

BEFORE THE PUBLIC UTILITIES COMMISSION OF  
THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Advance  
Demand Flexibility Through Electric Rates

R.22-07-005  
(Filed July 14, 2022)

**TRACK A REBUTTAL TESTIMONY OF MELISSA W. KASNITZ ON BEHALF OF  
CENTER FOR ACCESSIBLE TECHNOLOGY ADDRESSING POLICY ISSUES**

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## **I. INTRODUCTION: OVERVIEW OF KEY ISSUES OF CONCERN FOR CFORAT'S CONSTITUENCY**

Center for Accessible Technology (CforAT) broadly represents the interests of utility ratepayers with disabilities and medical vulnerabilities on matters before the Commission. This population is disproportionately low-income and highly dependent on reliable and affordable utility service to maintain their ability to live independently in their community. CforAT has participated in multiple rate design proceedings over our long history of representing this constituency, and we have long been one of the most vocal parties on the need to fundamentally address affordability of rates for vulnerable populations. This population is also at heightened risk based on impacts of climate change, and efforts to implement the state's clean energy goals will benefit CforAT's constituency. The effort underway in this proceeding represents work by policymakers and stakeholders to effectively balance concerns about energy affordability and rate designs that help support the move toward clean energy.

CforAT did not have resources to put together a separate rate proposal on how to implement the requirement of Assembly Bill (AB) 205 to introduce an income-graduated fixed charge (IGFC) to lower volumetric rates and improved equity outcomes. Here we respond to a limited set of issues raised in the proposals put forward by other stakeholders. We appreciate that the proposals submitted broadly appear to represent good-faith efforts on behalf of parties to make realistic efforts to effectuate the legislative directives encapsulated in AB 205 in a way that can realistically be implemented and understood by ratepayers. While we note areas of dispute and areas where further work and/or clarity are needed, we recognize the effort that has been made by most active parties to advance the conversation and make room for realistic options.

## **II. ISSUES NOT ADDRESSED BY CFORAT AT THIS TIME**

This rebuttal testimony from CforAT does not address some issues included in party proposals, including issues concerning the costs that should be included in a fixed charge, the methodology for calculating potential fixed charges, the implications for volumetric rates, and other specific proposals on charges and methodologies. CforAT does not have the resources to review and address any such detailed rate proposals.<sup>1</sup> Instead, this rebuttal testimony seeks to address the policy parameters that necessarily underpin any Commission activity to effectuate AB 205.

## **III. RESPONSES TO PARTY PROPOSALS**

### **A. Rate Design**

#### **1. Number of IGFC Levels**

AB 205 directs the creation of an income-graduated fixed charge with no fewer than three income thresholds;<sup>2</sup> parties briefed various issues of statutory interpretation including whether this direction required a minimum of three levels or a minimum of four levels. The Commission has not issued a decision on the legal issues briefed by parties, but it directed parties to assume in their testimony that their own interpretation of the various statutory provisions would be adopted.

CforAT argued in briefing that AB 205 was ambiguous as to the minimum required number of tiers and that the Commission had discretion to set a three or four tier minimum.<sup>3</sup> All party proposals regarding IGFC levels appear to be within the discretion of the Commission to consider. The one proposal that does not appear to be a reasonable option for consideration is

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<sup>1</sup> While CforAT is not providing rebuttal testimony on these issues, we reserve the right to address them at hearing and in briefing as the Commission moves forward.

<sup>2</sup> Cal. Pub. Util. Code Sec. 739.9(e)(1).

<sup>3</sup> CforAT's Opening Brief on Track A Issues (CforAT Opening Brief), filed January 23, 2023, at pp. 1-2; CforAT's Reply Brief on Track A Issues of Statutory Interpretation (CforAT Reply Brief), filed February 13, 2023, at p. 1.

that put forward by SEIA, which proposals to split levels at CARE-eligibility, FERA-Eligibility, and everyone else.<sup>4</sup> This is not reasonable because the small threshold of eligibility for FERA, combined with the low level of program enrollment, does not support a reasonable split among customers into at least three IGFC levels. This proposal is essentially a two-tiered proposal rather than a three-tiered proposal, and it should not be given consideration.

## **2. Income Brackets/Level Splits**

Parties provide proposals on how to determine break points between IDFC levels based on multiple options, including multiples of Federal Poverty Level (FPL), Area Median Income, and flat statements of household income. The question of how to set break points was also addressed in party briefing. Ultimately, CforAT believes this issue is a policy question that requires further stakeholder input.

As noted by the IOUs, FPL has been used previously in addressing energy rates in the context of CARE and FERA.<sup>5</sup> However, multiples of FPL do not meaningfully allow for consideration of the different cost of living in different areas of the state. CforAT argued in briefing that using the FPL could be administratively easier for the IOUs but that AMI could be more valuable to customers by better reflecting their actual costs of living.<sup>6</sup>

In addition to the different costs of living in different areas of the state, different climate zones in California have highly divergent energy usage patterns, with the hottest areas of the state generally having both higher usage and also higher levels of poverty (though lower costs of living). Low- and middle-income customers in hot areas with high usage may be likely to see some reduction in their bills with the adoption of an IGFC due to decreased volumetric rates,

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<sup>4</sup> Beach Testimony on Behalf of SEIA at pp. 19-21.

<sup>5</sup> Joint Testimony of the Joint IOUs Describing Income Graduated Fixed Charge Proposals, Exhibit 1 (Joint IOUs Exhibit 1), at p. 42

<sup>6</sup> CforAT Opening Brief at pp. 3-4.

even if they do not adopt additional electrification measures. Other areas of the state with higher costs of living may have more households that face substantial challenges paying for electricity, even with income levels that are relatively higher than the CARE cutoff (for example).

Commission staff has recently engaged in a substantial effort to review eligibility standards for various benefit programs and made clear that the state’s policy goals include consideration of all customers who struggle to pay their utility bills, not just the most destitute. The report, which was issued in R.20-08-021 (the CASF Proceeding) in the context of the federal Affordable Connectivity Program (a subsidy for low-income households to offset the cost of residential broadband), is attached to this testimony. Policymakers and stakeholders should build on Commission staff’s previous work to evaluate numerous public benefit programs and their eligibility standards when considering the best way to establish income tiers.

### **3. Charges per Level**

AB 205 requires that any adopted fixed charge be established “so that a low-income ratepayer in each baseline territory would realize a lower average monthly bill without making any changes in usage.”<sup>7</sup> Once again, parties have previously briefed the appropriate way to interpret this provision, including whether this indicates that *every* low-income ratepayer must receive a lower bill or whether *the average* low-income ratepayer must receive a lower bill. CforAT argued in briefing that AB 205 requires every low-income ratepayer to realize a lower monthly bill and that ensuring these savings effectively requires the fixed charge for the customers assigned to the lowest income level to be zero.<sup>8</sup> The outcome of this question will likely have implications as to whether the lowest charge is required to be zero dollars in order to

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<sup>7</sup> Cal. Pub. Util. Code Sec. 739.9(e)(1).

<sup>8</sup> CforAT Opening Brief at p. 4.

avoid the risk of some low-income customers seeing higher bills, even without any change in usage.

#### **4. Medical Baseline/Medical Discount Implications**

Party proposals do not generally address the way that the introduction of an IGFC may interact with the medical baseline program and/or IOU medical discounts that increase the affordability of energy for customers with medically-driven usage. The Medical Baseline program provides increased allocations of energy at the lowest rate to eligible customers; the program structure is dependent on the existence of tiered pricing for electricity rates. The Commission has also overseen the introduction of medical discounts for rates that do not include tiers; these rates provide a line-item discount off of the electricity bill of eligible customers.<sup>9</sup>To the extent that the introduction of an IGFC will result in structural bill increases for medical baseline/medical discount customers, the Commission will need to make adjustments to ensure that these customers whose essential levels of energy usage require operation of equipment powered by electricity do not face increased affordability challenges.

#### **B. Process Issues**

##### **1. Allocation to IGFC Level**

###### ***a. Initial Allocation***

Virtually all parties assert, and CforAT agrees, that any process that seeks to assess household income for all utility customers will present challenges and that no single source of data is likely to be complete. In order to effectively implement an IGFC, the Commission will likely need to oversee an iterative process of assessing customer income and allocating customers to IGFC tiers. In the long term, CforAT agrees with various parties who assert that

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<sup>9</sup> D.22-08-001, issued August 9, 2022, at p. 20; D.22-11-022, issued November 17, 2022, at pp. 48-51.

statutory changes allowing information-sharing among government agencies would be the most effective way to oversee tier allocation.<sup>10</sup> Prior to adoption of any such changes by the legislature, the Commission will need to consider reasonable interim solutions for assessing household income. These interim solutions will likely be necessary if the long-term method of gathering customer income data, as some parties propose, requires statutory changes to allow government agencies to share the data they have on utility customers' income.

In the short term, the Commission should make it as simple as possible to recognize customers who belong in the lowest tier. However else tier level splits are designed, CforAT supports assigning all customers currently enrolled in CARE or FERA to the lowest tier as an initial allocation. Additionally, during the initial allocation phase, CforAT agrees with other parties that the differential between any default tier and any low-income tier that does not depend on CARE or FERA enrollment should be small, especially if, as discussed below, the process for appealing an incorrect initial allocation might take several billing cycles to achieve resolution. While it may be appropriate to increase the differential between these tiers over time, it is critical to protect low-income customers not enrolled in CARE or FERA from the financial harm of an incorrect initial tier allocation.

While CforAT supports ease of allocation into the lowest tier generally, we agree with other parties that the Commission should remain mindful of the requirements of the federal Fair Credit Reporting Act which makes it easier to review customer information in order to provide them with a benefit than for any other reason.<sup>11</sup> The Commission will have to evaluate how to balance efforts to ensure low-income customers are not inappropriately assigned to a higher tier

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<sup>10</sup> See e.g. Public Advocates Office Prepared Testimony on Rulemaking to Advance Demand Flexibility Through Electric Rates – Income Verification Implementation (Cal Advocates Testimony – Income Verification), filed on April 7, 2023, at pp. 7-8; Joint IOU Exhibit 1 at p. 77.

<sup>11</sup> See Cal Advocates Testimony – Income Verification at p. 2-6.



with the effort to avoid increased burdens on customers whose allocation will be subject to review.

Finally, to best protect customer privacy, CforAT supports an approach to income reporting like the one described in Cal Advocates' testimony, where specific customer income information is not provided to utilities, and instead a third party would report only a customer's tier assignment to their IOU.<sup>12</sup>

***b. Status Changes and Appeals***

The Commission should anticipate that changes in a household's tier allocation status will regularly be needed for a variety of reasons, and all stakeholders should carefully maintain the distinctions between different situations leading to a change. First, every residential customer will be allocated to a fixed charge tier through whatever mechanism is adopted with the implementation of the IGFC. Most proposals also include regular reviews of tier allocations for all customers. If a customer believes the initial allocation or a subsequent reallocation is incorrect, the customer must have the ability to appeal the decision, with a process that is easy to activate and that is subject to consideration promptly in a manner that is transparent. This process must be available every time a customer is subject to having their tier allocation revisited by their utility (or a third party acting on behalf of the utility).

Separately, a customer must be able to seek a change in their tier allocation at any time when their household income changes. This can be based on changed employment circumstances, changed household membership, or other activity which would result in a different tier allocation. This type of reallocation would not be an "appeal" of a prior determination, but rather a request for recognition of changed circumstances. A customer must

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<sup>12</sup> Cal Advocates Testimony – Income Verification at p. 2-11.

be able to make such a request at any time and receive prompt and transparent review.

Customers must also be aware that this process exists, and it must be easy to access.

The IOUs propose that customers who seek allocation to a lower tier be subject to the higher tier payment while review is pending, with no opportunity for refund even if the lower tier level is determined to be appropriate.<sup>13</sup> The IOUs do not distinguish between an appeal and a status change in the manner recommended by CforAT,<sup>14</sup> but appear to expect the customer to pay the higher charge while any form of review is underway. The IOUs base this request on their own convenience, claiming that it would be difficult to reduce the charge or refund the higher amount after a review is complete.<sup>15</sup> CforAT strongly opposes any determination that the convenience of the IOUs is a more important factor than applying the appropriate charge to customers based on their demonstrated household circumstances.

## **2. Outreach and Education**

Substantial and effective customer education and outreach will be a crucial component of any effort to implement an income-differentiated fixed charge. CforAT has historically argued against the adoption of fixed charges because fixed charges are widely unpopular with customers and there is not a clear plan for educating customers about the value of fixed charges

The current effort to move toward adoption of an income-differentiated fixed charge not only shares the general challenge based on customer distaste for bill elements that they feel they cannot control, but also likely faces the compounding challenge of asking customers to share income information with their utilities, entities that are not generally liked or trusted by their customers.

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<sup>13</sup> Joint IOUs Exhibit 1 at p. 86.

<sup>14</sup> See Joint IOUs Exhibit 1 at pp. 86-88.

<sup>15</sup> Joint IOUs Exhibit 1 at p. 88.

While CforAT understands and supports the policy goal of using an income-based fixed charge as a more progressive mechanism for collecting revenue from residential customers while supporting expanded electrification, this set of policy goals is not easy to explain and not likely to be accepted easily. To avoid predictable backlash against the adoption of an IGFC (which has already begun), efforts by the Commission must incorporate much greater focus on education than is provided currently in virtually any of the pending proposals.

In the past, including with the transition to TOU rates for most residential customers, the Commission approved general concepts for customer outreach and assumed that plans would be developed reasonably as implementation took place.<sup>16</sup> This assumption was problematic during the TOU transition, as substantial effort and resources were wasted with ineffective marketing and outreach efforts. The Commission and stakeholders must do better here.

Efforts to educate customers must not be limited to setting a marketing budget that is then spent on trendy forms of outreach such as work with social media “influencers.” Instead, the Commission and stakeholders must be prepared to conduct in-depth work in advance of any adoption of an IDFR to inform customers about the new charge and how it will impact them. This work must include outreach to hard-to-reach communities that is not strictly dependent on voluntary efforts by CBOs. Community outreach to disadvantaged communities, ESJ communities, and other vulnerable customer groups must be a key element that is part of an outreach and education plan and budget. Similarly, plans must be established in advance to counter messaging by opponents of an IGFR, including the solar industry. It can be readily anticipated that opponents will actively campaign against a new charge, and plans must be

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<sup>16</sup> See generally the series of decisions issued in R.12-06-013 (the Residential Rate Reform OIR instituting TOU Rates for most residential customers).

established in advance to develop support for the legislative determination that this is how policymakers should proceed.

### **3. Process Administration**

Multiple parties recommend engaging a third party to administer the tier allocation process.<sup>17</sup> CforAT agrees that customers are likely to be suspicious of efforts to require them to provide income information to their IOU and that they be more receptive to the adoption of an income-differentiated fixed charge if other entities are charged with program administration. At the same time, use of a third-party entity is not a panacea. CforAT has spent a number of years engaged with the third-party administrative process overseeing enrollment in the California LifeLine program. LifeLine is a telecommunications program that serves a substantially smaller population than the entire residential customer class of the major energy IOUs, and the population served is made up of low-income customers who voluntarily provide information about their income in order to establish eligibility for the program benefits. Even in this context, however, it is challenging to obtain information reliably and to effectively oversee administration of the work of the third-party administrator. Stakeholders must be prepared for challenges in implementing any process to establish tier allocations for all residential customers; while the specific challenges may not be easy to anticipate, stakeholders and policymakers should prepare in advance to have a rapid process ready to be taken up in order to respond to issues that emerge.

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<sup>17</sup> Cal Advocates Testimony – Income Verification at pp. 2-7 -2-14; Joint IOUs Exhibit 1 at p. 76; Opening Testimony of Mohit Chhabra and Sylvie Ashford, Sponsored by the Natural Resources Defense Council and The Utility Reform Network Addressing Options for an Income-Graduated Fixed Charge at pp. 34-38.

#### **IV. CONCLUSION**

This rebuttal testimony only addresses a small set of issues raised by the complex effort to introduce an IGFC as part of residential rates for the customers of California's major IOUs. CforAT appreciates the opportunity to draw attention to these issues that are of particular concern to our constituency, and to work broadly with stakeholders to effectuate the requirements of AB 205.

#### **V. WITNESS QUALIFICATIONS**

Melissa W. Kasnitz is the Legal Director for the Center for Accessible Technology, and she has been involved in issues of rate design and affordability before the California Public Utilities Commission since 2004, first through her work with Disability Rights Advocates and then through her work with CforAT. Ms. Kasnitz joined CforAT in 2011.

Ms. Kasnitz has advocated extensively on behalf of people with disabilities and other vulnerable populations in litigation, before the Commission, and in other forums. Ms. Kasnitz has previously provided testimony before the California Public Utilities Commission on multiple occasions, including with regard to rate design and the needs of vulnerable customers including those with medical needs that drive electricity usage.

Ms. Kasnitz has a B.A. in Humanities from Yale University, awarded in 1989, and a J.D. from the Boalt Hall School of Law at U.C. Berkeley (now Berkeley Law), awarded in 1992.

Respectfully submitted,  
June 2, 2023

/s/ Melissa W. Kasnitz  
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R2008021

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking  
Regarding Revisions to the California  
Advanced Services Fund.

Rulemaking 20-08-021

**ASSIGNED COMMISSIONER’S RULING INVITING  
COMMENTS ON PROPOSED MODIFICATIONS TO  
BROADBAND PUBLIC HOUSING ACCOUNT PROGRAM**

This ruling invites party comments on proposed modifications to the California Advanced Services Fund (CASF) Broadband Public Housing Account (hereafter Public Housing Account) program rules to (1) establish eligibility of non-publicly supported housing developments, and associated program rules and provisions, and (2) expand project eligibility and the scope of costs eligible for reimbursement to facilitate deployment of broadband networks in low-income communities that lack access to free broadband service that meets state standards. The California Public Utilities Commission’s (Commission) Communications Division staff recommends specific modifications to the Public Housing Account program rules and guidelines to effect these changes, as detailed in the staff proposal included with this ruling as Attachment 1. Parties may file comments responsive to Attachment 1 and the following questions no later than May 19, 2023, and reply comments no later than May 29, 2023.

Proposed modifications to Public Housing Account rules and guidelines:

The staff proposal (Attachment 1) proposes specific modifications to the current rules and guidelines.

1. The last two rounds of Public Housing Account grant applications have shown an increase in projects that request more than is allowable under the criteria for total dollar amounts and In-Unit caps for Ministerial Review.
  - a. Should the Ministerial Review cap be increased from \$150,000 per project to \$200,000? Is there justification for a higher cap for applications processed via Ministerial Review?
  - b. Should the In-Unit Cap for Ministerial Review projects be increased as follows? If so, why?
    - For projects connecting 50 units or less, the proposed project costs \$1,600 per unit or less.
    - For projects connecting 51-100 units, the proposed project costs \$1,200 per unit or less.
    - For projects connecting 101 units or more, the proposed project costs \$800 per unit or less.

General program management questions:

2. Public Housing Account Infrastructure project grants provide funds for the costs to install inside wiring and broadband network equipment, where the networking equipment is hardware and software, wireless access points, wireless bridges, modems, switches, routers, and firewalls for network security. What requirements, if any, should the Commission place on Public Housing Account Infrastructure project grants to ensure that the results of these expenditures of public funds provide public benefits for the life of the infrastructure?
3. How can the Commission receive and approve projects in a manner that reflects the statewide distribution of low-income communities, as required by Public Utilities Code section 281(i)(4)?
4. Should the Commission develop criteria for prioritization of Public Housing Account Infrastructure projects in low-income communities, in the event that requested funds



- exceed available funding? If so, what criteria should be applied?
5. What additional requirements, mechanisms or criteria, if any, should the Commission develop to ensure compliance with Public Housing Account grants and program rules?
  6. Past Public Housing Account applicants have been unable to obtain affordable interconnection access (e.g., Resolution T-17639).
    - a. Should the Public Housing Account cover construction of interconnection routes for all applicants that are unable to secure affordable interconnection access?
    - b. If the Commission makes this an eligible cost, should the Commission subject these facilities to open access requirements?
  7. The Broadband Infrastructure Grant Account will reimburse “Costs to lease access to property or for Internet backhaul services for a period not to exceed five years.”
    - a. Should the Commission consider extending this provision to all Public Housing Account projects?
    - b. Will this improve the viability and quality of service of Public Housing Account projects?
    - c. If the program covers these costs, would it be reasonable to increase service level requirements?
  8. Are the rental protections proposed for this program reasonable? Should any changes be made?

Proposed new Public Housing Account Internet Extension project rules and guidelines: The staff proposal contains an appendix (Appendix A) that proposes rules and guidelines for Internet Extension projects. As further detailed in the staff proposal, “Internet Extension” projects offset the costs for low-income communities to build new networks to provide free service to low-income communities that go beyond the traditional “inside wiring” (e.g., Ethernet and Wi-Fi mesh networks) that the program has funded to date. This would enable

funding of projects proposing outside plant expansions (e.g., fiber-optic and coaxial cable, and wireless) that are necessary to connect new types of low-income communities than what this program has funded in the past (including farmworker housing, mobile home parks, and low-income communities). These Internet Extension projects are designed to offer no-cost Internet access for low-income communities with low broadband adoption rates. The intent of these proposed rules and guidelines is to enable the broader use of Public Housing Account funds for broadband Internet connection by eligible communities.

9. Should the Commission adopt the proposed “Internet Extension” grant, which would allow for deployment of local public WiFi networks in low-income communities (among other project types)? If not, why not?
10. Should any reasonable network management practices be put in place for “Internet Extension” grant projects to ensure adequate service quality for the residents of low-income communities (e.g., password protection, verification, etc.)?
11. Does using the Public Housing Account to fund public Wifi networks meet the intent of the program?
12. Should the Commission cap the funds for Internet Extension projects to no more than 30 percent of total Public Housing Account annual budget funds?
13. Are there low-income communities that should be eligible for the “Internet Extension” grant, in addition to those identified in the staff proposal?
14. Should any revisions be made to the reimbursable costs identified in the staff proposal?

15. What requirements should the Commission impose for Tribal applicants to comply with Pub. Util. Code section 281 (i)(3) requirements to serve a “low-income community”?

**IT IS SO RULED.**

Dated April 27, 2023, at Sacramento, California.

/s/ DARCIE L. HOUCK

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Darcie L. Houck

Assigned Commissioner

California Advanced Services Fund  
Broadband Public Housing Account  
Staff Proposal

As of April 17, 2023

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## **I. Purpose**

The purpose of this Staff Proposal is to address the Commission’s directive in Decision (D.) 22-05-029 to establish California Advanced Services Fund (CASF) Broadband Public Housing Account (BPHA) eligibility, verification of eligibility, and protections of tenants of non-publicly supported housing developments, as specified in Section 3.1 of D.22-05-029, including “other housing developments and mobile home parks with low-income residents.”<sup>1</sup> This proposal further recommends that the Commission expand project eligibility and the scope of costs eligible for reimbursement from the BPHA, to allow funding for the deployment of broadband networks in low-income communities that lack access to free broadband service that meets state standards.

## **II. Background**

On July 20, 2021, Governor Newsom signed Senate Bill (SB) 156 into law, amending Public Utilities Code section 281<sup>2</sup> relating to communications, the CASF program, and the BPHA program. SB 156 changed the BPHA program by expanding eligibility beyond publicly supported housing communities “to a low-income community that otherwise meets eligibility requirements and complies with program requirements established by the commission,” further noting that a low-income community may be an eligible applicant if the low-income community does not have access to any broadband service provider.

The Commission issued a proposed decision to implement SB 156 and allowed the public to comment. During the comment period, the Commission received several suggestions that Staff research other public purpose programs to find the broadest definitions of low-income possible for the BPHA program. In D.22-05-029, the Commission expanded program eligibility to include farmworker housing, but declined to adopt eligibility requirements for “low-income community” or “other housing developments and mobile home parks with low-income residents,”<sup>3</sup> instead directing

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<sup>1</sup> D.22-05-029, Ordering Paragraph 1, p. 70 and p. 10.

<sup>2</sup> Sections 6547.7 and 53167 of, to add Section 26231 to, and to add Chapter 5.8 (commencing with Section 11549.50) to Part 1 of Division 3 of Title 2 of, the Government Code, to add Section 21080.51 to the Public Resources Code, and to amend Sections 281, 912.2, and 914.7 of, and to add Section 281.2 to, the Public Utilities Code, relating to communications, and making an appropriation therefore, to take effect immediately, bill related to the budget.

<sup>3</sup> D. 22-05-029, p. 10.

Staff to research and propose eligibility and verification requirements and tenant protections for these categories of non-publicly supported housing developments. BPHA Guidelines currently limit reimbursable expenses under the program to “the costs to install inside wiring and broadband network equipment,” excluding operations and maintenance expenses.<sup>4</sup> These projects improve connections within multi-unit dwellings. However, revisions to Public Utilities Code section 281 enacted in 2021 direct the Commission to make funds available for broadened program eligibility beyond individual publicly supported housing units, “to finance projects to connect broadband networks that offer free broadband service that meets or exceeds state standards, as determined by the commission, for residents of the low-income communities.”<sup>5</sup>

The following represents Staff’s proposal based on research of other public assistance program criteria serving low-income participants detailed below for the development of the proposal of BPHA program rules for low-income communities, including other housing developments and mobile home parks with low-income residents. Staff further recommends rules for the expansion of project eligibility and scope of costs eligible for reimbursement under the BPHA to allow funding for broadband network deployment projects in low-income communities that lack access to free broadband service.

### III. Definitions

A. “Low-income” for the purposes of the program, means:

- a. A household income at or below 250% of the federal poverty guidelines for the 48 Contiguous States and the District of Columbia (250% Federal Poverty Guidelines (FPG))<sup>6</sup>
- b. A household income at or below 80% of the statewide median income or with household incomes at or below the county-specific threshold designated as “low-income” by the Department of Housing and Community Development’s list of state income limits adopted pursuant to Section 50093, or
- c. A household, with at least one (1) person in the household currently enrolled in one or more of the following acceptable public assistance programs:

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<sup>4</sup> D.22-05-029, Appendix 1 at 1.

<sup>5</sup> Cal. Pub. Util. Code section (I)(3).

<sup>6</sup> <https://www.federalregister.gov/documents/2023/01/19/2023-00885/annual-update-of-the-hhs-poverty-guidelines>

- California Alternate Rates for Energy (CARE<sup>7</sup>)
- CalFresh / Supplemental Nutrition Assistance Program (SNAP)
- California Work Opportunity and Responsibility to Kids (CALWORKS) / Temporary Assistance for Needy Families (TANF<sup>8,9</sup>)
- Low Income Home Energy Assistance Program (LIHEAP<sup>10</sup>)
- Medi-Cal<sup>11</sup>
- Supplemental Security Income (SSI<sup>12,13</sup>)
- Special Supplemental Nutrition Program for Women, Infants, and Children (WIC<sup>14</sup>)

B. “Low-income community” is a

- a. A publicly supported housing development
- b. Farmworker housing
- c. Other housing development
- d. Mobilehome park
- e. One or more Census block group(s), each with a median household income at or below 80 percent of the statewide median income or with median household incomes at or below the county-specific threshold designated as “low-income” by the Department of Housing and Community Development’s list of state income limits adopted pursuant to Section 50093.<sup>15</sup>

C. “Other Housing Development” is (a) any multi-dwelling unit development in which all units are owned by the same entity(ies) and that has 80% or greater residential units that are “low-income;” (b) tribal housing, including developments funded with Housing and Urban Development (HUD) funding or through a [Tribally Designated Housing Entity](#) (TDHE)

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<sup>7</sup> <https://www.cpuc.ca.gov/industries-and-topics/electrical-energy/electric-costs/care-fera-program>

<sup>8</sup> Page 488.2, <https://www.cdss.ca.gov/Portals/9/Regs/12EASa.pdf?ver=2022-03-08-145520-500>

<sup>9</sup> [https://hhsaprogramguides.sandiegocounty.gov/CalWORKS/45-200/Resources\\_and\\_Desk\\_Aids/CalWORKs\\_Assistance\\_Standards\\_Chart.pdf#:~:text=Minimum%20Basic%20Standard%20of%20Adequate%20Care%20%28MBSAC%29%20and,income%20last%20used%20in%20the%20CalWORKs%20benefit%20determination](https://hhsaprogramguides.sandiegocounty.gov/CalWORKS/45-200/Resources_and_Desk_Aids/CalWORKs_Assistance_Standards_Chart.pdf#:~:text=Minimum%20Basic%20Standard%20of%20Adequate%20Care%20%28MBSAC%29%20and,income%20last%20used%20in%20the%20CalWORKs%20benefit%20determination)

<sup>10</sup> <https://www.csd.ca.gov/Pages/LIHEAP-Income-Eligibility.aspx>

<sup>11</sup> <https://www.dhcs.ca.gov/services/medi-cal/Pages/DoYouQualifyForMedi-Cal.aspx>

<sup>12</sup> <https://www.ssa.gov/ssi/text-eligibility-ussi.htm>

<sup>13</sup> <https://www.ssa.gov/pubs/EN-05-10003.pdf>

<sup>14</sup> <https://www.cdph.ca.gov/Programs/CFH/DWICSN/CDPH%20Document%20Library/LocalAgencies/WPPM/980-1060WICIncomeGuidelinesTable.pdf>

<sup>15</sup> Environmental & Social Justice Action Plan, p. 74 <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/news-and-outreach/documents/news-office/key-issues/esj/esj-action-plan-v2jw.pdf>



D. "Mobilehome" means any of the following from the California Health & Safety Code:

(a) a "mobilehome"<sup>16</sup> as defined in Section 18008 means a structure that was constructed prior to June 15, 1976, is transportable in one or more sections, is eight body feet or more in width, or 40 body feet or more in length, in the traveling mode, or, when erected onsite, is 320 or more square feet, is built on a permanent chassis and designed to be used as a single-family dwelling with or without a foundation system when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. "Manufactured home" shall meet all of the requirements of California Health & Safety Code 18007.

(b) a "manufactured home"<sup>17</sup> as defined in Section 18007 means a structure that was constructed on or after June 15, 1976, is transportable in one or more sections, is eight body feet or more in width, or 40 body feet or more in length, in the traveling mode, or, when erected on site, is 320 or more square feet, is built on a permanent chassis and designed to be used as a single-family dwelling with or without a foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein.

(c) a "recreational vehicle"<sup>18</sup> as defined in Section 18010 means both of the following:

i) A motor home, travel trailer, truck camper, or camping trailer, with or without motive power, designed for human habitation for recreational, emergency, or other occupancy, that meets all of the following criteria:

- 1) It contains less than 320 square feet of internal living room area, excluding built-in equipment, including, but not limited to, wardrobe, closets, cabinets, kitchen units or fixtures, and bath or toilet rooms.
- 2) It contains 400 square feet or less of gross area measured at maximum horizontal projections.
- 3) It is built on a single chassis.

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<sup>16</sup> [https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=18008.&lawCode=HSC](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=18008.&lawCode=HSC)

<sup>17</sup> [https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=18007.&lawCode=HSC](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=18007.&lawCode=HSC)

<sup>18</sup> [https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=18010.&lawCode=HSC](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=18010.&lawCode=HSC)

- 4) It is either self-propelled, truck-mounted, or permanently towable on the highways without a permit.
- ii) A park trailer, as defined in Section 18009.3.

(d) “factory-built housing”<sup>19</sup> as defined in Section 19971 means a residential building, dwelling unit, or an individual dwelling room or combination of rooms thereof, or building component, assembly, or system manufactured in such a manner that all concealed parts or processes of manufacture cannot be inspected before installation at the building site without disassembly, damage, or destruction of the part, including units designed for use as part of an institution for resident or patient care, that is either wholly manufactured or is in substantial part manufactured at an offsite location to be wholly or partially assembled onsite in accordance with building standards published in the California Building Standards Code and other regulations adopted by the commission pursuant to Section 19990. Factory-built housing does not include a mobilehome, as defined in Section 18008, a recreational vehicle, as defined in Section 18010.5, or a commercial modular, as defined in Section 18012.5.

- E. “Mobilehome park”<sup>20</sup> is any area or tract of land where two or more lots are rented or leased, held out for rent or lease, or were formerly held out for rent or lease and later converted to a subdivision, cooperative, condominium, or other form of resident ownership, to accommodate manufactured homes, mobilehomes, or recreational vehicles used for human habitation, as defined in Section 18214 of the CA Health and Safety Code. The rental paid for a manufactured home, a mobilehome, or a recreational vehicle shall be deemed to include rental for the lot it occupies. This subdivision shall not be construed to authorize the rental of a mobilehome park space for the accommodation of a recreational vehicle in violation of Section 798.22 of the Civil Code. “Mobilehome park” shall meet all of the requirements of California Health & Safety Code 18214.

For the purposes of BPHA eligibility, a mobilehome park must have 80% or greater rented or leased lots occupied by households that are “low-income.”

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<sup>19</sup> [https://leginfo.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=19971.&lawCode=HSC](https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=19971.&lawCode=HSC)

<sup>20</sup> [https://leginfo.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=18214.&lawCode=HSC](https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=18214.&lawCode=HSC)

- F. Tribally Designated Housing Entity or “TDHE” means a Housing Authority that is authorized to engage or assist in the development or operation of low-income housing on behalf of a Tribe.

#### IV. Staff Research and Findings

##### 1. Public Assistance Program Comparisons

Staff researched the following public assistance programs with established definitions and eligibility criteria that support low-income residents. Staff’s research found that the public assistance programs listed below have varied eligibility requirements. By using these programs’ current enrollment requirements as sufficient evidence of eligibility, the BPHA program’s eligibility would expand to include not only the most impoverished Californians, but also other low-income Californians. In addition, the use of enrollment in these programs as sufficient evidence of eligibility for the BPHA program would ensure that the program’s broadband goals are met in the most expeditious manner. The information collected was used to propose additional BPHA program eligibility criteria in order to serve additional low-income California residents enrolled in these public assistance programs.

The following provides a comparison of eligibility requirements for a number of low-income programs; these include programs the Commission oversees as well as programs overseen or administered by other state and federal agencies. Most of these programs have been adopted as part of the eligibility criteria recommended in Section III.

- a. Affordable Connectivity Program (ACP)

- Purpose:

- The Affordable Connectivity Program (ACP) is a program administered by the Federal Communications Commission (FCC). The primary purpose of the program is a broadband internet utility bill reduction through a discount for low-income residents.

- Eligibility:<sup>21</sup>

- A household is eligible if the household income is at or below 200% of the Federal Poverty Guidelines with self-certification. In addition, low-income residents are categorically eligible through a verification of enrollment in qualified public assistance programs. Categorically eligible programs are:

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<sup>21</sup> Affordable Connectivity Program Eligibility Requirements available at <https://www.affordableconnectivity.gov/how-to-apply/show-you-qualify/>

- The National School Lunch Program or the School Breakfast Program, including through the USDA Community Eligibility Provision
- SNAP
- Medicaid
- Federal Public Housing Assistance
- SSI
- WIC
- Veterans Pension or Survivor Benefits
- Lifeline
- Bureau of Indian Affairs General Assistance (must live on qualifying Tribal lands)
- Tribal TANF (must live on qualifying Tribal lands)
- Food distribution program on Indian Reservation (must live on qualifying Tribal lands)
- Tribal Head Start (income based – must live on qualifying Tribal lands)
- Received a Federal Pell Grant during the current award year
- Meets the eligibility criteria for a participating (internet) provider's existing low-income internet program

Verification of Eligibility:

Proof of income with supporting documentation is required for each adult in the household for income-based eligibility. A recent award letter or letter of participation in the program is generally accepted as verification of categorical eligibility.

b. California Alternate Rates for Energy (CARE)

Purpose:

CARE is a program overseen by the Commission and administered by regulated investor-owned utilities. The primary purpose of the program is utility bill reduction through a discount for low-income residents.

Eligibility:

Households with household income of up to 200% of the Federal Poverty Guidelines can apply with self-certification. In addition, low-income residents are categorically eligible through a verification of enrollment in qualified public assistance programs. Categorically eligible programs are:

- Low Income Home Energy Assistance Program (LIHEAP)
- Women, Infants, and Children (WIC)

- CalFresh /SNAP (Food Stamps)
- CalWORKs / TANF) or Tribal TANF
- Bureau of Indian Affairs General Assistance
- Head Start Income Eligible (Tribal Only)
- Supplemental Security Income (SSI)
- Medicaid/Medi-Cal, and for Families (Healthy Families A & B)
- National School Lunch Program (NSLP)

Verification of Eligibility:

Attestation is required for income-based eligibility. A recent award letter or letter of participation in the program is also accepted as verification of categorical eligibility.

Southern California Edison (CARE)<sup>22</sup>:

Pacific Gas and Electric (CARE)<sup>23</sup>:

San Diego Gas and Electric (CARE)<sup>24</sup>:

c. CalWORKs/TANF

Purpose:

CalWORKs administered by the California Department of Social Services is a 60-month (5-year) time limited cash aid and services program for needy families with (or expecting) children. CalWORKs can help pay for housing, food, utilities, clothing, medical care and other needed expenses.

Eligibility<sup>25</sup>:

A household is eligible if among other requirements, the household income is below eligible Minimum Basic Standards of Adequate Care limit that is region based, divided between urban and less urban counties.

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<sup>22</sup> Southern California Edison verification Requirements available at [https://www.sce.com/sites/default/files/inline-files/5193\\_SCE\\_ApprovedDocListVerification\\_20161013\\_AA.pdf](https://www.sce.com/sites/default/files/inline-files/5193_SCE_ApprovedDocListVerification_20161013_AA.pdf)

<sup>23</sup> Pacific Gas and Electric verification Requirements available at [https://www.pge.com/pge\\_global/common/pdfs/save-energy-money/help-paying-your-bill/EN\\_income\\_guide.pdf](https://www.pge.com/pge_global/common/pdfs/save-energy-money/help-paying-your-bill/EN_income_guide.pdf)

<sup>24</sup> San Diego Gas and Electric verification Requirements available at: [https://www.sdge.com/sites/default/files/documents/2022-23%20CARE%20Verification%20Letter-English\\_website%20version.pdf?nid=22376](https://www.sdge.com/sites/default/files/documents/2022-23%20CARE%20Verification%20Letter-English_website%20version.pdf?nid=22376)

<sup>25</sup> TANF eligibility is available at: <https://www.cdss.ca.gov/Portals/9/Additional-Resources/Letters-and-Notices/ACLs/2022/22-39.pdf?ver=2022-05-27-145226-430>

Verification of Eligibility<sup>26</sup>:

Proof of identity, household income and expenses, medical condition and expenses, citizenship status, fingerprinting/photo imaging, employment history, criminal history, drug use, and in-person interview are among other verification of eligibility requirements for the program. An application must be submitted.

d. CalFresh/SNAP

Purpose:

CalFresh, administered by the California Department of Social Services, is a program that aims to promote and safeguard the health and well-being of low-income households by increasing their food purchasing power and raising their levels of nutrition.

Eligibility<sup>27</sup>:

A household is eligible if among other requirements, the household income is at or below an eligible gross income determination test (200% of Federal Poverty Level (FPL)) and at or below a net income determination test (100% of FPL).

Verification of Eligibility<sup>28</sup>:

Proof of identity, household income and expenses, medical expenses, citizenship status, employment status, criminal history, drug use, and in-person interview are among other verification of eligibility requirements for the program. An application must be submitted.

e. Low Income Home Energy Assistance Program (LIHEAP)

Purpose:

Low Income Home Energy Assistance Program (LIHEAP) is a federally funded program by Department of Health and Human Services that provides assistance to eligible low-income households to manage and meet their immediate home heating and/or cooling needs. This includes financial assistance to offset heating and cooling costs for low-income households, assistance to low-income households in a crisis situation such as utility disconnection or a life-threatening

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<sup>26</sup> TANF verification of eligibility is available at: <https://www.cdss.ca.gov/Portals/9/Additional-Resources/Forms-and-Brochures/2020/Q-T/SAWS2PLUS.pdf?ver=2021-09-21-124001-040>

<sup>27</sup> CalFresh/SNAP eligibility is available at: <https://www.cdss.ca.gov/inforesources/cdss-programs/calfresh/eligibility-and-issuance-requirements>

<sup>28</sup> CalFresh/SNAP verification of eligibility is available at: <https://www.cdss.ca.gov/Portals/9/Additional-Resources/Forms-and-Brochures/2020/A-D/CF285.pdf?ver=2021-06-21-154827-343>

energy related crisis, and weatherization services that help to reduce heating/cooling costs and improve household energy efficiency, while improving the health and safety of occupants.

Eligibility<sup>29</sup>:

The LIHEAP statute {(Section 2605(b)(2)(B) or Assurance 2} states that to be eligible, a household must have an income that does not exceed the greater of 150 percent of the federal poverty guideline (FPG) or 60 percent of the state median income (SMI) level. California uses 60% of State Median Income (SMI) level, as published by California Department of Community Services and Development for LIHEAP eligibility.

Verification of Eligibility<sup>30</sup>:

The program requires documentation of income verification. An application must be submitted to the local LIHEAP administrator.

f. Medi-Cal

Purpose:

Medi-Cal is California's Medicaid program administered by the Centers for Medicare and Medicaid Services (CMS) and the California Department of Health Care Services (DHCS). Medi-Cal is a public health insurance program which provides needed health care services for low-income individuals including families with children, seniors, persons with disabilities, foster care, pregnant women, and low-income people with specific diseases such as tuberculosis, breast cancer, or HIV/AIDS. Medi-Cal is financed equally by the state and federal government.

Eligibility<sup>31</sup>:

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<sup>29</sup> LIHEAP eligibility is available at: CalFresh/SNAP verification of eligibility is available at:

<https://www.cdss.ca.gov/Portals/9/Additional-Resources/Forms-and-Brochures/2020/A-D/CF285.pdf?ver=2021-06-21-154827-343> and [https://liheapch.acf.hhs.gov/delivery/income\\_eligibility.htm#:~:text=The%20LIHEAP%20statute%20%7B%20%28Section%202605%20%28b%29%20%282%29,percent%20of%20the%20state%20median%20income%20%28SMI%29%20level.](https://liheapch.acf.hhs.gov/delivery/income_eligibility.htm#:~:text=The%20LIHEAP%20statute%20%7B%20%28Section%202605%20%28b%29%20%282%29,percent%20of%20the%20state%20median%20income%20%28SMI%29%20level.)

<sup>30</sup> LIHEAP verification of eligibility is available at: <https://www.csd.ca.gov/Pages/Assistance-PayingMyEnergyBills.aspx> and

<https://www.communityresourceproject.org/Portals/0/assets/docs/HEAP%20Application%202022%20Rev%201-12-2022%20Printable.pdf?ver=cROMDhcPi9XaDa56tuHn2w%3d%3d>

<sup>31</sup> Medi-Cal eligibility is available at: <https://www.dhcs.ca.gov/services/medi-cal/Pages/DoYouQualifyForMedi-Cal.aspx>

A household is eligible if among other requirements, the household income is at or below 138% of Federal Poverty Level. In addition, individuals who are 65 or older, blind, disabled, under 21, pregnant, in a skilled nursing or intermediate care home, on refugee status for a limited time (depending how long you have been in the United States), a parent or caretaker relative of an age eligible child, have been screened for breast and/or cervical cancer (Breast and Cervical Cancer Treatment Program) are eligible along with those that are currently enrolled in CalFresh, Supplemental Security Income/State Supplementary Payment (SSI/SSP), CalWorks, Refugee Assistance, or Foster Care or Adoption Assistance Program.

Verification of Eligibility<sup>32</sup>:

Upon submittal of the application in person, by mail, by phone, or online, the local county's social services office may contact by mail or by phone to request additional verification if income, citizenship, and other criteria cannot be verified electronically.

g. Mobilehome Park Rehabilitation and Resident Ownership Program (MPRROP)

Purpose:

MPRROP as administered by California Department of Housing and Community Development (HCD), provides simple interest deferred loans, and in some cases grants, to help pay for conversion costs of mobilehome parks to resident ownership by resident organizations, qualified nonprofit housing sponsors, or short-term acquisition by local public entities for eventual conversion to resident ownership, the purchase of a share or space in a converted park or rehabilitation costs for a park's infrastructure and/or rehabilitation of resident owners' individual units and/or development of a new park if previous park destroyed by a natural disaster.

Eligibility<sup>33</sup>:

Resident organizations, qualified nonprofit housing sponsors, or local public entities are eligible, but individuals/residents are ineligible. Once the funds are awarded, qualified low-income individuals/residents may apply directly to an MPRROP program recipient. At the time of funding, the park to be acquired

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<sup>32</sup> Medi-Cal verification of eligibility is available at: <https://www.dhcs.ca.gov/individuals/Pages/Steps-to-Medi-Cal.aspx>

<sup>33</sup> Mobilehome Park Rehabilitation and Resident Ownership Program (MPRROP) eligibility is available at: [https://www.hcd.ca.gov/grants-funding/active-funding/mprrop/docs/regulations\\_oct\\_2015.pdf](https://www.hcd.ca.gov/grants-funding/active-funding/mprrop/docs/regulations_oct_2015.pdf)



must have at least 30% low-income residents, a person or household who is a resident of the mobilehome park and who is a “lower-income household” as defined in Section 50079.5 of the California Health and Safety Code and HCD program regulations. “Lower income households” means persons and families whose income does not exceed the qualifying limits for lower income families as established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937, which includes very low income households, as defined in Section 50105, and extremely low income households, as defined in Section 50106, whose annual income does not exceed 80 percent of the median income for the area, as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 80 percent of the median income for the area on the basis of HUD's findings that such variations are necessary because of unusually high or low family incomes.

Verification of Eligibility<sup>34</sup>:

HCD issues a Request for Proposals and evaluates proposals for compliance with program guidelines through a scoring process and awards one or more contracts to the entity or entities submitting the highest scoring responsive proposals to be the MPRROP recipient. For low-income resident verification, income documentation must be provided for the resident’s income level and the resident’s low-income status.

h. Supplemental Security Income (SSI)

Purpose:

Supplemental Security Income (SSI) is a federal program administered by the Social Security Administration that provides monthly payments to people who have limited income and few resources. SSI is for people who are 65 or older, as well as for those of any age, including children, who are blind or have disabilities.

Eligibility<sup>35</sup>:

For 2022, an individual beneficiary cannot earn more than \$1,767 per month in wages or have more than \$2,000 in assets. For a couple, they cannot earn more

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<sup>34</sup> MPRROP verification of eligibility is available at: [https://www.hcd.ca.gov/grants-funding/active-funding/mprprop/docs/mprprop\\_technical\\_assistance\\_guidelines\\_draft\\_2018.pdf](https://www.hcd.ca.gov/grants-funding/active-funding/mprprop/docs/mprprop_technical_assistance_guidelines_draft_2018.pdf) and [https://www.hcd.ca.gov/grants-funding/active-funding/mprprop/docs/mprprop\\_2020\\_faq.pdf](https://www.hcd.ca.gov/grants-funding/active-funding/mprprop/docs/mprprop_2020_faq.pdf)

<sup>35</sup> Supplemental Security Income (SSI) eligibility is available at: <https://www.ssa.gov/ssi/text-eligibility-ussi.htm> and <https://www.ssa.gov/pubs/EN-05-10003.pdf>

than \$2,607 per month in wages or have more than \$3,000 in assets. SSI benefits are for someone who does not have income, has not paid into the system (which differentiates SSI from Social Security benefits), and who needs help.

The program eligibility is income and asset-based, and as such, there is both an income and asset limit that beneficiaries cannot breach to get or retain their SSI benefits.

Verification of Eligibility<sup>36</sup>:

The program requires documentation of social security information, proof of age, citizenship status, proof of income, proof of resources, proof of living arrangements, medical resources (as a blind or disabled applicant), and work history among others. An application must be submitted.

- i. California Department of Housing and Community Development – Multifamily Finance Super Notice of Funding Availability (Super NOFA)

Purpose:

The Super NOFA as administered by California Department of Housing and Community Development, allows a combination of HCD-administered multifamily rental housing and infrastructure program funds to be available for eligible applicants to apply for and to be distributed through any combinations of funding programs at the same time and within the same round.

The programs providing funding are the following:

- Multifamily Housing Program (MHP) which provides loans to assist the new construction, rehabilitation, and preservation of permanent and transitional rental housing for lower income households.
- Veterans Housing and Homelessness Prevention (VHHP) Program which provides funds for acquisition, construction, rehabilitation, and preservation of affordable multifamily housing for veterans and their families to allow veterans to access and maintain housing stability.
- Joe Serna, Jr. Farmworker Housing Grant (FWHG) Program which provides construction loans or deferred loans for multifamily housing, new

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<sup>36</sup> SSI verification of eligibility is available at: <https://www.ssa.gov/ssi/text-documents-ussi.htm> and [https://www.ssa.gov/legislation/Attachment%20for%20SSA%20Testimony%207\\_25\\_12%20Human%20Resources%20Sub%20Hearing.pdf](https://www.ssa.gov/legislation/Attachment%20for%20SSA%20Testimony%207_25_12%20Human%20Resources%20Sub%20Hearing.pdf)

construction, or rehabilitation to serve agricultural workers with a priority for lower income households.

- Infill Incentive Grant Program of 2007 and 2019 (IIG) which provides grant assistance available as gap funding for infrastructure improvements necessary for specific residential or mixed-use infill development projects. Under IIG, eligible infrastructure improvements are referred to as Capital Improvement Projects (CIPs). They are associated with specific residential or mixed-use infill development projects, or Qualified Infill Projects.

Eligibility<sup>37</sup>:

Eligible applicants are any individual, Joint Venture, partnership, Limited Liability Company, Limited Partnership (including a Limited Partnership in which the Sponsor or an affiliate is a general partner), trust, corporation, cooperative, Local Public Entity, Tribal Entity, other legal entity, or any combination thereof which meets the requirements of the designated programs and their guidelines. There are eligible project requirements and eligible use of funds as set forth by the designated program guidelines. And in addition to loan limits and award caps, the programs utilize set-asides to direct specific portions of the over-all program funding to specific Tribal Entity, emerging and community-based developers, non-tax credit, senior housing and geographic targets. Eligible applicants are awarded based on universal scoring criteria.

Verification of Eligibility<sup>38</sup>:

The program requires extensive documentation and submittals for financial, project planning, certifications, financial status, organizational structure, letters of support, and verifications as listed under the document checklist section of the program application.

j. Women, Infants, and Children (WIC)

Purpose:

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<sup>37</sup> California Department of Housing and Community Development – Multifamily Finance Super Notice of Funding Availability (Super NOFA) eligibility is available at: [https://www.hcd.ca.gov/sites/default/files/2022-03/Multifamily-Finance-Super-NOFA-Final-Guidelines-Agency\\_Stakeholder-Memo-3.30.pdf](https://www.hcd.ca.gov/sites/default/files/2022-03/Multifamily-Finance-Super-NOFA-Final-Guidelines-Agency_Stakeholder-Memo-3.30.pdf)

<sup>38</sup> SuperNOFA verification of eligibility is available at: <https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.hcd.ca.gov%2Fsites%2Fdefault%2Ffiles%2F2022-06%2FSuper-NOFA-Application-V2-6-10.xlsm&wdOrigin=BROWSELINK>

Women, Infants, and Children (WIC), administered by the Food and Nutrition Service of the U.S. Department of Agriculture, is a federally-funded Special Supplemental Nutrition Program, serving low and moderate income pregnant, breastfeeding, and postpartum women, infants, and children up to age five who are found to be at nutritional risk. In California, the WIC Program is administered by the California Department of Public Health/WIC Division. The WIC Division is one of three divisions within the Center for Family Health (CFH) of CDPH.

Eligibility<sup>39</sup>:

Applicants must meet Categorical, Residential, Income and Nutrition Risk eligibility requirements, to be eligible for the program. In general, to qualify for WIC, the applicant must first meet the income guidelines<sup>40,41</sup> and be in any of the qualifying categories, such as: Pregnant (throughout the duration of the pregnancy), Breastfeeding (until the baby is one year old), Non-Breastfeeding (until the baby is six months old), Had a recent Pregnancy Loss (six months after a pregnancy ends), Infants and Children (from birth until child's fifth birthday), Foster Families (With a child under five years old), Military Families (with a child under five years old), Fathers (with a child under five years old), and Caretakers (legal and non-legal guardians caring for a child under five years old). In addition, those that are currently enrolled in Medi-Cal, CalWORKs (TANF), CalFresh (SNAP), or Food Distribution Program on Indian Reservations (FDPIR) benefits are eligible.

Verification of Eligibility<sup>42</sup>:

Proof of identity (for the applicant and any children age birth to 5 years), current address, current income and in-person interview are among the verification of eligibility requirements for the program. An application must be submitted.

G. Categorical Eligibility Utilizing the California Tax Credit Allocation Committee Awards (CTCAC) Documentation

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<sup>39</sup> Women, Infants, and Children (WIC) eligibility is available at: <https://www.fns.usda.gov/wic/wic-eligibility-requirements>

<sup>40</sup> <https://www.cdph.ca.gov/Programs/CFH/DWICSN/CDPH%20Document%20Library/LocalAgencies/WPPM/980-1060WICIncomeGuidelinesTable.pdf>

<sup>41</sup> <https://www.fns.usda.gov/wic/ieg-2022-2023>

<sup>42</sup> WIC verification of eligibility is available at: <https://www.indianhealthcenter.org/wp-content/uploads/2021/06/Participant-Request-for-Verification-of-Participation.pdf>

In past iterations of the BPHA program rules, the California Tax Credit Allocation Committee (CTCAC) award of the California State Treasurer was a supporting document for 501(c)(3) organizations to prove their eligibility as an organization that receives funding for affordable housing purposes.

CTCAC administers the low-income housing tax credit program to encourage private investment in affordable rental housing for households meeting certain income requirements. Credits are available for new construction projects or existing properties undergoing rehabilitation.<sup>43</sup> CTCAC administers the federal and state Low-Income Housing Tax Credit Programs. Both programs were created to promote private investment in affordable rental housing for low-income Californians.

To be eligible for CTCAC Awards, a building contractor must compete for an award in one of the following eligible housing categories: Large Family, Special Needs, Single Room Occupancy (SRO), Farmworkers, At-Risk, Seniors, Acquisition and/or Rehabilitation, with further restrictions on rural and new developments. Eligibility of awards is also broken down by geographic region. Applicants submit an application form with several supporting documents to be verified and ranked among the received applications. Complete applications include a completed application template and several supporting documents.<sup>44</sup> Applications are evaluated for compliance with program guidelines through a scoring process. Awards will be granted to the applicants submitting the highest scoring application.

CTCAC applicants are required to compete as one of five housing types: Large Family (3-bedroom or larger units accounting for at least 25% of total project units); Senior; Special Needs (e.g., persons with developmental, physical, or mental health disabilities, physical abuse survivors, individuals experiencing homelessness, or persons with chronic illness); existing projects "At-Risk" of losing affordability; and Single Room Occupancy (SRO) (90% of all units shall be efficiency or studio units).

The CTCAC maintains a map of all awarded projects in California which could be used to verify eligibility for the BPHA program, and to use as a means of reaching out to potential grantees.<sup>45</sup> Increasing the eligible pool of applicants from 501(c)(3) organizations that received CTCAC Awards to all organizations

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<sup>43</sup> <https://www.treasurer.ca.gov/ctcac/program.pdf>

<sup>44</sup> CTCAC Guidelines: <https://www.treasurer.ca.gov/ctcac/programreg/2021/20210616/2021-regulations-clean.pdf>

<sup>45</sup> <https://www.treasurer.ca.gov/ctcac/projects.asp>

that received CTCAC awards will allow Staff to leverage the State Treasurer’s Office’s vetting process and tools to increase the reach of providing broadband assistance to low-income Californians.

#### H. Assessment of Viability of Implementing Tenant Protections for Non-publicly Supported Housing Developments

During the proceeding, The Utility Reform Network (TURN) raised considerations including tenant protections for residents of non-publicly supported housing developments. TURN recommended that the Commission review other public purpose programs for similarities, lessons learned and synergies from the Commission’s Energy Savings Assistance (ESA) program<sup>46</sup> for eligibility of and protections for low-income tenants.<sup>47</sup>

Staff met with ESA program staff and obtained program details and the tenant protections adopted in Decision (D.)21-06-015. Per this Decision, the ESA Program "require[s] rent restriction agreements between the IOUs and non-deed restricted [Multi-Family Whole Building] MFWB program property owners. The agreement shall stipulate that the property owner will agree to maintain at least 50 percent of the building tenants as CARE income qualified for a period of 10 years ... The property owner shall also agree to not significantly increase rents because of home improvements over this same period. If a deed restricted property’s term ends within 10 years after receiving MFWB or CAM treatment, then the deed restricted property shall also be subject to the same tenant protection agreement after its expiry through the end of the 10-year period ... the agreements need not be submitted to the Commission for review and approval; however, Energy Division may request to review and provide input."<sup>484950</sup>

Staff agrees there should be some measure of tenant protections to guard against rent increases as an unintended consequence of the program’s intent to improve

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<sup>46</sup> [Reply Comments of The Utility Reform Network on the Proposed CASF Rule Changes](https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M462/K269/462269913.PDF), filed March 24, 2022, pp. 3-8 (<https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M462/K269/462269913.PDF>); and [Reply Comments of The Utility Reform Network on the Proposed Decision Adopting Modifications to Broadband Public Housing Account, Broadband Adoption Account, and Rural and Urban Regional Broadband Consortia Account Program Rules](https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M474/K112/474112766.PDF), filed May 9, 2022, pp. 2-3 (<https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M474/K112/474112766.PDF>).

<sup>47</sup> D. 22-05-029, p. 9.

<sup>48</sup> The “rent restriction agreements between the respective Utility and non-deed restricted multifamily whole building (MFWB) program property owners” per D.21-06-015 ordering paragraph 139, have not been developed as of this Staff Proposal.

<sup>50</sup> D.21-06-015, p. 364 – 365.

broadband infrastructure and expand eligibility for low-income housing developments' access to broadband. Including a similar provision in the BPHA program rules would ease burdens placed on low-income residents and help reduce the threat of displacement.

Staff also notes that AB 1482, Tenant Protection Act of 2019, already governs increasing the gross rental rate for a dwelling or unit, prohibiting an owner of a unit of residential real property from increasing the gross rental rate for the unit in more than 2 increments over a 12-month period, after the tenant remains in occupancy of the unit over a 12-month period.<sup>51</sup> However, the bill exempts certain properties from these provisions. Of these exempted, the housing accommodations in a nonprofit hospital, religious facility, extended care facility, licensed residential care facility for the elderly,<sup>52</sup> or an adult residential facility,<sup>53</sup> and, specifically, housing that has been issued a certificate of occupancy within the previous 15 years<sup>54</sup> would be without legal protection against rent increases as an unintended consequence of the program's intent to improve broadband infrastructure and expand eligibility for low-income housing developments' access to broadband.

Staff also examined the Mobilehome Residency Law Protection Program (MRLPP)<sup>55</sup> administered by the California Department of Housing and Community Development, under AB 3066,<sup>56</sup> of the Mobilehome Residency Law Protection Act of 2018. For mobilehome park communities, the MRLPP provides assistance in resolving certain disputes between mobilehome homeowners and mobilehome park owners or managers. The MRLPP selects the most severe alleged violations of the Mobilehome Residency Law (MRL) for potential referral to a contracted nonprofit legal service provider if the complaint cannot be resolved between the affected parties. The MRLPP may also refer complaints, or portions of complaints, to the appropriate enforcement agency for investigation or further action, as required by AB 3066.

The MRLPP states, "The Mobilehome Residency Law, like provisions of conventional landlord-tenant law, are enforced by the courts; that is, the

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<sup>51</sup> [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200AB1482](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB1482)

<sup>52</sup> Health and Saf. Code § 1569.2

<sup>53</sup> See Chapter 6 of Division 6 of Title 22 of the Manual of Policies and Procedures published by the State Department of Social Services.

<sup>54</sup> Previous 15 years to the passage of AB-1482.

<sup>55</sup> <https://www.hcd.ca.gov/manufactured-and-mobilehomes/mobilehome-assistance-center/mobilehome-residency-law-protection-program>

<sup>56</sup> [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201720180AB3066](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB3066)

disputing parties must enforce the MRL against one another in a court of law. The State Department of Housing and Community Development (HCD) does not have authority to enforce these Civil Code provisions. For example, a park owner must utilize an unlawful detainer procedure in a court to evict a homeowner for non-payment of rent or failure to abide by reasonable park rules. By the same token, a manufactured homeowner must bring legal action, in court, to enforce a notice or other MRL requirement, or obtain an injunction, if the management will not otherwise abide by the MRL.”<sup>57</sup>

Similarly, Staff notes that although the agreement to obtain BPHA grants will be between the grantees and the Commission, the agreement is to protect the tenants against rent increases resulting from the improved broadband infrastructure. The tenants are, thus, third-party beneficiaries of these agreements and may enforce these agreements in a court of law.<sup>58</sup>

## V. Staff Recommendations

Staff recommends definitions to expand program eligibility, to include “other housing developments and mobilehome parks with low-income residents.” Staff proposes methods of verification of this expanded eligibility, as required by Section 3.1 of the Decision 22-05-029. Staff further recommends that BPHA funds be available to support the creation of “Internet Extension” projects. “Internet Extension” projects offset the costs for low-income communities to build new networks to provide free service to low-income communities that go beyond the traditional “inside wiring” (e.g., Ethernet and Wi-Fi mesh networks) that the program has funded to date. This will enable funding of projects proposing outside plant expansions (e.g., fiber-optic and coaxial cable, and wireless) that will be necessary to connect new types of low-income communities than what this program has funded in the past (e.g., farmworker housing, mobile home parks, low-income communities, etc.). Staff note examples of these networks have been deployed or are in development within California in San Rafael,<sup>59</sup> San Jerardo,<sup>60</sup> and Los Angeles.<sup>61</sup> . This would expand the scope of reimbursable costs under the BPHA, which is currently limited to reimbursement of those costs necessary for inside wiring upgrades in multi-dwelling unit residences.

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<sup>57</sup> Mobilehome Residency Law Handbook,

[https://mobilehomes.senate.ca.gov/sites/mobilehomes.senate.ca.gov/files/2022\\_mrl\\_pdf.pdf](https://mobilehomes.senate.ca.gov/sites/mobilehomes.senate.ca.gov/files/2022_mrl_pdf.pdf)

<sup>58</sup> *Zigas v. Superior Court* (1981) 120 Cal.App.3d 827.

<sup>59</sup> See, <https://canal-wifi.com/>.

<sup>60</sup> See, <https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M406/K497/406497149.PDF>.

<sup>61</sup> See, [https://lalights.lacity.org/connected-infrastructure/connected\\_city.html](https://lalights.lacity.org/connected-infrastructure/connected_city.html).



A redlined version of the current BPHA Guidelines illustrates the modifications proposed herein, attached as Appendix A.<sup>62</sup> First, this redlined version shows the changes made to the existing rules for BPHA infrastructure projects to align the BPHA program with the changes recommended in the Staff Proposal for eligibility, verification of eligibility, and protections of tenants of non-publicly supported housing developments, as specified in Section 3.1 of D.22-05-029, including “other housing developments and mobile home parks with low-income residents. Second, rules are added to provide BPHA Guidelines for awards for BPHA Internet Extension projects to offset the costs of building new networks to provide free service to low-income communities.

The changes in Appendix A which modify the existing BPHA Infrastructure projects would take effect in the following application round, and the rules for the BPHA Internet Extension projects would take effect in the January 1, 2024, application round following Commission approval of the Staff Proposal.

#### A. Eligible Applicants

An applicant is eligible for both BPHA Infrastructure and BPHA Internet Extension project awards if it is a low-income community as defined in Section III of the Staff Proposal; The project must connect broadband networks to the low-income community’s residents and offer free broadband service that meets program requirements.

#### B. Verification of Eligibility

Eligible applicants as defined in Section III may apply and are required to follow specific verification guidelines for each eligibility type. Applicants are required to attest to and clearly indicate the basis of their low-income eligibility.

Additional verification documents may be requested at any time during the review process or in an audit.

For projects that request eligibility based on individual household income levels (250% FPG) or based on current enrollment in acceptable public assistance programs, the applicant must attest to and provide the following information:

1. The number of total units at the property.

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<sup>62</sup> The current BPHA Guidelines were adopted by D.22-05-029 and are attached to that decision as Appendix A.

2. The number of units that qualify as “low-income” (at or below 250% FPG) based on each unit household income, or through current enrollment in an acceptable public assistance program by at least one (1) person in the household.
3. Attest that 80% or greater of the total units at the property are “low-income” by having a ratio of the total number of low-income units (2 and 3) to the total number of units (1) that is greater than or equal to 0.8.
4. The number of units that are eligible based on an income threshold from the above definition or under categorical eligibility due to current enrollment in acceptable public assistance programs.

For applications for projects in low-income communities for which eligibility is based on location in one or more census block groups with a median household income at or below 80 percent of the statewide median income or with median household incomes at or below the county-specific threshold designated as “low-income” by the Department of Housing and Community Development's list of state income limits adopted pursuant to Section 50093, the applicant must attest to eligibility on the application. For projects that assert eligibility based on a CTCAC award letter, the applicant must submit a copy of the letter with their application submission package.

#### C. Make CTCAC Awardees Categorically Eligible

Staff recommends including all housing developments awarded CTCAC Awards as eligible applicants that are categorically eligible for BPHA project funding.

#### D. Tenant Protections for Non-Publicly Supported Housing Developments

Staff recommends that, other than publicly supported housing developments, farmworker housing, and qualified Tribal Housing, grantees must agree not to raise rents of the subject property as a direct result of the broadband infrastructure improvements funded by the BPHA, as a condition of the BPHA grant. Specifically, the grantee must sign an affidavit agreeing to not raise rents due to receipt of the BPHA award for five years after completion of the project. This requirement does not apply to publicly or tribally supported housing developments with an existing rent increase contract in force, or under existing rent control ordinances of the city, county, state, or tribe or under rent increase program rules of the publicly or tribally supported housing developments. This requirement does not apply to publicly supported housing developments or farmworker housing, nor does this requirement supersede any existing rental agreement or permitted rental rate increase in place prior to the grant award. The 5-year period aligns with the existing program requirement of BPHA

project grantees maintaining the broadband network for a period of five years after the network is installed and internet services turned on for residential use, and to submit a Key Performance Indicator (KPI) report twice a year. The grantee will also attest in an affidavit to notify tenants of the upgrade and affirmatively state how the BPHA grant afforded the opportunity for the upgrade and therefore there are no costs/rent increase to the tenants for the better broadband service.

Grantees of other housing developments and Mobilehome parks will agree to maintain 80% or greater residential units and 80% or greater rented or leased lots occupied by households, respectively, as “low-income” for a period of 5 years after the project completion. If the BPHA grantee transfers ownership of the project property prior to the completion of the five-year requirement, the grantee must comply with all Sale or Transfer of Asset requirements stated in Appendix A, Section IX of the BPHA Guidelines, including but not limited to providing an affidavit, stating that the new owner will take full responsibility and ownership to comply with the terms of the CASF grant award including be subject to the same tenant protection agreement through the end of the 5-year period.

Because they are an intended third-party beneficiary of the agreement between the grantee and the Commission, tenants may enforce violations of the tenant-protection provisions of this agreement in a court of law. The Commission may also prohibit future participation in the CASF program for failure to comply with these provisions.

#### E. Improved Ethernet Physical Layer Standard

Staff recommends, if and when the FCC<sup>63</sup> specifies a higher speed benchmark than the current 25 Mbps down and 3 Mbps up statutory definition of advanced telecommunications capability speed benchmark, applications submitted three months after the issue date of that report, and thereafter, must meet at least 1000BASE-X Ethernet standard for wireline networking projects.

#### F. Increase in Scope of Reimbursable Costs, Deployment Projects in Low-Income Communities

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<sup>63</sup> Section 706 of the Telecommunications Act of 1996, as amended (1996 Act), requires Federal Communications Commission (FCC) to “determine whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion” and report annually. Telecommunications Act of 1996 | Federal Communications Commission ([fcc.gov](http://fcc.gov)); Telecommunications Act of 1996, Pub. L. No. 104-104, § 706(b), 110 Stat. 153 (codified at 47 U.S.C. S 157 note) (1996 Act).

Staff recommends that project eligibility and the costs reimbursable under the BPHA be expanded to allow BPHA funds be available for a BPHA Internet Extension project grant to offset the costs of connecting a low-income community. Appendix A proposes application and project guidelines for BPHA Internet Extension projects that would allow low-income communities to connect to broadband internet infrastructure. These BPHA Internet Extension projects must offer free broadband service to the residents of the low-income communities.

# Appendix A

## APPENDIX A

### Broadband Public Housing Account Revised Application Requirements and Guidelines

#### I. Background

Senate Bill (SB) 156 was signed into law on July 20, 2021.<sup>1</sup> SB 156 made significant changes to the Broadband Public Housing Account (BPHA) that require funds be made available for grants and loans to finance projects to build broadband networks offering free broadband service for residents of low-income communities.

#### II. Grant Funding

The Commission will award grants to finance up to 100 percent of the costs to install inside wiring and broadband network equipment but will not finance operations and maintenance costs through this program.

The Commission will reimburse the following [infrastructure](#) project-related expenses after a review of the project progress or completion reports and supporting documentation:

- All broadband networking equipment (hardware and software), wireless access points, wireless bridge(s), modem(s), switches, router(s), and firewall(s) for network security but not personal computers, laptops, handheld or human interface devices.
- Low voltage contracting work including the installation of inside wiring, network cabinets, NEMA boxes,<sup>2</sup> conduits, patch panels, cable tray or ladders, and other cabling requirements to provide power and connectivity for the broadband network equipment funded as part of the project. Major rehabilitation, demolition or construction work will not be funded.
- Broadband network engineering and designing documentation.
- Hardware warranty of broadband network equipment as needed.

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<sup>1</sup> SB 156 is codified at Pub. Util. Code section 281 et seq.

<sup>2</sup> The National Electrical Manufacturers Association defines standards used in North America for various grades of electrical enclosures typically used in industrial applications.

- Installation, provisioning, and configuration labor costs at the Minimum Point of Entry (MPOE), MDFs (Main Distribution Frame), IDFs (Intermediate Distribution Frame), WAPs (Wireless Access Point), Wireless Bridges such as P2P and P2MP (Point to Point and Point to Multi-point) Radios, Switched Ethernet, and xDSL (Digital Subscriber Line) modem.
- Taxes, shipping and insurance costs (if applicable) that are directly related to broadband network equipment deployed under the BPHA.

Reimbursement excludes any cost of installation to resident-owned units in a mobile home park or other housing development as defined in Section III.

The Commission will reimburse the following BPHA Internet Extension project-related expenses after a review of the project completion form and supporting documentation submitted as required in Section VIII, 2:

- This includes the cost of the project labor and materials, including design, permitting, installation, supervision, and telecommunications equipment. Reimbursable costs also include and are not limited to trenching, boring, backfill, cable, conduits; and include all project costs for wired and or wireless installations and turning up service.

For wireless networking (BPHA Infrastructure) projects, equipment must meet at least the 802.11AC Wave2 (WiFi-5 wave2)<sup>3</sup> or 802.11ax standard.<sup>4</sup> Staff will accept applications that rely on 802.11n technology<sup>5</sup> to the extent that the applicant can demonstrate that this equipment was purchased prior to the issue date of the decision adopting these Guidelines. For wireline networking projects, equipment must meet at least DOCSIS 3.1,<sup>6</sup> VDSL<sup>7</sup> or the 100BASE-X

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<sup>3</sup> Wi-Fi standard, also known as Wi-Fi 5 wave2 or 802.11ac wave2, is a wireless networking standard that operates on 2.4 GHz and 5 GHz frequency bands providing high-throughput wireless local area networks, introduced by the Wi-Fi Alliance in 2016.

<sup>4</sup> Wi-Fi standard, also known as Wi-Fi 6/6E, that operates on 2.4 GHz, 5 GHz and 6 GHz frequency bands, maintained by the Institute of Electrical and Electronics Engineers IEEE 802.11 working group.  
[https://www.ieee802.org/11/Reports/tgax\\_update.htm](https://www.ieee802.org/11/Reports/tgax_update.htm)

<sup>5</sup> A widely used wireless computer networking protocol standard by IEEE (The Institute of Electrical and Electronics Engineers) for Wi-Fi communication that operates on 2.4 GHz and 5 GHz frequency bands.

<sup>6</sup> The Data Over Cable Service Interface Specification (DOCSIS) is a widely used broadband data transfer standard using cable systems, originally used to transmit cable television signals, for Internet Protocol (IP) data services. Originally released by CableLabs in 2013, DOCSIS is an internationally accepted telecom standard by the ITU Telecommunication Standardization Sector (ITU-T).

<sup>7</sup> Very high-speed digital subscriber line (VDSL) is digital subscriber line (DSL) technology providing data transmission of up to 52 Mbit/s and 16 Mbit/s per ITU Telecommunication Standardization Sector (ITU-T) G.993.1 standard, faster than the earlier standards of asymmetric digital subscriber line (ADSL) G.992.1, G.992.3 (ADSL2) and G.992.5 (ADSL2+).

standard.<sup>8</sup> If and when the FCC<sup>9</sup> specifies a higher speed benchmark than the current 25 Mbps down and 3 Mbps up statutory definition of advanced telecommunications capability speed benchmark, applications using DSL technology submitted three months after the issue date of that report, and thereafter, will not be accepted.

If the FCC<sup>10</sup> specifies a higher speed benchmark than the current 25 Mbps down and 3 Mbps up statutory definition of advanced telecommunications capability speed benchmark, applications submitted three months after the issue date of that report, and thereafter, must meet at least 1000BASE-X Ethernet standard<sup>11</sup> for wireline networking projects.

For BPHA Internet Extension projects, the Commission will award grants to eligible applicants to cover costs of connecting a “low-income community” to a network that will provide no-cost service. Funds from this account are not eligible to finance operations and maintenance costs. The maximum grant amount for the BPHA Internet Extension projects that can be approved by ministerial review is \$300,000 per project. Applicants and the broadband service provider or its approved contractor are responsible for all costs beyond the maximum amount the Commission will fund.

### III. Definitions

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<sup>8</sup> Fast Ethernet is a variation of Ethernet standards that carry data traffic at 100 Mbps, under the IEEE 802.3u standard by the Institute of Electrical and Electronics Engineers (IEEE). 100 represents its maximum throughput of 100 Mbit/s, BASE indicates its use of baseband transmission, and X indicates the type of medium used.

<sup>9</sup> Section 706 of the Telecommunications Act of 1996, as amended (1996 Act), requires Federal Communications Commission (FCC) to “determine whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion” and report annually. Telecommunications Act of 1996 | Federal Communications Commission (fcc.gov); Telecommunications Act of 1996, Pub. L. No. 104-104, § 706(b), 110 Stat. 153 (codified at 47 U.S.C. S 157 note) (1996 Act).

<sup>10</sup> Section 706 of the Telecommunications Act of 1996, as amended (1996 Act), requires Federal Communications Commission (FCC) to “determine whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion” and report annually. Telecommunications Act of 1996 | Federal Communications Commission (fcc.gov); Telecommunications Act of 1996, Pub. L. No. 104-104, § 706(b), 110 Stat. 153 (codified at 47 U.S.C. S 157 note) (1996 Act).

<sup>11</sup> Gigabit Ethernet is a variation of Ethernet standards that carry data traffic at 1000 Mbps, under the IEEE 802.3z standard by the Institute of Electrical and Electronics Engineers (IEEE). 1000 represents its maximum throughput of 1000 Mbit/s, BASE indicates its use of baseband transmission, and X indicates the type of medium used.

“Broadband Internet Access Service”<sup>12</sup> is a mass-market retail service by wire or radio that provides the capability to transmit data to and receive data from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up Internet access service. For the purposes of BPHA Internet Extension award, this definition excludes satellite transponder services as well as terrestrial mobile wireless services but includes Local Agency<sup>13</sup> owned services.

“Broadband service provider” refers to an entity that is a facilities-based provider of “Broadband Internet Access Service” if any of the following conditions are met: (1) it owns the portion of the physical facility that terminates at the end-user premises or obtains the right to use dark fiber as part of its own network to complete such terminations; (2) it obtains unbundled network element (UNE) loops, special access lines, or other leased facilities that terminate at the end-user premises and provisions/equips them as broadband; or (3) it provisions/equips a broadband wireless channel to the end-user premises over licensed or unlicensed spectrum.

A “dwelling unit” is a structure or the part of a structure that is used as a home, residence, or sleeping place by one person who maintains a household or by two or more persons who maintain a common household. Also referred to as a residential unit throughout.

“Farmworker housing” is housing that is consistent with the definition of “farmworker housing” set forth in California Health and Safety Code Section 50199.7 (h), which includes the requirement that “farmworker housing” means housing in which at least 50 percent of the units are available to, and occupied by, farmworkers and their households.

“Free broadband service” means broadband service that meets or exceeds state standards for the residents of a low-income community, and for which residents of the low-income community do not pay out-of-pocket costs, and provided that all residents of the low-income community have access to that service.

“Inside Wiring” means telephone wiring inside a residential unit or multi-dwelling unit (MDU) building. To the extent that this definition is applied to a

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<sup>12</sup> FCC Order FCC-17-166, p 318. [https://docs.fcc.gov/public/attachments/FCC-17-166A1\\_Rcd.pdf](https://docs.fcc.gov/public/attachments/FCC-17-166A1_Rcd.pdf)

<sup>13</sup> Per California Government Code Section 53600, “local agency” means county, city, city and county, including a chartered city or county, school district, community college district, public district, county board of education, county superintendent of schools, or any public or municipal corporation.



mobilehome park or other development that may have resident-owned units, this inside wiring definition excludes any inside telephone wiring installed in a residential unit or MDU building that is not owned by the mobilehome park or other development.

~~A “low-income community” is a publicly supported housing development or farmworker housing, as defined herein.~~

“Low-income” for the purposes of the BPHA, means:

- a. A household income at or below 250% of the federal poverty guidelines for the 48 Contiguous States and the District of Columbia (250% FPG)<sup>14</sup>,
- b. A household income at or below 80 percent of the statewide median income or with household incomes at or below the county-specific threshold designated as “low-income” by the Department of Housing and Community Development's list of state income limits adopted pursuant to Section 50093, or
- c. A household, with at least one (1) person in the household currently enrolled in one or more of the following acceptable public assistance programs:
  - California Alternate Rates for Energy (CARE)<sup>15</sup>
  - Low Income Home Energy Assistance Program (LIHEAP)<sup>16</sup>
  - Medi-Cal<sup>17</sup>
  - CalFresh / Supplemental Nutrition Assistance Program (SNAP)<sup>18</sup>
  - Supplemental Security Income (SSI)<sup>1920</sup>

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<sup>14</sup> <https://www.federalregister.gov/documents/2023/01/19/2023-00885/annual-update-of-the-hhs-poverty-guidelines>

<sup>15</sup> <https://www.cpuc.ca.gov/industries-and-topics/electrical-energy/electric-costs/care-fera-program>

<sup>16</sup> <https://www.csd.ca.gov/Pages/LIHEAP-Income-Eligibility.aspx>

<sup>17</sup> <https://www.dhcs.ca.gov/services/medi-cal/Pages/DoYouQualifyForMedi-Cal.aspx>

<sup>18</sup> <https://www.cdss.ca.gov/inforesources/cdss-programs/calfresh/eligibility-and-issuance-requirements#income>

<sup>19</sup> <https://www.ssa.gov/ssi/text-eligibility-ussi.htm>

<sup>20</sup> <https://www.ssa.gov/pubs/EN-05-10003.pdf>

- [California Work Opportunity and Responsibility to Kids \(CALWORKS\) / Temporary Assistance for Needy Families \(TANF<sup>21,22</sup>\)](#)
- [Special Supplemental Nutrition Program for Women, Infants, and Children \(WIC<sup>23</sup>\)](#)

[A “low-income community” is:](#)

- [A publicly supported housing development or;](#)
- [Farmworker housing or;](#)
- [Other housing development or;](#)
- [Mobilehome park or;](#)
- [One or more Census block group\(s\), each with a median household income at or below 80 percent of the statewide median income or with median household incomes at or below the county-specific threshold designated as “low-income” by the Department of Housing and Community Development’s list of state income limits adopted pursuant to Section 50093. <sup>24,25</sup>](#)

A “minimum point of entry” (MPOE) is either the closest practicable point to where wiring crosses a property line or the closest practicable point to where the wiring enters a MDU building or buildings.

[“Mobilehome” means any of the following \(all internal citations in this definition refer to the California Health & Safety Code unless otherwise noted\):](#)

[\(a\) a “mobilehome”<sup>26</sup> as defined in Section 18008 means a structure that was constructed prior to June 15, 1976, is transportable in one or more sections, is eight body feet or more in width, or 40 body feet or more in](#)

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<sup>21</sup> Page 488.2, <https://www.cdss.ca.gov/Portals/9/Regs/12EASa.pdf?ver=2022-03-08-145520-500>

<sup>22</sup> [https://hhsaprogramguides.sandiegocounty.gov/CalWORKS/45-200/Resources\\_and\\_Desk\\_Aids/CalWORKS\\_Assistance\\_Standards\\_Chart.pdf#:~:text=Minimum%20Basic%20Standard%20of%20Adequate%20Care%20%28MBSAC%29%20and,income%20last%20used%20in%20the%20CalWORKS%20benefit%20determination.](https://hhsaprogramguides.sandiegocounty.gov/CalWORKS/45-200/Resources_and_Desk_Aids/CalWORKS_Assistance_Standards_Chart.pdf#:~:text=Minimum%20Basic%20Standard%20of%20Adequate%20Care%20%28MBSAC%29%20and,income%20last%20used%20in%20the%20CalWORKS%20benefit%20determination.)

<sup>23</sup> <https://www.cdph.ca.gov/Programs/CFH/DWICSN/CDPH%20Document%20Library/LocalAgencies/WPPM/98-1060WICIncomeGuidelinesTable.pdf>

<sup>24</sup> Health & Saf. Code § 39713.

[https://leginfo.legislature.ca.gov/faces/codes\\_displayText.xhtml?lawCode=HSC&division=26.&title=&part=2.&chapter=4.1.&article](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=26.&title=&part=2.&chapter=4.1.&article)

<sup>25</sup> Environmental & Social Justice Action Plan, p. 74 <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/news-and-outreach/documents/news-office/key-issues/esj/esj-action-plan-v2jw.pdf>

<sup>26</sup> [https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=18008.&lawCode=HSC](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=18008.&lawCode=HSC)

length, in the traveling mode, or, when erected onsite, is 320 or more square feet, is built on a permanent chassis and designed to be used as a single-family dwelling with or without a foundation system when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. “Manufactured home” shall meet all of the requirements of California Health & Safety Code 18007.

(b) a “manufactured home”<sup>27</sup> as defined in Section 18007 means a structure that was constructed on or after June 15, 1976, is transportable in one or more sections, is eight body feet or more in width, or 40 body feet or more in length, in the traveling mode, or, when erected on site, is 320 or more square feet, is built on a permanent chassis and designed to be used as a single-family dwelling with or without a foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein.

(c) a “recreational vehicle”<sup>28</sup> as defined in Section 18010 means both of the following:

i) A motor home, travel trailer, truck camper, or camping trailer, with or without motive power, designed for human habitation for recreational, emergency, or other occupancy, that meets all of the following criteria:

1) It contains less than 320 square feet of internal living room area, excluding built-in equipment, including, but not limited to, wardrobe, closets, cabinets, kitchen units or fixtures, and bath or toilet rooms.

2) It contains 400 square feet or less of gross area measured at maximum horizontal projections.

3) It is built on a single chassis.

4) It is either self-propelled, truck-mounted, or permanently towable on the highways without a permit.

ii) A park trailer, as defined in Section 18009.3.

(d) “factory-built housing”<sup>29</sup> as defined in Section 19971 means a residential building, dwelling unit, or an individual dwelling room or combination of rooms thereof, or building component, assembly, or system

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<sup>27</sup> [https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=18007.&lawCode=HSC](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=18007.&lawCode=HSC)

<sup>28</sup> [https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=18010.&lawCode=HSC](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=18010.&lawCode=HSC)

<sup>29</sup> [https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=19971.&lawCode=HSC](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=19971.&lawCode=HSC)

manufactured in such a manner that all concealed parts or processes of manufacture cannot be inspected before installation at the building site without disassembly, damage, or destruction of the part, including units designed for use as part of an institution for resident or patient care, that is either wholly manufactured or is in substantial part manufactured at an offsite location to be wholly or partially assembled onsite in accordance with building standards published in the California Building Standards Code and other regulations adopted by the commission pursuant to Section 19990. Factory-built housing does not include a mobilehome, as defined in Section 18008, a recreational vehicle, as defined in Section 18010.5, or a commercial modular, as defined in Section 18012.5.

“Mobilehome park”<sup>30</sup> is any area or tract of land where two or more lots are rented or leased, held out for rent or lease, or were formerly held out for rent or lease and later converted to a subdivision, cooperative, condominium, or other form of resident ownership, to accommodate manufactured homes, mobilehomes, or recreational vehicles used for human habitation, as defined in Section 18214 of the California Health & Safety Code. The rental paid for a manufactured home, a mobilehome, or a recreational vehicle shall be deemed to include rental for the lot it occupies. This subdivision shall not be construed to authorize the rental of a mobilehome park space for the accommodation of a recreational vehicle in violation of Section 798.22 of the Civil Code. “Mobilehome park” shall meet all of the requirements of California Health & Safety Code 18214.

For the purposes of BPHA eligibility, a mobilehome park must have 80% or greater rented or leased lots occupied by households that are “low-income”.

“Other Housing Development” is (a) a multi-dwelling unit development in which all units are owned by the same entity(ies) and that has 80% or greater residential units that are “low-income” and (b) tribal housing, including developments funded with Housing and Urban Development (HUD) funding or through a Tribally Designated Housing Entity.

“Project” means the work to connect a broadband network to a low-income community, as defined herein, that is requesting or has been authorized funds for a grant under one application from the BPHA.

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<sup>30</sup> [https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=18214.&lawCode=HSC](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=18214.&lawCode=HSC)

“Publicly supported” means either that the housing development receives financial assistance from the United States Department of Housing and Urban Development (HUD) pursuant to an annual contribution contract or is financed with low-income housing tax credits, tax-exempt mortgage revenue bonds, general obligation bonds, or local, state, or federal loans or grants and the rents of the occupants, who are lower-income households, do not exceed those prescribed by deed restrictions or regulatory agreements pursuant to the terms of the financing or financial assistance.

“Publicly supported housing development” is a publicly supported multi-unit housing development that is wholly owned by either of the following:

- (i) A public housing agency that has been chartered by the state, or by any city or county in the state.
- (ii) An incorporated nonprofit organization as described in Section 501 (c)(3) of the Internal Revenue Code (26 U.S.C. Sec. 501(c)(3))<sup>31</sup> that is exempt from taxation under Section 501 (a) of that code (16 U.S.C. Sec. 501(a)) and that has received public funding to subsidize the construction or maintenance of housing occupied by residents whose annual income qualifies as “low” or “very low” income according to federal poverty guidelines.

For the purposes of the BPHA, the “state standard” for broadband service is a network that is able to provide a minimum of 25 Mbps download and 3 Mbps upload service for an average user during peak and off-peak hours.<sup>32</sup> If and when the Federal Communications Commission's annual broadband deployment report<sup>33</sup> specifies a higher speed benchmark than the current 25

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<sup>31</sup> Non-profit housing developers involved in limited partnerships with for-profit entities participating may also be eligible since the IRS considers an exempt organization's participation as a general partner in a limited partnership with for-profit limited partners as consistent with the organization's exempt status under Internal Revenue Code Section 501(c)(3).

<sup>32</sup> Peak hours mean 7 p.m. to 11 p.m. local time.; <https://www.fcc.gov/reports-research/reports/measuring-broadband-america/measuring-fixed-broadband-eleventh-report>

<sup>33</sup> Section 706 of the Telecommunications Act of 1996, as amended (1996 Act), requires Federal Communications Commission (FCC) to “determine whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion” and report annually. Telecommunications Act of 1996 | Federal Communications Commission ([fcc.gov](http://fcc.gov)) ; Telecommunications Act of 1996, Pub. L. No. 104-104, § 706(b), 110 Stat. 153 (codified at 47 U.S.C. § 157 note) (1996 Act); [Broadband Progress Reports | Federal Communications Commission \(fcc.gov\)](#) ; [FCC Annual Broadband Report Shows Digital Divide Is Rapidly Closing | Federal Communications Commission](#) and <https://docs.fcc.gov/public/attachments/FCC-21-18A1.pdf>

Mbps down and 3 Mbps up statutory definition of advanced telecommunications capability speed benchmark, applications submitted three months after the issue date of that report, and thereafter, must, at minimum, meet the speed benchmark specified by that report as the "state standard".

“Telecommunications transmission media” is twisted-pair (copper); coaxial cable (copper); fiber optics; and specified wireless solutions.

“Tribally Designated Housing Entity” or “TDHE” means a Housing Authority that is authorized to engage or assist in the development or operation of low-income housing in behalf of a Tribe.

#### **IV. Eligible Applicants**

An applicant is eligible to apply for a BPHA Infrastructure award if it is a low-income community as defined in Section III above and if it does not have access to any broadband service provider that offers free broadband service that meets or exceeds state standards for the residents of the low-income community, also as defined in Section III.<sup>34</sup>

For BPHA Internet Extension projects where an applicant’s low-income community is eligible based on its census block group, the applicant must provide each address that is being served by the proposed project.

#### **V. Information Required from Applicants**

Applicants must submit the following information to the Commission for each proposed project. Application forms can be found on the CASF BPHA webpage. Applications and supporting material must be submitted online. Staff will post a list of applications submitted by the deadline on the CASF webpage.

##### **1. BPHA Infrastructure Project Applications**

Applicants are required to provide the following information as part of their respective applications. Applications that do not include each item listed below will not be considered for approval.

##### **1.1. Funds Requested**

The applicant must indicate the amount of funding requested.

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<sup>34</sup> Pub. Util. Code, § 281 (i)(3).

## **1.2. Project Location**

The applicant must include a physical address for each project location along with an image of the location on the map. The Commission will accept a screenshot image from online maps or similar images.

## **1.3. Key Project Contact Information**

- First name
- Last name
- Physical mailing address
- E-mail address
- Phone number(s)

## **1.4. Key Management Contact Information**

- First name
- Last name
- Position title
- E-mail address
- Phone number(s)

## **1.5. Key Vendor Contact Information (if applicant has identified vendor)**

- First name
- Last name
- Position title
- Company name
- Physical mailing address
- E-mail address
- Phone number(s)

## **1.6. Assertion of Community need for Affordable Broadband Service that Meets State Standards**

An applicant must attest to whether the low-income community that will be connected through the proposed project has access to a broadband internet service provider that offers the community residents free broadband service that meets or exceeds state standards, as defined in Section III.

## **1.7. Proposed Project Description**

An applicant must provide a detailed description of the broadband project, including but not limited to, the elements listed below.

- a. Detailed broadband project plan proposal that includes:

- The type of technology that will be used on the project with all technical specifications, network topology, schematic diagram, engineering, and design documentation.
  - Project plan showing the number of residential units in the low-income community to be connected.
  - Entities that will provide broadband Internet service on the project site (E.g., The type of Internet service and the bandwidth offered by a named ISP)
  - Download and upload data rate/speed capabilities for an average user within the property at a given time of peak and off-peak hours must meet at least 25 Mbps downstream and 3 Mbps upstream (for an average user) or current state standard.
  - Project budget outlining all the budget costs, both actual line items and the matching funds.
- b. Actual budget cost line items proposed to be funded by the grant, including:
- The cost for all eligible equipment as listed in Section II.
  - The cost for low voltage contracting work as described in Section II.
  - Broadband network engineering and designing cost with required supporting documentation.
  - The cost of any required hardware warranty for broadband network equipment.
  - The cost of installation, provisioning, and configuration labor as described in Section II.
  - Any applicable taxes, shipping, and insurance costs that are directly related to broadband network equipment deployed under the BPHA.
- c. Matching Funds to be provided by the application that include:
- Monthly recurring Internet bandwidth cost for the five-year project period, post-project completion.
  - Operations and Maintenance (O&M) cost to ensure the network and broadband services are operational for at least five years post completion of the project.
- d. Project milestones with a delineated deployment schedule that includes:
- A commitment timeline to complete the project within 12 months of Commission approval of the application.
  - The schedule identifying major prerequisites such as a detailed project plan with a timeline including low voltage construction,



network installation, provisioning and configuration, testing, submission of closeout package with project completion report, and any other milestones that can be verified by the Commission staff.

- While developing the schedule, the applicant must include the timeline required for California Environmental Quality Act (CEQA) or other relevant government agency permit review, if needed.
- While developing the schedule, the applicant must include the timeline required for California Environmental Quality Act (CEQA) or other relevant government agency permit review, if needed.

### **1.8. Organizational Chart and Background**

The applicant must submit an organizational chart showing the parent organization, subsidiaries, and affiliates.

### **1.9. Economic Useful Life of Assets to be Funded**

The applicant must identify the expected economic useful life of the assets funded by the BPHA Infrastructure grant.

### **1.10. Commitment to Providing Broadband Service at No-Cost-to-Residents**

The applicant must attest to committing to offer broadband service that meets or exceeds state standards as defined by these Guidelines at no cost to residents of the low-income community(ies).

### **1.11. Permitting Compliance**

The applicant should state whether the project is statutorily or categorically exempt from CEQA requirements and cite the relevant authority, as applicable. If a project does require review under CEQA, the grantee must provide the Proponent's Environmental Assessment (PEA) prior to the first 25 percent payment. The PEA submission should include information on any land crossing sites requiring discretionary or mandatory permits or environmental review pursuant to CEQA (include the type of permit required, the name of the permitting agency/agencies and the Lead Agency if an environmental review is required).

Additionally, applicants must include any applicable permit review timeline in its construction schedule, with a reference to the government agencies that will issue the permits. Grantees must provide staff with proof of permit approvals before seeking reimbursement.

### 1.12. Affidavit

An applicant must submit an affidavit, under penalty of perjury, containing at minimum the following attestations, the final form of which will be made available on the Commission's website:

- Applicant agrees that by receiving a CASF grant, the grantee agrees to comply with the terms, conditions, and requirements of the grant and thus submits to the jurisdiction of the Commission with respect to the disbursement and administration of the grant.
- Applicant agrees to abide by the CASF program rules the Commission established as well as all other applicable state and federal rules and regulations concerning broadband services.
- Applicant agrees to abide by the Commission's Rules of Practice and Procedure and applicable statutes, and to be subject to Public Utilities Code sections 2108 and 2111.
- Applicant agrees that no officer, director, or partner of the Applicant or its Fiscal Agent has: 1) filed for bankruptcy; 2) was sanctioned by the Federal Communications Commission or any state regulatory agency for failure to comply with any regulatory statute, rule, or order; nor 3) has been found either civilly or criminally liable by a court of appropriate jurisdiction for violation of § 1700 et. seq. of the California Business and Professions Code, or for any action which involved misrepresentations to consumers, nor is currently under investigation for similar violations.
- Applicant affirms that the low-income community the project seeks to serve does not have access to free broadband service that meets or exceeds state standards as defined in these Guidelines.
- Applicant agrees to provide broadband service that meets or exceeds state standards as defined by these Guidelines at no cost to residents of the low-income community the project is intended to serve upon project completion.
- Applicants of Other housing developments and Mobilehome parks agree to maintain 80% or greater residential units and 80% or greater rented or leased lots occupied by households, respectively, as "low-income" for a period of 5 years after the project completion.
- Tenant protection requirements for applicants other than publicly supported and tribal housing developments and farmworker housing:
  - Applicant agrees not to raise rents or charge any costs as a direct result of the broadband infrastructure improvements received under this grant for a period of five (5) years after completion of the

- project.
- Applicant must notify tenants of the upgrade and affirmatively state how the grant afforded the opportunity for the upgrade and therefore there are no costs/rent increase to the tenants for the better broadband service, as a condition of the grant award.
- The Commission may also prohibit future participation in the CASF program for failure to comply with these provisions.

### **1.13. Applicant-Specific Documents and Information Required**

A publicly supported housing development applying for BPHA Infrastructure project funds must include in its submission the Annual HUD Contributions Contract and HA Code, allowing staff to verify its certification along with its most recent HUD Public Housing Assessment System (PHAS) score. A publicly supported housing development that is not in contract with HUD must include in its submission the program details of the publicly supported housing development, including any applicable income eligibility requirements for the program residents, and any housing development contracts or agreements between the applicant and the source of the public subsidy, as defined above.

If staff is unable to confirm the eligibility of a publicly supported housing development that is not in contract with HUD using the documents and information submitted pursuant to the paragraph above, the application will not be approved ministerially and may instead be subject to review by the Commission via resolution.

Tribal housing applicants must submit a letter from the Tribal Governing Body or designee (such as Tribal Chairperson or Tribal Administrator) authorizing it to seek funding and (1) the total number of units in the housing development and (2) the number of units available to and occupied by tribal members at the time of the application.

Non-profit applicants must submit an IRS letter approving the applicant's status as a 501(c)(3) entity incorporated for the purposes of providing affordable housing, which must include the applicant's Tax Identification Number, along with an award letter from a public agency such as the California Tax Credit Allocation Committee (TCAC), proving its receipt of public funding for affordable housing purposes.

Applicants representing farmworker housing must provide (1) the total

number of units in the housing development and (2) the number of units available to and occupied by farmworkers at the time the application is submitted.

Applicants that are categorically eligible as CTCAC awardees must provide a copy of the award letter.

For projects that request eligibility based on household income levels (250% FPG) or based on current enrollment in acceptable public assistance programs, the applicant must attest to and provide the following information:

1. The number of total residential units at the property.
2. The number of residential units that are “low-income” (at or below 250% FPG) based on each unit household income or that are “low-income” through current enrollment in an acceptable public assistance program by at least one (1) person in the household.
3. Attest that 80% or greater of the total units at the property are “low-income” by having a ratio of the total number of low-income units (2 and 3) to the total number of units (1) that is greater than or equal to 0.8.
4. The number of units that are eligible based on an income threshold from the above definition or under categorical eligibility due to current enrollment in acceptable public assistance programs.

For low-income community project applications based on location in one or more census block groups with a median household income at or below 80 percent of the statewide median income or with median household incomes at or below the county-specific threshold designated as “low-income” by the Department of Housing and Community Development's list of state income limits adopted pursuant to Section 50093<sup>35</sup>, the

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<sup>35</sup> The HCD State Income Limits (<http://www.hcd.ca.gov/grants-and-funding/income-limits>) vary by household size for each county and provide income thresholds for “Extremely Low”, “Very Low”, “Low”, “Median” and “Moderate” income categories. To translate the county-level “Low-income” limit from this dataset to define “low-income” at the census block group level, the average household size for the census block group obtained from the CA Broadband Map (<http://www.broadbandmap.ca.gov/>) is rounded to the nearest whole number. This average household size of the census block group-county combination is used to determine the appropriate “Low-income” limit from HCD’s State Income Limits table. If the median household income for a census block group-county combination was equal to or less than the appropriate HCD Low-income Limit, the census block group will be defined “low-income”.

applicant must attest to the specific form of eligibility claimed on the application. Applicants in this category must also report the median household income for the census block group(s) in which the project is located, as well as the appropriate comparison threshold (e.g., also provide the relevant county-specific low-income threshold). The California Broadband Map (<http://www.broadbandmap.ca.gov/>) includes census derived population and income data and information regarding existing service providers and their reported service speeds. Using the census block group layer data return, the median household income and census block group code can be obtained. For reference, census block group codes are formatted as follows:

- CBG(s) must be based on the latest decennial census. CBG(s) must be in a twelve digit format, as follows:

<u>State CA</u>	<u>County</u>	<u>Tract</u>	<u>Block Group</u>
<u>2 digits</u>	<u>3 digits</u>	<u>6 digits</u>	<u>1 digit</u>

## 2. BPHA Internet Extension Project Applications

An eligible project meets the following:

- The project is capable of providing broadband internet service speeds of at least 25 Mbps downstream and 3 Mbps upstream for an average user during peak and off-peak hours, or current state standard, whichever is higher.
- The project must connect a broadband the low-income community residents with a broadband network that offers free broadband service that meets program requirements.
- The project is statutorily or categorically exempt from CEQA requirements.

Applicants must submit the following information to the Commission for each proposed project as discussed in Section V. Applications that do not include each item listed below will not be considered for approval.

### 2.1. Applicant Information

- Applicant Name
- Title
- Email
- Phone

- Eligibility Type

## **2.2. Applicant Organization Information**

- Organization Name
- Organization Street Address
- Organization City
- Organization State
- Organization Zip
- Organization County

## **2.3. Project Location Information**

The applicant must include a physical address for each project location along with an image of the location on the map. The Commission will accept a screen shot image from online maps or similar images.

For projects where an applicant's low-income community is eligible based on its census block group, the applicant must provide each address that is being served by the proposed project.

## **2.4. Assertion of Community need for Affordable Broadband Service that Meets State Standards**

An applicant must attest to whether the low-income community that will be connected through the proposed project has no access to a broadband service provider that offers the community residents free broadband service that meets or exceeds state standards as defined in Section III of this Appendix.

## **2.5. Additional Information About Broadband Providers in Area**

- Broadband Providers in Area
- Broadband Barriers

## **2.6. Contract Information**

The applicant must provide a proposed contract from a broadband service provider or its approved contractor for the purpose of the construction of the BPHA Internet Extension project. This proposed contract must state details of this construction, such as the type of connection, expected service speeds, statement of work, and detailed cost estimate. Proposed contracts that do not include all of the information below will not be considered for approval:

- Scope of Work

- Work Plan
- Proposed Timeline and Schedule
- Budget Workbook
- Proposed Download and Upload Speed

It is the applicant's responsibility to select and obtain a contract from the broadband service provider or its approved contractor for the purpose of the construction of the BPHA Internet Extension project. Applicant agrees to complete the project within 12 months from the date of the Commission approval.

## **2.7. Affidavit**

Applicants must submit an affidavit, under penalty of perjury attesting to the statements made on the application, the final form of which will be made available on the Commission's website:

- Applicant agrees that by receiving a CASF grant, the grantee agrees to comply with the terms, conditions, and requirements of the grant and thus submits to the jurisdiction of the Commission with respect to the disbursement and administration of the grant.
- Applicant agrees to abide by the CASF program rules the Commission established as well as all other applicable state and federal rules and regulations concerning broadband services.
- Applicant agrees to abide by the Commission's Rules of Practice and Procedure and applicable statutes, and to be subject to Public Utilities Code sections 2108 and 2111.
- Applicant agrees that no officer, director, or partner of the Applicant or its Fiscal Agent has: 1) filed for bankruptcy; 2) was sanctioned by the Federal Communications Commission or any state regulatory agency for failure to comply with any regulatory statute, rule, or order; nor 3) has been found either civilly or criminally liable by a court of appropriate jurisdiction for violation of § 1700 et. seq. of the California Business and Professions Code, or for any action which involved misrepresentations to consumers, nor is currently under investigation for similar violations.
- Applicant affirms that the low-income community the project seeks to serve does not have access to free broadband service that meets or exceeds state standards as defined in these Guidelines.
- Applicant agrees to provide broadband service that meets or exceeds state standards as defined by these Guidelines at no cost to residents of the low-

income community the project is intended to serve upon project completion.

- The Commission may also prohibit future participation in the CASF program for failure to comply with these provisions.

## VI. Submission and Timelines

Applicants must electronically ~~file~~ submit their completed applications using the Commission's FTP file server (<https://kwftp.cpuc.ca.gov>).

~~Because applications are not filed with the Commission's Docket Office, they will not be assigned proceeding numbers.~~

Applications may be submitted at any time. However, staff will consider applications submitted on or before each deadline listed below as a batch.

Staff shall notify an applicant by a letter specifying reasons for rejection should an application fail to meet the BPHA eligibility criteria for either BPHA Infrastructure or BPHA Internet Extension projects.

Deadlines:

- ~~July 1, 2022~~
- ~~January 1, 2023~~
- July 1, 2023
- January 1, 2024
- July 1, 2024

And every January 1 and July 1 thereafter, until funds are exhausted. Any deadline falling on a holiday, or a weekend will be extended to the following business day.

Additionally, after each deadline, staff will post notice of all applications received on the Commission's website.



## VII. Ministerial Review

The Commission assigns to staff the task of approving applications for [BPHA Infrastructure and BPHA Internet Extension](#) projects that meet all of the following criteria:

- Applicant meets the eligibility requirements under Pub. Util. Code, § 281(i)(1), § 281(i)(2) and (i)(3)
- Applicant attests that no broadband service provider offers free service that meets state standards, as defined in Section III, to the subject low-income community.
- Applicant requests a grant of up to \$150,000 in BPHA infrastructure grant funds per project.
- For projects connecting 50 units or less, the proposed project costs \$1,200 per unit or less.
- For projects connecting 51-100 units, the proposed project costs \$900 per unit or less.
- For projects connecting 101 units or more, the proposed project costs \$600 per unit or less.
- Applicant must attest that it expects the property to be in residential use as a low-income community as defined above for at least the next 10 years.
- The property qualifies for an exemption pursuant to CEQA Guidelines.
- For wireless networking projects, the equipment must meet at least the 802.11AC Wave2 (WiFi-5 wave2) standard or 802.11ax (WiFi-6/6E) standard. Staff will accept, for Ministerial Review, applications that rely on 802.11n technology to the extent that the applicant can demonstrate that this equipment was purchased prior to the issue date of the decision adopting these Guidelines.
- For wireline networking projects, the equipment must meet at least DOCSIS 3.1, VDSL, or 100 BASE-X standards.
- Applicant attests that it will operate and maintain project equipment, broadband technology, and internet services for at least five years after successful completion of the project and that it has sufficient funds to do so. In addition, the Applicant attests that it will acquire the necessary hardware warranty and service agreement to support the operation of the proposed network for the five-year period.
- The proposed project network is capable of providing broadband internet service speeds of at least 25 Mbps downstream and 3 Mbps upstream for an average user during peak and off-peak hours, or

current state standard, whichever is higher (supported by submitted documentation).

- Applicant attests that it will not charge residents for broadband internet services.
- Applicant has signed an affidavit agreeing that the statements and representations made in the application are true and correct, agrees that no officer, director, or partner of the Applicant or its Fiscal Agent has: 1) filed for bankruptcy; 2) was sanctioned by the Federal Communications Commission or any state regulatory agency for failure to comply with any regulatory statute, rule, or order, nor 3) has been found either civilly or criminally liable by a court of appropriate jurisdiction for violation of §1700 et. seq. of the California Business and Professions Code, or for any action which involved misrepresentations to consumers, nor is currently under investigation for similar violations, and to abide by the CASF program rules established by the Commission, Commission rules of practice and procedure and statutes, and Pub. Util. Codes, §§ 2111 and 2108.
- Applicant agrees to complete the project within 12 months from the date of the Commission approval.
- Applicant has an identified internet service provider with the required internet bandwidth capacity at the MPOE.
- Applicant agrees to secure project funded hardware to prevent theft and vandalism.

Additional requirements for BPHA Internet Extension Projects:

- Applicant attests that it does not have access to any broadband service provider offering free service that meets state standards, as defined in Section III, to the low-income community.
- The project must connect the low-income community residents with a broadband network that offers free broadband service that meets program requirements.
- Grants over \$300,000 will not be eligible for ministerial review.

Applications not meeting the above ministerial review criteria may only be approved by the Commission via Resolution

The Commission assigns to staff the task of rejecting applications that meet any of the following criteria:

- The applicant has previously had a Commission grant award rescinded for violation of Commission or program rules;
- The applicant has made false statements to the Commission or to the Federal Communications Commission (FCC).
- The applicant submitted an incomplete application and has not responded to a follow-up request sent to the designated contact on the application to provide missing material.

The Communications Division Director will notify grantees of awards made via ministerial review by letter. Award letters will be regularly posted to the Commission's website.

## VIII. Project Status and Reporting

### 1. BPHA Infrastructure Projects

Grantees are required to submit a project status report within six months of the project award date if the project has not been completed, irrespective of whether the grantee requests reimbursement or payment. The project status report must include the following:

- Project Plan and deployment schedule showing major milestones with planned and actual completion dates.
- Any variance between planned and actual dates need to support with proper reasoning.
- Project Risk Mitigation plan.<sup>36</sup>
- Budget Plan with a cost line item matched with the application.

Grantees must certify that each project status report submitted is true and correct under penalty of perjury.

Grantees must submit a project completion report with all required supporting documentation in order to receive final payment. The project completion report contains, total project cost, project cost summary breakdown, project milestone deployment details, CalSPEED<sup>37</sup> test results, bill of materials (BOM), invoices

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<sup>36</sup> Plan that identifies, evaluates, selects, and implements options in order to balance the BPHA project cost and schedule implications associated with risk response or mitigation plan by setting risk at acceptable levels given program constraints and objectives.

<sup>37</sup> CalSPEED is an open source, non-proprietary, network performance measurement tool and methodology created for the Commission, funded originally via a grant from the National Telecommunications and Information Administration.

supporting BOM, network and low-voltage engineering and design documentation, installation and commissioning checklist, provisioning and configuration files, as-built documentation with pictures showing labels and annotations, and project expenses summary. The project completion report template can be found on the BPHA website.

Grantees are required to maintain the broadband network for a period of five years after the network is installed and internet services turned on for residential use. From the date broadband network and internet services are turned on the grantees are required to submit a KPI (Key Performance Indicator) report bi-annually for a period of five years.<sup>38</sup> The KPI report and its supporting system data can be submitted through an online portal that can be found on the Commission website under the CASF BPHA hyperlink.

The KPI report includes the following:

1. Monthly Percentage Uptime of network and internet services
2. Monthly Bandwidth Utilization by the residents (the amount of internet data transferred or the usage in gigabytes on the network)
3. Monthly Number of Unique User Devices Logged-in by the residents to access the broadband network for internet services

To support the above KPI report information, the grantee must submit the system data obtained from the network.

## 2. BPHA Internet Extension Projects

Upon completion of the project and before payment, the grantee and the broadband service provider or its approved contractor must provide a signed completion form stating that the service connection has been installed and that they are receiving "Broadband Internet Access Service" and that the service has been turned on. In addition, the grantee must provide the following supporting documentation:

- Project Invoice
- As-built engineering drawings and documentation
- Test results of the Calspeed test conducted at the network interface device of the grantee's MPOE, which demonstrates, meeting or exceeding the "State-standard".

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<sup>38</sup> KPI report is to measure the broadband network service performance and to keep proper checks and balances on the BPHA program goals and objectives.

[Additional instructions and application materials are provided on the CPUC website on the CASF BPHA webpages.](#)

## **IX. Sale or Transfer of Assets**

Grantees with BPHA Infrastructure projects must notify the Commission about any proposed sale or transfer of ownership of the project property that occurs prior to the completion of the five-year requirement. The grantee must require the new owner to assume grant obligations of operating and maintaining the broadbandinternet services for the remaining period of the five years term. The grantee shall notify the Director of the Communication's Division in writing of its intentto sell or transfer its assets within five days of becoming aware of these plans.

The grantee shall also provide documentation, including an affidavit, stating that the new entity or owner will take full responsibility and ownership to comply with the terms of the CASF grant award. The new entity shall agree in writing to such.

## **X. Payment Terms**

### [1. BPHA Infrastructure Projects](#)

Grantees are eligible to request the payment for the expenditures incurred during the first six months if the grantee submits a six- month project status report and certifies that the status report is true and correctunder penalty of perjury.

Grantees shall submit final report requests for payment no later than 90 days after completion of the project. If the grantee cannot complete the project within the 12-month timeline, the grantee must notify the Director of Communications Division as soon as they become aware that they may not meetthe project timeline. In the event the grantee fails to notify the Director of Communications Division, the Commission may withhold or reduce payment.

Grantees must submit the project status and completion reports with all required supporting documentation for the staff to review in order to receive payment.

Payments are based on submitted receipts, invoices and other supporting

documentation showing expenditures incurred and work done on the project in accordance with the approved CASF funding budget included in the grantee's application.

Payment in full can be made for the entire project upon review of the submitted project completion report and supporting documentation and after staff approvals.

The payments will be made in accordance with, and within the time specified in California Government Code § 927 et seq.

Grantees are required to maintain records such as files, invoices, and other related documentation for three years after final payment. Grantee shall make these records and invoices available to the Commission upon request and agrees that these records are subject to a financial audit by the Commission at any time within three years after the final payment made to the Grantee.

The Commission has the right to conduct any necessary audit, quality check, verification, and discovery during project implementation and post-project completion to ensure that CASF funds are spent in accordance with the terms of approval granted by the Commission. Invoices submitted will be subject to financial audit by the Commission at any time within 5 years of the release of the final payment.

If any portion of reimbursement is found to be out of compliance, grantees will be responsible for refunding any disallowed amount along with appropriate interest rates determined in accordance with applicable Commission decisions.

## 2. BPHA Internet Extension Projects

Payment will be made to the grantee to be disbursed to the broadband service provider or its approved contractor. Payment will be based upon receipt and approval of the invoice submitted by the grantee from the broadband service provider or approved contractor showing the expenditures incurred for the project along with the forms detailed in the Section VIII "Project Status and Reporting" and in accordance with approved CASF funding budget included in the application. The invoice must be supported by documentation of equipment and supplies purchased, cost of labor and any other expenses.

Payment from the Commission will not exceed the approved grant amount. Any additional costs above the approved grant amount are the responsibility of the applicant and the broadband service provider or its approved contractor.

## **XI. Execution and Performance**

### 1. BPHA Infrastructure Projects

Grantees shall start the project within 30 days upon grant approval and complete the project within a 12-month timeframe. Should the grantee or Contractor fail to commence work within 30 days of grant approval, the Commission or Director of Communications Division, upon five (5) days written notice to the CASF recipient, reserves the right to terminate the award. If the grantee is unable to complete the proposed project within the required 12-month timeframe, it must notify the Commission as soon as it becomes aware of this prospect. The Commission reserves the right to reduce or withhold payment or rescind the grant for failure to satisfy this requirement.

Grantees must operate and maintain the network for a minimum of five years after it has been installed.

The grantee must complete all the performance on the project before the termination date in accordance with the terms of approval granted by the Commission. In the event that the grantee fails to complete the project or subsequently operate and maintain the network service in accordance with the terms of approval granted by the Commission and compliance with CASF program guidelines, the grantee must reimburse some or all of the CASF BPHA funds that it has received.

### 2. BPHA Internet Extension Projects

Grantees project must be completed within 12 months of Commission approval of the application and the project must offer the low-income community free "Broadband Internet Access Service" speeds consistent with the "State standard".

The grantee must ensure that the broadband service provider or its approved contractor completes the proposed BPHA Internet Extension project in accordance with the terms of the contract and the requirements of the grant. If the proposed BPHA Internet Extension project has not been completed within the one-year period, the grant may be rescinded.

The Commission has the right to conduct any necessary audit, verification, and discovery during project implementation/construction for work done under the grant to ensure that CASF funds are spent in accordance with Commission approval.

Invoices from the grantee, the service provider or its approved contractor will be subject to financial audit by the Commission at any time within 3 years of completion of the work.

The Commission may withhold, reduce or terminate grant payments if the grantee does not comply with any of the requirements set forth in its application and compliance with CASF. In the event that the project is not completed in accordance with the terms of approval granted by the Commission, and as described in the application or contract the grantee must reimburse some or all of the CASF funds that it has received.

Material changes in the entries for this application, such as discontinuing operation or bankruptcy, or change of name (DBA<sup>39</sup>), change of address, telephone, fax number or e-mail address must be reported immediately by a letter to the CPUC, Director of the Communications Division, 505 Van Ness Avenue, San Francisco, CA 94102.

In addition, a scanned electronic copy should be sent to [cpuc\\_housing@cpuc.ca.gov](mailto:cpuc_housing@cpuc.ca.gov).

## **XII. Consent Form**

All grantees are required to sign a consent form within 30 days from the date of the award agreeing to the terms stated in the resolution or award letter authorizing the CASF award. The agreement will provide the name of the grantee, names of officers, and must be signed by the grantee. Should the grantee not accept the award through failure to submit the consent form within 30 calendar days from the date of the award, the Commission will deem the grant null and void. The proposed wording of the consent form will be made available on the BPHA website.

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<sup>39</sup> A DBA "Do Business As" is also known as a "fictitious business name," "trade name," or "assumed name."



### **XIII. Penalties**

As noted above, grantees must agree to the following language in an affidavit.

*If [Grantee Name] violates the terms and conditions of a CASF award or other program and project compliance requirements, it shall be subject to Public Utilities Code Sections 2108 and 2111. The Commission may impose the maximum penalties allowed under Public Utilities Code Sections 2108 and 2111 for failure to meet the program and project compliance requirements, as determined by the Commission.*

Submit completed applications online at <https://kwftp.cpuc.ca.gov>

(END APPENDIX A)