

## Chapter 4

### Connect Wyoming Program

**Section 1. Authority.** These rules are promulgated by the Wyoming Business Council (“WBC”) pursuant to 2021 Session Laws, Chapter 92.

**Section 2. Purpose.** These rules are promulgated for the purpose of providing a regulatory framework for broadband development projects funded by the Connect Wyoming program.

#### **Section 3. Definitions.**

(a) In addition to the definitions set forth in Chapter 1, as used in this program:

(i) “Broadband Infrastructure” means terrestrial signal transmission facilities and associated network equipment and accessories deployed for the provision of broadband service to residential, business, and government customers.

(ii) “Connect Wyoming” means the program established by 2021 Session Laws, Chapter 92.

#### **Section 4. Eligible Applicants.**

(a) As used in this program, an eligible applicant:

(i) Means as defined in W.S. 9-12-1501(c)(i):(ii):

(ii) Shall submit coverage maps of their entire service area in Wyoming to the Broadband Map prior to the date of their application. This submission must be evidenced on each project application submitted pursuant to this section and performed according to the Broadband Map Guidance;

(iii) Shall offer mass market retail services by wireline or terrestrial fixed wireless technology which provides the capability to transmit and receive data from all or substantially all internet end points, but excluding dial-up internet access service; and

(iv) Shall commit to maintaining any Broadband Infrastructure constructed through funds provided under this Chapter of these Rules at the applicant’s own expense for a 15-year period for Fixed Wireless and a 20-year period for fiber, which will allow for replacement of end of life, obsolete or non-functioning equipment so that the speeds are at or above those committed to in the award, are continued, and reliable service is provided for the period stated. Any successive owner(s) are required to comply for the remaining time period.

#### **Section 5. Eligible Projects.** An eligible project shall:

(a) Include the construction and deployment of broadband infrastructure projects. “Broadband Infrastructure Projects” are eligible for funding if the infrastructure is designed to deliver, upon project completion, service that reliably meets or exceeds symmetrical download

and upload speeds of 100 Mbps. If it would be impracticable, because of geography, topography, or excessive cost, for a Broadband Infrastructure Project to be designed to deliver services at such a speed, the Project must be designed so that it reliably meets or exceeds 100 Mbps download speeds and between 20 Mbps and 100 Mbps upload speeds and be scalable to a minimum of 100 Mbps symmetrical for download and upload speeds. Broadband infrastructure investment will be installed, owned, and operated by an eligible applicant;

(b) Meet federal funding criteria, which is designed to address key areas of public health and safety by improving opportunities to telework, facilitate distance learning, and improve public safety;

(c) Be a project which does not overbuild existing adequate broadband service. The Council shall not consider Applications for projects in areas with reliable speeds of at least one hundred (100) Megabits per second (Mbps) download and twenty (20) Megabits per second (Mbps) upload, nor shall it consider projects for areas in which written agreements to develop services at or above this level prior to December 31, 2024, exist.

(d) Include Broadband Infrastructure and equipment costs meeting federal funding criteria such as:

(i) Middle-mile fiber-optic infrastructure, the primary purpose of which is to connect last-mile infrastructure and networks to network service providers; or

(ii) Last-mile fixed terrestrial infrastructure, the primary purpose of which is to provide broadband internet service to end users or end-user devices, including households, businesses, public safety entities and community facilities.

**Section 6. Eligible Costs.** Eligible Costs include but are not limited to:

- (a) Construction and Materials;
- (b) New and rehabilitative construction contracts;
- (c) Architect and engineering services and legal and professional services, if required to complete the project;
- (d) Permitting fees;
- (e) Acquisition of Broadband Infrastructure equipment; and
- (f) Equipment installation.

**Section 7. Ineligible Costs.** The following are Ineligible Costs for which funds may not be used:

- (a) General broadband planning not associated with the project;

- (b) Ongoing overhead, operating costs, or staff costs to include bonuses of any kind; and
- (c) Political activities or lobbying.

**Section 8. Application Process.**

(a) The Council shall provide an application form and website which shall include instructions and the scoring matrix against which applications shall be evaluated.

(i) Applicants shall complete and submit the application, which shall include the following minimum information:

(A) Information which establishes the applicant’s eligibility as set forth in Section 4(a) of this Chapter;

(B) Information which establishes the eligibility of the proposed project as set forth in Section 5 of this Chapter;

(C) A breakdown of eligible costs associated with the eligible project;

(D) A timeline for completion of the eligible project; and

(E) A breakdown showing the amount of federal loans, grants, or aid in projects affecting Wyoming and provided for COVID-19 related purposes, including from the CARES Act, or other similarly purposed federal act, including funds from the Wyoming Community Development Authority funded by the CARES Act for which the applicant:

(I) Believes it is eligible;

(II) Has applied; or

(III) Has received.

(ii) Each applicant shall file its application(s) electronically using the form(s) and website prescribed by the Council. Applications submitted via other means may be disqualified.

(iii) Applicant shall ensure that the grant funding will not be used for costs that will be reimbursed by the other federal or state funding stream(s). The grant funds must be used only for complementary purposes. Applicants must ensure there is additional public benefit and a justification for using additional public funding to deploy to those locations. Treasury encourages applicants to use all available federal and state datasets when making these determinations.

**Section 9. Funding Terms and Conditions.**

(a) The Council may require applicants to have or provide matching funds, or letters of support.

(b) The Council shall create and utilize a uniform Contract for funding awards made under this program. All funds awarded under this program shall be contingent on the applicant's acceptance and execution of the Contract and strict compliance with all terms and conditions contained therein.

**Section 10. Project Review, Prioritization, and Recommendation.**

(a) Each proposed service/project area must have its own application, and Applicants shall submit no more than one (1) application per proposed service/project area.

(b) Applicants may submit applications for multiple proposed service/project areas.

(c) Applications shall be received only during application periods to be specified by the Council.

(d) Applications which do not include all minimum required information shall be afforded ten (10) working days from notification to correct the deficiency. Applications which remain deficient after this period shall be disqualified.

(e) Complete applications shall be evaluated by a committee to include the Council and Governor's Office staff, and other participants as deemed necessary and according to the scoring matrix outlined in the application.

(f) Priority shall be given to projects that achieve last-mile connections or support new and/or improved last-mile service. Priority shall also be given to investments in fiber-optic infrastructure and/or projects that involve broadband networks owned/operated/affiliated with local governments, non-profits, and cooperatives-providers with less pressure to generate profits and with a commitment to serving entire communities.

(g) In situations where the Council receives multiple applications for any single project area, priority shall be afforded to applications proposing fiber-optic infrastructure over applications proposing fixed wireless infrastructure and to the applicant proposing the fastest broadband speeds. Such applications shall be scored according to cost and demonstrated ability to complete the project.

(h) All completed projects must reliably deliver minimum speeds of one hundred (100) megabits per second (Mbps) download and one hundred (100) Mbps upload. In cases where it is not practicable due to geography, topography, or financial cost to meet those standards, projects must reliably deliver at least one hundred (100) Mbps download speed and at least twenty (20) Mbps upload speed and be scalable to a minimum of one hundred (100) Mbps download speed and one hundred (100) Mbps upload speed.

(i) The review committee shall rank eligible project applications and shall forward recommended contracts to the Board for consideration.

(j) Providers receiving funds that provide services to households must participate in federal programs that provide low-income consumers with subsidies on broadband internet access services. Subscribers will be allowed to utilize the Federal Communications Commission's (FCC) Emergency Broadband Benefit (EBB) program and/or the Affordable

Connectivity Program (ACP) or other Federal Communications Commission's (FCC) identified eligible programs.

**Section 11. Award and Challenges**

(a) At least thirty (30) days prior to making any award under this program, the Council shall publicly post the proposed project areas via the Broadband Map.

(b) Each posting for a proposed project area shown on the Broadband Map shall provide a mechanism by which a Challenge may be filed and processed as set forth in Chapter 1.

(c) Challenges brought by any broadband provider on the basis of overbuild shall only be considered where the Challenging provider has submitted .shp or .kml files of their entire service area in Wyoming to the Broadband Map.

**Section 12. Certification.** By applying under this program, each applicant certifies that:

(a) The statements contained in the application are true, complete, and accurate to the best of their knowledge;

(b) The funds shall be used to fund projects that create and retain local jobs and result in purposeful outcomes, including distance learning, telehealth public safety, commerce, and overall well-being;

(c) The applicant understands and acknowledges that failure to comply with these rules and/or the terms of any Contract(s) awarded under this program may result in the Council requiring a total or partial refund of the awarded funds and may affect applicant's eligibility for future funding under this or other Council programs; and

(d) The applicant understands that the award of any contract(s) under this program is contingent upon the receipt of funding from the U.S. Department of Treasury or appropriation of funding by the Legislature of the State of Wyoming and assumes risk of any loss in submitting application(s) under this program.

(e) Any other certification required by the Wyoming Business Council.