

**224A.1121 Purpose of broadband deployment account -- Grant program -- Funding criteria and prioritization schedules -- Guidelines and standards for grants -- Applications available to public -- Challenge -- Partial funding -- Administrative regulations.**

- (1) The purpose of the broadband deployment fund set forth in KRS 224A.112 shall be to assist governmental agencies and private sector entities to construct infrastructure for the deployment of broadband service to underserved or unserved areas of the Commonwealth. The authority shall manage the fund and may accept and receive appropriations from the General Assembly or other funds or gifts from both public and private sources, including but not limited to local governments and federal agencies.
- (2) The authority shall establish a grant program that allocates funds from the broadband deployment fund in accordance with this section. Grant funds may be used by government or private sector entities for broadband deployment projects.
- (3) The grant program shall be developed to give highest funding priority to those projects which most effectively provide broadband service to the greatest number of underserved and unserved Kentucky citizens and at the lowest cost. Funding shall not be used to duplicate broadband service to citizens, households, and businesses in a broadband deployment project area where fixed, terrestrial broadband service meets or exceeds twenty-five (25) megabits per second downstream and three (3) megabits per second upstream.
- (4) The authority shall develop funding criteria and prioritization schedules for broadband deployment projects in a technology-neutral manner in accordance with this section.
- (5) The authority shall establish guidelines and standards for applying for and approving grants from the broadband deployment fund. An eligible applicant shall submit an application to the authority. An application for a grant shall contain any information the authority requires, including but not limited to:
  - (a) A geographic description of the broadband deployment project area, including whether the area is partially served;
  - (b) A description of the broadband deployment project, including facilities, equipment, total cost, timeframe for completion, and network capabilities, including minimum speed thresholds;
  - (c) Documentation of the applicant's technical, financial, and managerial resources and experience to build, operate, and manage broadband serving citizens, households, and businesses in Kentucky;
  - (d) Documentation of the economic and commercial feasibility of the proposed broadband deployment project;
  - (e) The number of citizens, households, or businesses that would have new access to broadband as a result of the grant;
  - (f) The amount of matching funds the eligible applicant will contribute and a certification that no portion of the matching funds is derived from any state or federal grant received for the purpose of funding broadband infrastructure

within the project area; and

- (g) A certification that none of the funds provided by the program for the project in the application will be used to extend or deploy facilities to any currently served citizens, households, or businesses.
- (6) The authority shall make the applications available to the public within five (5) business days of the deadline for submission of applications, provided the information contained within an application is not exempt from disclosure under the provisions of the Open Records Act, KRS 61.870 to 61.884. The description of the geographic scope of the broadband deployment project area shall not be exempt under the Open Records Act, KRS 61.870 to 61.884, and shall be made available to the public within five (5) days after submission of the application.
  - (7) As part of the grant application process, pursuant to subsection (3) of this section, the authority shall include an opportunity for a broadband service provider to challenge the application. As part of the dispute process, the authority may consider any relevant geospatial data available from a broadband service provider or grant applicant. Geospatial data may include but is not limited to shapefiles detailing broadband coverage, the most current Federal Communications Commission Form 477 fixed broadband deployment data reporting, or other documentation of broadband deployment infrastructure in the project area to show that a challenged project area is underserved or unserved. A challenging provider may provide the authority with proof, including but not limited to:
    - (a) The broadband deployment project area is currently served or is under construction for provision of broadband service within twelve (12) months of the challenge; or
    - (b) The applicant has received funds from another state or federally funded grant program designed to encourage broadband deployment in the area.
  - (8) Upon a determination that an application meets the funding criteria, but the proposed project area is found to be partially served, the authority may amend the application and grant partial funding based on the partial service provided in order to ensure that grant funds are used to only provide broadband service to citizens, households, or businesses deemed underserved or unserved.
  - (9) No funds shall be used to support any broadband deployment project involving the upgrade of an existing facility or for non-capital expenses, non-broadband services, marketing, or advertising. The broadband deployment project area shall be described by census block including the specific addresses to be serviced or by shapefile geospatial data.
  - (10) Grant applicants shall pay a minimum of fifty percent (50%) of the project cost which shall not include any matching funds received from federal or state government grants for broadband deployment in the project area.
  - (11) Moneys in this fund shall not be used by or transferred to the Kentucky Communications Network Authority.
  - (12) To carry out the purposes of this section, the authority shall promulgate administration regulations in accordance with KRS Chapter 13A. Within one

hundred eighty (180) days of July 15, 2020, the authority shall promulgate regulations to implement the provisions of this section and KRS 224A.011, 224A.110, and 224A.112 and govern the submission, review, and approval of applications and the administration of broadband deployment projects. The authority shall not promulgate any regulations that place obligations on the applicants that are more restrictive than applicable federal or state law. Except as otherwise provided in this section, all of the authority's records relating to the broadband deployment fund shall be deemed confidential unless disclosure is required under the provisions of the Open Records Act, KRS 61.870 to 61.884.

**Effective:** July 15, 2020

**History:** Amended 2020 Ky. Acts ch. 72, sec. 4, effective July 15, 2020. -- Created 2006 Ky. Acts ch. 134, sec. 3, effective July 12, 2006.