

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Office of Broadband Development and Connectivity**

Granting Unserved Municipalities
Broadband Opportunities (GUMBO)
(LAC 4:XXI.Chapters 1-7)

The Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity proposes to adopt LAC 4:XXI.Chapters 1-7 as authorized by R.S. 51:2370-2370.16, relative to the administration of the Granting Unserved

Municipalities Broadband Opportunities (GUMBO) grant program by the Office of Broadband Development and Connectivity.

Like railways in the 19th century and electricity in the 20th century, broadband internet access has become a critical piece of infrastructure, relied upon to ignite economic growth and competitiveness, contribute to improved outcomes in healthcare, enhance agricultural output, and advance the educational experience of our children. In the 21st century, broadband internet access is a given for many Louisianians, who rely on broadband in every aspect of daily life.

The Coronavirus pandemic has forever changed the definition and location of “work.” Unemployed Louisianians rely on broadband to search and apply for the next opportunity. Our state’s families and children have been forced to rely upon broadband for virtual education. The older and sicker among us are increasingly reliant on broadband to schedule telehealth visits and see medical specialists. Across fields of rice in Acadia Parish, corn in Richland Parish, and sugarcane in Lafourche Parish, farmers around the state rely on broadband to take advantage of the latest innovations in agricultural technology to increase yields. Working remotely, searching for employment, attending virtual classes, scheduling a telehealth visit, and using the latest technologies in agriculture all depend, in part, on having access to broadband.

However, according to the Federal Communications Commission, over 10 percent of Louisianians do not have access to broadband through ADSL, cable, fiber, or fixed wireless. In our rural communities, the number of these unserved residents rises to nearly 33 percent. Tragically, a third of rural Louisianians are without access to high-speed broadband, threatening their health, limiting their educational opportunities, and constraining their economic competitiveness in the digital world.

Failure to connect the unconnected, and any further delay in constructing broadband infrastructure to serve those residents without it, would continue the substantial risk of hardship currently faced by hundreds of thousands of residents throughout the state.

Therefore, the Louisiana Office of Broadband Development and Connectivity shall provide grants to private providers of broadband services to facilitate the deployment of broadband service to unserved areas of the state, defined as areas without deployed internet access service providing transmission speeds of at least 25 Mbps download and 3 Mbps upload (25:3 Mbps) through wireline or fixed wireless. The GUMBO grant program shall fund

eligible projects through a competitive grant application process.

This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 4

ADMINISTRATION

Part XXI. Granting Unserved Municipalities Broadband Opportunities (GUMBO)

Chapter 1. Program Summary

§101. Background and Authorization

A. This Part may be cited as the Louisiana GUMBO Broadband Grant Program Guide.

B. The Louisiana Office of Broadband Development and Connectivity, as authorized by R.S. 51:2370.1-2370.16, provides grants to private providers of broadband services to facilitate the deployment of broadband service to unserved areas of the state. The Granting Unserved Municipalities Broadband Opportunities (GUMBO) grant program funds eligible projects, through a competitive grant application process, in economically distressed parishes throughout the state.

C. The application materials, program guidelines, and criteria set forth in this Part govern the GUMBO grant program and have been developed based on the enacting legislation for the program, Act 477 of the 2021 Regular Legislative Session.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§103. Definitions

Broadband Service—deployed internet access service with a minimum of 25 Mbps download and 3 Mbps upload transmission speeds (25:3 Mbps).

Cooperative—a corporation organized under Part I of Chapter 2 of Title 12 of the Louisiana Revised Statutes of 1950 or a corporation who becomes subject to those provisions pursuant to R.S. 12:401 et seq.

Director—the Executive Director of the Office of Broadband Development and Connectivity within the Division of Administration.

Economically Distressed Parish—an unserved area that is in need of expansion of business and industry and the creation of jobs, giving consideration to unemployment, per capita income, and the number of residents receiving public assistance within that unserved area.

Eligible Grant Recipient—a provider of broadband service, including a provider operated by a local government if the local government is compliant with the Local Government Fair Competition Act prior to July 1, 2021, with respect to providing such services, a cooperative, or any partnership thereof.

Eligible Parishes—any parish with unserved structures.

Eligible Project—a discrete and specific project located in an unserved area of an eligible parish seeking to provide broadband service to homes, households, businesses, educational facilities, healthcare facilities, and community anchor points not currently served. A project that is primarily engaged in middle-mile, backhaul, or similar work is not an eligible project. The inclusion of middle-mile, backhaul, or similar capacity is permissible in an eligible project, if the capacity does not otherwise exist and is necessary for the

project's last-mile broadband connectivity to end-users. If a contiguous project area crosses from one eligible parish into one or more eligible adjacent parishes, the project shall be deemed to be located in the parish where the greatest number of unserved households are proposed to be served.

Household—any individual or group of individuals who are living together at the same address as one economic unit. A household may include related and unrelated persons. An “economic unit” consists of all adult individuals contributing to and sharing in the income and expenses of a household. An adult is any person eighteen years or older. If an adult has no or minimal income, and lives with someone who provides financial support to him, both people shall be considered part of the same household. Children under the age of 18 living with their parents or guardians are considered to be part of the same household as their parents or guardians.

In-kind—existing facilities, equipment, materials, and structures that a local government makes available in partnership with an internet service provider as a contribution to the proposed project, consistent with market rates. Examples include but are not limited to copper wire, coaxial cable, optical cable, loose tube cable, communication huts, conduits, vaults, patch panels, mounting hardware, poles, generators, batteries and cabinets, network nodes, network routers, network switches, microwave relays, microwave receivers, site routers, outdoor cabinets, towers, easements, rights-of-way, and buildings or structures owned by the local government that are made available for location or collocation purposes. This term may also include fees.

Infrastructure—existing facilities, equipment, materials, and structures that an internet service provider has installed either for its core business or public enterprise purposes. Examples include but are not limited to copper wire, coaxial cable, optical cable, loose tube cable, communication huts, conduits, vaults, patch panels, mounting hardware, poles, generators, batteries and cabinets, network nodes, network routers, network switches, microwave relays, microwave receivers, site routers, outdoor cabinets, towers, easements, rights-of-way, and buildings or structures owned by the entity that are made available for location or collocation purposes.

Infrastructure Costs—costs directly related to the construction of broadband infrastructure for the extension of broadband service for an eligible project, including installation, acquiring or updating easements, backhaul infrastructure, and testing costs. The term does not include overhead or administrative costs.

Local Government—a parish, municipality, or school board, or any instrumentality thereof.

Office—the Office of Broadband Development and Connectivity within the Division of Administration.

Prospective Broadband Recipient—a household, home, business, educational facility, healthcare facility, community anchor point, agricultural operation, or agricultural processing facility that is currently unserved and is identified in an application submitted.

Shapefile—a file format for storing, depicting, and analyzing geospatial data depicting broadband coverage, comprised of several component files, such as a Main file (.shp), an Index file (.sbx), and a dBASE table (.dbf).

Unserved—notwithstanding any other provision of law, any federal funding awarded to or allocated by the state for

broadband deployment shall not be used, directly or indirectly, to deploy broadband infrastructure to provide broadband internet service in any area of the state where broadband internet service of at least 25:3 Mbps is available from at least one internet service provider.

Unserved Area—a designated geographic area that is presently without access to broadband service offered by a wireline or fixed wireless provider. Areas included in an application where a provider has been designated to receive funds through other state or federally funded programs designated specifically for broadband deployment shall be considered served if such funding is intended to result in the initiation of activity related to the construction of broadband infrastructure in such area within 24 months of the expiration of the 60-day period related to such application established pursuant to R.S. 51:2370.4(C).

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§105. Non-Applicability of other Procurement Law

A. In accordance with R.S. 51:2370.14(C), grants solicited and awarded pursuant to the GUMBO program shall not be subject to the provisions of the Louisiana Procurement Code, R.S. 39:1551 et seq., or the Public Bid Law, R.S. 38:2181 et seq.

B. The procurement method used by the office to solicit applications, identify and score product features, cost, and technical factors, and award on the basis of best values shall be as set forth in Chapters 3 and 4 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

Chapter 2. Project Area Eligibility Requirements

§201. Eligible and Ineligible Project Areas

A. Eligible areas for the GUMBO grant program are areas without deployed internet access service providing transmission speeds of at least 25:3 Mbps with wireline or fixed wireless, and which qualify as an unserved area as defined in this Part. These areas are the focus of broadband expansion under this grant program.

B.1. Ineligible areas for the program are areas that already have internet access service available to them at transmission speeds of at least 25:3 Mbps with wireline or fixed wireless. In addition, areas (census blocks) where a private provider has been designated to receive funding through Universal Service, Connect America Phase II, Rural Digital Opportunity Fund, or other federal or non-federal funds shall be considered served and therefore ineligible for the GUMBO grant program if such funding is intended to result in the initiation of activity related to construction of broadband infrastructure in the area within 24 months from the expiration of 60 days following the closure of the grant application period.

2. In the initial grant application period, providers receiving Universal Service, Connect America Phase II, Rural Digital Opportunity Fund, or other federal or non-federal funds to deploy service, within the established timeline of within 24 months from the expiration of 60 days following the closure of the grant application period, may designate such areas as ineligible and subject to exclusion and reservation from the GUMBO grant program, for a

period of 24 months, by submitting to the office, within 60 days of the closure of the application period, a listing of the census blocks, shapefile areas, individual addresses, or portions thereof, comprising the provider's future project areas.

3. In subsequent grant application periods, in order to designate areas as ineligible and subject to exclusion, providers shall submit to the office census blocks, shapefile areas, individual addresses, or portions thereof, not less than 60 days prior to the beginning date of the application period.

4. Failure on the part of a provider to submit a relevant project area for ineligibility and exclusion shall result in those areas being eligible for GUMBO grant funding for the applicable grant application period. However, in such circumstance, providers shall be able to utilize the protest process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§203. Resources for Identification of Project Areas

A. Applicants can apply for funding to serve census blocks, shapefile areas, individual addresses, or portions thereof, as set forth in Chapter 3: Applications of this Part.

B. Although the Office of Broadband Development and Connectivity cannot provide a listing of all prospective broadband recipients within the state that have broadband service of less than 25:3 Mbps available, the office advises applicants to consider mapping tools and other resources located within the office's website as a starting point for identifying project areas.

NOTE: Mapping tools and other resources can be found on the website of the office, at connect.la.gov.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

Chapter 3. Applications

§301. Process Overview

A. No funding shall be disbursed by the GUMBO grant program except pursuant to an application submitted in accordance with this Chapter.

B. Applications for the GUMBO grant program shall be submitted via the website of the office.

C. The online application process may provide for mandatory and optional materials to be submitted with each proposal.

D. Prior to the publication of an application by the Office pursuant to R.S. 51:2370.4(C), the Office shall undertake a preliminary evaluation of the application with due diligence to examine whether the application appears on its face to comply with applicable program requirements. Until such time as this preliminary evaluation is complete, the provisions of R.S. 51:2370.16(3), relative to public records, shall apply. Following the preliminary evaluation, applicant financials and proprietary or trade secret information, when designated as such by the applicant and approved by the office, at its sole discretion, shall be exempt from public disclosure.

E. Through the evaluation and scoring process, if an applicant or application or any associated project are deemed to be technically unviable for any reason, including, but not limited to, applicant ability, proposed technology solution,

financial stability, or any combination thereof, the office shall, at its sole discretion, remove the application or project area from consideration for the grant program. Any applicant or application or any associated project deemed technically unviable in any GUMBO grant application period is eligible to reapply in any succeeding GUMBO grant application period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§303. Applications with Multiple Providers or Project Areas

A. An applicant may submit one application with multiple service providers if the applicant can demonstrate how the providers are collaborating to achieve universal coverage for the unserved locality or region.

B. An applicant may submit an application with support from more than one unit of local government.

C. Units of local government may endorse multiple applications with different service providers and may include project areas that cross jurisdictional boundaries.

1. Units of local government that provide letters of support, matching funds, or in-kind contributions to any application should provide the same, on a percentage basis relative to matching funds and in-kind contributions, to all applications proposing the use of like technologies in identical unserved areas with access provided to the exact number of prospective broadband recipients within its jurisdiction. Should multiple applications propose to serve unserved areas within its jurisdiction and include the use of unlike technologies, differing unserved areas, or a non-analogous number of prospective broadband recipients to be served, as compared against other applications, a local government may use reasonable judgement and reserve the right to determine its level of support, to include letters of support, matching funds, or in-kind contributions, on an application by application basis. A unit of local government that provides differing levels of support, to include letters of support, matching funds, or in-kind contributions, to differing applicants proposing one or more projects within its jurisdiction shall provide an explanation to the office as to why the local government's differing levels of support do not present an unreasonable or undue preference or advantage to itself or to any provider of broadband service. If, in the opinion of the office, differing levels of support by a unit of local government for differing applications presents an undue or unreasonable preference or advantage to itself or to any provider of broadband service, the office may disqualify from grant funding consideration any application or project area within the jurisdiction of the unit of local government.

D. An applicant may include one contiguous project area or multiple non-contiguous project areas in a single application. If designating more than one project area in a single application, each project area must be clearly noted and delineated, and the required technical data and budgetary information must be provided for each project area to allow for independent scoring of each project area. Any application that contains more than one project area and does not provide technical data and budgetary information specific to each project area, to allow for independent scoring of each project area subject to the scoring criteria

listed in §405 of this Part, may be removed from grant funding consideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§305. Application Requirements

A. As set forth in greater detail in §§307-315 of this Chapter, each application shall include these components:

1. applicant information, statement of qualifications, and partnerships;
2. project area(s) and locations to be served;
3. technical report;
4. project budget(s), matching funds, costs, and proof of funding availability;
5. proposed services, marketing, adoption, and community support.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§307. Application Information, Statement of Qualifications, and Partnerships

A. Every application shall include:

1. the identity of the applicant and its qualifications and experience with the deployment of broadband; in addition, the applicant shall include the following:
 - a. the number of years the applicant has provided internet services;
 - b. a history of the number of households and consumers, by year of service, to which the applicant has provided broadband internet access, as well as the current number of households to which broadband internet access (at least 25:3 Mbps) is offered;
 - c. the number of completed internet service infrastructure projects funded, in part, through federal or state grant programs, prior to the date of application submittal;
 - d. whether the applicant has ever participated in an internet service infrastructure project funded, in part, through federal or state grant programs, and if so, for each project, the nature and impact of the project, the role of the applicant, the total cost of the project, and the dollar amount of federal or state grant funding;
 - e. the number of penalties paid by the applicant, a subsidiary or affiliate of the applicant, or the holding company of the applicant, relative to internet service infrastructure projects funded, in part, through federal or state grant programs, prior to the date of application submittal; and
 - f. the number of times the applicant, a subsidiary or affiliate of the applicant, or the holding company of the applicant has ever been a defendant in any federal or state criminal proceeding or civil litigation as a result of its participation in an internet service infrastructure project funded, in part, through federal or state grant programs, prior to the date of application submittal.

2. Five years of financial statements, pro forma statements, or financial audits of the applicant to ensure financial and organizational strength regarding the ability of the applicant to successfully meet the terms of the grant requirements and the ability to meet the potential repayment of grant funds. If an applicant has been in business for less

than five years, the applicant shall provide financial statements, pro forma statements, or financial audits for the number of years the applicant has been in business. Should an applicant declare that it does not have financial statements, pro forma statements, or financial audits, the office, at its sole discretion, shall decide what documents are necessary to fulfill the requirements of this section.

3. the identity of any partners or affiliates if the applicant is proposing a project for which the applicant affirms that a formalized agreement or letter of support exists between the provider and one or more unaffiliated partners where the partner is one of the following:

- a. a separate private provider of broadband service, requiring a formalized agreement; or
- b. a nonprofit or not-for-profit, or a for-profit subsidiary of either, and the applicant is:
 - i. being allowed access and use of the partner's infrastructure, on special terms and conditions designed to facilitate the provision of broadband services in unserved areas, requiring a formalized agreement;
 - ii. utilizing a matching financial and/or in-kind contribution provided by one or more partners, requiring a formalized agreement; or
 - iii. a parish, municipality, or school board, or any instrumentality thereof, may qualify as a nonprofit for the purposes of the GUMBO grant program. Letters of support by a parish, municipality, or school board, or any instrumentality thereof, supporting an application may be submitted as part of an application. A letter of support does not require a formalized agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§309. Project Area(s) and Locations to be Served

- A. Every application shall include the following.
1. Mapping and Descriptions
 - a. Data relating to areas to be served is required in order to confirm that the project is serving eligible areas, to accurately score the application or project area, and track progress and completion of the project if awarded. Applicants shall submit data in any of the following ways, or in combination. If documentation is deemed insufficient, the office reserves the right to request additional supporting documentation. If the proposed project would result in the provision of broadband service to areas that are not eligible for funding, those ineligible areas shall be identified in the application along with the eligible areas.
 - b. Data included shall be relevant to the proposed project area and include the number of prospective broadband recipients that will be served and have access to broadband as a result of the project. For the proposed area to be served, the infrastructure cost per prospective broadband recipient must be provided, as well as the GUMBO cost per prospective broadband recipient. Data points should be tied to specific locations and be geo-coded for consideration as part of the application.
 - c. Areas projected to be served must be digitally submitted in a GIS shapefile, kml, CAD (.dwg), or MicroStation (.dgn) file format, and should be georeferenced to either the Louisiana North State Plane NAD83 (US Feet) coordinate system or the Louisiana South State Plane NAD83 (US Feet) coordinate system. The files can contain

points representing locations or polygons outlining the specific areas to be served. CAD drawings must not contain external references. Service to any prospective broadband recipient should be referenced. The office reserves the right to request data and technical information in any format the office deems necessary.

d. Additionally, applicants may also submit applications for areas where transmission speeds are less than 25:3 Mbps, if data is available to support differences between advertised and transmission speeds.

e. Data Submission Requirements

i. Census Blocks—data shall be submitted as corresponding census block numbers encompassing the area(s) to be served through the proposed project.

ii. Shapefiles—data shall be submitted analyzing geospatial data depicting broadband coverage of the proposed project area.

iii. Address-Level Data—data shall be submitted as individual address points of locations where service will be made available through the grant build. All addresses must be geocoded to include latitudinal and longitudinal coordinates.

iv. Polygons—data shall be submitted as polygon geometry which contain the areas to be served, or with the expectation that the polygon submitted corresponds to service being available to all locations within the polygon. The applicant must use the most recent data available from the state, parish, or local government to identify all locations within the project area.

f. Additional Data Sets

i. To assist in clarifying or providing for a greater level of detail regarding the areas and locations to be served by a proposed project, additional data sets may be provided within the application. These data sets should serve as supporting information and material to the required data listed above and should not be submitted as an alternative.

Examples of additional data include, but are not limited to:

- Scrubbed data (no raw data) from citizen survey results or demand aggregation results with speed tests, if applicable. This data must identify the areas that have less than 25:3 service.
- Affidavits from citizens or other individuals certifying one or more of the following:
 - o they are not able to receive broadband service; or
 - o the only available service is cellular or satellite; or
 - o the only broadband service available by the existing providers is less than 25:3 service.

2. Assessment of the Current Level of Broadband Access in the Proposed Deployment Area

a. The application requires an assessment of the current level of broadband access in the proposed deployment area. Within this section of the application, the applicant should describe what they believe to be the current level of service within the area and provide the data source or methodology used to capture this information. Raw data may be submitted as part of the assessment.

3. Attestation of Project Area Eligibility

a. Applicants are required to sign the statement of attestation to attest to the office that the project area(s) identified within the application are eligible, as defined by Louisiana Revised Statutes 51:2370.1 through 2370.16 and this Part, to the best of their knowledge. The attestation statement and signature shall be included as part of the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§311. Technical Report

A. Applicants must provide a narrative, technical report detailing the technology/technologies to be used in the proposed project to serve prospective broadband recipients at their premises. Applicants must indicate the technology that will serve a prospective broadband recipient as wired infrastructure or fixed wireless and provide aggregated totals for each solution for each project.

B. Reporting requirements for all deployments:

1. an explanation of the scalability of the broadband infrastructure to be deployed to meet future bandwidth needs;

2. if the applicant is claiming points for partnerships, the applicant must provide a brief narrative explaining how the partnership or affiliation will facilitate deployment and reduce cost per prospective broadband recipient. For applications or project areas where the nonprofit or not-for-profit partner provides only matching financial support, that information can be documented in the budget section within the relevant application or project area. The applicant must also provide evidence of a formalized agreement, when applicable, as required in §307 of this Part;

3. a general explanation of whether work will be performed in-house or through contractors, and whether the applicant or any subcontractors are certified by the either the Hudson Initiative or Veterans Initiative (if any subcontractors are certified through the Hudson Initiative or the Veterans Initiative, a formalized agreement shall be provided);

4. a proposed construction timeline and duration of the deployment project period. The deployment project period is the time from award of the grant agreement to the time that service is available to the targeted prospective broadband recipients under the grant. The applicant shall describe deployment roll-out and include the number of end-users to be served in each phase, as well as an estimated timeline for each phase (10 percent, 35 percent, 60 percent, 85 percent, 100 percent). As it relates to the disbursement of grant funding, project completion shall be defined as a percentage of the total number of prospective broadband recipients proposed to be served by the project;

5. the average distance, in miles, between prospective broadband recipients to be served by the project; and

6. a business continuity and disaster recovery plan.

C. Reporting requirements for wired infrastructure deployment:

1. description of the general design of the project and deployment plan;

2. explanation of the existing networks and equipment to be used for the project;

a. if the applicant requires assets owned by another entity, the applicant should explain how the assets will be used for this project and, if applicable, provide a copy of the agreement between the applicant and the owner;

b. the total number of miles of project infrastructure deployment, and the number of miles of project infrastructure deployment accounted for by preexisting infrastructure;

3. detailed explanation of how the new or upgraded infrastructure will serve the prospective broadband recipients. In the case of the installation or upgrade of a specific site infrastructure, such as a point of presence or fiber hut (fiber), pedestal (cable), or a remote exchange/DSLAM (DSL), the applicant must include:

a. number of prospective broadband recipients that will be served by that site infrastructure, including businesses; and

b. the distance from the specific site infrastructure such as a POP, pedestal, or DSLAM to the end user(s) and the expected broadband speed that will be effectively delivered;

4. detailed description of the design work needed for deployment, such as, but not limited to, pole work, acquiring or updating easements, and/or property acquisition.

D. Reporting requirements for fixed wireless deployment:

1. description of the general design of this project and deployment plan;

2. explanation of the existing networks and equipment to be used for this project;

a. If the applicant requires assets owned by another entity, the applicant should explain how the assets will be used for this project and, if applicable, provide a copy of the agreement between the applicant and the owner; and

b. the total number of miles of project infrastructure deployment, and the number of miles of project infrastructure deployment accounted for by preexisting infrastructure;

3. detailed explanation of how the new or upgraded infrastructure will serve the prospective broadband recipients. In the case of the installation or upgrade of a specific site infrastructure, such as a vertical asset, the applicant must include:

a. description and specific location of the vertical asset;

b. owner of the vertical asset;

c. number of prospective broadband recipients that will be served by that site infrastructure, including businesses;

d. the distance from the vertical asset to the end user(s) and the expected broadband speed that will be effectively delivered;

4. detailed description of the design work needed for deployment, such as, but not limited to, acquiring access to existing vertical assets, acquiring or updating easements, and/or property acquisition;

5. description and specific type of the equipment used for deployment and the capable speed of the equipment;

6. explanation of the frequency/frequencies to be utilized for the deployment, whether the deployment will use licensed or unlicensed technologies, as well as mitigation of line-of-sight challenges (which should correspond to the number of recipients to be served).

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§313. Project Budget, Matching Funds, Costs, and Proof of Funding Availability

A. Budget and Narrative

1. The project budget should reflect all eligible project costs. The project budget should include the minimum provider funding match of at least 20 percent, any local government funding match from a parish, municipality, and/or school board, or any instrumentality thereof, as well as in-kind contributions, and the requested GUMBO grant program funding.

2. Matching funds, and their associated sources, shall be detailed within the project budget and budget narrative. Eligible grant recipients are required to provide at least 20 percent matching funds of the total proposed project cost to participate in the GUMBO grant program. A local government, including a parish, municipality, or school board, or any instrumentality thereof, may provide matching funds for a project, in addition to the applicant. Local government matching funds are optional and not required. There is no limitation on the minimum or maximum percentage of a project's total cost that a local government may provide through a funding match. In-kind contributions to the project by a local government should also be listed in the project budget and budget narrative, if applicable.

3. Project funds (GUMBO grant funds and matching funds) shall be utilized for the deployment phase of the project, not the subsequent years of service. In addition, eligible project costs do not include recurring operating or maintenance costs, or sales and marketing of services.

B. Total Project Cost

1. Costs directly related to the construction of broadband infrastructure for the extension of broadband service, including installation, acquiring or updating easements, backhaul infrastructure, and testing costs are infrastructure costs and therefore considered eligible project costs. The term does not include overhead or administrative costs.

NOTES:

A project that is primarily engaged in middle-mile, backhaul infrastructure, or similar work is not an eligible project. The inclusion of middle-mile, backhaul, or similar capacity is permissible in an eligible project, if the capacity does not otherwise exist and is necessary for the project's last-mile broadband connectivity to end-users.

Applicants are encouraged to utilize vertical assets already in place or easily installed (poles, small monopoles, repeaters, etc.) as much as possible. Including new macro towers in a project may create lengthy construction timelines, especially around land purchase and environmental regulations.

C. Total Project Cost—per prospective broadband recipient

D. Infrastructure Cost—per prospective broadband recipient

E. GUMBO Cost—per prospective broadband recipient

F. Proof of Funding Availability

1. Applicants must submit a signed letter of funding availability from each source of funds committed for the project. If loan or other grant funds are pledged, a loan/grant commitment letter from each source of funds must be included.

2. Should an applicant be an awardee of Universal Service, Connect American Phase II, Rural Digital Opportunity Fund, or other federal or non-federal funds for the deployment of broadband service, the applicant shall attest as to whether or not the applicant's GUMBO application and associated project's buildout is dependent upon such awarded funds.

3. The applicant shall indicate whether the applicant, a subsidiary or affiliate of the applicant, or the holding company of the applicant has ever filed for bankruptcy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§315. Proposed Services, Marketing, Adoption, and Community Support

A. Every application shall include:

1. a description of services to be provided, including the proposed upstream and downstream broadband speeds to be delivered and any applicable data caps. Any applicant proposing a data cap shall provide justification to the satisfaction of the office that the proposed cap is in the public interest and consistent with industry standards;

2. the proposed advertised speed to be marketed to end-users (broken out by prospective broadband recipient);

3. the prices of all broadband service packages and the associated broadband transmission speeds that will be offered to consumers as a result of the project;

4. a plan to encourage users to connect that incorporates, at a minimum, community education forums, multimedia advertising, and marketing programs;

5. evidence of support for the project from citizens, local government, businesses, and institutions in the community. The applicant may provide letters or other correspondence from citizens, local government, businesses, and institutions in the community that supports the project. Letters of support from a parish, municipality, or school board, or any instrumentality thereof, will be deemed material for scoring purposes;

6. any low-income household service offerings, digital equity or literacy support, or programs or partnerships to provide these services. The applicant should also indicate current participation in, or plans to, accept the federal Lifeline subsidy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

Chapter 4. Scoring

§401. Overview

A. The GUMBO grant program is a competitive grant program. Applications, or project areas within applications, if applicable, shall be scored independently as provided in this Chapter, based upon a system that awards a single point for criteria considered to be the minimum level for the provision of broadband service, with additional points awarded to criteria that exceed minimum levels.

B. Applications, or project areas within applications, if applicable, shall be scored independently, and applications or project areas receiving the highest score shall receive priority status for the awarding of grants. Should the final application or project area with priority status for the awarding of a grant have a request for GUMBO funding that exceeds the remaining GUMBO funds available, the final applicant with priority status shall have the option to agree to complete its proposed project in full with the remaining GUMBO funds available in that round. Should the final priority applicant decline, the office shall propose the same to the next highest scored application or project area. This process shall continue until such time as an applicant has

agreed, or all remaining applications or project areas within the current grant round have declined. Should all applicants decline the office's offer, the remaining balance of GUMBO funding shall be added to the next succeeding round of GUMBO.

C. As a means of breaking a tie for applications or project areas receiving the same score, the office shall give priority to the application or project area proposing the lowest GUMBO cost per prospective broadband recipient.

D. Upon the close of the application period, and throughout the evaluation and scoring phase of the program process, a blackout period shall be instituted. This blackout period shall remain in effect until the announcement of awards. During this blackout period, applicants shall not initiate contact with the office, except as otherwise provided within this part. The office reserves the right to initiate contact with an applicant to seek clarification of an application or the data contained therein, request additional information, or as necessary in response to an overlapping project area or protest. An applicant may initiate contact with the office for the purposes of amending an application or project area due to overlapping or a protest, or to withdraw an application or project area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§403. Overlapping Applications or Project Areas

A. At the close of the application period, should one or more applications or project areas overlap one or more other applications or project areas, relative to one or more unserved census blocks, shapefile areas, individual addresses, or portions thereof, the impacted applicants, relative to overlapping applications or project areas, shall have the option and ability to resolve the overlapping unserved census blocks, shapefile areas, individual addresses, or portions thereof, through the applicants' own volition, discussion, and efforts. Applicants working to resolve an instance of overlapping applications or project areas, following the close of the application period, shall jointly notify the office of such efforts. An acceptable resolution and amended applications or project areas will be accepted by the office until 5 PM on the 30th day of the 60-day evaluation and protest period. Such an acceptable resolution between impacted applicants shall not result in the addition of partners to a previously submitted application or project area nor the expansion of an application's project area.

B. Following 5 PM on the 30th day of the 60-day evaluation and protest period, should one or more applications or project areas overlap one or more other applications or project areas, relative to one or more unserved census blocks, shapefile areas, individual addresses, or portions thereof, each application or project area shall be scored independently. The application or project area receiving the highest score shall proceed to grant funding consideration with its project area boundary intact. Any application or project area, regardless of the geographical size of the application or project area, overlapping a higher scored application or project area, shall be removed from grant funding consideration. A project area being removed from grant funding consideration shall not impact scoring of other project areas within the same

application, if applicable. All project areas shall be scored independently.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§405. Factors Subject to Scoring

A. Applicant Experience. The office shall award points based upon the applicant’s experience, technical ability, financial wherewithal in successfully deploying and providing broadband service, and the matching funds percentage of the total cost of the project. For experience, the office shall reference, by date of application submittal and without regard to the potential project, the number of years the applicant has provided internet services; the number of households to which the applicant currently provides broadband internet service access (at least 25:3 Mbps); the number of internet service infrastructure projects completed by the applicant, funded in part through federal or state grant programs, prior to the date of application submittal; penalties paid by the applicant, relative to internet service infrastructure projects funded in part through federal or state grant programs, prior to the date of application submittal; and whether the applicant, a subsidiary or affiliate of the applicant, or the holding company of the applicant has ever been a defendant in any federal or state criminal proceeding or civil litigation as a result of its participation in an internet service infrastructure project funded in part through federal or state grant programs, prior to the date of application submittal. Points shall be awarded as follows.

Years Providing Internet Service	Points
No prior service.	0
4 years or less	1
5 years to 9 years	2
10 years to 14 years	3
15 years to 19 years	4
20 years or longer	5

Households Provided Access	Points
None	0
4,999 or less	1
5,000 to 14,999	2
15,000 to 24,999	3
25,000 to 49,999	4
50,000 or more	5

Completed Internet Projects	Points
None	0
1 to 3 projects	1
4 to 6 projects	2
7 to 9 projects	3
10 to 14 projects	4
15 or more projects	5

Penalties Paid	Points
One or more	0
None	5

Defendant in Criminal or Civil Proceeding	Points
One or more	0
None	5

NOTE: If an applicant has not participated in an internet service infrastructure project funded, in part, through federal

or state grant programs, the applicant shall not receive points in the “penalties paid” or “defendant in criminal or civil proceeding” scoring criteria.

B. Technical Ability. The office shall award points based upon the broadband transmission speeds (Mbps download and upload) that will be deployed as a result of the project. If more than one set of transmission speeds are offered to consumers, scoring shall be based on the slowest transmission speeds offered. The office shall award points based upon the scalability of the project’s technology and infrastructure beyond the project’s current maximum speed offering for future increases in bandwidth. Should a project include a mix of wireline and fixed wireless technology solutions, broadband speed and scalability criteria shall be scored based upon the technology that serves a majority of a project’s prospective broadband recipients. The office shall reference the average distance, in miles, between prospective broadband recipients to be served by the project and shall award points to the five applications or project areas with the longest average distance between prospective broadband recipients. Points shall be awarded as follows.

Broadband Speeds (Mbps Down: Mbps Up)	Points
At least 25:3	1
At least 50:5	4
At least 100:10	6
At least 100:20	8
At least 100:100	10

Scalability (Mbps Down: Mbps Up)	Points
None	0
Up to 50:5	1
Up to 100:10	4
Up to 100:20	6
Up to 100:100	8
Beyond 100:100	10

Average Distance (in miles) Between Prospective Broadband Recipients	Points
Longest average distance	5
2 nd longest average distance	4
3 rd longest average distance	3
4 th longest average distance	2
5 th longest average distance	1
6 th longest average distance or shorter	0

C. Financial Wherewithal. The office shall reference both a project’s total cost per prospective broadband recipient and GUMBO cost per prospective broadband recipient. A project’s total cost per prospective broadband recipient shall be calculated by dividing a project’s total cost by the total number of prospective broadband recipients to be served by the project. A project’s GUMBO cost per prospective broadband recipient shall be calculated by dividing a project’s total GUMBO requested funding by the total number of prospective broadband recipients to be served by the project. In each criterion, the office shall award points to the 10 applications or project areas with the lowest costs per prospective broadband recipient. The office shall also reference the number of bankruptcies filed (prior to the date of application submission). Points shall be awarded as follows.

Cost Per Prospective Broadband Recipient	Points
Lowest cost	10
2 nd lowest cost	9
3 rd lowest cost	8
4 th lowest cost	7
5 th lowest cost	6
6 th lowest cost	5
7 th lowest cost	4
8 th lowest cost	3
9 th lowest cost	2
10 th lowest cost	1
11 th lowest cost or higher	0

GUMBO Cost Per Prospective Broadband Recipient	Points
Lowest cost	20
2 nd lowest cost	18
3 rd lowest cost	16
4 th lowest cost	14
5 th lowest cost	12
6 th lowest cost	10
7 th lowest cost	8
8 th lowest cost	6
9 th lowest cost	4
10 th lowest cost	2
11 th lowest cost or higher	0

Bankruptcies	Points
1 or more.	0
No prior bankruptcies.	2

D. Matching Funds. The office shall calculate the provider's matching funds percentage of the total cost of the project and award points based on matching funds. Points shall be awarded as follows.

Provider Matching Funds (Percentage of Total Cost)	Points
20 percent	0
Each additional percentage point – beyond required 20 percent.	1
Each increment of 5 percentage points – beyond required 20 percent.	5 Bonus Points

NOTE: An applicant will receive 1 point for each percentage point of matching funds provided, beyond the required 20 percent. Additionally, an applicant will receive 5 bonus points for each increment of 5 percentage points of matching funds provided, beyond the required 20 percent. Points are awarded based upon the total percentage of matching funds provided, beyond the required 20 percent, irrespective of the number of providers contributing to a single project.

E. Local Government Support. The office shall award points based upon letters of support from local governments. The office shall reference letters submitted by a parish, municipality, or school board, or any instrumentality thereof. Points shall be awarded as follows.

Local Government Letters of Support, Numbers	Points (max. 3 points)
1 local government	1
2 local government	2
3+ local governments	3

F. Estimated Number of Unserved Households. The office shall award points to projects based upon the

estimated number of unserved households within the eligible economically distressed parish, as determined by the most recent data published by the Federal Communications Commission or the most reliable source of information available as of the close of the application period, as determined by the office. Points shall be awarded as follows.

Number of Unserved Households	Points
499 or fewer	1
500 to 1,999	2
2,000 to 4,999	3
5,000 to 9,999	4
10,000 or more	5

NOTE: If a contiguous project area crosses from an eligible parish into one or more eligible adjacent parishes, the project shall be deemed to be located in the parish where the greatest number of unserved households are proposed to be served.

G. Percentage of Total Unserved Households Served. The office shall award points to projects that will provide broadband service based upon the percentage of the total unserved households within the eligible economically distressed parish that the project will newly and directly serve. Unserved households served as a result of other, non-GUMBO federal or state grant programs shall not be used in the calculation of this criterion. The number of unserved households shall be determined using the most recent data published by the Federal Communications Commission or the most reliable source of information available as of the close of the application period, as determined by the office. Points shall be awarded as follows.

Percent of Unserved Households Newly & Directly Served	Points
5 percent or less	1
6 percent to 10 percent	2
11 percent to 24 percent	3
25 percent to 49 percent	4
50 percent or more	5

NOTE: If a contiguous project area crosses from an eligible parish into one or more eligible adjacent parishes, the project shall be deemed to be located in the parish where the greatest number of unserved households are proposed to be served.

H. Unserved Businesses Served. The office shall award points to projects that will provide broadband service to unserved businesses newly and directly served by the project located within the eligible economically distressed parish, as determined by the most recent data published by the Federal Communications Commission or the most reliable source of information available as of the close of the application period, as determined by the office. Unserved businesses served as a result of other, non-GUMBO federal or state grant programs shall not be used in the calculation of this criterion. A residential-based business shall be classified by the applicant as either a residence or a business and shall not be counted as both. Points shall be awarded as follows.

Number of Unserved Businesses	Points
5 or fewer	1
6 to 10	2
11 to 15	3
15 to 19	4
20 or more	5

I. Leverage of Existing Infrastructure. The office shall award points based upon the applicant's ability to leverage its own or nearby or adjacent broadband service infrastructure in the proposed project area. For reference, the office will refer to the percentage of total mileage of project infrastructure composed of preexisting infrastructure. The office will also refer to the project's proposed estimated construction timeline, as measured from the award of the grant agreement, and award points in the following categories: construction start date and construction completion date. Construction completion date scoring will utilize two separate scoring criteria, one for wireline and one for fixed wireless. Should a project include a mix of wireline and fixed wireless technology solutions, the project completion date criterion shall be scored based upon the technology that serves a majority of a project's prospective broadband recipients. Points shall be awarded as follows.

Percentage of Mileage of Preexisting Infrastructure	Points
None	0
9 percent or less	1
10 percent to 19 percent	2
20 percent to 29 percent	3
30 percent to 39 percent	4
40 percent or more	5

Construction Start Date	Points
12 months or longer	1
Within 8 to 11 months	2
Within 5 to 7 months	3
Within 2 to 4 months	4
Within 1 month	5

Wireline Construction Completion Date	Points
24 months or longer	1
Within 18 to 23 months	4
Within 13 to 17 months	6
Within 7 to 12 months	8
Within 6 months or less	10

Fixed Wireless Construction Completion Date	Points
24 months or longer	1
Within 18 to 23 months	2
Within 13 to 17 months	3
Within 7 to 12 months	4
Within 6 months or less	5

J. Consumer Price. The office shall award points based upon the ultimate price of broadband service to the consumer as a result of the proposed project and shall reference the average price of all broadband service packages offered to consumers by an applicant as the result of the proposed project. The office shall award points to the 10 applications or project areas with the lowest average price of all broadband service packages offered to consumers by an applicant as a result of the proposed project. Points shall be awarded as follows.

Consumer Price (Lowest Average Package Price)	Points
Lowest average price	10
2 nd lowest average price	9
3 rd lowest average price	8
4 th lowest average price	7

Consumer Price (Lowest Average Package Price)	Points
5 th lowest average price	6
6 th lowest average price	5
7 th lowest average price	4
8 th lowest average price	3
9 th lowest average price	2
10 th lowest average price	1
11 th lowest average price or higher	0

NOTE: An applicant that has offered broadband service to at least 1,000 consumers for a period of at least 5 consecutive years is required to offer broadband service at prices that are, at least, consistent with offers to consumers in other areas of the state.

K. Local Government In-Kind Contributions and Matching Funds. The office shall award points to projects receiving in-kind contributions or matching funds from a local government for eligible projects within the jurisdictional area of the local government. A local government is defined as a parish, municipality, or school board, or any instrumentality thereof. Each local government has the option to provide in-kind contributions or matching funds to a project, and more than one local government can provide in-kind contributions or matching funds to any one project. Points shall be awarded as follows.

Local Gov't In-Kind & Matching	Points
No in-kind contribution or funding match	0
Each percentage point of total project cost provided by in-kind contributions or funding matches.	1
Each increment of 5 percentage points of total project cost provided by in-kind contributions or funding matches	5 Bonus Points

NOTE: An applicant will receive 1 point for each percentage point of the total cost of a project provided by local government through in-kind contributions or matching funds. Additionally, an applicant will receive 5 bonus points for each increment of 5 percentage points of the total cost of a project provided by local government through in-kind contributions or matching funds. Points are awarded based upon the total percentage of in-kind contributions and matching funds provided by local governments, irrespective of the number of local governments contributing to the project.

L. Small Business Entrepreneurship. The office shall award points to projects in which the eligible grant recipient is a small business entrepreneurship certified by the Hudson Initiative (R.S. 39:2001 et seq.) or the Veteran Initiative (R.S. 39:2171 et seq.). Points shall be awarded as follows.

Certified Hudson / Vet Initiative Grant Recipient	Points
Grant recipient certified by the Hudson and/or the Veterans Initiative	5

M. Small Business Entrepreneurship Subcontracting. The office shall award points to projects in which the eligible grant recipient commits to a good faith subcontracting plan to contract with or employ a small business entrepreneurship certified by the Hudson Initiative (R.S. 39:2001 et seq.) or the Veteran Initiative (R.S. 39:2171 et seq.) to substantially

participate in the performance of the project. Points shall be awarded as follows.

Certified Hudson / Vet Initiative Subcontractor(s)	Points (max. 10 points)
Each subcontractor certified by the Hudson and/or the Veterans Initiative	2

N. Summary of Scored Sections. As set forth in this Section, the scored categories of GUMBO program applications or project areas shall be as follows, repeated for comprehensive clarity.

Summary	
Scored Section	Points
A-1. Experience (Years Providing Internet Service)	0 – 5
A-2. Experience (Households Provided Access)	0 – 5
A-3. Experience (Completed Internet Projects)	0 – 5
A-4. Experience (Penalties Paid)	0 – 5
A-5. Experience (Defendant in Criminal or Civil)	0 – 5
B-1. Technical Ability (Broadband Speeds)	1 – 10
B-2. Technical Ability (Scalability)	0 – 10
B-3. Technical Ability (Distance Between Broadband Recipients)	0 – 5
C-1. Financial Wherewithal (Cost Per Prospective Broadband Recipient)	0 – 10
C-2. Financial Wherewithal (GUMBO Cost Per Prospective Broadband Recipient)	0 – 20
C-3. Financial Wherewithal (Bankruptcy)	0 – 2
D. Provider Matching Funds	0 – 1 – 5+
E. Local Government Letters of Support	1 – 3
F. Number of Unserved Households in Parish	1 – 5
G. Percent of Total Unserved Households Now Served	1 – 5
H. Unserved Businesses Now Served	1 – 5
I-1. Leverage of Existing Infrastructure (Percentage of Mileage of Preexisting Infrastructure)	0 – 5
I-2. Leverage of Existing Infrastructure (Timing of Construction Start Date)	1 – 5
I-3. Leverage of Existing Infrastructure (Timing of Wireline Construction Completion)	1 – 10
Or	
I-4. Leverage of Existing Infrastructure (Timing of Wireless Construction Completion)	1 – 5
J. Consumer Price	0 – 10
K. Local Government Matching	0 – 1 – 5+
L. Certified Hudson/Vet Initiative Grant Recipient	0 – 5
M. Certified Hudson/Vet Initiative Subcontractor	0 – 10
Total Possible Points:	8 – 150+

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

Chapter 5. Protests

§501. Protests

A. All GUMBO applications shall be publicly available on the office’s website for a period of at least 60 days prior to award. During the 60-day period, any interested party may submit comments to the director concerning any pending application.

B. The protest process, official decisions, and provider appeals shall be conducted in accordance with R.S. 51:2370.4(C) and 2370.5, as well as this Chapter.

C. A provider of broadband service may submit a protest of any application or project area on the grounds the proposed project covers an area where either broadband service exists, or construction of broadband infrastructure

will begin within 24 months as described in §201 of this part and defined within the GUMBO grant program. Comments and protests shall be submitted in writing through the office’s website, and all protests shall be accompanied by all relevant supporting documentation and shall be considered by the office in connection with the review of the application or project area. The protesting party bears the burden of proof.

D. Protests shall contain all relevant supporting documentation, including, but not limited to, the following:

1. a signed and notarized affidavit affirming the protest and attached information are true;

2. current Federal Communications Commission (FCC) Form 477 or equivalent;

3. minimum/maximum speeds available in the proposed project area;

4. number of serviceable locations within the proposed project area, including the speeds those serviceable locations are able to receive;

5. street level data of customers receiving service within the proposed project area;

6. point shapefiles that show each proposed passing in the challenged area, designated by a singular mapped point, in the protested area containing attribute data showing the addresses of each point;

7. polygon shapefiles delineating the general challenged area(s);

8. through the use of the project area map submitted by the applicant, a map indicating where the protested serviceable locations are within the proposed project area;

9. heat maps indicating received signal strength indicator (RSSI) in the challenged area.

E. Upon the close of the application period, and throughout the succeeding 60-day protesting period, a blackout period shall be instituted. This blackout period shall remain in effect until the announcement of awards. During this blackout period, protesting parties shall not initiate contact with the office, except as provided by this section. The office reserves the right to initiate contact with a protesting party to seek clarification of a protest, the data contained therein, or to request additional information.

F. Should a protest be validated, the office shall work with an applicant to amend an application or project area to reduce the number of unserved prospective broadband recipients and re-scope the application or project area. The office shall revise application or project area scores in accordance with amended applications. As a result of a validated protest and a reduction in the number of unserved prospective broadband recipients, an applicant shall also have the option to withdraw its application or project area.

G. The protest period for protesting an award shall not exceed 7 days from the announcement of awards.

H. Protest and appeal decisions provided by the director and the Commissioner of Administration shall be provided in writing to the protesting party.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

Chapter 6. Awards

§601. Protests

A. The protest period for protesting an award shall not exceed 7 days from the announcement of awards.

B. The protest procedure for protesting an award shall follow the rules presented in Chapter 5 of this part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§603. Grant Agreement

A. A grant recipient shall have 30 days, from award of the grant agreement, to negotiate and sign the agreement. If the grant agreement is not signed by the grant recipient within 30 days from award of the agreement, the office shall reserve the right to rescind the award and proceed to award a grant agreement to the next highest scored applicant with priority status for the awarding of a grant.

B. Construction start and completion dates shall be calculated for scoring, compliance, and failure to perform purposes and evaluations, beginning with the date of the award of the grant agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

Chapter 7. Compliance

§701. Speed and Cost Compliance

A. The office shall require that grant recipients offer the proposed advertised minimum download and minimum upload speeds of at least 25:3 Mbps.

B. Grant recipients that have offered broadband service to at least one thousand consumers for a period of at least five consecutive years shall offer broadband service at prices consistent with offers to consumers in other areas of the state. Any other broadband provider shall ensure that the broadband service is priced to consumers at no more than the cost rate identified in the project application, for the duration of the five-year service agreement.

C. In calculating cost, the recipient may adjust annually, consistent with the annual percentage increase in the Consumer Price Index in the preceding year.

D. At least annually, a grant recipient shall provide to the office evidence consistent with Federal Communications Commission attestation that the grant recipient is making available the proposed advertised speed, or a faster speed, as contained in the grant agreement.

E. For the duration of the agreement, grant recipients shall disclose any changes to data caps.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§703. Reporting

A. Grant recipients shall submit to the office a monthly report for each funded project for the duration of the agreement. The report shall include reporting requirements selected at the discretion of the office. Such reporting requirements, once selected, shall be consistently applied to all grant recipients of any grant program round and be effective for at least one program year. Monthly reporting may be revised from program year to program year, at the discretion of the office.

B. Grant recipients shall submit to the office an annual report for each funded project for the duration of the agreement. The report shall include, but not be limited to,

the following summary of the items contained in the grant agreement and the following details:

1. the number of residential and commercial locations that have broadband access as a result of the project;

2. percentage of households in the project area who have access to broadband service;

3. percentage of subscribers in the project area to the broadband service;

4. average monthly subscription rate for residential and commercial broadband service in the project area;

5. any right-of-way fees or permit fees paid to local government, state government, railroad, private entity or person during the fulfillment of the grant awarded;

6. any delays encountered when obtaining a right-of-way permission.

C. The office, at its sole discretion and at any time, shall reserve the right to request any additional data and reporting information that the office deems necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§705. Disbursement and Reimbursement

A. The Division of Administration shall be the designated agency for receipt and disbursement of state and federal funds intended for the state for broadband expansion or allocated by the state for broadband expansion.

B. All federal grant funds received by the state through the American Rescue Plan Act for the purpose of broadband expansion shall be disbursed in accordance with the GUMBO program.

C. Funding in accordance with completion shall be distributed to a grantee once the grantee has demonstrated that a project has reached the following percentile completion thresholds, which shall be defined as a percentage of the total number of prospective broadband recipients proposed to be served by the project:

1. 10 percent;
2. 35 percent;
3. 60 percent;
4. 85 percent;
5. 100 percent.

D. The final 15 percent payment shall not be paid without an approved completion report. Invoice for final payment shall be submitted within 90 days of completion date. All invoices are subject to audit for three years from the completion date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§707. Failure to Perform

A. A grant recipient shall forfeit the amount of the grant received if it fails to perform, in material respect, the obligations established in the agreement.

B. Grant recipients that fail to provide the minimum advertised connection speed and cost at the advertised rate shall forfeit any matching funds, up to the entire amount received through the GUMBO program.

C. The office shall use its discretion to determine the amount forfeited.

D. A grant recipient that forfeits amounts disbursed under this part is liable for up to the amount disbursed plus interest.

E. The number of subscribers that subscribe to broadband services offered by the provider in the project area shall not be a measure of performance under the agreement for the purposes of this Section.

F. A grant recipient shall not be required to forfeit the amount of the grant received if it fails to perform due to a natural disaster, an act of God, force majeure, a catastrophe, pandemic, or such other occurrence over which the grant recipient has no control.

G. If a grant recipient fails to perform and fails to return the full forfeited amount required, the ownership and use of the broadband infrastructure funded by the GUMBO program shall revert to the Division of Administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has the potential to produce a positive impact on family stability, functioning, and earnings and a family's budget as described in R.S. 49:972 through broadband access offering enhanced employment opportunities, higher wages, business development, improved access to healthcare, and educational opportunities.

Poverty Impact Statement

The proposed Rule should produce a foreseeable, positive impact on the state's children, individuals, and families as defined by R.S. 49:973.B. In particular, the positive impact on factors influencing poverty will be evident through enhanced employment opportunities, higher wages, business development, improved access to healthcare, and educational opportunities.

Small Business Analysis

Pursuant to R.S. 49:978.5, methods for reduction of the impact on small business, as defined in the Regulatory Flexibility Act, have been considered and cared for when creating this proposed Rule.

Should a small business not have the financial reporting capabilities and documents required within the Rule for the purposes of applying for the grant program, the office is granted the ability to accept other equivalent documents, at its discretion. Otherwise, this proposed Rule is not anticipated to have an adverse impact on small businesses within the state that apply for or are ultimately grant recipients of the program; therefore, a Small Business Economic Impact Statement has not been prepared.

Provider Impact Statement

It is likely that a private provider of broadband service provides such service to individuals with developmental disabilities. The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session, as the proposed Rule implements a grant program that will fund, through federal appropriations at a minimum of 80 percent of total costs, broadband infrastructure projects in previously unserved areas of the state. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Veneeth Iyengar, Executive Director, Office of Broadband Development and Connectivity, P.O. Box 94095, Baton Rouge, LA 70804-9095. Interested persons may also submit written comments by email to connect@la.gov. Mr. Iyengar is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

Should a public hearing be requested on this proposed Rule, such hearing shall be scheduled for Wednesday, October 27, 2021, at 9:30 a.m. in the Thomas Jefferson Room, 1201 North Third Street, Baton Rouge, LA 70802. At that time all interested persons will be afforded an opportunity to submit data, views, or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Jay Dardenne
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Granting Unserved Municipalities Broadband Opportunities (GUMBO)

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule is anticipated to result in implementation costs to state government, specifically the operational and administrative expenditures of the Office of Broadband Development and Connectivity. The proposed rule establishes the administrative framework for expenditure of \$89,100,000 in grant awards and \$900,000 in professional services during state FY 22 and another \$89,100,000 in grant awards and \$900,000 in professional services in state FY 23. To implement the Granting Unserved Municipalities Broadband Opportunities (GUMBO) program, the Office of Broadband Development and Connectivity has been appropriated through legislative action one (1) percent of federal American Rescue Plan Act dollars appropriated to the state for the purposes of expanding broadband infrastructure throughout the state. The federal appropriation to the state is \$180 million, allowing the office to award \$178,200,000 in grants and expend up to \$1.8 million to administer the rule. The Office of Broadband Development and Connectivity intends to solicit third-party professional services to perform independent application evaluation and scoring, as well as to engage in grant recipient compliance processes.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule has the potential to impact, positively, revenue collections of state and local governmental units, however, said positive impact is indeterminable at this time. It is unknown how many applications for grant funding will be received, the specific locations impacted, or the dollar amounts expended. What is known is that for state FYs 22 and 23, up to \$180 million in federal grant funding is available through the state for the purposes of broadband infrastructure construction to expand broadband access. In the short and medium term, potential economic activity as it relates to broadband

technology infrastructure construction has the potential to positively impact revenue collections of state and local governmental units through increased sales tax collections and income taxes. Over the long term, potential economic activity as it relates to increased broadband access has the potential to positively impact revenue collections of state and local governmental units through increased sales tax collections, income tax revenue, and property tax revenue as a result of lower unemployment, higher wages, and business development.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

For cost considerations, the proposed rule is anticipated to create optional, minor costs for directly affected persons, small businesses, or non-governmental groups. This would take the form of broadband service packages offered by private providers to prospective broadband recipients provided the opportunity to subscribe to broadband service. Recent national averages for broadband subscriptions range from \$50 to \$75 per month. The possible economic benefits to directly affected persons, small businesses, or non-governmental groups is substantial, yet indeterminable. Increased broadband access has the potential to transform smaller, rural communities consisting of persons, small businesses, or non-governmental groups, through increased economic output, namely in the form of enhanced employment opportunities, higher wages, business development, improved access to healthcare, and educational opportunities.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is a positive estimated effect on competition and employment as a result of the proposed rule, although indeterminable. The proposed rule is intended to implement the Granting Unserved Municipalities Broadband Opportunities (GUMBO) grant program. The grant program will fund broadband infrastructure projects throughout the state in areas that are classified as "unserved," defined as areas not having access to broadband services (at least 25:3 Mbps) through wireline or fixed wireless technology. The effect on competition and employment as a result of these projects should be a positive one, driving enhanced economic output, over the short-, medium-, and long-term. Factors enhancing economic output would include enhanced employment opportunities, higher wages, business development, improved access to healthcare, and educational opportunities.

Jay Dardenne
Commissioner
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Alan M. Boxberger
Staff Director
Legislative Fiscal Office