

§ 143B-1373.1. Completing Access to Broadband program.

(a) As used in this section, the following definitions apply:

- (1) Broadband service. – Terrestrially deployed internet access service with transmission speeds of at least 25 megabits per second (Mbps) download and at least 3 megabits per second upload (25:3).
- (2) Department. – The Department of Information Technology.
- (3) Eligible area. – An area that is unserved or underserved in a county. With the exception of funds expended under this section, or under Section 38.4 or Section 38.5 of S.L. 2021-180, a county that has utilized federal funding for broadband infrastructure projects on or after May 1, 2021, is not eligible.
- (4) Office. – The Broadband Infrastructure Office within the Department of Information Technology.
- (5) Project area. – An eligible area that is jointly determined by a requesting county and the Broadband Infrastructure Office within the Department of Information Technology as requiring project funding under this section to further complete the deployment of broadband service in the county.
- (6) Unserved or underserved. – A location within a county that has no deployment of broadband service or that has internet access service that does not meet the definition of broadband service. Areas where a private provider has been designated to receive funds through other State- or federally funded programs designed specifically for broadband deployment shall be considered served if such funding is intended to result in construction of broadband in the area within 18 months or for the duration of the federal funding program for that area, or if the funding recipient is otherwise in good standing with the funding agency's regulations governing the funding program.

(b) The Completing Access to Broadband Fund (CAB Fund) is established as a special revenue fund in the Department of Information Technology. The Secretary may award grants from the CAB Fund projects meeting the criteria established under this section. State funds appropriated to this Fund shall be considered an information technology project within the meaning of G.S. 143C-1-2. The Office shall establish procedures in accordance with this section that allow every county in the State to participate in the Completing Access to Broadband program. Monies awarded from the CAB Fund shall be used for infrastructure and infrastructure costs, as those terms are defined in G.S. 143B-1373(a). The State shall not be obligated for funds committed for project costs from the CAB Fund in excess of those sums appropriated by the General Assembly to the CAB Fund.

(c) In collaboration with the Broadband Infrastructure Office, a county may request funding under this section for either a defined eligible project area that is mutually identified by the county and the Office or for a project that was not awarded a grant in the most recent round of grant awards under G.S. 143B-1373. All identified projects shall be subject to the bid process requirements in this subsection. In selecting project areas to receive funding, the Office shall give priority to eligible areas that a county has requested funding for based upon utilizing the Office's Community Broadband Planning Playbook and those counties that meet the criteria established in subsection (e) of this section. The Department shall utilize its authority under Part 4 of this Article to develop competitive bid processes for the procurement of the construction, installation, and operation of broadband infrastructure. Notwithstanding Article 8 of Chapter 143 of the General Statutes, or any other provision of law to the contrary, the Department may delegate to a county the authority to select a provider for the project area in accordance with Part 4 of this Article. The Department shall reserve the authority to approve the selection of a county pursuant to this subsection. Unless the county has bid processes acceptable to the Office, the Office shall utilize customizable forms and procedures developed by the Department for the purposes of this

subsection. Selections made pursuant to this subsection are not subject to the Department's administrative review authority under Article 3A of Chapter 150B of the General Statutes or the Department's administrative rules regarding information technology bid protests and contested case procedures. Selection of project areas shall be subject to the protections provided in G.S. 143B-1373(c). In conjunction with the bid process, a proposed project area shall be posted on the Department's website for a period of at least 10 days. Upon submission of credible evidence, a broadband service provider may request a project scope adjustment to the Office in accordance with G.S. 143B-1373(e). Upon a finding that the evidence submitted by the broadband service provider is credible, the Office shall work with the county to amend the scope of the project. The Office shall develop and administer any agreement entered into pursuant to this section. Nothing in this subsection shall be deemed to grant authority for a county to own, operate, or otherwise control broadband infrastructure contracted for under this section.

(d) A broadband service provider selected for a project under this section may provide up to thirty percent (30%) of the total estimated project cost. The Office may commit up to thirty-five percent (35%) of the total estimated project cost from monies in the CAB Fund. The county requesting the project shall be responsible for at least thirty-five percent (35%) of the total estimated project cost and shall utilize federal American Rescue Plan Act (P.L. 117-2) funds or nonrestricted general funds for that purpose. In the event CAB Fund monies are insufficient to fund a project, a county may increase its share of the total estimated project cost, or the Office may adjust the scope of the project to meet the level of available funding. No county may receive more than eight million dollars (\$8,000,000) in aggregate funding from the CAB Fund in any single fiscal year.

(e) Notwithstanding the project cost responsibility allocations in subsection (d) of this section, for a county receiving from the federal government less than an aggregate of eight million dollars (\$8,000,000) in federal American Rescue Plan Act (P.L. 117-2) funds, a broadband service provider selected for a project shall provide not less than fifteen percent (15%) of the total estimated project cost. If a broadband service provider provides more than fifteen percent (15%) of the total estimated project cost, the State and county cost responsibilities shall be equally apportioned. The following cost responsibility allocations for counties meeting the requirements of this subsection and the State apply:

Direct Federal Funds Received	County Responsibility	State Responsibility
\$250,000, up to \$4,000,000	5%, minimum	Up to 80%
\$4,000,000, up to \$8,000,000	10%, minimum	Up to 75%

(f) A broadband service provider selected for a project under this section shall enter into an agreement with the Office that shall include the project description, time lines, benchmarks, proposed broadband speeds, and any other information and documentation the Office deems necessary. All proposed broadband speeds must meet or exceed the federal guidelines for use of American Rescue Plan Act (P.L. 117-2) funds. Upon execution of an agreement, the county shall provide its portion of the total estimated project costs to the Office to be combined with CAB Funds awarded for the project and placed in a separate project account. The Office shall provide project oversight, and, upon completion of established benchmarks in the project agreement, the Office shall disburse funds from the project account to the broadband service provider. The forfeiture provisions in G.S. 143B-1373(l) shall apply to agreements entered into under this section. (2021-180, s. 38.6; 2022-6, s. 16.2; 2022-74, s. 38.1(d).)