the Office and an Applicant awarded funds by the Office in connection with this NOFA. The Grant Agreement establishes the terms, conditions, and requirements governing the delivery, administration, and oversight of a Project. Reference Section 1.7.7 (Grant Agreement Negotiation and Execution) for terms, conditions, and requirements related to the contracting process. Identify any requested changes to the grant agreement by following the directions in the Iowa Grants application forms. This is an attachment to the application only when changes are requested.
- **Exhibit F—Certification, Authorization, and Release of Information.** This is a form by which the Authorized Official certifies the completeness, accuracy, truthfulness, performance capabilities, and satisfaction of key legal requirements of or related to the Application or subsequent performance should Applicant be awarded grant funds and successfully execute a Grant Agreement, and which authorizes the Office, independent contractors, or other third parties

acting on behalf of the Office to obtain information about Applicants from third parties, and which authorizes such third parties to supply such requested information to the Office.

- **Exhibit G—Request for Confidentiality or Form 22.** This is a form submitted as part of an Application where Applicant may request the confidential treatment of specifically-identified information or materials submitted as part of an Application. Reference Section 7.18 (Disposition of Applications/Public Records) for information regarding this process and the limitations associated therewith.
- **Exhibit H—Application Checklist.** This is a checklist completed as part of an Application process and is designed to assist Applicants in ensuring they have completed and submitted all forms, materials, and information required by this NOFA. **Applicant is not expected to return this form to the Office with its Application.**
- **Exhibit I—Wireless Project Design Worksheet.** This form is submitted as part of an Application where Applicant proposed buildout of a wireless network. Any Applicant proposing a wireless project must respond to all the requested information and upload a **single** responsive PDF document to the Iowa Grants system containing the information. **Complete this exhibit ONLY IF you are proposing a wireless project as part of your Application.**
- **Exhibit J—Iowa Grants Registration and Application Instructions.** These instructions help Applicants register and navigate the [Iowa Grants](#) system. These instructions are applicable to this NOFA opportunity and help the Applicant complete and navigate the online application through the [Iowa Grants](#) system, including walking Applicant through the process of uploading required forms referenced herein.
- **Exhibit K—Project Selection and Data Export/Import Instructions.** These instructions show Applicant how to properly define their Project using the Broadband Availability Map and export the Eligible Service Area information forming the basis of their Project. This export is used to populate the Eligible Service Area Input Tab “**ESA Input Tab**” located within the Core Application. The ESA Input Tab auto populates other key aspects of the Application in the Broadband Grants Core Application Excel Workbook, including the Project Worksheet, which is central to the Application process.
- **Exhibit L—Product Pricing Form.** This form requires Applicants to identify the speed and pricing of all products that will be offered within Eligible Service Areas forming the basis of the Project upon Project Completion in conformance with U.S. Treasury Compliance and Reporting Guidance for Coronavirus State and Local Fiscal Recovery Funds, requiring applicants to identify “Speeds/pricing tiers to be offered, including the speed/pricing of [the Applicant’s] affordability offering” (Part 2, Section B Project and Expenditure Report, Subsection 3 Required Information, Part h Required Programmatic Data for Infrastructure Projects (EC 5), Item 3 All Broadband Projects; *see* <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-funds/recipient-compliance-and-reporting-responsibilities>).

## SECTION 5—Links

The following reference materials are available by clicking on the links identified below:

- The Broadband Availability Map and related information, *available at* <https://ocio.iowa.gov/broadband-availability-map-version-4>.
- Notice of Funding Availability #007 public posting, *available at* <https://ocio.iowa.gov/empower-rural-iowa-broadband-grant-program-notice-funding-availability-007>.
- The Department of Treasury’s Interim Final Rule, 31 CFR Part 35, *available at* <https://www.govinfo.gov/content/pkg/FR-2021-05-17/pdf/2021-10283.pdf>.
- The State and Local Fiscal Recovery Funds Compliance and Reporting Guidance, *available at* <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-funds>.
- The Department of Treasury’s CSLFRF Frequently Asked Questions, *available at* <https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf>.

## SECTION 6—Glossary of Additional Terms

In addition to other terms defined elsewhere in the NOFA, this Glossary defines additional terms used throughout the NOFA that primarily relate to the administration of the NOFA, as opposed to key program terms and critical concepts the understanding of which are essential for an Applicant to prepare a thoughtful and responsive Application and which key program terms are defined in Section 1.2 (Key Program Definitions). The following terms as used throughout the NOFA shall be ascribed the following meaning:

- 6.1. **“Applicant(s)”** means a Communications Service Provider submitting an Application in response to this NOFA.
- 6.2. **“Application(s)”** means a Communications Service Provider’s materials and responses to this NOFA, including the Iowa Grants Application, the Project Worksheet, CSLFRF Form, and the Budget Plan, together with any clarifications, attachments, appendices, or amendments to the NOFA requesting grant funds.
- 6.3. **“Authorized Official”** means an individual identified by an Applicant, in writing, who is authorized to respond to inquiries and make binding decisions on behalf of and for an Applicant in connection with an Application or Grant Agreement.
- 6.4. **“Award”** means grant funds made available through this NOFA to an Applicant.
- 6.5. **“Iowa Grants System”** or **“Iowa Grants”** means the State of Iowa’s electronic grants management system through which Applicants may view and explore funding opportunities made available by State of Iowa agencies, and through which Applicants must submit Applications in response to such opportunities, including this NOFA. The Iowa Grants System is available at: <https://www.iowagrants.gov/index.do>.
- 6.6. **“Grantee”** means a NOFA #007 grant recipient.
- 6.7. **“Responsible Applicant”** means an Applicant that has the capability in all material respects to successfully complete and deliver a Project in accordance with the terms, conditions, requirements, and restrictions of Applicable Law, this NOFA, and the resulting Grant Agreement if awarded grant funds. In determining whether an Applicant is a Responsible Applicant, the Office may consider various factors including, but not limited to: the Applicant’s competence and qualifications to successfully complete and deliver a Project; the Applicant’s integrity and reliability; the past performance of the Applicant, including Applicant’s past contract terminations, litigation, debarments, compliance with applicable terms, conditions, or requirements, or timely completion of past projects; Applicant’s criminal history; Applicant’s financial stability; and the best interests of the Office, the Program, and the State. An Applicant’s inability to fully certify/attest to all of the items identified in the Certification, Authorization, and Release of Information Form may result in the Office concluding an Applicant is not a Responsible Applicant.
- 6.8. **“Risk Assessment Questionnaire”** means the federally required risk assessment document used to measure a subrecipient’s risk of noncompliance with federal compliance obligations as set forth in Section 11 of the State and Local Fiscal Recovery Funds Compliance and Reporting Guidance available at: <https://home.treasury.gov/system/files/136/SLFRF-Compliance-and-Reporting-Guidance.pdf>.

## SECTION 7—NOFA Administration/Terms and Conditions Governing Application Process

This section sets forth standard terms and conditions that primarily relate to the administration of the NOFA, as opposed to key program terms and critical concepts the understanding of which are essential for an Applicant to prepare a thoughtful and responsive Application and which key program terms and conditions are set forth in Section 1 (Program Overview/Administrative Issues).

- 7.1. **Amendments to NOFA.** The Office reserves the right to amend this NOFA at any time. In the event the Office decides to amend this NOFA, a written amendment will be posted at <https://ocio.iowa.gov/broadband>. Applicants are advised to check this website periodically for amendments to this NOFA. In the event an amendment occurs after the submission deadline is closed, the Office will email the written amendment to each Applicant's Authorized Official.
- 7.2. **Open Competition.** Awards will be made through a fair, open, and objective process. Accordingly, no attempt shall be made by any Applicant to induce any other person or firm to submit or not submit an Application for the purpose of restricting competition. Doing so may result in disqualification.
- 7.3. **Withdrawal of Applications.** An Application may be withdrawn by the request of an Applicant at any time prior to the due date and time. An Applicant desiring to withdraw an Application shall submit notification including the Application ID, title of the Application, and the Applicant organization name via email to [ociogrants@iowa.gov](mailto:ociogrants@iowa.gov). After this funding opportunity closes, the Office may reject Applications that have been created in [Iowa Grants](#) but which have not been finally submitted.
- 7.4. **Resubmission of Withdrawn Applications.** A withdrawn Application may be resubmitted by an Applicant at any time within the Application Acceptance Window in the same manner as permitted by Sections 1.7.3 and 1.7.4 of this NOFA.
- 7.5. **Costs of Application Preparation.** All costs of preparing an Application are the Applicant's sole responsibility. The Office is not responsible for any costs incurred by an Applicant related to the preparation or submission of an Application or any other activities undertaken by an Applicant related in any way to this NOFA.
- 7.6. **Multiple Applications.** An Applicant may submit one or more Applications for different Projects.
- 7.7. **Construction of NOFA.** This NOFA shall be construed in light of pertinent legal requirements and Applicable Laws. Changes in applicable statutes and rules may affect the award process or the resulting Grant Agreement. Applicants are responsible for ascertaining relevant legal requirements.
- 7.8. **Issuance of NOFA Not Commitment by the Office.** The issuance of this NOFA in no way constitutes a commitment by the Office to issue any Award or enter into a Grant Agreement with any Applicant or other interested person or party.
- 7.9. **Oral Presentation.** Applicants may be requested to make an oral presentation related to their Application. The determination of any need for presentations and the location, order, and schedule of any such presentations shall be at the sole discretion of the Office. If an oral presentation is required, Applicants may clarify or elaborate on their Application, but may not substantively change, alter, or amend their original Application.
- 7.10. **Restrictions on Gifts and Activities.** Iowa Code Chapter 68B contains laws that restrict gifts which may be given or received by state officers or employees, requires certain individuals to disclose information concerning their activities with state government, and prohibits inappropriate use of influence and conflicts of interest. Applicants are responsible for determining the applicability of that chapter to their activities, for complying with the requirements thereof, and for avoiding other potential or actual conflicts of interest. In addition, Iowa Code Chapter 722 provides that it is a felony offense to bribe a public official.
- 7.11. **Use of Subcontractors.** Applicant's are permitted to seek reimbursement for Allowable Expenditures incurred through the use of contractors, subcontractors, and other third parties in the performance of the services contracted for through this NOFA process. Terms, conditions, and restrictions on the use of contractors, subcontractors, and other third parties are as found in Applicable Law, this NOFA, and the Grant Agreement. Current officers or employees of the State of Iowa may not act as contractors, subcontractors, or other third parties in an Applicant's performance of the services contracted for through this NOFA process. Applicants are fully responsible for all work contracted for or agreed to through this NOFA process and any resulting Grant Agreement, including work performed by contractors, subcontractors, and other third parties. No contract or subcontract into which an Applicant enters and which relates to performance of any obligations hereunder and any resulting Grant Agreement will, in any way, relieve an Applicant of any responsibility for performance of its duties or obligations with respect thereto.
- 7.12. **Criminal Background Checks.** Except as otherwise prohibited by Applicable Law, the Office reserves the right to conduct criminal history and other background investigations into an Applicant, its officers, directors, managerial and supervisory personnel, clerical or support personnel, and other personnel utilized or retained by an Applicant in connection with this application process or any Grant Agreement. Such information may be obtained or used in determining whether to issue a

Notice of Intent to Award, including in determining whether an Applicant is a Responsible Applicant, or as a precondition to executing a Grant Agreement with an Applicant who has been awarded grant funds. An Applicant shall cause any/all necessary waivers to be executed by appropriate persons to effectuate such background investigations. Disqualifying offenses may include, but are not limited to, crimes involving an element of dishonesty, fraud, or other crimes of moral turpitude.

- 7.13. Reference Checks.** Except as otherwise prohibited by Applicable Law, the Office reserves the right to contact any reference(s) to verify any information contained in an Application or to discuss the Applicant's qualifications.
- 7.14. Information from Other Sources.** As part of and during the Application process, the Office reserves the right to obtain and consider information from other sources about an Applicant, including but not limited to the Applicant's capability and performance across the State, the Applicant's financial stability, past or pending litigation, or any publicly available information. Such information will be used solely as permitted by Applicable Law and for the purposes of judging Applications against the requirements or criteria otherwise identified in this NOFA. In addition, the Office reserves the right to consider information elicited in or supplied in response to one section of the NOFA in considering or evaluating other sections of the NOFA or an Application, or obtained from other sources identified in or permitted by the NOFA, including but not limited to the Broadband Availability Map.
- 7.15. Verification of Application Contents.** Except as otherwise prohibited by Applicable Law, the Office reserves the right to verify the contents of an Application submitted by an Applicant. Misleading or inaccurate responses may result in rejection of an Application.
- 7.16. Waivers and Variances.** The Office reserves the right to waive or permit cure of non-material variances in an Application's form and content, provided such action is in the best interest of the Office, the Program, and the State of Iowa. In the event the Office waives or permits the cure of non-material variances, such waiver or cure will not modify the terms, conditions, or requirements of this NOFA or excuse an Applicant from full compliance with the terms, conditions, or requirements of this NOFA. The determination of materiality shall be in the sole discretion of the Office.
- 7.17. NOFA Application Clarification Process.** The Office may request clarification from Applicants for the purpose of resolving ambiguities or questioning information presented in an Application. Clarifications may occur throughout the Application review process. Requests for clarification will be issued to the Applicant's Authorized Official. Clarification responses shall be in the format specified by the Office and shall address only the information requested. This may include written questions, interviews, or site visits. Responses shall be submitted to the Office within the time stipulated by the Office at the time of the request and will be deemed part of the Application. Notwithstanding the foregoing, the Office at its sole discretion may reject clarifying information received from an Applicant where the clarifying information materially alters the content or substance of the Application. Failure to timely respond to or otherwise comply with a request for clarification may result in disqualification.
- 7.18. Disposition of Applications/Public Records.** All Applications and the contents associated therewith shall become the property of the Office. The Office will post the public aspects of Applications to a public internet site. Further, the Office is generally subject to the State's public records law, Iowa Code chapter 22, and corresponding implementing rules. Applicants or other persons or parties submitting information to the Office are encouraged to familiarize themselves with Iowa Code chapter 22 before submitting Applications or other information to the Office. Requests for confidentiality must also conform to Section 2.2.6.6 of this NOFA.

In addition, the following terms, conditions, and processes shall govern requests from Applicants for the confidential treatment of information supplied to the Office in connection with an Application. These terms, conditions, and processes are designed to strike a fair balance between the need for transparency and Applicants' legitimate claims for confidential treatment of information or materials. As a general matter, the Office will treat all information submitted by Applicants or by other persons or parties to the Office as public, nonconfidential records unless an Applicant or other person or party requests that specific information submitted be treated as confidential at the time of submission to the Office in accordance with the following:

- 7.18.1. An Applicant or other person or party requesting confidential treatment of portions of an Application or other information submitted to the Office must:
- 7.18.1.1. Fully complete and submit to the Office a Form 22;
  - 7.18.1.2. Clearly identify in the Application the specific information within each specific section of the Application for which Applicant seeks confidential treatment;
  - 7.18.1.3. Conspicuously mark the outside of any Application and individual exhibits or attachments thereto as containing confidential information;



- 7.18.1.4. Mark each page upon which confidential information appears; and
- 7.18.1.5. Submit a public copy of the Application from which claimed confidential information has been excised. Any claimed confidential information must be excised in such a way as to allow the public to determine the general nature of the information removed and to retain as much of the otherwise public information as possible. In submitting a public copy of electronic documents to the Office, Applicants may excise information for which they seek confidential treatment and replace it with clear, conspicuous, **BOLD** language indicating that information has been redacted (*i.e.*, “[REDACTED]”) from a specific aspect/area of the Application. For assistance in redacting information in the Core Application, please contact the Help Desk as identified in section 1.8.2.
- 7.18.2. Form 22 will not be considered fully complete unless, for each confidentiality request, the Applicant or other person or party:
  - 7.18.2.1. Enumerates the specific grounds in Iowa Code chapter 22 or other Applicable Law that support treatment of the specific information as confidential;
  - 7.18.2.2. Justifies why the specific information should be maintained in confidence;
  - 7.18.2.3. Explains why disclosure of the specific information would not be in the best interest of the public; and
  - 7.18.2.4. Sets forth the name, address, telephone number, and email address of the individual authorized by the person or party submitting such information to respond to inquiries from the Office concerning the confidential status of such information. This person may be the same person as the Applicant’s Authorized Official.
- 7.18.3. Notwithstanding the foregoing, subject to applicable state, federal, and/or international laws, rules, regulations, or orders (including Iowa Code chapter 22 and any corresponding implementing rules, regulations, or orders), the Office will treat W-9s or other tax documents provided through Iowa Grants to facilitate payment/reimbursement as confidential, and Applicants need not and should not include a request for confidential treatment for such document(s) in their Form 22.
- 7.18.4. Failure to request that information be treated as confidential in accordance with the foregoing shall relieve the Office and State personnel from any responsibility for maintaining the information in confidence. An Applicant’s request for confidentiality that does not comply with the terms, conditions, or process set forth in this Section 7.18 (Disposition of Applications/Public Records Law) is grounds for rejecting an Application, or denying a request for confidential treatment. Blanket requests to maintain an entire Application submitted to the Office as confidential will be categorically rejected.
- 7.18.5. If the Office receives a request for information or materials related to an Application marked as confidential or if a judicial or administrative proceeding is initiated to compel the release of such materials or information, Applicant shall, at its sole expense, appear in such action and defend its request for confidentiality. If, upon reasonable notice to Applicant, Applicant fails to appear to defend its request for confidentiality, the Office may release the information or material, or otherwise bill the Applicant any costs or expenses incurred in defending the same (including but not limited to the reasonable time and value of the Iowa Attorney General’s Office or other attorney or law firm utilized by the Office or the State). Additionally, if Applicant fails to comply with the confidentiality process set forth herein, Applicant’s request for confidentiality is unreasonable, Applicant fails to supply the Office with sufficient information to determine whether Applicant’s request for confidential treatment is founded, or Applicant rescinds its request for confidential treatment, the Office may release such information or material with or without providing advance notice to Applicant and with or without affording Applicant the opportunity to obtain an order restraining its release from a court of competent jurisdiction. Applicant waives any claims it may have against the Office or the State of Iowa related to the confidential treatment of any information or materials submitted as part of this application process that result, in whole or in part, from any deficiencies with or related to compliance with this Section 7.18 (Disposition of Applications/Public Records Law), or that otherwise result from Applicant’s failure to comply with the terms, conditions, or requirements of this NOFA.
- 7.19. **Copyright.** By submitting an Application, Applicants agree and acknowledge that the Office will, subject to Section 7.18 (Disposition of Applications/Public Records Law): post the public aspects of Applications received as part of this NOFA process online; release, distribute, and copy Applications for the purpose of facilitating input, recommendations, and evaluation processes, or as is otherwise necessary in administering the selection and Award process; and release, distribute, and copy Applications in response to requests for public records. By submitting an Application, Applicant consents to such

releases, disclosures, and copying and grants the Office and the State of Iowa a right and license to do so, warrants and represents that such release, distribution, or copying will not violate the rights of any third party, and agrees to indemnify and hold harmless the Office and the State of Iowa and their employees, officers, board members, agents, representatives, and officials (“**Indemnitee(s)**”) from and against any and all claims, actions, suits, liabilities, damages, losses, settlements, demands, deficiencies, judgments, fines, penalties, taxes, costs and any other expenses (including the reasonable value of time of the Attorney General’s Office and the costs, expenses, and attorney fees of other counsel retained by the Office, State, or any Indemnitee) directly or indirectly related to, resulting from, or arising out of any such release, distribution, or copying. In the event an Applicant copyrights or attempts to copyright its Application, the Office may reject the Application.

- 7.20. Authority to Bind.** An individual authorized to legally bind the Applicant shall sign any and all documents requiring signature and associated with this Application process. Any such documents may be executed, scanned, and transmitted electronically. Electronic signatures shall be deemed original signatures, with such scanned and electronic signatures having the same legal effect as original signatures.
- 7.21. Waiver of Claims.** An Applicant’s submission of an Application constitutes acceptance of the terms, conditions, criteria, and requirements set forth in this NOFA and operates as a waiver of any and all objections to the contents of the NOFA. By submitting an Application, an Applicant agrees that it will not bring any claim or have any cause of action against OCIO or the State of Iowa based on the terms or conditions of this NOFA or the application process.
- 7.22. Co-signatures/Joint and Several.** In the case of a parent and a subsidiary, both the parent, and the subsidiary that will be performing the Project, will be required to co-sign any resulting Grant Agreement and shall be jointly and severally liable for any duties, responsibilities, obligations, liabilities, or default with respect thereto.
- 7.23. Choice of Law and Forum.** All issues in any way related to this Program, NOFA, and any resulting Grant Agreement shall be governed in all respects by, and construed in accordance with, the laws of the State of Iowa, without giving effect to the choice of law principles thereof. Any and all litigation or actions commenced in connection with this Program, NOFA, or any resulting Grant Agreement, including but not limited to any proceeding for judicial review commenced pursuant to Iowa Code chapter 17A, shall be brought in Des Moines, Iowa, in Polk County District Court for the State of Iowa, if jurisdiction is proper. However, if jurisdiction is not proper in the Iowa District Court for Polk County, but is proper only in a United States District Court, the matter shall be commenced in the United States District Court for the Southern District of Iowa, Central Division. Applicant irrevocably: (i) consents and agrees that any legal or equitable action or proceeding arising under, in connection with, or arising out of this Program, NOFA, or any resulting Grant Agreement shall be brought and maintained exclusively in the aforesaid courts; (ii) submits to and accepts, with respect to any such action or proceeding, for it and in respect of its properties and assets regardless of the physical or legal situs thereof, generally and unconditionally, the jurisdiction of the aforesaid courts; and (iii) waives any objection to such jurisdiction based on forum non conveniens or otherwise. This provision shall not be construed as waiving any immunity to suit or liability, in state or federal court, which may be available to the Office or the State of Iowa, including sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States, or otherwise. Applicant irrevocably consents to service of process by certified or registered mail addressed to Applicant’s Authorized Official. If for any reason Applicant’s agent for service is unable to act as such or the address of the agent changes, Applicant shall immediately appoint a new agent and provide the Office with written notice of the change in agent or address. Any change in the appointment of the agent or address will be effective only upon actual receipt by the Office. Nothing in this provision will alter the right of the Office or State of Iowa to serve process in any other manner permitted by law.
- 7.24. Appeal of Award Decision.** The Office will notify successful Applicants of the Office’s decision by sending their Authorized Official a copy of the NOIA, and will notify unsuccessful Applicants by posting the NOIA online at [Iowa Grants](#) and <https://ocio.iowa.gov/broadband>. Unsuccessful Applicants are solely responsible for reviewing such websites to determine their Award status. From the date and time of such posting, adversely affected Applicants will have 5 days to appeal such decision(s) by filing a Notice of Intent to Appeal pursuant to Iowa Admin Code r. 129–11.3(1). Failure to challenge the Office’s decision within the 5-day period shall waive any other claims an Applicant may have as it relates to the Office’s administration of the process and otherwise be deemed a failure to exhaust administrative remedies. Applicants may appeal an adverse decision only for a timely submitted Application. Appeals must clearly and fully identify all issues being contested and demonstrate what requirements or procedures of or in Applicable Law, rule, or the NOFA were not followed or were violated. In the event of an appeal, the Office will continue working with successful Applicants pending the outcome of the appeal.
- 7.25. Contingent Awards.** If, at the time an Award is made, all or part of an Awardee’s award is subject to challenge, the Office may contemporaneous with the challenge process, proceed to enter into this Agreement with Grantee. Notwithstanding the foregoing or anything in this Agreement to the contrary, the aspect(s) of the Office’s Award(s) that is subject to such challenge at the time of the execution of this Agreement shall be valid and enforceable only to the extent the Office’s original

determination or Award, as applicable, is ultimately upheld at the end of the entire appeals and contested case process once final, including judicial review and any subsequent appeal therefrom. If a Census Block is ultimately determined to not constitute an Eligible Service Area, or a portion of an Award is later deemed invalid, in whole or in part: the Grantee shall not be entitled to any grant funds or reimbursement to the extent of any such non-eligibility or invalidity; the Office may require the Grantee to amend the Agreement to reflect such result; and the Grantee will be required to reimburse the Office for any corresponding funds previously distributed by the Office.