



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

## Program Guidelines

*Updated 1/14/22*

COVID-19 elevated the importance of critical broadband infrastructure to facilitating participation in telemedicine, distance learning, and telecommuting. Reliable, affordable broadband service is necessary to meet these needs in Tennessee's communities. The State of Tennessee established the Tennessee Emergency Broadband Fund in 2020 to enhance broadband infrastructure and access to those affected during the pandemic by the lack of broadband in their area.

Now expanded, 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.

### Program Description

- In August 2021, Tennessee's Financial Stimulus Accountability Group ([FSAG](#)) dedicated \$500 million of Tennessee's FRF from the American Rescue Plan to broadband access and adoption projects. The US Treasury is set to release the Final Rule on eligible uses of the funds sometime in the fall.
- TNECD will award up to \$400 million for infrastructure projects as part of the Tennessee Emergency Broadband Fund - American Rescue Plan. These guidelines reference this program only. \$100 million will be awarded to promote adoption and usage of broadband through separate programs that will be available later in 2022.
- TNECD is conducting a mapping project to identify broadband infrastructure assets statewide. Upon completion in June 2022, the map will determine the State's remaining unserved homes and businesses and the required funding in Phase 2 to complete the goal of universal broadband coverage by the end of 2026. If preliminary data is available at the time of application scoring, ECD reserves the right to use the data to inform funding decisions but it will not determine awards. The public notice period will remain in place.

### Eligible Entities

- Applicants must be authorized to provide retail broadband in the area proposed to be served with grant funding. This includes but is not limited to telecommunications providers such as cable, electric and telephone cooperatives, fixed wireless, municipal broadband, and satellite.

## Eligible Areas

- 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.
- Proposed service areas are not required to be contiguous. 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.
- Determination of the available broadband service:
  - The most recent [FCC Form 477](#) will be used to determine existing service levels. TNECD is also undergoing a broadband mapping project and while completion is not anticipated prior to grant award, TNECD reserves the right to use information obtained as part of this mapping project in determining eligible areas.
  - Because the FCC's Form 477 data is collected on a census block level and can overstate the availability of services, an applicant is permitted to provide additional information to demonstrate that the proposed service area is in fact unserved.
  - Additional information must be sufficient to conclude that an area is eligible and may include but is not limited to:
    - Statistically significant survey data for the designated area, or
    - Documentation of the location of existing infrastructure within a given census block.
  - Application scoring will include an evaluation of the likelihood that the proposed area will receive broadband service without state grant funding. This will include consideration of federal funding sources including FCC RDOF, USDA ReConnect or others that will result in the provision of at least a fixed, terrestrial 100Mbps/20Mbps service by December 31, 2024. Applications must include a map file (acceptable formats: .shp, .kml, or .kmz) of the proposed service area.
  - Maps of areas eligible according to the FCC data will be available as well as a downloadable GIS shapefile for use in preparing an application.
  - Applicants may provide information regarding additional infrastructure deployments that are not eligible for grant funding to provide context for the proposed project in the relevant portions of the application.

## Eligible Expenses

- Eligible expenses are costs necessary to provide broadband service supporting the needs outlined above to an end user.

- US Treasury notes that “eligible projects are expected to be designed to deliver, upon project completion, service that reliably meets or exceeds symmetrical upload and download speeds of 100 Mbps” where practicable. If not practicable, the project would be “expected to be designed to deliver, upon project completion, service that reliably meets or exceeds 100 Mbps download and between at least 20 Mbps and 100 Mbps upload speeds and be scalable to a minimum of 100 Mbps symmetrical for download and upload speeds.”
- A grant request limit will not be imposed. However, applicants must provide detailed explanation of how the project budget was determined and proof of financing.
- Eligible project costs: costs 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 and engineering, construction permits, construction of facilities, equipment, installation, and test of service.
- 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.
- Payments will be subject to the provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards ([2 CFR 200](#)) (the Uniform Guidance), including the cost principles and restrictions on general provisions for selected items of cost.
- Applicants will be required to obtain review of the project application by a Professional Engineer (PE) or another qualified individual. If the evaluation is not stamped by a PE, applicants must provide the credentials of the individual who prepared the report.
- TNECD reserves the right to amend the scope of grant awards or partially fund applications.

### **Statutory and Program Priorities**

The US Treasury requires the following for broadband projects to be eligible/ compliant:

- Recipients must either participate in the Federal Communications Commission’s (FCC) Affordable Connectivity Program (ACP), or otherwise provide access to a broad-based affordability program to low-income consumers in the proposed service area of the broadband infrastructure that provides benefits to households commensurate with those provided under the ACP.
- 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](#).

### **Application**

- Funds will be distributed through a grant application process with the Tennessee Department of Economic and Community Development.
- Funds are available to cover up to **70%** of eligible expenses for most projects.

- Scoring components will include area eligibility requirements and priorities as listed above.

### **Project Timeline**

- Grant applications are due on March 15, 2022. Late or incomplete applications will be ineligible for funding.
- Awards will be announced (tentatively) in early Summer 2022 with expected completion dates before Fall of 2025. ECD reserves the right to adjust project timelines as needed.

### **Reimbursement and Accountability**

- Funds disbursement will occur on a reimbursable basis.
- For the first 85% of the grant award, expenses will be reimbursed as incurred and requests for payment are submitted. The remaining 15% of grant funds will be available upon submission of grant closeout and final report.
- Grant closeout will require certification from a PE that build has been completed; that the design and installation conforms to all applicable federal, state, and local requirements and standard engineering practice; and that the installed infrastructure will provide the service levels stated in the application.
- If project costs exceed the budget included with the application, grantees will still be required to finish the proposed project without an increase in the grant award.
- Grantees are strongly encouraged to offer service at the pricing and speed levels stated in the application for a minimum of 3 years after closeout of the contract. While not a contractual requirement, it's the expectation that the selected applicants will have incorporated this criteria into their business plan.
- TNECD reserves the right to require an accountability agreement in addition to the grant contract.

### **Public Notice for Pending Applications**

To ensure transparency and best use of taxpayer funds, the application process will include a public notice period.

- Within three weeks of the application deadline, TNECD will post a description of the applications received including a map of the proposed service areas.
- The online public notice period will last from April 4, 2022 until April 15, 2022.
- All comments collected during the public notice period may be subject to public disclosure, except for the specific location of infrastructure assets.
- This period is designed to provide an opportunity for providers, elected officials, and citizens to either express support or to inform us of any issues or concerns with an application or its proposed service area. Comments related to ineligibility of a proposed service area should include information beyond the FCC data.
- Grant applicants are not allowed to enter comments on behalf of community members unless the community member has requested special assistance in submitting the form. Surveys or comments collected by providers should be included in their grant application.
- Providers are highly encouraged to submit comments and corresponding documentation if:

- The area proposed to be served already has service available;
- Construction is underway in the area proposed to be served and will be completed within 12 months; or
- The area proposed to be served is in future expansion plans by 2024.
- In order for feedback regarding existing service, construction, or future builds to be considered when reviewing applications, supporting evidence must be provided. The impact of planned builds disclosed in comments will depend on the certainty of the build as demonstrated by the documentation submitted with the comment and the timeline for the expansion. Documentation that shows that a provider anticipates serving an area in the future will be factored into the scoring to demonstrate that the area is likely to be served without grant funding. Comments with insufficient evidence or documentation will not be considered.
- Where evidence demonstrates that more than 80% of the proposed grant area is currently served a 25Mbps/3Mbps fixed, terrestrial connection, the grant application will be disqualified. In order for a defined area to be considered served, service at or exceeding 25 Mbps download and 3 Mbps upload must be generally available to all residential customers in the defined area.
- Grant finalists will be given a three-week period to respond to comments received.
- Providers who comment may be asked to provide additional information and/or work with TNECD to validate service availability.
- If a commenter is found to have submitted inaccurate information, all current and future comments will be disregarded in the scoring process.