



Advance-Local Comments Summary

Executive Summary

The Colorado Broadband Office (CBO) requested public comment on the proposed Advance-Local Program Guidelines and Appeals Policy. On Nov. 6, 2024, the CBO commenced a 30-day period for public comments. During this time, the CBO received submissions from approximately 22 different commenters, representing industry, associations, government and nonprofits.

The public comment period was held to promote transparency and gather feedback from all of CBO's stakeholders. During this time, the CBO conducted a range of outreach and engagement activities to encourage broad awareness and participation in the comment period. Activities included webinars, discussions with the Advance Colorado Consult Group, and discussions at the Industry and Community Roundtables during regularly scheduled meetings. Lastly, the CBO made constituents aware of the public comment and encouraged participation through social media, the CBO newsletter and the CBO website. Please note that due to specific statute requirements, some suggestions could not be implemented.

The CBO made the following changes to the Grant Guidelines based on comments received:

- All dates are now referenced as calendar days.
- CBO modified the deadline for submission of an application from 45 days to 60 calendar days, under Section 3.4.
- The submission deadline for Appeal and Challenge Process has been extended from 10 days to 14 calendar days, under Sections 3.7 and 7.1, and the Appeals Policy.



- The Minimum Requirements under all Tiers will be moved from scoring to Pass/Fail. Some Minimum Requirements were repeated under Award Criteria for scoring purposes (e.g., percent match). This will also adjust the Award Criteria to formalize the scoring process for applications.
- Language was added to the Award Criteria in Tier II.a to allow for better scoring for higher speed levels being offered, specifically addressed in Section 6.8.2 and the A-2 Last Mile Scoring Matrix.
- Minimum Requirement 1 in the A-2 Last Mile Scoring Matrix clarified that there are no CBO pre-defined project areas wherein Applicants must serve all eligible locations.
- Additional information on the low-income waiver will be provided in the guidelines, under Section 6.10.
- Clarified pre-engineering reimbursements are allowable expenses, if granted an award in Section 6.8.2.
- In-kind matching funds will only be allowable under Tiers I and Tier II.a with staff approval, under Section 6.13.2.
- "Low-income Households" and "Broadband Need" in Tier II.a will be adjusted to reflect differing conditions of projects, under the A-2 Last Mile Scoring Matrix.
- Clarification on the Regional Broadband Plan requirements under Tier I are in the guidelines under the A-1 Middle Mile Scoring Matrix.
- Supplemental information for the low-cost waiver option, including pricing requirements, and eligibility, is further described in the guidelines under Section 6.10.
- Additional language on the submission of Challenge process requirements has been drafted into the guidelines under Section 8.



- Additional requirements on verifying applicant claims presented during the Challenge process have been added to the guidelines under Section 8, including penalties for failure to build out challenged locations within the required 6 months.
- Clarification on allowability of pre-application project expenses was added to the guidelines in Section 6.8.2.
- Additional information on how Tier I projects will provide evidence of enabling advance connections to unserved areas has been added to the guidelines.
- The guidelines will include further clarification on “applicable subsidies” in the Low-Cost Broadband Service Option under Section 6.10.
- The Low Cost Service Option was raised from \$30 to \$50 (with waver not to exceed \$75).

Application Process & Requirements

Multiple commenters expressed concern that the 45-day application cycle was too short and prohibitive for smaller ISPs. A commenter representing industry requested that the lack of provisions for verifying applicant claims in Section 3.1 will allow for inaccurate or overstated claims about coverage, speeds and performance and stated that there is nothing in statute that prevents CBO from verifying applicant submittals.

Multiple industry commenters were concerned with both the lack of transparency and the lack of oversight power given to the Working Group.

One commenter expressed concern over the requirement that applicants include the length of time until permits are approved, given that it is dependent on CDOT, not the applicant.



Open Access

Numerous commenters stated that requiring open access for middle-mile projects is beneficial, however there were some concerns about how it would work in practice. One commenter stated there needs to be explicit frameworks to address a potential “race-to-zero scenario” between ISPs and suggested the CBO work with local ISPs to set minimum pricing floors. Another commenter stated that great care should be given to determining what is the accepted “wholesale services and rates” that an applicant would charge other providers to use the middle-mile network they are applying to build, and how much capacity they need to build to accommodate these requests. Lastly, it was requested that middle mile to support last-mile installations be well defined, or the open access requirement could easily be circumvented by applicants, and that the definition of open access be altered.

Match

Several commenters representing government entities expressed that the lack of in-kind match is prohibitive for smaller ISPs. Multiple commenters from the broadband industry were in agreement stating that the lack of in-kind matches will be hugely detrimental to middle-mile projects given the high-cost nature of locations. The lack of in-kind match was also not looked upon favorably by a commenter representing a community organization, who stated that limiting opportunities to those with access to money does not allow for diversity and creativity and does not open doors to those that are willing to provide resources and services to address their portion of the grant. Lastly, one commenter said preliminary engineering should be reimbursed as part of the middle mile project or used as in-kind match for the project since the applicant is investing in the project before applying.



Low-Cost Option

Multiple commenters representing industry felt the \$30/month broadband option will strain ISPs financially in remote areas, with one commenter recommending more flexibility on this requirement if the ISP can reasonably show that with the costs involved this tier of service will not be financially viable in their target project area. Multiple commenters stated the required parameters for the Low-Cost Broadband Service Option could be interpreted to limit participation to Eligible Telecommunications Carriers (ETC), specifically mentioning the last bullet point on page 36 and asking the CBO to clarify what constitutes “applicable subsidies.” Lastly, a commenter stated that including a specific rate is “rate-setting” and proposed the CBO incentivize lower rates, versus mandating them.

Scoring

One commenter suggested that if there was a way to prove service quality is poor/diminishing that last-mile areas be included under “Broadband Need in Unserved or Underserved Area.” Another commenter suggested that when scoring for Middle Mile “Resilience” be focused more on Community Benefit and suggested focusing on CAIs instead of low-income households. Other commenters asked for a sliding scale for speed and latency and stated that as written any determination of cost effectiveness would be subjective and asked the CBO to further delineate the criteria.

Minimum Requirements Scoring

In regards to minimum requirements a commenter stated that using a scoring system didn’t make sense, since applicants either meet the criteria or they don’t (meaning the minimum requirements are really a pass-fail criteria). Another commenter stated that the CBO fails to define what “reasonable cost requirements” are for the purposes of meeting minimum requirements.



Another commenter felt the requirement that a proposed project be specified in documents such as a capital improvement plan, etc. is unfair to under-resourced communities and assumes that all communities have the necessary broadband deployment background to evaluate technologies.

Challenge & Appeal Process

Multiple commenters requested the CBO lengthen the time frames for both the challenge and appeals process noting the complexity of the different types of projects and the desire to avoid overbuilding. One commenter also asked that the two processes not be run concurrently. While one commenter liked that only applicants can appeal a decision, another is concerned that the proposed appeals process lacks transparency. Two commenters also stated that more than a letter should be required to challenge an award, as a letter is not legally binding.

Tiered Funding Approach

One commenter requested a clearer distinction between middle mile and last mile projects. Another suggested the introduction of a third tier for non-deployment projects, using 10% of funds. An industry commenter stated that using any funds for a non-deployment activity is counter to the spirit of the original program objectives, while another industry commenter suggested that middle mile and last mile comprise one bucket that is up 70% of the funds.

While multiple commenters stressed the importance of Tier II funding, another commenter was concerned that Advance-Local might lose focus by trying to solve too many problems with a very limited pool of funding. As such, the commenter felt that non-last mile projects should not be prioritized until Governor Polis' goal of near universal availability is achieved.



Guidelines

Numerous people had general feedback and suggestions on how to improve the guidelines, including: add claw back of funds requirement to last mile and short-term construction projects, change to the definition of “Reliable Broadband Service,” tailor the displayed questions to the specific type of application in the portal, provide clear and comprehensive definitions for both the timeline and budget entries and provide definitions for key terms. Other suggestions include allowing applicants to adjust budget categories across phases, minimizing data entry by requiring only the uploading of the financial workbook, expanding the scope of items eligible for reimbursement, including the “overbuild” minimum requirement for middle mile projects, and using Advance-Local to mitigate against 911 outages.

General Feedback

One commenter stated that transparency and stakeholder engagement should be the top priority of the CBO, including posting both webinars; posting as much information in regards to applicants as possible; and expanding the size of the Working Group, making sure it meets the requirements of HB24-1336, and explaining the scoring method for Work Group selection. One commenter suggested the requirement to serve all eligible BSLs in a pre-defined project area deters smaller providers from applying. Another suggested the CBO should lobby the FCC and Congress to pursue finding an alternate funding source for the entirety of USAC, USF, and by extension the Colorado High Cost/USF fee. Yet another asked the CBO to model the aspects of the DOLA middle-mile program that make it so successful. Lastly, it was suggested that there be the option to do feasibility studies/make-ready cost analysis apart from a larger project.