

# Alabama Capital Projects Fund – Phase 2 Program Guide



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## Alabama Capital Projects Fund – Phase 2 Program Guide

### Introduction

The Alabama Department of Economic and Community Affairs (ADECA) issues this Program Guide to provide additional information regarding the implementation of and requirements for the Alabama Capital Projects Fund – Phase 2 (CPF 2). The CPF 2 follows the announcement of the initial round of CPF grants in early 2024.

This document is intended as a guide for CPF 2 participants. This guide is not binding, exhaustive, or final, and it may be updated by ADECA at any time. The CPF 2 is subject to both federal and state law and guidance, and it is the responsibility of CPF 2 participants to comply with all applicable laws and guidance for the program. This guide should be reviewed in conjunction with applicable law and the *Alabama Capital Projects Fund – Phase 2 Application*, *Alabama Capital Projects Fund – Phase 2 Application Guide*, *Alabama Capital Projects Fund – Phase 2 Frequently Asked Questions*, and *Alabama Capital Projects Fund – Phase 2 Rating Criteria* as well as the federal Capital Projects Fund guidance issued by the U.S. Department of the Treasury (Treasury).<sup>1</sup>

As with CPF Phase 1, the CPF 2 is a competitive subaward program that will provide grants to broadband service provider subrecipients. Specifically, the CPF 2 will award grants to service provider subrecipients to support the deployment of last-mile broadband infrastructure that can deliver service that reliably meets or exceeds symmetrical download and upload speeds of 100 megabits per second (100/100 Mbps) in rural, unserved areas of Alabama. This broadband infrastructure will: (a) directly enable work, education, and health monitoring, including remote options; (b) address a critical need that resulted from or was made apparent or exacerbated by the COVID-19 public health emergency; and (c) respond to a critical need of the community to be served by it.

The CPF 2 is supported through a subaward of federal funds under Federal Award Identification Number CPFFN0162 Coronavirus Capital Projects Fund (Assistance Listing No. 21.029), awarded to the State of Alabama by the Treasury.<sup>2</sup> The CPF 2 will be administered by ADECA in accordance with: (a) Section 9901 of the American Rescue Plan Act of 2021, Pub. L. No. 117-2 (ARPA); (b) 42 U.S.C. § 804; (c) Ala. Act No. 2022-1; (d) the Alabama Broadband Accessibility Act, Ala. Code §§ 41-23-210–41-23-214; and (e) other applicable laws and guidance.

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<sup>1</sup> CPF program materials can be found on ADECA’s website at <https://adeca.alabama.gov/alcapitalprojectsfund/>. Treasury’s federal Capital Projects Fund guidance materials can be found on Treasury’s website at <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/capital-projects-fund>.

<sup>2</sup> More information on the federal Capital Projects Fund can be found on Treasury’s website at <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/capital-projects-fund>. The Assistance Listing for the federal Capital Projects Fund can be found at <https://sam.gov/fal/f11c1e2493044b9b8d04b913051f980a/view>.

As a recipient of federal ARPA funds, ADECA must comply with and ensure subrecipients comply with applicable terms and conditions of the ARPA, regulations governing the expenditure of funds distributed from the ARPA, and interpretative guidance the Treasury has issued or will issue governing the expenditure of funds distributed from the ARPA. Importantly, ADECA must comply with and ensure subrecipients comply with all applicable provisions of 2 C.F.R. Part 200, the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Administrative Requirements).<sup>3</sup> ADECA and CPF 2 subrecipients must comply with the Uniform Administrative Requirements, subject to any exceptions provided by law or as determined by Treasury.

## **CPF 2 Application Process**

ADECA will accept CPF 2 applications beginning on April 11, 2024, and applications must be submitted no later than 5:00 p.m. (Central) on May 2, 2024. Any application received by ADECA after the deadline will not be considered. Applications and all supporting documentation must be submitted in PDF format to ADECA by email to [broadband.fund@adeca.alabama.gov](mailto:broadband.fund@adeca.alabama.gov).

Before applying, CPF 2 applicants must submit a letter of intent to submit an application no later than 5:00 p.m. (Central) on April 11, 2024. The letter of intent will include basic information about the applicant and the proposed project. Letters of intent will be posted on ADECA's website and publicly available to promote coordination between CPF 2 applicants and with existing internet service providers regarding potentially overlapping service areas. Letters of intent must be submitted to ADECA by email to [broadband.fund@adeca.alabama.gov](mailto:broadband.fund@adeca.alabama.gov).

Applicants must use the *Alabama Capital Projects Fund – Phase 2 Application* form, complete it in its entirety, and label attachments as instructed. The application must include all supporting documentation at the time of submission. Failure to complete the application in full or provide all supporting documentation at the time of submission may result in a loss of points or application rejection. Each CPF 2 applicant must obtain a Unique Entity Identifier (UEI) from the federal System for Award Management (SAM) and provide its UEI to ADECA as part of its application. More information on obtaining a UEI and SAM can be found at <https://sam.gov/content/entity-registration>.

Applications for eligible CPF 2 projects will be evaluated according to scoring criteria developed by ADECA, which can be found on ADECA's website at <https://adeca.alabama.gov/alcapitalprojectsfund/>. ADECA will select applicants for CPF 2 grants based on the applicant's score and ADECA's evaluation of all supporting documentation. The number of applicants receiving grants will be determined based on the funds available and the total amount of eligible applications received. ADECA may request amended projects and/or offer reduced grant participation to successful applicants.

Successful CPF 2 applicants will receive a letter of conditional commitment from ADECA, stating that the application has been conditionally selected for a grant and requesting additional

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<sup>3</sup> More information on the Uniform Administrative Requirements can be found at <https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200>.

information required for the subaward agreement. As part of this process, each successful applicant will be required to complete and submit the Beason-Hammon Alabama Taxpayer and Citizen Protection Act Certification, a complete copy of its E-Verify Memorandum of Understanding, the State of Alabama Disclosure Statement, the Signatory Authority Form, and other documentation and certifications required by federal and state law. Each successful applicant also must register in the Alabama Buys eProcurement Portal, be eligible for federal grants, and obtain and maintain an active SAM registration. In addition, successful applicants may need to provide subrecipient executive compensation information for federal reporting purposes. The Taxpayer ID number, entity name, and entity address must match across all documents and with the information in the Alabama Buys eProcurement Portal.

More information about the CPF 2 application process can be found in the *Alabama Capital Projects Fund – Phase 2 Application* and *Alabama Capital Projects Fund – Phase 2 Application Guide*.

### **Key CPF 2 Compliance Requirements and Procedures**

As with CPF Phase 1, the CPF 2 is modeled on ADECA’s state-funded broadband program, the Alabama Broadband Accessibility Fund (ABAF). But CPF 2 subrecipients will be subject to different rules and additional requirements than ABAF grantees, including those imposed by federal law. The following provides an overview of key CPF 2 compliance requirements and procedures. However, CPF 2 grants will be conditioned on compliance with the terms and conditions of the subaward agreement for the project as well as all applicable federal, state, and local laws and guidance.

More information on the compliance requirements and procedures applicable to CPF 2 can be found in the *Alabama Capital Projects Fund – Phase 2 Frequently Asked Questions* as well as on Treasury’s website at <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/capital-projects-fund>.

### Applicant and Project Eligibility

Generally, an entity is eligible to apply for a CPF 2 grant if it is a cooperative, corporation, limited liability company, partnership, non-profit, other private business entity, or unit of government that currently provides broadband services. An entity that does not currently provide broadband services in any state or territory is not eligible for CPF 2 funding. An entity that currently provides broadband services only outside of Alabama may be eligible for CPF 2 funding if it submits (a) a certification that it currently does not provide broadband service in Alabama and (b) documentation identifying its current broadband service areas and service performance outside of Alabama.

An entity may not receive a CPF 2 grant if either it or its principals (or any of its contractors, subcontractors, or affiliates) are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in the CPF 2 or other grant programs by any federal agency or by any department, agency, or political subdivision of the State of Alabama. ADECA will verify the suspension and debarment status of a CPF 2 applicant before

granting a subaward. More information about the suspension and debarment process can be found on the SAM website at <https://sam.gov/content/exclusions>.

ADECA will grant CPF 2 subawards only to applicants that will provide at least one service offering that is capable of delivering broadband service that reliably meets or exceeds symmetrical speeds of 100/100 Mbps to customers in rural, unserved areas of Alabama. A rural area is any area within Alabama not included within the boundaries of any incorporated city or town having a population in excess of 25,000 inhabitants, according to the last federal census. An unserved area is any rural area in which there is not at least one provider of terrestrial broadband service that is either (a) offering a connection to the internet providing 100/20 Mbps or higher speeds or (b) required under the terms of another state or federal grant to provide a connection to the internet providing 100/20 Mbps or higher speeds within the same or similar timeframe of projects of similar complexity or scale awarded during the CPF 2 grant cycle.<sup>4</sup> Applicants are reminded that the symmetrical 100/100 Mbps speed benchmark represents the minimum required for consideration for CPF 2 funding. CPF 2 applicants are encouraged to provide faster broadband speeds and will receive a higher score for demonstrating the ability to provide faster broadband speeds in their applications.

Generally, applicants may establish that a proposed project is in a rural area and in an unserved area by using the Alabama Broadband Map located at <https://broadband.alabama.gov/broadband-maps/>. **Applicants are strongly encouraged to conduct a field review to determine whether an area is served or may become served.** If an area is identified as unserved at the time of the application but becomes served prior to the execution of a CPF 2 subaward agreement for the project, the project may not be eligible for funding.

### Project Term

CPF 2 subrecipients normally must complete their projects within two years of the subaward grant or an extended timeframe requested by the subrecipient in its application and approved by ADECA. If a subrecipient demonstrates that a project is progressing, it may request an extension of the project term for delays beyond its control, subject to federal program deadlines.

CPF 2 subrecipients must diligently pursue the implementation of their projects to ensure completion by the end of the term, including all necessary engineering, permitting, make-ready, construction, and customer activations. Subrecipients must certify in writing to ADECA that a project reached completion by the end of the term. Subrecipients also must submit all invoices and other required documentation demonstrating compliance with the subaward agreement and all reporting obligations within 30 calendar days of the submission of the project completion certification or such other period as ADECA may establish consistent with federal law.

CPF 2 subrecipients must submit all extension requests in writing to ADECA no less than 30 calendar days prior to the expiration of the term. Approval of any extension request will be at ADECA's sole discretion. If a subrecipient fails to complete a project within the required term,

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<sup>4</sup> Terrestrial broadband service includes wireline or fixed wireless service and does not include cellular or satellite service.

including any term extension, ADECA may revoke the subaward agreement and rescind the CPF 2 grant.

### Eligible Project Expenses

CPF 2 grants will be in the form of reimbursement of actual eligible expenses incurred by the subrecipient for the project through a fixed single payment. Subrecipient project costs eligible for reimbursement generally will be limited to construction and construction-related costs of broadband infrastructure, in accordance with applicable law, CPF 2 program materials, and Treasury/ADECA guidance. Some examples of eligible project expenses include: (a) the costs of repair, rehabilitation, construction, improvement, and acquisition of broadband infrastructure for the project; (b) costs of long-term leases (i.e., for terms greater than one year) of facilities required to provide broadband service for the project (including indefeasible right-of-use agreements and capital leases); and (c) personnel costs related to project deployment.

By contrast, subrecipient operating costs for the project, including but not limited to short-term operating lease costs, are not eligible for reimbursement. Subrecipient indirect costs also are not eligible for reimbursement. In addition, subrecipient costs for the project incurred before or after the term of the CPF 2 subaward agreement will not be eligible for reimbursement without advance ADECA approval. CPF 2 grant funds may not be used for research and development costs and may not be used to cover costs that have been or will be reimbursed – or otherwise paid – by other federal or state funding sources. Subrecipient costs must be allowable, necessary, reasonable, and allocable for the project as well as adequately documented to be eligible for reimbursement. However, subject to certain exceptions, CPF 2 subrecipients will not be required to comply with the cost principles and procurement practices of the Uniform Administrative Requirements.

More information on eligible and ineligible CPF 2 project expenses may be found on ADECA’s website at <https://adeca.alabama.gov/alcapitalprojectsfund/> and Treasury’s website at <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/capital-projects-fund>. CPF 2 participants should contact ADECA by email at [broadband.fund@adeca.alabama.gov](mailto:broadband.fund@adeca.alabama.gov) with any questions regarding the eligibility of CPF 2 project expenses.

### Grant Amount and Reimbursement

ADECA plans to award over \$182 million in grants over the course of Phase 1 and Phase 2 of the CPF.<sup>5</sup> However, ADECA reserves the right to cancel the CPF 2 subaward application solicitation, award less than the planned amount, and/or issue another application solicitation as part of its ongoing administration of the program and in accordance with applicable law and guidance. Any subaward commitments made by ADECA to subrecipients are contingent upon the availability and receipt of CPF funds by ADECA.

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<sup>5</sup> In accordance with federal law, ADECA is reserving a portion of Alabama’s Capital Projects Fund allocation to support CPF program administration.

CPF 2 grants may not exceed 80% of the total cost of the proposed project or \$5,000,000, whichever is less. Any CPF 2 grant, when combined with other forms of state or federal support or assistance dedicated to the proposed project, other than interest-bearing loans, may not exceed 90% of the total cost of the proposed project. Applicants are reminded that the 20% match obligation represents the minimum required for consideration for CPF 2 funding. CPF 2 applicants are encouraged to commit additional match and will receive a higher score for including additional match commitments in their applications.

CPF 2 subrecipients will receive the grant amount in a fixed single payment upon project completion. ADECA will condition the release of any grant funds on the satisfaction of all requirements in the subaward agreement, including all project reporting and closeout obligations. Subrecipients will submit a payment request to ADECA, providing written certification that the project reached completion and sufficient evidence of compliance with the subaward agreement obligations, which will be subject to ADECA review and approval before payment is made. Subrecipients are responsible for accounting for their project costs appropriately and for maintaining records demonstrating that such costs are eligible for reimbursement, in accordance with applicable law, CPF 2 program materials, and Treasury/ADECA guidance. ADECA may request additional information or documentation from subrecipients as part of the grant payment process.

#### Project Service Affordability

In accordance with current Treasury guidance, CPF 2 subrecipients must participate in federal programs that provide low-income consumers with subsidies on broadband internet access services upon project completion, including, at a minimum, the Affordable Connectivity Program (ACP) established by the Federal Communications Commission (FCC). Subrecipients must allow subscribers in their project service area(s) to utilize the ACP for their project service offerings upon project completion. Subrecipients also are required to participate in the ACP (or any successor affordability program designated by the Treasury) for the duration of such program or until the date the project infrastructure is no longer in use, whichever is earlier. CPF 2 applicants will be asked to provide information on their ACP participation and any plans to offer services that are affordable to customers in the proposed project service area in their applications, and subrecipients will be required to provide service price information as part of the subaward reporting process.

More information on the ACP can be found on the FCC's website at <https://www.fcc.gov/affordable-connectivity-program>.

**Applicants should note that, given the uncertainty about continued funding for the ACP, guidance from Treasury regarding the ACP may change. In the event the ACP expires, and a replacement program is not designated by Treasury, ADECA will share additional guidance with CPF 2 participants as it becomes available.**

## Environmental Compliance

CPF 2 subrecipients and their contractors and subcontractors must comply with all applicable federal, state, and local environmental laws during project deployment. The National Environmental Policy Act, 42 U.S.C. § 4321 et seq. (NEPA), normally does not apply to projects funded by the CPF 2. However, projects funded by the CPF 2 may still be subject to NEPA review if they are also funded by, require the approval of, or otherwise involve other federal programs or agencies. Subrecipients and their contractors and subcontractors also must comply with all applicable federal, state, and local historic preservation laws, including but not limited to the National Historic Preservation Act, 54 U.S.C. § 300101 et seq. Subrecipients will submit a Treasury Coronavirus Capital Projects Fund Environmental Checklist to ADECA prior to execution of the subaward agreement, which can be found at <https://home.treasury.gov/system/files/136/CPF-Environmental-Questionnaire.pdf>.

## Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment

CPF 2 subrecipients and their contractors or subcontractors must comply with all applicable provisions of Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, which generally prohibits the use of federal grant funds to acquire certain services or equipment posing national security risks. Subject to limited exceptions, subrecipients and their contractors or subcontractors must not use CPF 2 grant funds to: (a) procure or obtain; (b) extend or renew a contract to procure or obtain; or (c) enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that use covered telecommunications and video surveillance services or equipment as a substantial or essential component of any system, or as critical technology as part of any system, as described in 2 C.F.R. §§ 200.216, 200.471. Subrecipients will not be reimbursed for any costs to procure or obtain prohibited covered telecommunications and video surveillance services or equipment, and any CPF 2 grant funds used by subrecipients for such costs will be subject to recoupment.

## Compliance with Labor Laws

CPF 2 subrecipients must comply with all applicable federal, state, and local labor laws. While the federal Davis-Bacon Act prevailing wage rate requirements generally do not apply to projects funded solely by the CPF 2, Treasury and ADECA encourage subrecipients to ensure that projects incorporate strong labor standards and competitive wages to promote effective and efficient delivery of high-quality infrastructure projects and support economic recovery through strong employment opportunities for workers. CPF 2 applicants will be asked to provide information on their proposed project labor practices as part of their applications and subrecipients may be required to provide additional labor information as part of the subaward reporting process.

## Compliance with Nondiscrimination Laws

CPF 2 subrecipients must comply with all applicable federal, state, and local nondiscrimination laws. Such laws include, but are not limited to: (a) Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq., and Treasury's implementing regulations, 31 C.F.R. Part 22; (b) Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794; (c) Title IX of the Education Amendments of



1972, 20 U.S.C. § 1681 et seq., and Treasury’s implementing regulations, 31 C.F.R. Part 28; (d) Age Discrimination Act of 1975, 42 U.S.C. § 6101 et seq., and Treasury’s implementing regulations, 31 C.F.R. Part 23; and (e) Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq. Subrecipients will ensure that their contractors and subcontractors for a project comply with all applicable nondiscrimination requirements. In accordance with federal law, subrecipients will provide any documentation or assurances that Treasury or ADECA may require demonstrating their compliance with the nondiscrimination requirements.

### Ownership of Project Property and Property Standards

In accordance with Treasury guidance, the federal government will retain an interest in the real property or equipment acquired or improved under a CPF 2 grant (Project Property) until December 31, 2034 (Federal Interest Period). Title to Project Property will vest in a CPF 2 subrecipient, so long as the subrecipient meets certain conditions during the Federal Interest Period. These conditions require that the subrecipient (and any successors or transferees):

- Must use the Project Property for the authorized purposes of the project in the same manner as they use comparable real property and equipment within their networks in the ordinary course of their business, subject to the rights to disposition provided below;
- Must continue to provide internet service to the service areas and at the standard initially agreed upon by ADECA and the subrecipient;
- Must participate in federal programs that provide low-income consumers with subsidies on broadband internet access services;
- Must comply with the requirements of 2 C.F.R. § 200.310, which may be satisfied by adequate self-insurance;
- Must comply with the use and management requirements for equipment in 2 C.F.R. §§ 200.313(c)(4), 200.313(d), which may be satisfied by applying the subrecipient’s commercial practices for meeting such requirements in the normal course of business (e.g., commercial inventory controls, loss prevention procedures, etc.), provided that such inventory controls indicate the applicable federal interest;
- Must maintain records of real property that include an indication of the applicable federal interest;
- May dispose of Project Property in the ordinary course of business when no longer needed to operate the network, such as in order to upgrade equipment and improve facilities, provided that at least the same level of service provided by the network is maintained and there is no material interruption to service and that such upgraded property is subject to the same requirements as other Project Property;
- May otherwise sell or transfer Project Property only after provision of notice to Treasury that identifies the successor or transferee and after securing the agreement of the successor or transferee to comply with these requirements and the acknowledgement of the successor or transferee of the federal property interest; and

- Must notify ADECA and Treasury upon the filing of a petition under the Bankruptcy Code, whether voluntary or involuntary, with respect to the subrecipient or its affiliates.

CPF 2 subrecipients must hold Project Property in trust for project beneficiaries for the duration of the Federal Interest Period, but may encumber Project Property under certain circumstances. If CPF 2 subrecipients do not meet Treasury's conditions for Project Property ownership, they must request disposition instructions from Treasury pursuant to the Uniform Administrative Requirements.

More information on subrecipient ownership of Project Property and service provider property standards can be found on Treasury's website at <https://home.treasury.gov/system/files/136/SLFRF-and-CPF-Supplementary-Broadband-Guidance.pdf>.

### Audit and Monitoring Procedures

All subrecipients of federal funds must follow the Audit Requirements in the Uniform Administrative Requirements (2 C.F.R. Part 200, Subpart F), as applicable. Non-profit subrecipients that expend \$750,000 or more during their fiscal year in federal awards must have a single or program-specific audit conducted for that year in accordance with the provisions of 2 C.F.R. Part 200. All entities that have a single audit must submit the reporting package and data collection form to the Federal Audit Clearinghouse in accordance with 2 C.F.R. § 200.512. Additionally, if any subrecipient receives more than \$500,000, collectively, in Alabama State General Fund appropriations in its fiscal year from ADECA, it must have an audit in accordance with Government Auditing Standards (the Yellow Book) and Generally Accepted Auditing Standards established by the American Institute of Certified Public Accountants.

Under federal law and in accordance with Treasury guidance, for-profit subrecipients are not subject to the audit obligations established by 2 C.F.R. Part 200, Subpart F, including those set forth in 2 C.F.R. § 200.501. However, ADECA has an obligation to ensure for-profit subrecipient compliance, which may include pre-award audits, monitoring during the agreement, and post-award audits. As a result, Treasury and ADECA may utilize their auditors to conduct audits of CPF 2 subrecipients in accordance with applicable law. More information on the application of the audit provisions of the Uniform Administrative Requirements to CPF 2 subrecipients can be found on Treasury's website at <https://home.treasury.gov/system/files/136/SLFRF-and-CPF-Supplementary-Broadband-Guidance.pdf>.

CPF 2 subrecipients must establish and maintain effective internal controls to manage their grants in compliance with applicable law and the subaward agreement. Each successful CPF 2 applicant will be evaluated for risk of noncompliance with federal and state statutes, regulations, and the terms and conditions of the grant before the subaward agreement is executed. ADECA staff will monitor CPF 2 subrecipients as necessary to ensure that projects are completed in a timely manner and program funds are used for authorized purposes. ADECA may revise its subrecipient risk assessment based on project performance/reporting and may impose specific conditions or enforcement actions on a subrecipient in accordance with applicable law. Subrecipients must maintain sufficient records to substantiate the information they submit to ADECA as part of a project. Upon request, subrecipients will provide any pertinent records to

authorized Treasury/ADECA personnel for the purpose of making audits, inspections, financial reviews, examinations, excerpts, transcripts, or other investigations related to their projects.

### Recoupment of CPF 2 Grant Funds

In the event the State of Alabama is required to repay ARPA funds delegated to ADECA, including CPF 2 grant funds, as a result of a subrecipient's noncompliance with the terms and conditions of the CPF 2 subaward agreement or any applicable law, regulation, or guidance, ADECA will have the right to recoup such repayments from the subrecipient in the amount attributable to the subrecipient's noncompliance without offset. To the extent permitted by law, ADECA will provide the subrecipient with written notice of such noncompliance and allow the subrecipient an opportunity to correct or otherwise cure such noncompliance before seeking recoupment, in accordance with Treasury guidance.

### Alabama Broadband Map Participation

An entity will not be eligible for a CPF 2 grant unless it has submitted, within the one-year period preceding the awarding of the grant, the entity's broadband service availability information to Alabama's broadband mapping program. CPF 2 subrecipients must continue to participate in Alabama's broadband mapping program throughout the entire project period by providing accurate, complete, and timely responses to mapping data requests from ADECA or its contractors.

### **CPF 2 Reporting and Closeout Obligations**

CPF 2 subrecipients will provide any project information requested by ADECA necessary to support compliance by ADECA and the State of Alabama with any reporting, audit, or informational obligations required by the conditions of the ARPA funds delegated to ADECA. Subrecipients will be required to report on the progressive completion of their projects until closeout. Grants for projects not showing progress may be terminated. Upon project completion, subrecipients will be required to conduct broadband performance testing and provide additional information to ADECA as part of the closeout process. Subrecipient compliance with all reporting and closeout obligations is a prerequisite to receive CPF 2 grants and ADECA will verify subrecipient compliance with all current reporting and closeout obligations before releasing grant funds.

The following provides an overview of the CPF 2 reporting and closeout obligations. However, subrecipients must comply with the reporting and closeout obligations included in the CPF 2 subaward agreement and any other requirements established by Treasury/ADECA. These requirements are subject to change and are updated regularly. Subrecipients will be responsible for complying with the most current reporting and closeout obligations at the time of submission. In accordance with federal law, the reporting and closeout obligations may be modified by ADECA as part of its subrecipient risk assessment and monitoring.

CPF 2 subrecipients will submit each report by the deadline established by ADECA and in the format established by ADECA, including through the completion of ADECA-provided

templates. More information on the project reporting and closeout obligations applicable to CPF 2 can be found on ADECA’s website at <https://adeca.alabama.gov/alcapitalprojectsfund/> as well as Treasury’s website at <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/capital-projects-fund/recipient-compliance-and-reporting-responsibilities>.

### Initial Project Report and Quarterly Project and Expenditure Report

CPF 2 subrecipients must submit an Initial Project Report to ADECA when executing the subaward agreement, which will provide an initial “snapshot” of key project metrics. CPF 2 subrecipients also must submit a Quarterly Project and Expenditure Report to ADECA no later than 10 calendar days after the last day of each calendar quarter, which will provide a project status update. Specific Initial Project Report and Quarterly Project and Expenditure Report instructions and requirements will be included in the CPF 2 subaward agreement and applicable Treasury/ADECA guidance. However, some of the information subrecipients will be required to provide in the Initial Project Report and Quarterly Project and Expenditure Report includes:

- *Project Information/Status*
  - Start date for construction (planned/actual)
  - Date for completion of construction (planned/actual)
  - Date for the initiation of operations (planned/actual)
  - Project progress (e.g., not started, less than 50% complete, more than 50% complete, completed)
  - Information on whether CPF 2 funding is being used in conjunction with other federal funding for the project, if applicable
  - Description of any required permitting and licenses for the project and the status of such permitting and licensing
  - Information regarding the subrecipient’s status as a Minority Business Enterprise (MBE) or Disadvantaged Business Enterprise (DBE) as well as the subrecipient’s engagement of vendors or subcontractors that are MBEs or DBEs, if applicable
  - Additional information regarding the subrecipient’s progress on other program priorities (e.g., community support projects), if applicable
- *Obligations and Expenditures*
  - Current period obligations<sup>6</sup>
  - Cumulative obligations
  - Current period expenditures<sup>7</sup>

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<sup>6</sup> “Obligations” are orders placed for property and services, contracts and subawards made, and similar transactions that require payment.

<sup>7</sup> “Expenditures” are the amount that has been incurred as a liability of the entity (the service has been rendered or the good has been delivered to the entity).

- Cumulative expenditures
- Brief description of the major activities on which funds were expended during the reporting period
- *Labor Practices (for projects receiving \$5 million in CPF 2 funding)*<sup>8</sup>
  - Davis-Bacon Act certification or project employment and local impact report
  - Project labor agreement certification or project workforce continuity plan
  - Whether the project prioritizes local hires
  - Whether the project has a community benefit agreement
- *Project Performance Indicators and Project Data*
  - Project technology type (planned/actual) (e.g., fiber, cable, fixed wireless)
  - Total miles of fiber deployed (planned/actual)
  - Total number of locations served (planned/actual)
    - Total number of locations served, broken out by speeds:
      - Pre-CPF 2 Investment:
        - Number receiving less than 25/3 Mbps (planned)
        - Number receiving 25/3 Mbps or greater but less than 100/20 Mbps (planned)
      - Post-CPF 2 Investment:
        - Number receiving at least 100/100 Mbps (planned/actual)
    - Total number of locations served, broken out by type:
      - Residential (including total housing units) (planned/actual)
      - Business (planned/actual)
      - Community anchor institution (planned/actual)
  - Speed tiers offered and corresponding non-promotional prices, including associated fees, for each speed tier of broadband service
  - Confirmation of whether the provider is participating in the ACP
  - Location specific information for project (in format set by Treasury)<sup>9</sup>
    - Latitude/longitude for the location where service will be installed
    - Technology used to offer service at the location (e.g., fiber, cable, fixed wireless)

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<sup>8</sup> More information on labor practice reporting can be found on Treasury’s website at <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/capital-projects-fund/recipient-compliance-and-reporting-responsibilities>.

<sup>9</sup> More information on broadband location data reporting can be found on Treasury’s website at <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/capital-projects-fund/recipient-compliance-and-reporting-responsibilities>.

- Location Type
  - Residential (including number of housing units)
  - Business
  - Community anchor institution
- Service speed at the location pre-CPF 2 investment
  - Below 25/3 Mbps
  - 25/3 Mbps or greater but less than 100/20 Mbps
- Service speed and latency at the location post-CPF 2 investment<sup>10</sup>
  - Maximum download speed offered/advertised
  - Maximum download speed delivered
  - Maximum upload speed offered/advertised
  - Maximum upload speed delivered
  - Latency
- Standardized FCC Identifiers<sup>11</sup>
  - Fabric ID # (Broadband Serviceable Fabric Locations)
  - FCC-Issued Provider ID #

### Annual Performance Report

CPF 2 subrecipients must submit an Annual Performance Report to ADECA no later than July 10<sup>th</sup> of each year of the project, which will provide information related to program goals and project outcomes. Specific Annual Performance Report instructions and requirements will be included in the CPF 2 subaward agreement and applicable Treasury/ADECA guidance. However, some of the information subrecipients will be required to provide in the Annual Performance Report includes:

- *Executive Summary*
  - High-level overview of the subrecipient’s costs and progress made during the reporting period toward project objectives
  - Description of key outcomes and any noteworthy challenges or opportunities identified during the reporting period

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<sup>10</sup> Speed and latency data reported must be consistent with the compliance standards and testing protocols for speed and latency adopted by the Treasury and established by the FCC in multiple contexts, including the Connect America Fund and Rural Digital Opportunity Fund. *See, e.g., Connect America Fund*, WC Docket No. 10-90, Order, 33 FCC Rcd 6509 (WCB/WTB/OET 2018); *Connect America Fund*, Order on Reconsideration, WC Docket No. 10-90, 34 FCC Rcd 10109 (2019).

<sup>11</sup> More information on the standardized FCC identifiers can be found on the FCC’s website at <https://www.fcc.gov/BroadbandData>.

- *Project Status*
  - Activities implemented over the reporting period, including summaries of key milestones achieved, outputs produced, and outcomes achieved
  - Any narratives about individuals/households benefitting from CPF 2 funds, including information about methods used for collecting and measuring success
  - Information regarding ACP 2 participation and service affordability
  - Information regarding project network reliability (i.e., outages)
  - Description of any notable challenges and the status of each challenge
  - Overview and outcomes of costs incurred to support bringing the project into full use (e.g., focused advertising to increase broadband subscriptions in high-need communities, community engagement to support successful operations, etc.)
  - Activities planned for the next reporting period
- *Promoting Equitable Outcomes and Addressing Critical Needs*
  - Description of any historically underserved, marginalized, or adversely affected groups, including those living in rural areas and/or high-poverty areas, that the project is designed to serve
  - Discussion of how equal and practicable was the ability of members of these communities, including households, businesses, and other organizations, to become aware of the services offered by the project
  - Summary of the progress made toward addressing critical needs identified in targeted communities, such as closing service gaps, reaching universal levels of service, or community support projects, along with a description of the methods used to quantify and qualify project outcomes
- *Labor Practices*
  - Description of workforce practices, including how projects are using strong labor standards to promote effective and efficient delivery of high-quality infrastructure and support economic recovery through employment opportunities for workers
  - Report on whether any of the following practices are being utilized for the project: project labor agreements, community benefits agreements, prevailing wage requirements, and/or local hiring
- *Community Engagement*
  - Summary of any community engagement efforts and activities that occurred with or in communities served by the project, including information about the types of organizations and, where possible, names of organizations and communities engaged with to support the implementation and operations of the project
  - Description of any outreach, advertising, and translation activities and services deployed to reach communities the project is designed to serve

- Description of any languages used in community outreach efforts and materials for people with limited English proficiency, and other approaches taken to solicit feedback from underserved communities
- If relevant, report on efforts to build the capacity of community organizations to serve people with significant barriers to services, including people of color, people with low incomes, populations with limited English proficiency, and other traditionally unserved or underserved groups
- Overview of any feedback received from communities, organizations, and subscribers regarding the project and any plans to address feedback received during project construction/implementation
- Outline any plans to sustain, improve, and/or grow subrecipient community engagement efforts in the next year
- *Real Property Status*
  - If applicable, report on the status of any real property used for the project in which the federal government retains an interest
- *Civil Rights Compliance*
  - Narratives and assurances regarding subrecipient compliance with civil rights laws, as may be established by Treasury

### Closeout Obligations and Reporting

CPF 2 subrecipients will provide a final Closeout Report, demonstrating project completion and broadband service offerings consistent with their application commitments and subaward agreement. The Closeout Report will be subject to ADECA review before CPF 2 grant funds are released. Specific Closeout Report instructions and requirements will be included in the CPF 2 subaward agreement and applicable Treasury/ADECA guidance. However, some of the information subrecipients will be required to provide in the Closeout Report includes:

- **Final Quarterly Project and Expenditure Report**
- **“As-built” technical documentation**, certified by a licensed Professional Engineer, that verifies project completion and demonstrates that the deployed infrastructure, service area, and equipment match those in the subaward agreement and are capable of delivering the minimum proposed speeds as described in the application and the subaward agreement consistently to all potential customers in the project area. CPF 2 subrecipients will perform field markups of engineering/as-built drawings during construction or repairs. All such documentation shall be provided to ADECA and any designated engineering personnel so that ADECA’s as-built documentation may be accurately maintained. Subrecipients must identify any differences between the network design in the application and the subaward agreement and the “as-builts,” and explain the reasons for the differences and any impacts or changes to the project budget in the subaward agreement as a result of these differences. Subrecipients must also validate the performance characteristics of any deployed infrastructure and equipment that differs from the specifications in the application and subaward agreement.



- As applicable, the as-built drawings, documentation, and GIS data shall identify the location of any underground plant attributes on the engineering drawings. For all handholes, provide precise latitudinal and longitudinal coordinates and offset measurements (relative to the edge of the pavement, curb, landmarks, etc.). For underground conduit, provide depth and offset measurements validated at intervals of no greater than 50 feet.
- As applicable, the as-built drawings, documentation, and GIS data shall identify any aerial plant attributes necessary to validate that all cable attachment heights adhere to the applicable pole attachment agreement and licenses as well as ensuring that the installation has followed the engineering drawings. Sequential cable footages shall be documented for all fiber optic cable installed. These footage markings shall be documented at the “beginning” and “ending” points for each pole, handhole, and slack loop throughout the entirety of the cable segment.
- As applicable, the as-built drawings, documentation, and GIS data shall identify any wireless network attributes necessary to validate that the network adheres to the design. These attributes include base station locations, antenna heights, make and model of base station equipment, antenna gain, frequency bands used, RF signal maps in GIS format in each frequency band, locations able to be served, backhaul configuration, and calculations of available upstream and downstream capacity taking into account line-of-sight and oversubscription.
- All redlines and as-builts should be provided to ADECA in electronic formats, as applicable to each type of deliverable (CAD, PDF, GIS files, etc.).
- **Service information** for the addresses within the project area, which will include:
  - A GIS shapefile using polygons (no lines or points), which includes all address locations in the project service area
  - A table that includes the service tiers offered to each type of consumer (residential, business, community anchor, and any other distinct consumer groups with their own service tier offerings), by offered download and upload speeds, including any data caps, other service details, and the non-promotional pricing offered in each tier
- **Map update information:** After receiving the GIS shapefile of the project service area, ADECA will provide a list of addresses within the project area to the subrecipient. Similar to the requests for Alabama Broadband Map data, the subrecipient will provide the following for each address within 10 business days of receipt of addresses:
  - Whether the address is business or residential
  - Maximum download speed in Mbps
  - Maximum upload speed in Mbps
  - Technology of transmission, as defined by the FCC<sup>12</sup>

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<sup>12</sup> More information on technology of transmission codes can be found on the FCC’s website at <https://www.fcc.gov/general/technology-codes-used-fixed-broadband-deployment-data>.

- A list of addresses (with corresponding latitude and longitude) within the subrecipient's project area that were not included in the addresses provided by ADECA
- **Performance testing:** Subrecipients will conduct performance testing and submit test results to ADECA according to the following process:
  - ADECA will select locations within the subrecipient's project area for performance testing
  - The subrecipient will conduct speed and latency tests for each location selected by ADECA
  - Tests will be conducted, at a minimum, once per hour from 6:00 PM to 12:00 AM, for a minimum total of six tests per location
  - Tests will be conducted from the premises of the selected active subscribers to a remote test server located at, or reached by passing through, an FCC-designated Internet exchange point (IXP), which is any building, facility, or location housing a public Internet gateway that has an active interface to a qualifying Internet Autonomous System (ASN)<sup>13</sup>
  - Subrecipients must notify ADECA verbally or in writing of the completion of testing on the same day testing is completed. Subrecipients must submit test results to ADECA as soon as possible, but no later than three calendar days after testing is completed.
  - Test results must conform to the following Performance Testing Specifications:
    - At least 80% of the speed test results must be at a minimum of 80% of the speed tiers committed to in the subaward agreement for upload and download
    - At least 95% of latency measurements must be at or below 100 milliseconds round-trip time
    - If none of the locations selected by ADECA subscribes to a top-tier speed offering, the subrecipient will include testing at a location that does subscribe to a top-tier speed offering. If there are no locations within the project area that subscribe to the top-tier service offering, the subrecipient will upgrade one of the locations selected by ADECA temporarily to allow for testing at the top-tier speed.
- **Completed final reimbursement request:** Subrecipients must identify any differences between the approved grant amount in the subaward agreement and the final reimbursement request. The subrecipient must explain the reasons for the differences and the impacts or changes to the project budget as a result of these differences, which will be subject to ADECA review. The subrecipient may not request reimbursement that exceeds

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<sup>13</sup> More information about acceptable test paths and remote server locations is available at <https://www.usac.org/wp-content/uploads/high-cost/documents/Tools/PMM-Test-Paths-and-Remote-Server-Locations-1.pdf>. Qualifying ASNs are listed in Appendix B of *Connect America Fund*, WC Docket No. 10-19, Order on Reconsideration, 34 FCC Red 10109 (2019), which can be found at <https://docs.fcc.gov/public/attachments/FCC-19-104A1.pdf>.

the grant amount specified in the subaward agreement or the most recently approved budget amendment to the subaward agreement.

- **Completed reimbursement request supporting documentation summary:**  
Subrecipients will provide evidence of actual costs incurred for the project and ADECA will disburse grant funds only after reviewing the subrecipient's costs incurred, evidence of completion of the project, and compliance with program requirements. ADECA will request any clarifying documentation needed to support costs claimed during the review process. Proof of payment may consist of cancelled check images, email confirmations, or bank statements showing the transaction by electronic funds transfer or by check. It is not necessary to provide the full bank statement so long as the date of the payment, amount of the draft that corresponds with the invoice amount, and posting date are visible.

Generally, costs incurred prior to the award are unallowable; however, an exception is made for purchased fiber or other broadband equipment acquired in advance of the award (stockpiled materials, materials on hand, etc.). The invoices and proof of payments should clearly denote the methodology used to determine the amount allocated to the grant as properly evidenced in the subrecipient's accounting system.

Funds which have been properly obligated by the end of the subaward term will have 30 days in which to be liquidated (expended). Except under extenuating circumstances, and as approved by ADECA, no funds will be paid beyond the 30-day closeout period. Any funds remaining in the subaward after 30 days will revert to ADECA.

### Report Submission and Review

CPF 2 subrecipients will complete and submit all reports using an online portal designated by ADECA or such other means as may be designated by ADECA. Subrecipient reports are subject to ADECA review and ADECA may request additional information. Upon request, CPF 2 subrecipients shall provide access to their facilities to ADECA-authorized personnel to verify project status and for other purposes related to project monitoring and reporting. ADECA may request and/or perform additional testing to verify data reported by subrecipients.

Information provided in subrecipient reports will be disclosed to Treasury as required by the conditions of the ARPA funds delegated to ADECA. ADECA's receipt and use of subrecipient reports will not constitute approval of the information submitted by the subrecipient or of the procedures used in creating the reports. Subrecipients remain responsible for the accuracy and completeness of their reports. ADECA assumes no liability for any damages arising out of or in any way connected with the receipt and use of subrecipient reports, and ADECA will have the right to recoup any repayments of ARPA funds attributable to a subrecipient's failure to provide accurate and complete reports.

### **Additional Information and Guidance**

Additional resources providing information and guidance relevant to the CPF 2 can be found on ADECA's website at <https://adeca.alabama.gov/alcapitalprojectsfund/> as well as Treasury's

website at <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/capital-projects-fund>.

For more information regarding the CPF 2, please call (334) 353-0767 or send questions to [broadband.fund@adeca.alabama.gov](mailto:broadband.fund@adeca.alabama.gov).

**Disclaimer**

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