

California
Performance Report

Capital Projects Fund
2023 Report

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Executive Summary

The California Public Utilities Commission (CPUC), serving as the state's program lead, will use the state's full allocation of \$540 million from the Capital Projects Fund (CPF) to address a significant digital divide that disproportionately affects California's low-income and rural communities. To request funding, the Treasury required states to submit a grant agreement and a plan for the use of CPF funds. Following approval of the state's grant plan in April 2023 by U.S. Treasury, California made its final preparations for awarding grants over the next 12 months. Over the past year, the CPUC has built a new implementation team, developed a new interactive application portal, and worked with stakeholders to establish an equity framework that will serve those most in need in the Golden State. These efforts culminated in the opening of the [application process](#) for the Last Mile Broadband Expansion program on June 30, 2023. Applications are due on September 29, 2023, and may be submitted through the [CPUC's Broadband Grants Portal](#).

Uses of Funds

The program objectives are to fund last mile broadband infrastructure benefiting every part of the state, equitably distributing funding among counties while considering historically disadvantaged communities, and ensuring affordability in awarded areas. The CPUC issued [Decision 22-04-055](#) to set rules and guidelines for implementing the Last Mile Broadband Expansion program (officially known as the "Federal Funding Account" per California Public Utilities Code Section 281, Subdivision (n)). Each county has an allocation as stipulated in [Senate Bill 156](#) (Chapter 112, Statutes of 2021). The program's initial funding focus will be for unserved areas. Unserved areas are defined as an area where no wireline broadband provider reliably offers broadband service at speeds of at least 25 megabits per second (Mbps) downstream and 3 Mbps upstream to the entire community. Funding priority will be given to disadvantaged communities as explained in the Promoting Equitable Outcomes section of this report.

California has immense challenges in terms of the number of unserved locations (estimated at roughly 800,000) and varied geography (almost 164,000 square miles). All activities in the preceding 12 months have been focused on providing service to unserved locations. An estimated 16 percent of unserved locations will be served using CPF funds. The CPUC has implemented the following activities over the reporting period:

- Issued a list of priority areas and modified it substantially based on robust stakeholder feedback.
- Conducted local briefings and listening sessions throughout California to better tailor the program to fit local needs.
- Adjusted program rules, such as its scoring system, with insight gained from stakeholder feedback.
- Implemented new technology tools, such as an online application tool to provide applicants needed fiscal and demographic information and an online

- grant portal, to facilitate the application process.
- Opened a three-month window for applications on June 30, 2023.

Following the application deadline, the CPUC will publish a list of applications and launch the challenge process, under which any interested party may object to an application based on an error in fact, policy, or statutory requirements, such as whether an existing wireline communications infrastructure already meets or exceeds the 25/3 Mbps unserved definition. The challenge process will be undertaken concurrent with the CPUC's review.

The awardees will build out high-speed broadband offering symmetrical 100 Mbps download and upload speeds and ensure affordability to low-income households as well as encourage affordable service for middle-class households.

The CPUC will award projects either through ministerial review, under which CPUC staff may approve applications meeting specified criteria, or through its resolution process. Under the resolution process, staff prepare a resolution describing the proposed infrastructure project and affordability considerations among other information necessary for the CPUC Commissioners to consider when voting on the resolution. The review process is expected to take no more than six months for each round of awards. Awardees will be notified via letter and an announcement of the award will be posted on the CPUC website. Successful applicants must accept the award, typically within 30 days of CPUC approval, agree to a project start date, and complete project construction in either 18 months (if exempt from California Environmental Quality Act requirements) or 24 months.

Future milestones for the CPF allocation are:

- 2024: Award first round of awards in the first quarter of the calendar year. Ensure awardees are meeting all requirements and monitor project construction. Open an application window for a second round of awards in second quarter.
- 2025: Issue awards for round two. Continue monitoring project construction. Monitor performance for projects that complete construction.
- 2026: Continue monitoring project construction. Monitor performance for projects that complete construction. Ensure all contract deliverables are complete by December 31, 2026.

Promoting Equitable Outcomes

The CPUC will prioritize funding for areas lacking reliable access to 25/3 Mbps, implement affordability measures, and consider digital equity in project selection. In establishing the program rules, the CPUC followed the California program statute and considered public comments to equitably allocate funding among rural and urban counties, accounting for households lacking service at 100 Mbps download speeds. The program formulates priority funding areas to serve an entire community to avoid a patchwork broadband infrastructure network where some households receive service and others do not. Also, proposed investments owned, operated, or

affiliated with local governments, non-profits, or tribes are encouraged in the program because community-run networks serve entire communities.

The CPUC has published demographic information to identify disadvantaged communities in the priority areas. Up to 20 points will be awarded to projects in which 50 percent or more locations have one or more of the following characteristics: low-income areas where aggregated household incomes are less than 80 percent of the state or that county's median income, disadvantaged communities as defined by the California Environmental Protection Agency, and/or tribal lands. The application [scoring criteria](#) also provides up to 20 points to encourage public providers to participate in the grant program, including local governments, non-profits, tribal entities, and co-operatives. Participation in the Affordable Connectivity Program (ACP) is mandatory for all awardees (provides a discount on broadband service and connected devices to eligible households).

The CPUC will use the scoring criteria—which also include points for offering low-cost plans that go beyond ACP and Lifeline (which defrays the cost of phone and broadband service for eligible households), as well as the points awarded for serving low-income, tribal, and disadvantaged communities—to determine which projects are prioritized for funding in each of California's 58 counties.

Awardees will be required to submit quarterly reports during the construction phase outlining project details such as major construction milestones, project accomplishments, challenges, and subscribership data. On an annual basis, awardees must submit to the CPUC a performance report with project speeds, plan pricing, subscription data (including number of customers enrolled in ACP, low-cost, and low-income broadband plans), and any broadband data allowance information on all offered plans. This information will help inform outputs and outcomes for the CPF performance reports.

Labor

California prides itself in having amongst the most worker protective labor laws in the country. Grants awarded by the CPUC under its Last Mile Broadband Expansion program will be subject to California's prevailing wage laws, under which California's Department of Industrial Relations sets wages according to the type of work and location in which it is to be performed. Further, the CPUC's Supplier Diversity Program, memorialized in General Order 156, encourages investor-owned utilities and their prime contractors to purchase goods and services from women; minority; lesbian, gay, bisexual, and transgender (LGBT); and disabled veteran owned businesses.

Community Engagement

The CPUC's community engagement and public participation for CPF planning includes robust, ongoing public engagement.

- In developing the rules, the CPUC considered formal comments from more than 35 entities and well over 100 informal comments from the public. The CPUC incorporated public feedback in its program rules, identifying eligible areas, addressing broadband affordability concerns, and encouraging projects in disadvantaged communities.
- The CPUC held public meetings, webinars, and outreach to develop the record on which the program rules are based.
- The program rules allow applicants to submit endorsements or letters of support from state and local government, community groups, and anchor institutions for the projects.
- The program rules require awardees on tribal lands to consult with California Tribes, consistent with CPUC policy, at the planning stage and throughout the life of the project.
- Individual stakeholders are able to make comments on the program's public map to indicate where service deficiencies exist.

Comments were solicited at various times during the scoping process: the beginning of the rulemaking was announced to six service lists related to utility matters, including those assessing utility affordability, for the California Advanced Services Fund, for the California High Cost Fund A, and for universal telephone service. Comments were also sought during the scoping hearing and after the draft rules were issued. These opportunities were noticed to various service lists as well as to the daily calendar, which is subscribed to by various news organizations, local governments, and community-based organizations.