
From: Chris Bresnan <Chris.Bresnan@AlticeUSA.com>
Sent: Wednesday, September 20, 2023 12:27 PM
To: esd.sm.ESD
Subject: Comments on ESD Board Meeting (9/21) - Altice USA

You don't often get email from chris.bresnan@alticeusa.com. [Learn why this is important](#)

ATTENTION: This email came from an external source. Do not open attachments or click on links from unknown senders or unexpected emails.

Below is a summary of comments on the Proposed Municipal Infrastructure Program guidelines (Item D on Agenda). We provided a more detailed comments following the summary.

Recommendation on Broadband Adoption

The Municipal Infrastructure Program (MIP) should amend its eligible uses to include costs associated with broadband adoption services for low-income households. This use is consistent with the NY WIRED Act which expressly authorizes use of MIP funds to “support the adoption of broadband services.” The use of funds for the adoption of broadband service is a permissible expense either under the ARPA Capital Projects Fund or the \$290 million available in State Broadband funds.

See proposed language below for Section G under the Municipal Infrastructure Program.

- **"Eligible uses for program funding may also include non-deployment projects to support the adoption of broadband services, including costs to offer low or no cost broadband service to low-income households."**

Further Recommendations

The Municipal Infrastructure Program guidelines should align with the mandated preference in the NY WIRED Act for prioritization of funding for unserved areas. This is consistent with longstanding state and federal broadband policy, including the final ARPA CPF Guidelines, to ensure that limited public deployment funding is appropriately prioritized to areas without access to existing service.

Proposed Language below.

- **"Eligible uses for program funding include . . . Last-mile fiber connections to Addresses, with preference for projects providing service to unserved areas where broadband speeds of at least 25/3 Mbps are unavailable. . . Fiber connections to Internet Exchange Points or Data Centers, with preference for projects addressing unserved areas where broadband speeds of at least 25/3 Mbps are unavailable . . ."**

In addition, application and award procedures should include a public comment period to identify served areas. We propose amending the “Application and Selection Process” section to include a comment period. See below language.

- **"To ensure that final awards for broadband deployment projects give preference to unserved areas, the CAO will establish a public comment process to allow incumbent broadband providers and other stakeholders to review applications, including applied-for service areas, and identify existing broadband service. This process will occur prior to any final funding decisions, with the goal of removing areas with existing service from final projects."**

A detailed level of comments on the proposed Municipal Infrastructure Program (MIP)

- **Eligible Uses Should Include Broadband Adoption Projects:** The proposed Guidelines define “Eligible Uses” (see Section G) of MIP funding exclusively as broadband deployment projects to provide last-mile broadband connections, connections to internet exchange points, and make-ready. However, consistent with the NYS Wired Broadband Act (which expressly authorizes use of MIP funds to “support the adoption of broadband services,” see below), we would add the language clarifying that Eligible Uses may also include non-deployment projects to support expanded broadband adoption, including costs to offer low- and no-cost service to low-income households. Such a use of funds would be a permissible expense either under the ARPA Capital Projects Fund (which contemplates broadband adoption projects as permissible expenses, see p. 7 of the U.S. Treasury Department’s Final CPF Guidance) or using the \$290M in state funding allocated to ConnectALL.
 - *“Eligible uses for program funding may also include non-deployment projects to support the adoption of broadband services, including costs to offer low or no cost broadband service to low-income households.”*
- **Grant Guidelines Should Reference Mandated Preference for Unserved Areas:** While the NYS Wired Broadband Act authorizes support for broadband deployment projects, it also expressly requires that ESD give preference to applications that “provide service to locations in unserved areas” (see below). This is consistent with longstanding state and federal broadband policy, including the final ARPA CPF Guidelines, to ensure that limited public deployment funding is appropriately prioritized to areas without access to existing service. Accordingly, we would propose to clarify that the ConnectALL Office must give preference to unserved areas – those without existing speeds of at least 25/3 Mbps available – in funding broadband deployment projects.
 - *“Eligible uses for program funding include . . . Last-mile fiber connections to Addresses, with preference for projects providing service to unserved areas where broadband speeds of at least 25/3 Mbps are unavailable. . . Fiber connections to Internet Exchange Points or Data Centers, with preference for projects addressing unserved areas where broadband speeds of at least 25/3 Mbps are unavailable . . .”*
- **Application and Award Procedures Should Include Public Comment Period to Identify Served Areas:** Consistent with the above recommendation, we would propose that the “Application and Selection Process” stated in Section H. of the proposed Guidelines be amended to include a public comment period where incumbent broadband providers and other interested stakeholders could review applications and applied-for service areas prior to any final funding determinations to identify served areas. Below is our proposed language.
 - *“To ensure that final awards for broadband deployment projects give preference to unserved areas, the CAO will establish a public comment process to allow incumbent broadband providers and other stakeholders to review applications, including applied-for service areas, and identify existing broadband service. This process will occur prior to any final funding decisions, with the goal of removing areas with existing service from final projects.”*

PART MMM

Section 1. Short title. This act shall be known and may be cited as the "working to implement reliable and equitable deployment of broadband act (WIRED broadband act)".

§ 2. Section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, is amended by adding a new section 16-gg to read as follows: . . .

8. ConnectAll municipal assistance program. The ConnectAll municipal assistance program is hereby established to provide grant funding to municipalities, state and local authorities, and entities established pursuant to section 99-y of the general municipal law to plan and construct infrastructure necessary to provide broadband services, support the adoption of broadband services, or other purposes for maximizing the effectiveness of municipal broadband programs as determined by the division. For the purposes of broadband infrastructure, such grants issued pursuant to this program shall facilitate projects that, at a minimum, provide reliable internet service with consistent speeds of at least 100 megabits per second for download and at least 20 megabits per second for upload, unless this requirement is waived for a specific project or location and a different speed level is approved by the division, but under no circumstances less than 25 megabits per second download and 3 megabits per second upload; provided further that an applicant for grant funding under this section shall demonstrate suitable fiscal, technical, operational, and management capabilities as determined by the division; provided further that an applicant for grant funding under this section shall provide certifications as to compliance with relevant safety standards as determined by the division, including the National Electrical Safety Code; provided further that an applicant for grant funding under this section shall provide certifications as to compliance with relevant workplace protections as determined by the division including the Occupational Safety and Health Act, the Fair Labor Standards Act, Title VII of the Civil Rights Act of 1964, and New York state labor and employment laws; provided further that an applicant for grant funding under this section shall submit to the division a workforce plan in a format determined by the division which, to the extent practicable, shall include: (a) information relating to whether the construction workforce will be directly employed or subcontracted; (b) the anticipated size of the workforce required to carry out the proposed work; (c) a description of plans to maximize use of local or regional workforce; and (d) a description of the expected workforce safety standards and training to ensure the project is completed at a high standard. The division shall establish the procedures to solicit, receive and evaluate proposals for the program consistent with, rules, regulations, or guidelines established by the commissioner; provided that preference shall be given to applications that: (a) are capable of delivering speeds of 1 gigabit per second download and 1 gigabit per second upload to the end user; (b) provide service to locations in unserved areas as determined by the division; (c) commit not to impose caps on data usage on the service provided to the end-user or to block, throttle, or prioritize internet content in the general course of business; and (d) have and commit to maintaining high standards of workplace safety practices, training, certification or licensure for all relevant workers, and compliance with state and federal workplace protections.



Chris Bresnan
Senior Director, Government Affairs

Chris.Bresnan@alticeusa.com

let's reconnect.  **optimum.**

The information transmitted in this email and any of its attachments is intended only for the person or entity to which it is addressed and may contain information concerning Altice USA and/or its affiliates and subsidiaries that is proprietary, privileged, confidential and/or subject to copyright. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient(s) is prohibited and may be unlawful. If you received this in error, please contact the sender immediately and delete and destroy the communication and all of the attachments you have received and all copies thereof.
