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Rules Administrator
Department of Commerce and Economic Opportunity
555 W. Monroe, Suite 1200
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**Re Connect Illinois Broadband Grant Program
 Notice of Proposed Rules**

The Illinois Broadband & Telecommunications Association (IBTA), an organization representing 45 broadband providers and another 80 companies providing products and services for the broadband industry in Illinois, appreciates the opportunity to offer comments on the Department of Commerce and Economic Opportunity's Notice of Proposed Rules pertaining to broadband grant programs published in the Illinois register October 7, 2022, at 46 Ill. Register 16666.

The IBTA generally supports the rule as filed and the program design contained therein with the following suggestions. The suggested changes are aimed at further improving the rule to ensure Illinois broadband grant programs make best use of the historic funding available to improve broadband access, digital equity, and adoption. These changes are described below. See also the attached redline version of the proposed rule for the specific proposed changes and additions.

Application Process, Grant Award Selection, and Scoring Criteria

An applicant's broadband managerial, technical, and operational experience is a critical element to evaluating a grant applicant and should be scored and included in the merit review criteria. In addition to showing experience and industry credibility, these criteria provide a measure of sustainability.

Rules governing the scoring and evaluation of an application are critical to an effective and transparent program. Clearly identifying how an application will be scored and ranked when a NOFO is issued will help to set the priorities of the Department and its programs and inform applicants so they can tailor proposals that are responsive to program priorities.

The Program rules should require each NOFO to feature a specific, objective scoring system that identifies all categories and the maximum points awarded by category and subcategory. The IBTA also suggests a two-tiered merit review approach that could be used to increase efficiency within the review process. Each application could be reviewed first with a simplified pass/fail minimum review to eliminate some applications reserving a more detailed review for applications meeting established minimum requirements. This pass/fail process should be a combination of the Department's grantee prequalification process and more substantive minimum requirements. Some of these requirements are:

- Applicant has sufficient financial, technical, operational, and managerial qualifications to deploy and maintain internet service in the proposed project area
- Applicant proposes to deploy service using technology and providing speeds that meet the requirements of the NOFO
- Applicant commits to participate in the federal Affordable Connectivity Program (ACP)

After the described pass/fail review, the remaining applications would then be part of a detailed merit review scoring process.

Pre-Award Challenge Process

While the Department has had a successful pre-award challenge process in place for the Connect Illinois broadband grant program, the proposed rule does not address such challenges. The rule should prescribe a specific pre-award challenge process like the practice that has been followed in the Connect Illinois program. The proposed rule should create a pre-award challenge limited to protests to whether a proposed project area is eligible for funding. Interested parties wishing to make a challenge should have the burden of demonstrating that a project area or a portion thereof is not eligible for funding. Applicant challenges should be initiated within 60 days of the initiation of the challenge process. If it is determined that a portion of a project area is not eligible, the applicant should be given the opportunity to amend its application.

Match of Non-State Funds

The language in the rules relative to the nonstate match requirement may be confusing to eligible applicants relative to how the match is intended to work in practice. The IBTA suggests the language in 548.70 b) 2) be amended to clarify a nonstate match is not required and to incentivize non-state matching funds from eligible applicants by awarding a scoring preference for non-state match on a tiered basis where higher nonstate matching funds are awarded higher points when scored on a competitive basis.

Grant Agreements

Proposed Section 548.70 c) requires the execution of an agreement between the grantee and DCEO. The terms of the agreement should be made clear and up front in the process so that applicants can design projects with that knowledge. Therefore, to the extent practicable, the IBTA supports providing the contract terms in the materials that are released in the NOFO.

Confidentiality

The proposed rule is silent on whether applicants will be granted confidential treatment for confidential, proprietary or trade secret information included in their applications. The rules should permit such treatment if requested by the applicant.

Conclusion

The IBTA appreciates the opportunity to offer its comments and suggestions on the Proposed Rule and urges the Department to consider making changes that can further improve the goal of providing ubiquitous broadband access for homes, businesses, and community anchor institutions throughout the state.

Sincerely,

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