



# Tennessee Emergency Broadband Fund – American Rescue Plan (TEBF-ARP)

## Frequently Asked Questions

*Updated 03/01/2022*

### **1. What is the Tennessee Emergency Broadband Fund – American Rescue Plan (TEBF-ARP)?**

The Tennessee Emergency Broadband Fund – American Rescue Plan (TEBF-ARP) utilizes a portion of the State of Tennessee’s American Rescue Plan Coronavirus State and Local Fiscal Recovery Funds (FRF) to make necessary investments in water, sewer, and broadband infrastructure in order to ultimately help turn the tide on the pandemic, address its economic fallout, and lay the foundation for a strong and equitable recovery.

### **2. How much funding is available?**

In August, the [Tennessee Financial Stimulus Accountability Group](#) dedicated \$400 million for expanding the Tennessee Emergency Broadband Fund. An additional \$100 million has been allocated for a new broadband affordability and adoption program to be launched at a later date.

### **3. Who can apply and what projects or expenses are eligible?**

Eligible applicants are those authorized to provide retail broadband in Tennessee.

Eligible project costs are those associated with the installation and/or acquisition of middle-mile and last-mile broadband infrastructure that supports broadband service at the locations and speeds identified in the application. Examples: Project planning, construction permits, construction of facilities, equipment, materials, installation, and test of service.

Eligible expenses are capital costs necessary to make broadband service available to eligible locations including construction and materials. Operating costs are not eligible. Only costs incurred during the contract period will be reimbursed- exceptions are listed below.

Existing inventory will be eligible for reimbursement if the inventory was purchased after March 3, 2021 as allowed by the US Treasury Interim Final Rule. Makeready work that was necessary to prepare an area for build out prior to starting construction will also be eligible dating back to March 3, 2021.

### **4. What areas are eligible for grant funding?**

In the Interim Final Rule, US Treasury defined unserved as lacking access to a wireline connection capable of reliably delivering minimum speeds of 25 Mbps download and 3 Mbps upload. In the Final Rule, Treasury encourages recipients to prioritize projects that are designed to provide service to locations not currently served by a wireline connection that reliably delivers at least 100 Mbps of download speed and 20 Mbps of upload speed.

TNECD adds to US Treasury's definition by noting that an unserved area is a geographic area in which at least 80% of the households and businesses within it lack a fixed, terrestrial 100Mbps/20Mbps connection. Areas lacking 25Mbps/3Mbps connection will receive priority in the scoring.

**5. Does the project area need to be contiguous?**

No. The project area may include areas that are not adjacent to each other. However, non-contiguous areas more than 10 miles apart MUST include an explanation of how the economic and community impact is the same for the proposed areas. ECD reserves the right to fund partial applications.

**6. Can an applicant apply for multiple grants in the same funding round?**

Yes. If an applicant would like to submit multiple eligible projects for a single grant round, they may submit a separate application for each project. How to split the projects among applications is at the discretion of the applicant but applications that include non-contiguous areas that are more than 10 miles apart must include an explanation of how the impact will be the same for all areas of the project.

**7. Will service provided by mobile or satellite carriers be considered in determining areas eligible for this grant program?**

No. Only fixed, terrestrial connections will be used to determine the areas that are eligible to receive grant funds. However, applications may propose to complete the project with any technology capable of supporting the service levels described in the application.

**8. Can the grant fund middle-mile only projects?**

No. The purpose of the grant program is to provide broadband access to additional residential and business locations. Middle-mile expenses are eligible for grant funding only when they are necessary for the provision of the last-mile services described in the application.

**9. Can an applicant apply for the same or overlapping areas as other federal/ state funding programs?**

TEBF-ARP application areas overlapping with announced and funded USDA ReConnect areas (100% grant, 50/50 grant/loan) and Tennessee Broadband Accessibility Grant areas are not eligible.

FCC Rural Digital Opportunity Funds (RDOF) areas- ECD will keep areas designated for RDOF funding eligible. If proposed areas have been designated to an RDOF winning bidder, however, the fact that it has been designated will count against an application in the scoring but it will not make an area ineligible for grant funding. Ten points will be awarded to every application for an unserved area that is not in an FCC RDOF designated area. This determination will be made by overlaying a map of the proposed service area with the FCC RDOF winning bid areas.

RDOF winning bidders may apply for their RDOF designated areas since the two programs cover different expenses- RDOF is operational whereas TEBF-ARP is capital. If an RDOF winning bidder receives an award for their RDOF designated area, however, the awardee will be required to submit a statement certifying

the funds requested from TEBF-ARP have not been and will not be reimbursed by RDOF. The awardee must also keep separate accounts to track sources and uses of each funding source if receiving both funds.

**10. What is the project completion deadline?**

TEBF-ARP projects must be completed within a three-year contract period. US Treasury requires ARP FRF funds to be expended by the end of 2026.

**11. Does the presence of infrastructure capable of supporting 25Mbps/3Mbps speeds automatically exclude an area from eligibility?**

Not necessarily. The presence of infrastructure alone does not disqualify an area from the grant process. An area is excluded if service is available to more than 80% of residents at terrestrial, fixed 100Mbps/20Mbps speeds at specific locations. For example, fiber for residential service may be constructed in an area but service is not yet available to specific locations (i.e., the location is lacking a service drop). Additionally, fiber might run through an area but not be available for residential services along that route (e.g., to service a cell tower, back haul).

**12. The application must be reviewed by a professional engineer or other qualified individual. What does this mean?**

Grant applicants are scored on ability to build the project and maintain the network beyond the grant period. Grant applications are required to be reviewed by a professional engineer (PE) or another qualified individual. It is preferred that the review is conducted by a PE. However, another qualified individual may review the application if they can clearly confirm the applicant's understanding of the project. This may be an in-house employee of the applicant who is not a PE. In this case, the applicant must include the credentials of the individual who prepared the certification.

This review provides confirmation that project planning has occurred, and a qualified individual has reviewed the technical details of the application prior to submission. These details include number of locations to be served, budget, business model, proposed service area map and additional information. The review provides reassurance of the applicant's ability to provide the proposed solution.

All applications must include a completed "Engineer Application Review Form" signed and dated by appropriate individual. A required blank form is located in the application on the relevant question. Applicants must submit this exact form for the application to be considered complete.

If submitting multiple applications, a separate review form is required for each project.

**13. What is the match requirement for this grant?**

Funds are available to cover up to 70% of eligible expenses for most projects. Applicants are responsible for the remaining 30%.

**14. Can projects include a match from local governments? What does that local match entail?**

In addition to the State of Tennessee receiving ARP FRF, cities and counties also received their own allocations. Those local funds may be used as part of a provider's required 30% match.

**15. As a locality, how should we go about providing that local match? What if our locality cannot pass a resolution by the March 15, 2022 application deadline but would still like to contribute to an applicant(s) match?**

The Interim Final Rule from the US Treasury requires counties to conduct an RFP to select a provider to work with. The US Treasury Interim Final Rule states:

*Procurement. If other terms of this Grant Contract allow reimbursement for the cost of goods, materials, supplies, equipment, or contracted services, such procurement shall be made on a competitive basis, including the use of competitive bidding procedures, where practical. The Grantee shall maintain documentation for the basis of each procurement for which reimbursement is paid pursuant to this Grant Contract. In each instance where it is determined that use of a competitive procurement method is not practical, supporting documentation shall include a written justification for the decision and for use of a non-competitive procurement. If the Grantee is a subrecipient, the Grantee shall comply with 2 C.F.R. §§ 200.317—200.326 when procuring property and services under a federal award.*

If your locality would like to select a single provider to contribute local ARP funding to as a part of their grant match, the locality will need to conduct an RFP to select a provider and ensure that the process is purely completely procured, meeting all the requirements above.

If your locality would like to select multiple providers and/or contribute to any provider that is awarded a grant in your county from the TEBF-ARP, we will accept this as competitive procurement in our grant process. However, please be advised that ECD cannot speak to whether this satisfies all the requirements for procurement that may be in law specific to cities and counties, or whether it satisfies federal law that may apply to cities or counties receiving federal funds. You will need to consult your local/county attorneys to clarify if this meets the requirements for your county's use of ARP funding.

ECD will be contracting with the primary applicant- the provider. Expenses will be reimbursed as incurred and requests for payment are submitted from the provider. It is then responsibility of the provider and the locality to determine how payment and reimbursement will be handled.

Localities providing support to their respective municipal providers through an intergovernmental agreement are not required to conduct an RFP for these transactions. It is the responsibility of the applicant to provide documentation of the locality support to earn points for matching.

If a locality would like to support an applicant(s) but is unable to pass a resolution by the March 15, 2022 application deadline, they can provide a letter to applicants in their community sharing where they are in the process, the name(s) of applicants they will be supporting, and indicating the level of support (amount or percentage) they plan to commit. The locality will have until **April 30, 2022** to pass a resolution indicating the name of the applicant(s) and the amount/percentage of support for an applicant(s). It is the responsibility of the applicant to include a letter from localities they will be receiving

support from in their application, should the locality not be able to commit through a resolution by the March 15, 2022 deadline. It is also the responsibility of the applicant to follow up with the ECD broadband team (via email at [ecd.broadband@tn.gov](mailto:ecd.broadband@tn.gov)) by April 30, 2022 with documentation of the passed resolution from localities they plan to receive support from should this be applicable. Documentation after this date will not be accepted.

In order to receive points for locality match support in the scoring process, the resolution should include the name of the applicant(s), a percentage or amount of funding commitment, or a commitment to support any applicant within the locality that is awarded an ECD TEBF-ARP grant up to an indicated amount or percentage.

**16. The application asks for proof of financing. What kinds of documents are required here?**

The TEBF-ARP will be distributed to awarded grantees upon project completion as certified by a professional engineer (PE) or a third-party consultant approved by the State of Tennessee. The application requires a letter from the applicant's financial institution outlining the financial standing of the applicant or an annual financial report. A statement of "good standing" is not sufficient. The letter must clearly demonstrate the applicant's ability to fund the project whether on its own or in conjunction with other local grants, investments, etc. If applicable for a subsidiary, the applicant may include a letter demonstrating the parent's financial standing. If an entity plans to fully fund the project with cash reserves, an official bank statement will also work if it clearly demonstrates the applicant's ability to provide the match funds as well as pay upfront project costs due to the reimbursable nature of the grant. Please remove/redact all confidential information including bank account numbers.

**17. Will there be a public notice period and how will it work?**

TNECD will post a description of the applications received including the proposed service area. From April 4 through April 15, 2022, comments may be submitted online regarding any pending application. All comments collected during the public comment period may be subject to public disclosure, except for the specific location of infrastructure assets.

Providers who comment may be asked to provide additional information and/or work with TNECD to validate service availability. Comments with insufficient evidence or documentation will not be considered.

**18. When will you announce the awards?**

Tentatively, awards will be announced in early summer of 2022.

**19. The State of Tennessee is undergoing a broadband infrastructure mapping project. Will this map be used to determine area eligibility for the Tennessee Emergency Broadband Fund-American Rescue Plan (TEBF-ARP) program?**

The State of Tennessee is working on a granular broadband infrastructure map that will include collecting provider service data, service level validation, and a public-facing mapping constituent resource. The map is expected to be completed in late spring/early summer 2022 and will not be available by the grant

application deadline for this round of funding. As a result, TNECD will conduct the same process as in previous years by utilizing the FCC data as a starting point to determining eligibility and allowing applicants to challenge its validity. If preliminary mapping data is available at the time of application scoring, TNECD reserves the right to use this data in making funding decisions for the TEBF-ARP program. It will only inform and not determine funding decisions. The public notice period will remain in place.

**20. The program guidelines state that the most recently available FCC Form 477 data will be used to determine grant eligibility. What can I do if the data for my project area appears inaccurate?**

While TNECD will use the FCC Form 477 data as our starting point in determining eligibility, we will allow applicants to apply for areas deemed served in the data if they include additional evidence to prove the lack of service in the proposed area. This can include a statistically significant survey of the residents in the proposed area, the location of infrastructure assets, or other information. Additionally, a screenshot from a provider's website demonstrating the lack of service availability at a specific address is an example of evidence that can be provided to prove that service is not available at that location. However, final determinations will be based on all the evidence submitted in the application and the public comment period. Please note: evidence must disprove all providers currently reporting coverage to that location.

**21. Which FCC Form 477 data release will be used to determine area eligibility for the TEBF-ARP funding?**

At application launch, the most recently available FCC Form 477 data was from December 2020.

However, we have included a process to consider any new data releases during grant application review and scoring that will allow finalists to respond to changes in the data, should a new data release occur during the application period (see question 24 below).

**22. Can a survey be used to demonstrate that an area is eligible for grant funding? How many people do I need to survey?**

There is not a required number of people that need to be surveyed. We recommend that applicants ensure that their data is statistically significant. Factors that affect this include the number of people in a given location as well as the response rate. The question is whether the data provided can be relied on to determine that an area is in fact unserved. The need for grant funding is a significant portion of the grant scoring and the more certainty the supplemental information provides, the stronger the case for providing grant funding. Please note: applicants should take care to collect survey responses from residents within the grant area itself.

**23. Can a map of existing attachments be used to demonstrate eligibility for a portion of a census block designated served by Form 477 data?**

Yes, however, the map and accompanying info must clearly demonstrate that the proposed portion of the census block does not have service available. Specificity in terms of proximity is required to determine whether service could be provided in a reasonable time and a reasonable cost to a specific customer. Locations that are served in that census block must be excluded from the applicant's maps.

**24. If a new set of FCC Form 477 data is released after the application deadline but before the grant announcement, will applicants be allowed to respond to the change in data?**

While the area eligibility maps that we provided were created using the most recently available FCC Form 477 data at the time of grant application launch, it's likely that a new data could be released during the application scoring period. We will perform an initial review of grant applications and determine a list of finalists. These finalists will be given a three-week period to respond to a change in the data in their proposed service areas on their grant applications. They may use this time to provide us additional evidence of the lack of service in the area which could include the examples listed in FAQ question 20.

**25. What federal requirements apply to this program?**

Environmental reviews will *not* be required on TEBF-ARP projects. The Compliance and Reporting Guide provided by Treasury states that recipient are subject to the procurement standards set forth in the Uniform Guidance at 2 CFR 200.317 through 2 CFR 200.327. You can access that guidance here: <https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200>.

Treasury has also indicated in its reporting guidance that recipients will need to provide documentation of wages and labor standards for infrastructure contracts over \$10 million, and that these requirements can be met with certifications that the project is in compliance with the Davis-Bacon Act (or related state laws, commonly known as "baby Davis-Bacon Acts") and subject to a project labor agreement. More information can be found on [Treasury's ARP web page](#).

**26. The State has put a quicker deadline on the time to install than US Treasury. Can an extension be filed during the install if problems procuring equipment and/or labor becomes a problem?**

US Treasury has stated that all ARP funds must be expended by December 2026. ECD has determined that TEBF-ARP projects will need to be completed within a three-year contract period. This is a programmatic change from our prior grant process which called for a two-year contract period. The longer contract period is intended to consider the extra time that may be necessary for procurement and/or current supply chain challenges. Contract extensions will be determined on a case-by-case basis.

Notice to Proceed letters will be issued upon award announcement. This will allow grantees to begin construction immediately and not have to wait on an executed contract to begin incurring expenses.