

Memorandum

October 7, 2021



U.S. Treasury Guidance for the Coronavirus Capital Projects Fund for States, Territories & Freely Associated States

On September 20, the U.S. Department of the Treasury issued [guidance](#) regarding the \$10 billion Coronavirus Capital Projects Fund (Capital Projects Fund or “CPF”), created in the American Rescue Plan Act of 2021 (ARP). The guidance provides a summary of project eligibility and terms and conditions, as well as information about the process for applying for a grant under the CPF program. The CPF provides payments to States, territories, freely associated states, and Tribal Governments (Separate [Tribal Guidance released](#)) “to carry out critical capital projects directly enabling work, education, and health monitoring, including remote options, in response to the public health emergency with respect to the Coronavirus Disease (COVID-19).” The CPF is NOT competitive but States must submit an Application and a Grant Plan to Treasury in order to receive allocated funds.

The Capital Projects Fund Submission Portal:

<u>Portal Launch</u>	<u>Funding Request Deadline</u>	<u>Grant Plan Deadline</u>
States 9/24/21	12/27/2021	9/24/22
Tribal 10/1/2021	6/1/2022	N/A

Eligible Applicants:

- Section 604 identifies States, certain territories and freely associated states, and Tribal Governments, as the entities eligible to apply for a CPF grant (“Eligible Applicants”)
 - Eligible states (“States”) are each of the 50 states, the District of Columbia, and Puerto Rico
 - Seven eligible territories and freely associated states are the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau
 - An eligible Tribal government is the recognized governing body of any Indian or Alaska Native tribe, band, nation, pueblo, village, community, component band, or component reservation, individually identified in the list published most recently as of the date of enactment of this Act pursuant to Section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5131). Certain Hawaiian entities are also eligible for funding
- CPF Recipients may award funds to Subrecipients, such as,
 - Other levels or units of government (e.g., municipalities or counties)
 - Non-profits, or private entities
 - Subrecipients may include cooperatives, electric utilities, and other entities that build or operate broadband networks, including networks that are owned, operated by, or affiliated with local governments

Allocations:

- Treasury separately published on its website the allocations for each Eligible Applicant “State”, along with the methodology used for implementing the statutory allocation formula:
www.treasury.gov/CPF

Project Eligibility:

- For a Project to be an eligible use of CPF grant funds, it must meet all of the following criteria:
 - Invests in capital assets designed to directly enable work, education, and health monitoring
 - Designed to address a critical need that resulted from or was made apparent or exacerbated by the COVID-19 public health emergency

- Designed to address a critical need of the community to be served by it

Presumptively Eligible Broadband Projects: The construction and deployment of broadband infrastructure projects (“Broadband Infrastructure Projects”) are eligible for funding under the CPF program in accordance with the following conditions:

- Projects designed to deliver service that reliably meets or exceeds symmetrical upload and download speeds of 100/100 Mbps (pg. 3)
- Recognizing that this goal may be impracticable, guidance permits a network of at least 100/20 Mbps, but the networks should be designed to be scalable to 100/100 Mbps
- Encouraged to prioritize investments in fiber-optic infrastructure where feasible
- Prioritize Projects that involve broadband networks owned, operated by or affiliated with local governments, non-profits, and cooperatives—providers with less pressure to generate profits and with a commitment to serving entire communities
- Encourages that the Eligible Applicant and/or the authorized representative consult with the statewide entity or office that oversees broadband planning and implementation when planning for the use of CPF grant funds
- Encouraged to address affordability as a barrier to full use of the internet when developing their Program Plans and Broadband Infrastructure Projects
 - Required to consider if the broadband service options offered by fund recipients will be affordable to their target markets in the proposed service area
 - Encouraged to consult with the community as part of the process to consider affordability and are required to publish a description of their process for considering affordability in their project selection process
 - Encouraged to require that services provided by a CPF-funded project include at least one low-cost option offered at speeds that are sufficient for a household with multiple users to simultaneously telework and engage in remote learning
 - Recipients will be required to report pricing data as part of program performance and monitoring
- Projects are required to ensure that the service provider for a completed funded project participate in federal low-income broadband programs
 - Recipients/subrecipients will be required to allow subscribers to utilize the FCC’s Emergency Broadband Benefit (EBB) program. Once the EBB program terminates, Treasury will identify any other program(s) that providers must participate in.
 - Treasury will NOT identify programs that would require the service provider to be designated as an eligible telecommunications carrier (ETC)
- Explain why the communities identified to be served by Broadband Infrastructure Projects have a critical need for those projects as is related to access, affordability, reliability, and/or consistency
- Encouraged to prioritize projects to serve households and businesses **NOT** currently served by a wireline connection that reliably delivers at least 100 Mbps of download speed and 20 Mbps of upload speed
- If a project seeks to deploy broadband to locations where enforceable federal or state funding commitments exist for reliable wireline service at speeds of at least 100 Mbps of download speed and 20 Mbps of upload speed, the Recipient should ensure that the CPF grant funding will not be used for costs that will be reimbursed by the other federal or state funding stream(s)
- In determining the communities to be served, recipients may choose to consider any available data including but not limited to documentation of existing broadband internet service performance, federal and/or state collected broadband data, user speed test results, interviews

with community members and business owners, reports from community organizations, and any other information they deem relevant

- In evaluating data, they may consider a variety of factors, including:
 - If users actually receive internet at or above speed thresholds at all hours of the day
 - Whether factors other than speed such as latency or jitter, or deterioration of the existing connections make their user experience unreliable
 - Whether the existing service is being delivered by legacy technologies, such as copper telephone lines (Digital Subscriber Line (DSL) technology) or early versions of cable system technology (DOCSIS 2.0 or earlier)
 - Recipients may consider the actual experience of current broadband customers when making their determinations; and whether there is a provider serving the area that advertises or otherwise claims to offer broadband at a given speed is not dispositive
- Prohibitions on the use of funds to procure or obtain telecommunications and video surveillance services or equipment provided or produced by designated entities, including certain entities owned or controlled by the People's Republic of China

Digital Connectivity Technology Projects:

- The purchase and/or installation of devices and equipment to facilitate broadband internet access are eligible for funding under the CPF program where affordability has been identified as a barrier to broadband adoption and use
- Permitted devices and equipment include laptops, tablets, and desktop personal computers for distribution to members of the public through a short or long-term loan program or to be made available for use in public facilities
- Permitted equipment includes equipment installed as part of public wi-fi infrastructure (e.g., access points, repeaters, routers). Ownership of the equipment must be maintained by the Recipient or a Subrecipient

Multi-Purpose Community Facility Projects:

- Projects to construct or improve buildings designed to jointly and directly enable work, education, and health monitoring
 - Construct or improve full-service community schools that provide a comprehensive academic program to their students and adult education in the community at large; health monitoring to their students and the community; and workforce training or career counseling services that provide community members with the knowledge needed to engage in work, including digital literacy training programs
 - Projects to construct or improve libraries that provide public access to the internet for purposes including work, education, and health monitoring such as offering digital skills programs and support for community members engaging in virtual learning
 - Projects to construct or improve community health centers that, in addition to engaging in health monitoring, provide a broader range of services to the communities they serve, including activities such as access to job counseling employment services, as well as health education classes or internship programs for medical professionals
- Must provide services or activities that enable work, education and health monitoring for at least 5 years

Ineligible Projects and Projects Not Presumed to be Eligible:

- highways, bridges, transit systems, and ports
- General construction and improvement of hospitals and traditional schools are not presumed to be eligible, although there may be opportunities for such projects to receive funding under the CPF program if they meet the project eligibility criteria. Reviewed on a case-by-case basis.

Eligible and Ineligible Costs:

- Ineligible Project Costs (full list pg. 11)
 - Acquisition of spectrum license
 - Operating expenses
 - Short-term operating leases
 - Payment of principal and interest on outstanding debt, etc.
- Labor Practices in Construction
 - Must comply with all federal laws and regulations and with all state, local and Tribal laws
 - Davis-Bacon Act prevailing wage rate requirements do not apply but encourages projects pay a living wage (pg. 12)

Period of Performance:

- All funds must be expended by December 31, 2026
- Return funds to Treasury not used by end of December 31, 2026
- Treasury can grant extensions for the period of performance upon State Request (Treasury recognizes supply chain issues exist and any extension request should be included) (p.12)

Grant Process for States (pg. 14):

- Submission of an Application to Treasury establishing Applicant eligibility
- Execution of a Grant Agreement with Treasury
- Submission of Grant Plans to Treasury

Application Requirements:

- Demonstrate the Applicant is eligible
- Demonstrate that funds will be used for eligible projects, including how the funds will address critical needs of the communities to be served
- Provide a Grant Plan for use of the funds
- Demonstrate that program performance will be measured through a program evaluation plan
- Comprehensively respond to all Application and Grant Plan requirements; and additional information as required by Treasury
- Designation Letter
 - Designation letter, signed by the Governor that identifies and delegates authority, as appropriate to an authorized representative, responsible for signing the necessary certifications, submit the Application and sign the Grant Agreement on behalf of the State

Submitting Applications (pg. 14):

- Accessing the CPF Portal
 - Registered username and password with ID.me
- Application Form - CPF Portal: <https://portal.treasury.gov/>
- Sample application will be available at: treasury.gov/CPF