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

**Broadband Grants Program—Empower Rural Iowa, Capital Projects Fund
Funds (“CPF”)**

NOTICE OF FUNDING AVAILABILITY (“NOFA”) #008

(Exhibit A)

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SECTION 1—Program Overview/Administrative Issues

1.1. Purpose. Governor Reynolds has authorized the allocation and expenditure of \$148,960,000 from the American Rescue Plan Act (“ARPA”) Coronavirus Capital Projects Fund (“CPF”) to the Empower Rural Iowa Broadband Grants Program (“Program”) 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.

This grant round is funded using only federal funds. As such, neither the provisions nor the rules adopted pursuant to Chapter 8B apply to this Notice of Funding Availability (“NOFA”). Iowa Code 8B.7(1). 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. The eligibility requirements and procedures governing this application process shall be solely as set forth in this NOFA #008, including any corresponding attachments referenced or incorporated herein.

This NOFA gives special consideration to Broadband Intervention Zones (“Zones”) across the State of Iowa. These Zones were established under Invitation to Qualify (“ITQ”) #001, which permitted communities across the State of Iowa to identify areas of critical need for broadband investment. Until now, all NOFA offerings allowed broadband providers to select where they wanted to build based on available OCIO mapping data that identified areas lacking broadband. Although this process has resulted in significant buildout throughout the state, there remains a perception that certain areas in the State perpetually go unserved for a variety of reasons. The ITQ attempted to address this perceived problem by affording communities an opportunity to identify geographic areas of concern that both need access to Broadband and are motivated to attract Broadband providers to the area. Broadband Intervention Zones identified through the ITQ process are now being used to prioritize NOFA #008 Broadband application awards.

Ninety-six Zones have been identified. Within each of these Zones, providers that agree to build to 80% or more of the Eligible Service Locations within any Zone will receive additional points and higher levels of state matching funds under this NOFA. Providers are strongly encouraged to examine the Zones as set forth within the Project Selection Tool as outlined in Exhibit K. Providers are also encouraged to evaluate community ITQ applications to fully understand and incorporate into NOFA #008 Applications where appropriate any available Broadband Capital offered by communities as part of the ITQ process.

Applications that propose to Facilitate broadband services to at least 80% of Eligible Service Locations within any Zone will rank higher under this NOFA than any Application that does not.

To meet federal funding obligations, Broadband buildout under this NOFA must be completed no later than September 30, 2026. Applications submitted to this NOFA must be designed to provide last-mile broadband service to Eligible Service Locations 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 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 receive federal matching funds for eligible Projects under this NOFA up to the levels set forth in section 1.6.

Pursuant to the guidelines set forth in the CPF Frequently Asked Questions issued by the United States

Department of Treasury on January 4, 2022, 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 to Eligible Service Locations.

This funding opportunity does not utilize state funds. Funds awarded under this NOFA are CPF, and Grantees receiving awards hereunder will be considered “subrecipients” and the awards considered Fixed Amount Subawards 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 download speed or faster and twenty (20) megabits per second of upload speed or faster, but less than 100/100 Broadband.
- 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. Consistent with guidance issued by the U.S. Treasury on May 17, 2023, the actual costs of expenditures used in construction of the of a broadband project can be considered Allowable Expenditures regardless of their purchase date. Federal funds committed to an award may only be used to cover allowable costs incurred any time prior to September 30, 2026. Examples of permissible categories of Allowable Expenditures are more fully defined and identified in the Budget Plan Allowable Expenditures. Allowable Expenditures may only include expenditures:
 - 1.2.3.1. Directly related to the installation of Broadband Infrastructure that Facilitates Covered Speeds to Eligible Service Locations 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 Covered Speeds to Eligible Service Locations identified in Applicant’s Core Application and forming the basis of the Project;
 - 1.2.3.3. That comport with the U.S. Department of the Treasury found at the following link: <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/capital-projects-fund>;
 - 1.2.3.4. Permitting, planning, architectural design, engineering design, and work related to environmental, historical, and cultural reviews;
 - 1.2.3.5. Personnel costs including salaries and fringe benefits for staff and consultants required for directly carrying out a Project;
 - 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 CPF 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/coronavirus/assistance-for-state-local-and-tribal-governments/capital-projects-fund>;
 - 1.2.3.13. Acquisition of spectrum licenses;
 - 1.2.3.14. Operating expenses,
 - 1.2.3.15. Short-term operating leases;
 - 1.2.3.16. Payment of interest or principal on outstanding debt instruments, or other debt service costs incurred prior to March 15, 2021;
 - 1.2.3.17. Fees or issuance costs associated with the issuance of new debt;
 - 1.2.3.18. Satisfaction of any obligation arising under or pursuant to a settlement agreement, judgment, consent decree, or judicially confirmed debt restructuring plan in a judicial, administrative, or regulatory proceeding; or
 - 1.2.3.19. To support or oppose collective bargaining. This does not affect the ability to use funds to comply with 41 C.F.R. 60-1.4;
 - 1.2.3.20. 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. **“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 to a particular location. 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 August 2, 2022.
- 1.2.5. **“Broadband”** means a high-speed, high-capacity electronic transmission medium, including fixed wireless and mobile wireless mediums, that can carry data signals from independent network sources by establishing different bandwidth channels and that is commonly used to deliver internet services to the public.
- 1.2.6. **“Broadband Availability Map”** means the statewide map that identifies whether and at which speeds a Communications Service Provider Facilitated Broadband to a

Broadband Unit as of the As of Date, whether a grantee has received a prior state or federal grant to Facilitate 100/20 Broadband to a Broadband Unit, and whether a Broadband Unit is an Eligible Service Location. The Broadband Availability Map is published at: <https://ocio.iowa.gov/broadband-availability-map-version-5>.

- 1.2.7. **“Broadband Grants Core Application”** or **“Core Application”** means the Excel Workbook which contains the central forms to be completed and submitted by an Applicant in connection with this NOFA, including but not limited to the Project Worksheet and Budget Plan.
- 1.2.8. **“Broadband Infrastructure”** means the physical infrastructure used for the transmission of data that provides broadband services. “Broadband Infrastructure” does not include land, buildings, structures, improvements, or equipment not directly used in the transmission of data via broadband or any other Disallowed Expenditures.
- 1.2.9. **“Broadband Intervention Zone”** or **“Zone”** means a geographic area comprised of Eligible Service Locations selected by the OCIO upon completion of the evaluation of Applications to the Invitation to Qualify published at <https://ocio.iowa.gov/invitation-qualify-001>.
- 1.2.10. **“Broadband Unit(s)”** means a Broadband-serviceable location identified on the Broadband Availability Map.
- 1.2.11. **“Budget Plan”** means the worksheet within the Core Application, labeled **“Exhibit D”**, identifying the Allowable Expenditures and Total Project Costs forming the basis of the Project
- 1.2.12. **“Community Anchor Institutions”** or **“CAI”** means an entity such as a school, library, health clinic, health center, hospital or other medical provider, public safety entity, institution of higher education, public housing organization, or community support organization that facilitates greater use of broadband service by vulnerable populations, including, but not limited to, low-income individuals, unemployed individuals, children, the incarcerated, and aged individuals.
- 1.2.13. **“Coronavirus Capital Projects Fund Requirements”** means all legal obligations associated with the funding source, including but not limited to:
 - 1.2.13.1. All guidance, requirements, and Frequently Asked Questions for The Capital Projects Fund, available at <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/capital-projects-fund>.
 - 1.2.13.2. All contracts made by a Grantee in excess of \$100,000 that involve employment of mechanics or laborers must include a provision for compliance with certain provisions of the Contract Work Hours and Safety Standards Act, 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. Part 5);
 - 1.2.13.3. Uniform Administrative Requirements, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200 apply to the Capital Projects Fund grant, except any provisions Treasury may determine are inapplicable to a Fixed Amount subaward and subject to such exceptions as may be otherwise provided by

Treasury. Subpart F–Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award;

- 1.2.13.4. Required certification by the provisions of Section 319 of Public Law 101-121, Government wide Guidance for New Restrictions on Lobbying, and 31 U.S.C. § 1352. These regulations require certification by Vendor (and its subcontractors) that they have not engaged in prohibited lobbying activities and/or have filed any required disclosures in accordance with these Applicable Laws. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code; any person who fails to file the required certification may be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure. In accordance with 2 C.F.R. Pt. 200, App. II, Section I, Vendor certifies the following:

No federal funds have been paid or will be paid, by or on behalf of Vendor, to any person for influencing or attempting to influence an officer or employee of the Customer, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

If any funds other than federal funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of the Customer, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with any federal contract, grant, loan, or cooperative agreement, Vendor must complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying” in accordance with its instructions.

- 1.2.13.5. For Projects receiving \$5 million or more in grant funds, information may be required by the U.S. Department of Treasury.

- 1.2.14. **“Covered Speeds”** means 100/100 Broadband and 100/20 Broadband, as applicable. However, 100/20 Broadband must be scalable to 100/100 Broadband within three years of the Project 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.
- 1.2.15. **“Eligible Service Location”** means a location identified on the Broadband Availability Map to which no provider offers service at speeds greater than or equal to 100/20 Broadband. The location must not have been previously awarded Federal or State broadband incentives for build out greater than 100/20 Broadband. An Eligible Service Location may include a Community Anchor Institution.
- 1.2.16. **“Facilitate”** means a Communications Service Provider’s ability to provide broadband service at or above Covered Speeds to an Eligible Service Location within a commercially reasonable time and at a commercially reasonable price upon request by

a consumer.

- 1.2.17. **“Maximum Funding Request”** means the amount an Applicant may request for reimbursement in accordance with section 1.6.3.
- 1.2.18. **“Project”** means a proposed installation of Broadband Infrastructure by a Communications Service Provider that Facilitates Covered Speeds to a Project Area, and the proposed corresponding budget.
- 1.2.19. **“Project Area”** means one or more Eligible Service Locations to which an Applicant proposes to Facilitate Covered Speeds. The Project Area is established by converting these addresses into a minimum bounding polygon or convex hull formed by enclosing/circumscribing the list of addresses. Reference section 2.2.6.1 (Project Worksheet) and the Project Worksheet for instructions on how to identify a Project.
- 1.2.20. **“Project Completion”** means buildout is complete and service is being Facilitated to Eligible Service Locations in the Project Area.
- 1.2.21. **“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 costs identified in the Budget Plan shall be determinative.

1.3. Project Period. Communications Service Providers will be required to propose anticipated Project initiation, milestone, 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 date of Project Completion .

- 1.3.1. Construction of a proposed Project may not commence prior to Award.
- 1.3.2. Grantees will be expected to complete their Projects by their represented Project Completion date. Projects must be fully completed by September 30, 2026 to receive funding under this NOFA.

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

- 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 intend to Facilitate Covered Speeds.
- 1.4.2. Persons submitting Applications must be the entity that will (1) own the network constructed with grant funds awarded under this NOFA and, (2) be Facilitating last-mile connections to Eligible Service Locations.

NOTE: Persons submitting Applications may not be a consultant or third-party. For consultants who wish to assist in the development of an application, the consultant must be added to the applicant organization’s Iowa Grants account.

NOTE: In guidance issued by the U.S. Treasury on May 17, 2023, Treasury clarified that certain property standards applied to the ownership of federally-funded broadband

infrastructure built using CPF funds. Grantees will be obligated to comply with the federal property standards and ensure that the CPF-funded broadband infrastructure complies with the federal property standards through December 31, 2034. Please see the draft Grant Agreement for additional detail in this regard.

- 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 to Eligible Service Locations.
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, Applicant must certify that Projects will 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.
- 1.4.7. Applicants must have an active Federal System for Award Management (SAM) registration prior to the close of the Application Acceptance Window.

1.5. Project/Total Project Costs.

- 1.5.1. *Project Identification.* Applicants must identify their Projects in terms of the Eligible Service Locations to which their Projects will Facilitate Covered Speeds. See section 2.2.6.1 (Project Worksheet) and the Project Worksheet for instructions on how to create a 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 the Project and the total amount of federal funds sought in the Budget Plan.

The total amount of federal funds sought is 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 before September 30, 2026.

Applicants are also required to provide the 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. **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, the information identified in the Budget Plan shall be determinative. The Office reserves the right to conform such summary budget information to the Budget Plan without notice to the Applicant.

1.5.2.2. Advanced Payment. 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 may permit an advanced payment of funds:

1.5.2.2.1. Up to 50% of the Awarded funds may be disbursed to the Grantee upon request and subject to written approval and at the sole discretion of the Office. Any advance payments are contingent on (a) the Grantee successfully passing a risk assessment, (b) the expense being included in the Budget Plan, (c) the expense being timed to be in accordance with the actual, immediate cash requirements for implementing the Project, and (d) the Grantee initiating the construction phase. Otherwise, the Office may limit advance payments in accordance with State Accounting Enterprise policy.

1.5.2.2.2. The remaining 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:

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

1.5.2.2.4. 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 federal Coronavirus Capital Project Funds allocated to the Office for such purposes.

1.6.1. The total amount of funds available for Award under this NOFA is up to **\$148,960,000**.

1.6.2. Applicants must clearly state in their Applications the amount of grant funds sought 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. Applications proposing to Facilitate Covered Speeds to Eligible Service Locations may request a Maximum Funding Request of 60%.
- 1.6.3.2. Applicants proposing to Facilitate Covered Speeds to at least 80% of the Eligible Services Locations within any one Broadband Intervention Zone may request a Maximum Funding Request calculated in accordance with the following parameters:
 - 1.6.3.2.1. 80% of the Applicant's proportional estimated Total Project Costs for buildout within a Broadband Intervention Zone for Zones ranked 1-20, and 60% for other Project costs;
 - 1.6.3.2.2. 75% of the Applicant's proportional estimated Total Project Costs for buildout within a Broadband Intervention Zone for Zones ranked 21-40, and 60% for other Project costs;
 - 1.6.3.2.3. 70% of the Applicant's proportional estimated Total Project Costs for buildout within a Broadband Intervention Zone for Zones ranked 41 or lower, and 60% for other Project costs.

NOTE: Applications may propose facilitating Covered Speeds to greater than 80% of Eligible Service Locations in more than one Broadband Intervention Zone. Each Eligible Service Location will be evaluated based on the parameters established in this section 1.6.3 to calculate the Maximum Funding Request available to the Applicant.

- 1.6.3.3. The Office will not award a grant pursuant to this NOFA that exceeds the limitations set forth in section 1.6.3.
 - 1.6.3.4. *Not-to-Exceed Total Payment.* The not-to-exceed total payment is capped at the value set forth in the executed grant agreement, however, that value may be reduced if the final Allowable Expenditures upon project completion are lower than those set forth in the Budget Plan.
 - 1.6.3.5. 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, provide partial awards 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 grant applications have **overlapping** Eligible Service Location(s), the conflict will be addressed as follows:
 - 1.6.4.1.1. First, an Eligible Service Location that is in both Groups A and B will be assigned to the Group A Application.
 - 1.6.4.1.2. Second, within each Group, overlapping Eligible Service Locations will be assigned to fiber-to-the-home Applications.
 - 1.6.4.1.3. Third, within each Group, the Eligible Service Location will

be assigned to the highest ranking Application. *See also* Section 3 for further detail of the Group A/Group B analysis.

- 1.6.4.2. Where the Applicant indicates the Project Area overlaps with an Eligible Service Location(s) in which any Communications Service Provider has already commenced construction or build out.
- 1.6.4.3. Where the Applicant indicates the Project Area overlaps with an Eligible Service Location(s) in which any Communications Service Provider has preexisting Broadband expansion commitments.
- 1.6.4.4. Where Eligible Service Locations within the Project Area have 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 100/20 Broadband or faster.
- 1.6.5. The Office may, 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 Eligible Service 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 may have been proposed in whole or in part 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 when prior Broadband commitments will not result in 100/100 Broadband.

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	6/15/23
1.7.2 Written Questions and Responses	

1.7.2.1 Pre-Application Conference:	6/28/23 at 2:00 PM CST
1.7.2.2 Written Questions Submissions:	6/28/23 - 7/07/23
1.7.2.3 Responses Posted By:	7/14/23
1.7.3 NOFA Issuance; Application Acceptance Window Opens (no Applications will be accepted <u>prior</u> to this date and time)	7/14/23
1.7.4 Application Acceptance Window Closes/Applications Due (no Applications will be accepted <u>after</u> this date and time)	8/25/23, 5:00 PM CST
1.7.5 Application Review Ends:	9/22/23
1.7.6 Final Agency Decision(s)/Notice of Intent to Award (Anticipated)	9/22/23
1.7.7 Grant Agreement Negotiation and Execution	10/27/23

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: <https://forms.gle/zxkcqhEkzkpvA5eD9>.

1.7.2.2. Written questions related to this NOFA must be submitted to the Office via a Google Form found at <https://ocio.iowa.gov/broadband>. The link will be live following the pre-application conference. 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.
- 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 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. Applications that are timely submitted will be reviewed for completeness and accuracy.
 - 1.7.5.1.1. High Cost Project Worksheet: This worksheet may be sent to Applications that meet or exceed the High Cost Threshold defined in Section 2.2.6.9.
 - 1.7.5.1.2. Large Project Worksheet: This worksheet may be sent to Applicants that meet or exceed the Large Project Threshold as defined in Section 2.2.6.10.
 - 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. Applications will then be rank ordered consistent with the Rank Ordering Procedure established in section 3.

- 1.7.5.3. Disqualification and/or Ineligibility Review. Applications 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 Applications, 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 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. *Risk Assessment.* Following the issuance of the NOIA, but prior to negotiating a grant agreement, the successful Applicant will complete a risk assessment. The Office will provide a link to the successful Applicant to access the risk assessment after the NOIA is posted. The successful Applicant must complete the risk assessment within 10 business days of the Office sending the link. If a risk assessment has 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 risk assessment.
- 1.7.8. *Grant Agreement Negotiation and Execution.*
 - 1.7.8.1. After the successful Applicant has completed the risk assessment, the Office will distribute final Grant Agreements for the successful Applicants' review and signature. Successful Applicants will be given 10 business days from the date of transmission of the final Grant Agreement to return the executed agreement to the Office. If a Grant Agreement has not been executed within this timeframe, the Office may, in its sole discretion, cancel the Award with respect to that Application and begin negotiations regarding another Application, as deemed appropriate by the Office. The Office may, in its sole discretion, extend the time period for negotiations of the Grant Agreement.
 - 1.7.8.2. 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, without further negotiation.

1.7.8.3. As part of the Grant Agreement process, the Office may evaluate and consider in conjunction with the Grantee any information about broadband buildout received by the Office after the As of Date. Consideration of such after-acquired information may result in a change of Grantee buildout obligations as compared to the buildout proposed in Grantee's Application.

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 for further information. Communications made in response to questions submitted through this process shall not be binding on the Office.

1.8.3. *Unauthorized Contact.* 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).

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/Ownership Requirements).

- 1.9.2. The Project is not an eligible Project in accordance with section 1.4 (Eligibility/Ownership 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 the Applicant indicates the Project Area overlaps with an Eligible Service Location in which any Communications Service Provider has already commenced construction or build out.
- 1.9.7. Where the Applicant indicates the Project Area overlaps with an Eligible Service Location in which any Communications Service Provider has preexisting Broadband expansion commitments.
- 1.9.8. Where an Eligible Service Location within the Project Area has already been awarded, by any state or federal program provided that such grant was awarded to Facilitate 100/20 Broadband or faster.
- 1.9.9. Reserved.
- 1.9.10. Where Eligible Service Locations within a lower ranking Project overlap with Eligible Service Locations of any other higher ranking 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 or 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 an Eligible Service Location.
- 1.9.24. An Applicant proposes to build out a wireless network, but does not demonstrate within Exhibit I Wireless Project Design Worksheet that:
 - 1.9.24.1. The design of the proposed wireless network backhaul is “future proof,” meaning that the network backhaul is capable of Facilitating Covered Speeds to every Eligible Service Location within the Project Area upon Project Completion; and
 - 1.9.24.2. All Eligible Service Locations in the Applicant’s propagation study are included in the Application.
- 1.9.25. An Applicant proposes to build out 100/20 Broadband but does not provide a sufficient justification for why 100/100 Broadband is impractical to construct due to factors such as excessive deployment costs or geographic barriers.
- 1.9.26. An Applicant proposed to build out 100/20 Broadband but does not certify that the service will be scalable to 100/100 Broadband within three years.
- 1.9.27. An Applicant does not furnish a letter from the community to be served by the proposed Project that the proposed pricing is affordable as set forth in section 2.2.7.2.
- 1.9.28. In the sole determination of the Office, the Applicant provides insufficient justification in Exhibit L - High Cost Project Worksheet for exceeding the High Cost Threshold.
- 1.9.29. In the sole determination of the Office, the Applicant provides insufficient justification in Exhibit M - Large Project Worksheet.

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, .XLSM, 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).

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. *Applicant/Owner 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.
- 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 engineering/design phase completion date;
 - 2.2.3.3. The projected construction start date of the Project;
 - 2.2.3.4. The projected date of Project Completion;
 - 2.2.3.5. If the Applicant proposes to Facilitate Broadband service within a Broadband Intervention Zone, a description of how any Community Broadband Capital¹ offered by a Community Applicant through the Invitation to Qualify may be used.²
- 2.2.4. *Demonstrated Experience.* This form requires information about Applicant’s

¹ see Invitation to Qualify #001 Exhibit A Section 4.2.3 provided at <https://ocio.iowa.gov/document/itq-001-327-0>, which defines Community Broadband Capital as “in-kind or financial contributions identified by a Community Applicant that could be offered to directly support the construction of a Broadband infrastructure project within a [Broadband Intervention Zone].”

² Offers of Community Broadband Capital within Broadband Intervention Zones are provided at <https://ocio.iowa.gov/invitation-qualify-001>

demonstrated experience in provisioning Broadband. 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 for 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 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 Eligible Service Locations forming the basis of the Project to which Applicant will Facilitate Covered Speeds;
- 2.2.6.1.2. The Broadband Intervention Zone(s), if any, associated with each Eligible Service Location forming the basis of the Project;
- 2.2.6.1.3. The maximum upload and download speeds, stated in megabits per second, to be Facilitated to the Project Area upon Project Completion;
- 2.2.6.1.4. The type of delivery platform of the Broadband Infrastructure underlying the Project;
- 2.2.6.1.5. Key product attributes of the Broadband services to be Facilitated in the Project Area as described in section 3.1.6.

Note: Reference the “**Project Selection and Data Export/Import Instructions,**” labeled “**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 “**ESL Input**” tab in the Core Application.

2.2.6.2. CPF Form. This form, labeled “**Exhibit C,**” requires the Applicant to describe the percentage of federal funding requested, line miles of fiber, and related information required by the U.S. Department of Treasury in connection with CPF funding. Applicants may optionally submit a lower Maximum Funding Request percentage in Exhibit C.

- 2.2.6.3. Budget Plan. This form, labeled “**Exhibit D,**” requires the Applicant to state its estimated Total Project Costs and corresponding Allowable Expenditures in the categories provided on the form.
- 2.2.6.4. Grant Agreement. Successful applicants will be required to execute a Grant Agreement, labeled “**Exhibit E.**” 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 abide by section 1.7.8 (Grant Agreement Negotiation and Execution).
- 2.2.6.5. Certification, Authorization, and Release of Information Form. This form, labeled “**Exhibit F,**” requires the Applicant, or a representative of Applicant’s with legal authority to bind Applicant to:
- 2.2.6.5.1. Certify to the Office the completeness, accuracy, truthfulness, performance capabilities, and satisfaction of key legal requirements of or related to the Application;
 - 2.2.6.5.2. Certify to the Office that for completed service offerings funded by this NOFA, Applicant will allow subscribers in the service area to utilize the Federal Communications Commission’s (FCC) Affordable Connectivity Program (ACP) program;
 - 2.2.6.5.3. 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; and
 - 2.2.6.5.4. Certify to the Office that any 100/20 Broadband funded by this NOFA will be scalable to 100/100 within 3 years of Project Completion.
- 2.2.6.6. Form 22. This form, labeled “**Exhibit G,**” requires the Applicant to indicate whether or not it intends to request confidential treatment of cost information in Exhibit D of the Core cost information in Exhibit D of the Core Application.
- 2.2.6.7. Application Checklist. This form, labeled “**Exhibit H,**” is designed to assist Applicant in ensuring Applicant has completed and submitted all forms and materials 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 “**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 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. High Cost Project Worksheet. This form, labeled “**Exhibit L,**” requires an Applicant to justify its average cost per passing when the cost per passing resides within the top 25% of all applications submitted to this NOFA (“High Cost Threshold”). Separate High Cost Thresholds will be generated for wireless and wireline delivery platforms. Applications exceeding the High Cost Threshold may receive notice from the Office seeking justification for the high cost. The Office may use the information in the determination of whether or not to disqualify an Application exceeding the High Cost Threshold. **Applicants exceeding the High Cost Threshold may be identified by the Office following the closure of the Application Acceptance Window and notified with instructions to complete the worksheet.**
- 2.2.6.10. Large Project Worksheet. This form, labeled “**Exhibit M,**” requires an Applicant to justify the quantity of Eligible Service Locations to which the Applicant collectively, including all entities attached or connected to the Applicant, proposes to Facilitate Covered Speeds when that quantity is in the top 25% of all Applicants to this NOFA (“Large Project Threshold”). Applications exceeding the Large Project Threshold may receive notice from the Office seeking justification for the number of Eligible Service Locations to which new service will be Facilitated. Such information will be used by the Office to assess whether Applicants meeting the Large Area Project Threshold are capable of conforming to the build out timelines associated with this NOFA. The Office may use the information in the determination of whether or not to disqualify an Application exceeding the Large Project Threshold. **Applicants exceeding the Large Project Threshold may be identified by the Office following the closure of the Application Acceptance Window and notified with instructions to complete the worksheet.**

For purposes of calculating the number of Eligible Service Locations to which the Applicant collectively, including entities attached or connected to the Applicant, proposes to Facilitate Covered Speeds, the Office will evaluate whether entities submitting grant applications have any form of business tie, such as parent/subsidiary, joint venture, substantial correlation between members of the governing bodies of entities, or other form of affiliate entity. When such business ties exist, the Office will consider such entities as attached or connected to other applicants.

Applicants must disclose all known entity grant applications in their applications that are attached or connected to the Applicant and update that disclosure once the list of grant applicants is published by the Office. To the extent this associated-applicants evaluation reveals cumulative total numbers that meets the Large Area Project Threshold, the Office will conduct a comprehensive review that may include, but not be limited to, the current status of project completion for any prior federal or state-funded grant awards made and, may disqualify applications on a first-in, first-out basis, retaining the applications for the associated entities that fall below the cumulative cap.

NOTE: Given the limited timeframe available for project construction under this NOFA, the Office believes that buildout commitments must be of a reasonable size and distributed among various communication services providers to guarantee project completion by the end of the Project Period.

Applicants that are unable to complete Projects risk the reversion of funds to the federal government by the Office, leaving Eligible Service Locations without funding to construct new broadband service.

2.2.7. *Product Pricing Form.* This form requires Applicants to provide speeds and pricing tiers to be offered, including the following:

2.2.7.1. Pricing for:

2.2.7.1.1 a Covered Speed package (see section 3.1.7.3),

2.2.7.1.2 the speed package associated with the highest upload and download speed provided in Exhibit B, and

2.2.7.1.3 at least one low cost option offered at speeds that are sufficient for a household with multiple users to simultaneously engage in telework and remote learning.

2.2.7.2. A signed letter from a representative of the community to be served by the proposed Project, indicating that the Applicant's proposed pricing for the Covered Speed package is affordable for the community.

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. Specific point values assigned to each evaluation factor set forth in section 3.1 (Quantitative Factors), are posted in section 3.2 (Scoring Rubric).

The Office recognizes that some of the factors identified below compete with each other. This is by design. Completed 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.

Rank Ordering Procedure. Following the scoring process using the factors set forth in section 3.1, all Applicants will be subject to the Rank Ordering Procedure:

- First, as part of the Technical Review described in section 1.7.5.1 the Office will group Applications accordingly: Group A will consist of Applications that will Facilitate Covered Speeds to at least 80% of the Eligible Service Locations in at least one Broadband Intervention Zone (“Group A”), and Group B will consist of all others (“Group B”);
- Second, Applications will be ranked within Group A and Group B by cumulative points; and
- Third, the highest scoring Application within Group B will be assigned a rank order that immediately follows the lowest ranked Application within Group A. The remaining Applications in Group B will be assigned successive ranks consistent with their cumulative score for the factors set forth in section 3.1.

All Applications in Group A will be awarded until funding is exhausted. If funding remains after awards are made to Applications in Group A, Applications in Group B will be awarded funds until funding is exhausted.

3.1. Quantitative Factors. The inputs for this section 3.1 (Quantitative Factors) are supplied by Applicant on the Project Worksheet and the Budget Plan.

3.1.1. *Total Eligible Service Locations Facilitated.* This factor operates on the premise that Projects Facilitating Covered Speeds to the most Eligible Service Locations help to achieve the core goals of the Program. Accordingly, the total count of Eligible Service Locations each Applicant represents will be Facilitated with Covered Speeds upon Project Completion (“Total Eligible Service Locations”) will be compared against each other to calculate the Total Eligible Service Locations score for each Applicant.

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

Formula: The estimated Total Project Cost **divided by** (\div) by the Total Eligible Service Locations Facilitated as represented in Section 3.1.1, upon Project Completion.

This results in a project-dollars per Eligible-Service-Locations-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.

- 3.1.3. *Rurality*. This factor operates on the premise that Projects 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 Project Area **divided by** (÷) the total square miles forming the basis of the Project Area.

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.

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

Formula: The Total Eligible Service Locations comprising the Project Area as represented in Section 3.1.1 **divided by** (÷) the total number of the Eligible Service Locations within the Project Area.

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. The two subcategories set forth below will be allocated one half each of the total points available within this broader Relative Speed category.

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

- 3.1.6.1. SubCategory 1 - Application Type. Applicant must indicate in its Application whether it will be proposing a Project to build out either 100/100 Broadband or 100/20 Broadband. This does NOT indicate the maximum speed being Facilitated but simply distinguishes whether the Project is able to meet the 100/100 required threshold.

Formula: Applications proposing 100/100 Broadband will receive all of the points available to this subcategory. Applications proposing 100/20 Broadband will receive none of the points available to this subcategory.

- 3.1.6.2. SubCategory 2 - Average Speed. “**Average Speed**” means average maximum upload and download speed measured in megabits per second that the Applicant represents will be Facilitated to all Eligible Service Locations forming the basis of the Project as set forth in Exhibit B.

Formula: The average maximum upload/download speeds in terms of megabits per second that the Applicant represents will be Facilitated to all

Eligible Service Locations forming the basis of the Project.

The resulting averages of all Applicants will be compared against each other to calculate the Average 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. Applicants must use the same product offering 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 that the product is operative or available when measured over a 30 day calendar month (720 hours) upon Project Completion. A product is considered inoperative or unavailable when service is 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 <https://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 the date of Project Completion.

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 any imposition, in any form, that is imposed by a Communications Service Provider on a customer that either cuts off service, throttles service speeds, or imposes additional charges for amounts of data above the limitation.

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. *CPF Areas of Emphasis.* This factor takes into consideration areas which the U.S. Department of Treasury encourages recipients of CPF 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 CPF 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 Eligible Service Locations. 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 Eligible Service Locations will receive all of the points available within this subcategory.

3.1.7.1.2. Applicants that will not provide fiber optic service to Eligible Service Locations 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 requires the Office to consider affordability as a part of the project selection process. 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.

Information concerning speed/pricing tiers to be offered by Applicant, including the speed/pricing of Applicant's affordability offerings will be collected in the Product Pricing Form in Iowa Grants. In addition to other products made available to consumers described in the webform, Applicants must provide a price for a product with the applicable Covered Speed proposed in their Project, meaning the Applicant must state a price for a service package offering 100 megabits per second download and 100 megabits per second upload for all 100/100 Broadband Applications or 100 megabits per second download and 20 megabits per second upload for all 100/20 Broadband Applications..

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 Eligible Service Locations Facilitated as a part of the Applicant's Project **divided by (÷)** the sum of upload and download megabits offered at the 100/100 Broadband (*i.e.*, 200) or 100/20 Broadband (*i.e.* 120) 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 an Applicant requests the total matching funds available for its Project as calculated under section 1.6.3 or a lesser amount. This factor operates under the premise that Applicants requesting less than the total matching funds available for a Project will permit the Office to more widely disburse available funds, increasing the overall impact of the program.

Formula:

The percentage of the total matching funds available 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 total matching funds 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%

- 3.1.9. *Broadband Intervention Zone Ranking.* This factor operates on the premise that Applicants proposing to Facilitate Covered Speeds in higher-ranking Broadband Intervention Zones further the goals of the Program.

Formula:

$$\left(\frac{X-Y+1}{X}\right) \times \text{Total Points Available In Category}$$

Where:

X = Total Number of Broadband Intervention Zones

Y = Rank of highest ranking Broadband Intervention Zone within which the Application will Facilitate Covered Speeds to 80% or more of the Eligible Service Locations within the Broadband Intervention Zone

Applications not proposing to Facilitate Covered Speeds to 80% or more of the Eligible Service Locations within any Broadband Intervention Zone will receive zero (0) points for this factor.

3.2. Scoring Rubric. The Scoring Rubric identifies the specific point values assigned to each evaluation factor set forth in section 3.1 (Quantitative Factors). A total of 100 points is available. 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 decisions, in its sole discretion regarding whether, to which Applications, and in what amounts to award grant funds. Such decisions will be based on which Projects are most likely to have the greatest impact in leveraging grant funds to reduce Eligible Service Locations, and taking into consideration the factors outlined in this NOFA.

Scoring Categories	Weight (Percentage (%) of 100 points available)	Points (Total Points Available (100) * Weight)
3.1.1 Total Eligible Service Locations Facilitated	11.11%	11.11
3.1.2 Efficiency	2.78%	2.78
3.1.3 Rurality	5.56%	5.56
3.1.4 Completeness	19.44%	19.44
3.1.5 Relative Speed	16.67%	16.67
3.1.6 Prospective Product Attributes	8.33%	8.33
3.1.7 CPF Areas of Emphasis	11.11%	11.11
3.1.8 Federal Matching Funds Requested	2.78%	2.78
3.1.9 Broadband Intervention Zone Ranking	22.22%	22.22

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 #008 (“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 the Project Area and will be incorporated into the grant agreement by reference.
 - **Exhibit C—CPF Form.** This is an Excel Worksheet wherein Applicant indicates the 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 E—Grant Agreement.** This is the standard grant agreement to be entered between the Office and an Applicant awarded funds 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 1.7.8 (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 the Applicant how to properly define their Project using the Broadband Availability Map and export the Eligible Service Location and/or Broadband Intervention Zone information forming the basis of their Project. This export is used to populate the Eligible Service Location Input Tab “**ESL Input Tab**” located within the Core Application. The ESL Input Tab auto populates other key aspects of the Application in the Core Application, including the Project Worksheet, which is central to the Application process.
- **Exhibit L—High Cost Project Worksheet.** This is a form requiring Applicants to justify the average cost per passing when the cost per passing exceeds the High Cost Threshold. Applications exceeding the High Cost Threshold will receive notice from the Office seeking justification for the high cost. **Complete this exhibit ONLY IF you are contacted by the Office after the Application Acceptance Window closes.**
- **Exhibit M—Large Project Worksheet.** This is a form requiring Applicants to justify the quantity of Eligible Service Locations to which the Applicant collectively, including all entities attached or connected to the Applicant, proposes to Facilitate Covered Speeds when that quantity is in the top 25% of all Applicants to this NOFA. **Complete this exhibit ONLY IF you are contacted by the Office after the Application Acceptance Window closes.**

SECTION 5—Reference Materials

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-5>.
- Notice of Funding Availability #008 public posting, *available at* <https://ocio.iowa.gov/empower-rural-iowa-broadband-grant-program-notice-funding-availability-008>.
- Capital Projects Fund Guidance for States, Territories, and Freely Associated States, *available at* <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/capital-projects-fund>.
- The Department of Treasury's CPF Frequently Asked Questions, *available at* <https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf>.
- Applicable sections of the 2 CFR, *available at* <https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200>.
- List of all Broadband Intervention Zones established under Invitation to Qualify #001, *available at* <https://ocio.iowa.gov/invitation-qualify-001>

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. **“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 CPF Requirements.
- 6.2. **“Applicant(s)”** means a Communications Service Provider submitting an Application in response to this NOFA.
- 6.3. **“Application(s)”** means a Communications Service Provider’s materials and responses to this NOFA, including the Iowa Grants Application, the Project Worksheet, CPF Form and the Budget Plan, together with any clarifications, attachments, appendices, or amendments to the NOFA requesting grant funds.
- 6.4. **“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.
- 6.5. **“Award”** means grant funds made available through this NOFA to an Applicant.
- 6.6. **“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>.
- 6.7. **“Grantee”** means a NOFA #008 grant recipient.
- 6.8. **“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; Applicant’s experience in addressing projects of similar size and complexity; 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.

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.

- 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. After this funding opportunity closes, the Office may reject Applications that have been created in the Iowa Grants System 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 Project Areas.
- 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 administrative support 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.** This NOFA 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. The exclusive jurisdiction for any and all litigation related to this NOFA shall be the state or federal courts sitting in Polk County, Iowa. Any litigation related to this NOFA shall be brought and maintained in the courts sitting in Polk County, Iowa. Grantees and Applicants waive any objection to such jurisdiction based on forum non conveniens or otherwise. This forum designation in no way waives a litigant’s obligation to exhaust administrative remedies.
- 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 www.iowagrants.gov 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 in Applicable Law, rule, or the NOFA 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 a successful Applicant’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 an Eligible Service Location is ultimately determined to be ineligible, 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.