

The Washington State Broadband Office (WSBO) is preparing for the second and final round of funding under monies made available by the American Recovery Plan Act. While the second round will not be released until sometime in November of 2022, with this notice, WSBO is soliciting comments on important issues that will inform WSBO in crafting scoring requirements for the Fall Notice of Funding Opportunity (NoFO) as well as certain other considerations that are important in the process of administering grant monies.

- First, the WSBO would like to receive comments from possible applicants on questions regarding open access and how it should be considered in an evaluation process.
- Second, WSBO would like to hear from potential applicants on the possible scoring associated with financial matches in an evaluation process.
- Third, WSBO would like to know if, and how, potential applicants will use considerations of digital equity to select between possible projects.
- Fourth, WSBO would like to hear opinions regarding the challenge process.
- Fifth, WSBO would like comments on the definition of Last Mile service.
- Last, WSBO would like to include a checklist of various considerations that are not intended to be scoring criteria, but rather, guidance to applicants regarding considerations that might be made in preparing project applications.

Responses to the questions shown below are due by October 4, 2022.

Once comments are received, WSBO will host a roundtable in late October to listen to views of various stakeholders. WSBO will then incorporate the views expressed by stakeholders into the Fall NoFO.

Open Access:

- 1) In an evaluation process, should providing an open access network be a required threshold criteria (i.e. without provision of an open access network, the applicant is excluded from the process); or rather, a scoring criteria (i.e. the provision of an open access network results in specific points while the absence of an open network results in zero points for the specific consideration of open access; or finally, should the provision of open access be used as “tie breaker” such that it doesn’t garner points but is used as a determining factor in the event that applicants have the same evaluation score? Please provide rationale for your answer.
- 2) Public Works Board [RCW 43.155.160](#) (9) (b) (iii), the term “open access” means:
“...that during the useful life of the infrastructure, service providers may use network services and facilities at rates, terms, and conditions that are not discriminatory or preferential between providers, and employing accountable interconnection agreements published and publically available.” If “open access” is used in the selection process (i.e. as either a threshold requirement, a scoring requirement, or a balancing requirement) is this meaning generally acceptable or should it be augmented in any specific way? Should the meaning found above be specified to particular segments of a broadband network such as “middle mile” or “last mile”?

- 3) If open access is a threshold criteria, should it be provided from the service date on which the infrastructure is operational or should there be a period of time from the beginning of operational service to a future date when the operator of the network can have a “closed” system before it is “open”? How long should the “closed” period be before open access is required and how would it be determined?

Matching Contributions

In the first round of Acceleration Grant funding, a matching contribution of 10% was required. Generally, a matching capital contribution can extend the ability of a grant to deploy more broadband infrastructure: however, for smaller public entities, a match may be an impediment to participating in the Acceleration Grant process. Please comment on this dichotomy and provide responses to the following questions:

- 1) Should a matching contribution for Acceleration Grant funding be a threshold requirement; a scoring criteria; or a tie-breaker? If it should be a threshold requirement, what should the minimum percentage be relative to the total grant request?
- 2) If a matching contribution is a scoring element (as opposed to a threshold criteria), should the points available be tied to the size of the match relative to the dollars requested in the grant (i.e. if a match was 10% of the grant request, should the match component of the scoring criteria be given a “10”, if the match was 25% should the match component be given a score of “25”); or should there be a fixed total number of points provided regardless of the size of the match; or some other scoring that increases with the size of the match but only up to a limit? How should applicants without the ability to provide a match be given consideration so that their inability to provide a match does not eliminate their proposal from consideration?

Digital Equity considerations and Low Income support

In order to target funding to insure that disadvantaged communities are served, WSBO is considering a scoring criterion that provides points for projects that develop broadband service in areas of greatest need from the standpoint of advancing digital equity. In this context, digital equity considers network access, affordability and providing service to disadvantaged communities or areas that have a relatively high proportion of households with low-income families.

1. How will applicants consider digital equity in developing projects for possible funding or selecting between various potential projects as you formulate a grant application? What tools for measuring digital equity will applicants use to insure that populations that are in greatest need are being served by grants? How can WSBO best integrate these efforts with our own digital equity planning to assist in targeting funding in this NoFO as well as future funding?
2. Should ISP participation in the FCC’s Affordable Connectivity Program (ACP), or an equivalent low income subsidy offering be considered as a threshold requirement for receiving a grant from WSBO?
3. Should the ability to offer digital navigation or digital literacy programs to broadband subscribers be required in a narrative, or considered as a scoring criteria or a balancing criteria?

4. As an alternative to a scoring criteria, should WSBO consider requiring applicants to provide a comprehensive narrative that would address how a funding application would advance digital equity concerns? Please comment on the use of a narrative and what data should applicants include in such a narrative.

Challenge Process

In the WSBO's budget appropriation it states: "Unless otherwise stated, appropriations may not be used for projects where a broadband provider currently provides, or has begun construction to provide, broadband service, as defined in 2 RCW 43.330.530, to end users in the proposed project area."

1) The following challenge process, slightly modified to reflect required speeds of 100/20, is a copy of that used by the Public Works Board. Should this be used by the WSBO? Should additional considerations not reflected below be incorporated into the challenge process?

(o) Evidence that no later than six weeks before submission of the application, the applicant contacted, in writing, all entities providing broadband service near the proposed project area to ask each broadband service provider's plan to upgrade broadband service in the project area to speeds that meet or exceed the state's definition for broadband service as defined in RCW [43.330.530\(2\)](#), within the time frame specified in the proposed grant or loan activities;

(p) If applicable, the broadband service providers' written responses to the inquiry made under (o) of this subsection; and

(q) Any additional information requested by the Washington State Broad Band Office (WSBO).

(6)(a) Within thirty days of the close of the grant and loan application process, the WSBO shall publish on its web site the proposed geographic broadband service area and the proposed broadband speeds for each application submitted.

(b) Any existing broadband service provider near the proposed project area may, within thirty days of publication of the information under (a) of this subsection, submit in writing to the board an objection to an application. An objection must contain information demonstrating that:

(i) The project would result in overbuild, meaning that the objecting provider currently provides, or has begun construction to provide, broadband service to end users in the proposed project area at speeds equal to or greater than 100/20 as expressed in RCW 43.330.530(2).

(ii) The objecting provider commits to complete construction of broadband infrastructure and provide broadband service to end users in the proposed project area at speeds equal to or greater than 100/20 no later than twenty-four months after the date awards are made under this section for the grant and loan cycle under which the application was submitted.

(c) Objections submitted to the board under this subsection must be certified by affidavit.

(d) The WSBO may evaluate the information submitted under this section by the objecting provider and must consider it in making a determination on the application objected to. The WSBO may request clarification or additional information. The WSBO may choose to not fund a project if the WSBO determines that the objecting provider's commitment to provide broadband service that meets the requirements of (b) of this subsection in the proposed project area is credible. In assessing the commitment, the WSBO may consider whether the objecting provider has or will provide a bond, letter of credit, or other indicia of financial commitment guaranteeing the project's completion.

(e) If the WSBO denies funding to an applicant as a result of a broadband service provider's objection made under this section, and the broadband service provider does not fulfill its commitment to provide broadband service in the project area, then for the following two grant and loan cycles, the WSBO is prohibited from denying funding to an applicant on the basis of a challenge by the same broadband service provider, unless the WSBO determines that the broadband service provider's failure to fulfill the provider's commitment was the result of factors beyond the broadband service provider's control. The WSBO is not prohibited from denying funding to an applicant for reasons other than an objection by the same broadband service provider.

Last Mile Definition

The Acceleration Grant is intended to build "last mile" connections. In this context, last mile connections are defined to be those facilities over which broadband is provided to the end user's building at which service is required. Is there any other definition that should be considered?

Checklist Considerations

WSBO is considering requesting that applicants fill out a checklist of additional items to consider to submit with their applications. While not a scoring considerations, the checklist would provide applicants the ability to inform WSBO that they have considered items such as possible tax liability, pole attachment costs, a survey of poles along the proposed project, make ready considerations, dig once opportunities and right of way and/or franchise fees in their projects. What other items should be included in a checklist?