

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY
NOTICE OF PROPOSED RULES

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SUBPART A: GENERAL PROVISIONS

Section 548.10 Purpose

This part implements the Broadband Infrastructure Advancement Act. Investments in the State's bridges, roads, rail system, high-speed internet, and electricity are essential to the public safety, economic viability, and equity of all citizens in every part of Illinois. The persistent digital divide in Illinois is a barrier to the economic competitiveness in the economic distribution of essential public services, including health care and education. This digital divide disproportionately affects communities of color, lower-income areas, and rural areas. The purpose of the Broadband

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Infrastructure Advancement Act is to establish in administrative rule the Connect Illinois Broadband Grant Program, creating added certainty in advance of federal funding available to the State through the Infrastructure Investment and Jobs Act and the American Rescue Plan Act of 2021.

Section 548.20 Definitions

"ARPA" means the American Rescue Plan Act of 2021, Section 9901, P.L. 117-2, 42 U.S.C. 802.

"Build Illinois" means the Build Illinois Bond Fund [30 ILCS 105/5.160].

"Capital Improvement" means a project with a purpose to physically expand or physically improve upon infrastructure necessary for internet service delivery.

"DCEO" means the Department of Commerce and Economic Opportunity.

"Economically Distressed Area" means a census tract which meets one of the following four tests:

Poverty rate of at least 20%; or

75% or more of the children in the area are eligible to participate in the federal free lunch or reduced-price meals program; or

At least 20% of the households in the area receive assistance under the Supplemental Nutrition Assistance Program (SNAP); or

Average unemployment rate that is more than 120% of the national unemployment average, for a period of at least two (2) consecutive calendar years preceding the date of the application.

The Department maintains a map of areas that meet these qualifications on its website.

"Eligible Entities" means an incorporated business or partnership; a political subdivision; a nonprofit organization; a cooperative association; or a limited liability corporation organized for the purpose of expanding broadband access. Illinois public school districts are eligible to apply but may be encouraged to

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leverage other available federal or education-specific funding prior to an award.

"GATA" means the Grant Accountability and Transparency Act [30 ILCS 708].

"GATA Rule" means the administrative rules of the Governor's Office of Management and Budget found at 44 Ill. Adm. Code 7000.

"Grantee" means any applicant for a grant award under this program whose proposal is funded by the Department.

"IIJA" means the Infrastructure Investment and Jobs Act, P.L. 117-58.

"Last Mile Infrastructure" means broadband installation that serves as the final leg connecting the broadband service provider's network to the end-user customer's on-premises telecommunications equipment.

"Middle Mile Infrastructure" means broadband construction that links a broadband service provider's core network infrastructure to last mile infrastructure.

"Program" means the Connect Illinois Broadband Grant Program.

"Qualified Illinois City" means an Illinois city with 75,000 residents or more in population

"Rebuild Illinois" means the Rebuild Illinois Projects Fund.

"State" means the State of Illinois.

"Uniform Guidance" means the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR 200.

"Underserved Area" means an applicant designated project area of Illinois in which households, businesses, or community anchor institutions have wireline broadband access of at least 25/3 Mbps but less than 100/20 Mbps, reflected in broadband mapping utilized by DCEO for the Connect Illinois program.

"Unserved Area" means an applicant designated project area of Illinois in which households, businesses, or community anchor institutions lack access to wireline

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broadband service of at least 25/3 Mbps, reflected in broadband mapping utilized by the DCEO for the Connect Illinois program.

Section 548.30 Funding Sources

- a) American Rescue Plan Act of 2021 ("ARPA") Capital Projects Fund (P.L. 117-2).
- b) Infrastructure Investment and Jobs Act ("IIJA") (P.L. 117-58).
- c) The Build Illinois Bond Fund [30 ILCS 425/4 (b)].

- d) Funding for grants may be provided by any source of funding as permitted by State and federal law.

SUBPART B: CONNECT ILLINOIS GRANT PROGRAM

Section 548.40 Program Description

The Connect Illinois Broadband Grant Program represents an integral and strategic component of both the comprehensive 2019 Rebuild Illinois infrastructure program and the State's five-year economic plan to expand economic opportunity and reduce socioeconomic gaps through equity investment. The purpose of the Connect Illinois Broadband Grant Program is to make capital improvement grants to eligible entities to achieve universal broadband access for homes, businesses, and community anchor institutions. At the same time, Connect Illinois seeks progress in digital equity and inclusion while leveraging investment in new broadband infrastructure to spur advances in use and innovation for such areas as agriculture, economic development, education, and telehealth.

Section 548.50 Eligible Project Activities

- a) The Department shall make grant awards to eligible entities as described in this Part, contingent on available funds. The grants shall be made to support one or more of the following activities as permitted by the applicable Notice of Funding Opportunity:
 - 1) Broadband Access for Illinois homes, businesses, and community anchor institutions in unserved or underserved areas.
 - 2) Broadband Innovation for economic development and related activities.

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- 3) Urban Broadband for expanded access and/or innovation in qualified Illinois cities of 75,000 residents or more.
- b) Allowable activities are limited to capital improvement expenses. All Connect Illinois projects must include infrastructure expansion scalable to speeds of at least 100 Mbps download and 100 Mbps upload upon deployment.
- c) For broadband access projects, proposals covering unserved and/or underserved areas are eligible for Connect Illinois grant funding.

Section 548.60 Grantee Eligibility Requirements

An eligible applicant for a grant award under the Connect Illinois Grant Program shall meet the definition of an eligible entity under Section 20. To be eligible for a grant award, an applicant shall have an active GATA registration and be qualified on the GATA Grantee Portal (<https://grants.illinois.gov/portal/>) at the time the application is submitted.

Section 548.70 Administrative Requirements

Grant opportunities and awards will be administered in a manner that complies with all State and federal requirements applicable to each funding opportunity, including, but not limited to GATA, the Uniform Guidance and all applicable State or federal laws or guidance (e.g., U.S. Department of the Treasury guidance at <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-funds>). Grant applicants and grantees shall review all application materials and grant award documents, and shall follow the requirements listed in this Section.

a) Application Process

- 1) The Department will post one or more Notices of Funding Opportunity (NOFO) on the GATA Grantee Portal (<https://grants.illinois.gov/portal/>) seeking applications from eligible entities contingent upon available funds. Funding is available for one or more of the eligible project activities listed in Section 548.50. A single NOFO may seek applications from more than one type of project. Applicants shall submit their application materials by the deadlines set by the Department in the NOFO, which will be at least 30 days after the NOFO posting.

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- 2) As part of the application, applicants shall provide the following information about the proposed project:
 - A) a description of the purpose of the grant project;
 - B) a project dashboard summarizing key activities including a description of activities, eligible costs, communities served, technology and infrastructure metrics;
 - C) a description of the overall project;
 - D) a description of the broadband related problems and challenges facing the targeted communities and customers, needs and gaps, the shortcomings of existing solutions, challenges with prior attempts to solve the problem and how the project significantly solves the problem;

- E) a description of the project's solution to the broadband related problem including the network technology, internet services and business strategy to drive adoption;
- F) a description of the targeted beneficiaries of the project that addresses the location of the communities, market size, economic conditions of the service areas, and targeted customer segments, including providing information on the unserved and/or underserved areas (if applicable) that will be included within the scope of the project;
- G) a description of anticipated social and economic benefits that will be realized by the distinct customer segments;
- H) a narrative description of the organization's mission and operating history;
- I) a description of the capabilities, experiences, and track record of the organization and its partners to successfully implement, operate and sustain the project;

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- J) a description of the projects service area including a map of the proposed project area;
- K) project impact statement including, but not limited to, the number of serviceable user segments, list of premises served, and list of interconnection points;
- L) a narrative description of the specific social and economic benefits of connecting the following user segments – residents, businesses, community institutions, and other internet service providers;
- M) whether the project is providing broadband improvements to an economically distressed area;
- N) if applicable, the non-state matching funds and demonstration of financial need;
- O) the specific activities and costs proposed for the grant;
- P) a requested budget and supporting justification of the costs requested;

- Q) evidence of community support for the project;
- R) a detailed narrative regarding the project readiness;
- S) a description of the project viability and sustainability including network capacity and scalability, and financial sustainability; and
- T) pricing strategy, affordability and adoption assistance.

3) Applications will be accepted on an ongoing basis until the funds for the program are depleted or the application period closes, whichever comes first.

b) Grant Award Selection

- 1) Grants will be awarded to eligible entities following a merit review of the applications as required by GATA (44 Ill. Adm. 7000.350) and the

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applicable funding source. In evaluating applications, the Department will consider the following criteria:

- A) The application indicates the overall project impact including the degree to which the project will improve broadband access to premises in unserved or underserved areas;
- B) The applicant's demonstration of need and detailed, cost-effective budget;
- C) The amount of non-state matching funds;
- D) The level of community support for the project, including but not limited to local non-state matching funds and letters of support;
- E) The overall project readiness;
- F) The project's viability and sustainability;
- G) The affordability and adoption assistance provided by the project;
- H) The quality of the project including open access, shared use and business strategy; and

- I) Any additional information to demonstrate or support the information submitted by the applicant for the proposed project.
- 2) The Department shall give a priority to projects that include a cash match of nonstate funding – from private, federal, and/or local sources – totaling 50 percent or more of eligible total project costs. However, a 50 percent nonstate match is not required for an application to be competitive.
- 3) The Department will also consider the relevant geographic balance; project focus; and nonstate match.

c) Grant Agreements

Any entity awarded a grant shall execute a grant agreement that sets forth the rights and responsibilities of the grantee and DCEO. The Grant Agreement shall reflect all applicable State and federal statutory and administrative requirements,

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including but not limited to provisions covering expenditure of grant funds and utilization of property purchased with grant funds. The Department reserves the right to suspend or terminate a grant agreement, recover grant funds received under this Part or withhold any future funding for non-compliance with the grant agreement provisions and applicable State and federal law and regulations.

d) Grant Disbursements

Disbursement of grant funds from the Department will be made in accordance with a schedule included in the grant agreement. The Department will disburse funds based on the grantee making satisfactory progress to implement grant activities.

e) Grant Performance, Monitoring and Reporting Requirements

Grantees shall comply with all State laws, as well as all GATA and Department requirements, that are set forth in the grant agreement for grant performance, administration, monitoring and reporting, including monitoring any subrecipients.

- 1) Grant performance goals and performance and expenditure reporting will be based on the specific grant project activities of each grant award and will follow GATA requirements (44 Ill. Adm. Code 7000.410), which include periodic financial and performance reports at least quarterly, or as required by the applicable funding source, and financial and performance close-out reports after the end of the grant term (see 44 Ill. Adm. Code 7000.440). The deadlines for all required reports will be set forth in the grant agreement.

- 2) Grant audits shall be based on the standards set forth in the GATA requirements (44 Ill. Adm. Code 7000.90).
- 3) Grantees must monitor their grant activities, and those of any subrecipients, to assure compliance with applicable State and federal requirements and to assure their performance expectations are being achieved. The Department will monitor the activities of grantees to assure compliance with all requirements and performance expectations of the award. Grantees shall timely submit all financial and performance reports, and shall supply, upon the Department's request, documents and information relevant to the award. The Department may monitor activities through site visits.

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- 4) Grantees shall comply with all applicable State and federal laws, including, but not limited to, the Prevailing Wage Act [820 ILCS 130], the Illinois Works Jobs Program Act [30 ILCS 559/20], the Business Enterprise Program for Minorities, Females, and Persons with Disabilities Act [30 ILCS 575], the Employment of Illinois Workers on Public Works Act [30 ILCS 570], the Environmental Protection Act [415 ILCS 5], the Illinois Endangered Species Protection Act [520 ILCS 10], the Illinois Natural Areas Preservation Act [525 ILCS 30], the Interagency Wetland Policy Act of 1989 [20 ILCS 830], and the Illinois State Agency Historic Resources Preservation Act [20 ILCS 3420].
- f) **Grant Extensions**
Contingent upon the availability of funds and consistent with GATA as applicable, the Department may negotiate grant extensions and add funds for grant projects that were originally competitively procured and performed successfully.
 - g) **Records Retention**
Grantees shall maintain, for the period of years set forth in the GATA rules (44 Ill. Adm. Code 7000.430(a), (b)) and grant agreement, adequate books, all financial records and supporting documents, statistical records, and all other records pertinent to the Connect Illinois Broadband Grant Program. If any litigation, claim or audit is started before the expiration of the retention period, the records must be retained until all litigation, claims or audit exceptions involving the records have been resolved and final action taken. The applicable retention period will be dependent on the source of funding for the grant award. Grantees shall be responsible for ensuring that contractors and subrecipients comply with the retention requirements.

Section 548.80 Allowable Costs

Grant expenditures must comply with GATA, the Uniform Guidance and any applicable funding source, be reasonable and necessary and support one of the eligible project activities set forth in Section 548.50. Specific allowable grant costs associated with the acquisition and installation of middle mile and/or last mile infrastructure will be set forth in the applicable NOFO, based on the types of projects which are available for funding per the funding source, and will include one or more of the following:

a) expenses for network design;

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- b) expenses for project planning;
- c) expenses for obtaining the required construction permits;
- d) expenses for the facility construction including deployment of middle mile and/or last mile infrastructure;
- e) expenses for durable equipment; and
- f) expenses for installation and testing of broadband service.