

Capital Projects Fund 2023 update

In accordance with the American Rescue Plan Act of 2021 (ARPA), the state of Nebraska has been awarded over \$80 million to assist in overcoming the digital divide through the continued build-out of high-speed broadband. To ensure the equitable distribution of ARPA funding, the Nebraska Public Service Commission (PSC) will utilize the Nebraska Broadband Bridge Program (NBBP) as the operative framework as a means of distributing funding. As part of the NBBP process, the PSC is continually improving and refining the rules and procedures of the program to ensure maximum utility to the citizens of Nebraska. The PSC is therefore providing this document as a summary of the changes and revisions that have been instituted as part of the 2023 CPF cycle. Please note, this document is intended to serve as a summary provided for the benefit of the applicant. **Please reference the CPF program guide and Order issued 01/10/23, both of which are posted on the PSC website, for a complete explanation of all necessary rules and regulations pertaining to the program.**

General updates

- Projects proposing broadband development on tribal lands are required to provide documented approval of the project by the relevant tribal government to the PSC.
- Applicants must now obtain a Unique Entity Identifier (UEI) from the Federal System for Award Management, found at SAM.gov. Applicants will be required to provide their UEI to the PSC on their project application.
- Projects must be within either Congressional District 1 or Congressional District 3. All projects within Congressional District 3 are required to serve only locations within cities of the second class¹ and villages², per Nebraska statute. Boundaries for these areas are defined by the 2020 US Census.

Digital Inclusion Plan (DIP) revisions

- Digital Inclusion Plans are now required for all applications.
- Applicants are now required to perform additional community outreach and engagement in the proposed project area. Additionally, applicant community outreach materials must

¹ Cities of the second class are defined in Neb. Rev. Stat. § 17-101 as a municipality containing more than eight hundred and not more than five thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census unless it adopts or retains a village form of government.

² Villages are defined in Neb. Rev. Stat. § 17-201 as any municipality containing not less than one hundred nor more than eight hundred inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census incorporated as a village. A village consists of the people residing within the territorial boundaries of such village and the residents of any territory duly and properly annexed to such village. To the extent that there are incorporated villages with fewer than 100 residents, these areas should be considered eligible project areas for the purpose of the CPF program in Congressional District 3.

be provided to the PSC as a part of the application. Outreach at minimum must consist of the following:

- Description of the project and technology to be used;
 - Description of the project area;
 - Proposed speed tiers and pricing;
 - The Commission's contact information for feedback to the Commission; and
 - The deadline by which feedback must be provided.
- If a grant is awarded, the Commission retains the right to follow up with communities during project construction. Post-deployment, subgrantees are required to advertise the minimum 100/100 Mbps service in the project area. Advertisements must be made available in multiple languages.
 - Grant recipients are now required to participate in the Federal Communications Commission's Affordable Connectivity Program (ACP), or a subsequently identified subsidy program, for as long as the funded broadband infrastructure is in use.
 - Digital inclusion plans must now include a short narrative on how the project addresses each of the three objectives of the CPF program. These objectives are:
 - Broadband infrastructure deployment to directly enable work, education, and healthcare monitoring;
 - A critical need that resulted from or was made apparent or exacerbated by the COVID-19 public health emergency; and
 - A critical need of the community to be served by it.

Application scoring and review

- Applicants must provide cash flow projections for a period of five years following completion of the project along with a description of revenue and take rate assumption calculations.
- One-time waivers for late-filed NUSF remittance worksheets will now be excluded from consideration when reviewing legal capability.
- The grant applicant must not be presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any federal department or agency.
- The grant applicant must use licensed and qualified contractors to fulfill grant requirements.

- Applicants proposing the use of fixed wireless technologies will now be required to provide additional documentation including: an attestation from a qualified engineer describing the design of the proposed technology and its speed capabilities, , tower location shapefiles for existing and planned towers, and a shapefile polygon demonstrating coverage for each planned tower that proposes to cover the locations. Interested parties are encouraged to review the CPF-1 Order and Program Guide for specific requirements.
- Applicants must now demonstrate how retail rates in their proposed project area are comparable *or lower than* their 100/100 Mbps rates outside of the proposed project area, or the next highest tier if applicant does not offer a 100/100 Mbps service plan.
- To qualify for full points on rate comparability, applicants must now provide 100/100 Mbps service at or below \$65 monthly.
- No match percentage is required of applicants. However, applicants may be eligible for additional points in the final scoring if they choose to include a match percent for their project.
- The additional points for “high-cost” designated areas are no longer applicable.
- Applications may receive deductions to the technical capability score if the relevant community does not support a proposed project.

Challenge Process

- Challengers submitting both Type 1 and Type 2 challenges for the same project are now required to submit two separate challenges identifying the basis for the challenge in each filing. The Commission will no longer accept challenges containing both Type 1 and Type 2 challenges in the same, single challenge filing.
- Challengers utilizing or proposing to utilize fixed wireless technologies to serve the area must also include tower location shapefiles for existing and planned towers, shapefile polygons demonstrating coverage for the planned and/or existing networks, including where the upload and download speeds meet or exceed the required speeds (100/20 Mbps), and showing that coverage encompasses the locations included in the challenged area. Propagation shapefiles and a description of the spectrum utilized must also be provided.

Post-award

- Recipients of CPF funds will be required to execute specific agreements prior to the receipt of any federal funding, including a subaward attestation and agreement and a Civil Rights Compliance Attestation and Agreement. These agreements include reporting requirements, drug-free workplace policies, records retention, and Civil Rights compliance.
- Grant recipients will be required to submit progress reports to the Commission on a regular basis. These reports will be designed to include construction progress reporting and reporting on the financial metrics needed for the Commission's quarterly and annual compliance filings to the Treasury.
- Applicants requesting to return CPF grant funds to the PSC after an award is made will be disqualified from receiving future grant awards (including CPF, Broadband Bridge, any potential BEAD-related grant programs) from the PSC unless an exception is granted by the Commission.
- Post-deployment speed and latency testing data submitted to the Commission shall follow the standards for the verification of broadband service provider coverage and speed data as set forth in Commission Order NUSF-133, which generally models the Performance Measures Testing standards set by the FCC.
- All funds provided to Nebraska through Capital Projects Funds (CPF) must be expended by December 31, 2026. Any final performance data and requests for reimbursement must be received by the Commission within a reasonable period to allow for sufficient processing time for payment prior to the December 31, 2026, deadline.