



**ConnectALL**

A Division of Empire State Development

## Municipal Infrastructure Program | Request for Applications

### Question & Answers

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*Update 1: March 04, 2024 (Questions 18-31)*

*Update 2: March 11, 2024 (Questions 32-40)*

*Update 3: April 12, 2024 (Questions 30, 41)*

*Update 4: June 14, 2024 (Question 42)*

*Update 5: July 11, 2024 (Question 43)*

*Update 6: July 13, 2024 (Question 44)*

1. Will there be any waivers or exceptions to the Open-Access Network requirement?

Please see the “Project Requirements” section on page 7 of the Request for Applications: “If an applicant would like to request a waiver for any of the requirements based on hardship, then a written justification must be provided to explain the reason(s) for the hardship and the corresponding inability to comply with the requirement.”

2. Would Middle Mile projects be considered for the Municipal Infrastructure Program?

Municipal Infrastructure Program is a last-mile program. Middle mile construction necessary to transport internet services to a local Data Center where an Applicant is connecting its last mile infrastructure may be included in the proposed Project, the Project must ultimately be designed to result in last-mile connectivity.

3. Are matching funds required from the applicants for the Municipal Infrastructure Program?

Matching funds are not required, but evidence of the applicant’s financial commitment of resources to support the proposed Project will be considered in the scoring process for the evaluation of submitted proposals.

4. Will ConnectALL consider funding only portions of a grant application’s geographic area or will awards be made for the entire project area?

Applications will be considered for the geographic area proposed in the Application. Please see the “Grantee Selection Criteria and Timeline” on pages 15 and 16 of the Request for Applications: “ConnectALL will deem the highest scoring proposals to be conditionally approved. ConnectALL will confer with the Conditional Awardees to

improve the proposal, reduce risk (e.g., to on-time project completion), and ensure compliance with all program requirements. A conditional award or conditional award conference is not a guarantee of a grant award.”

5. How does New York State ConnectALL define unserved and underserved locations?

For the Municipal Infrastructure Program, ConnectALL defines unserved and underserved primarily based on the most recent data available from the Federal Communications Commission Broadband Data Collection system that shows a location does not have any terrestrial wired or licensed fixed wireless internet service equal to or greater than 25 megabits per second download and 3 megabits per second upload (unserved); or that has service between that threshold and 100 megabits per second download and 20 megabits per second upload (underserved). ConnectALL may also consider other data on broadband service availability, including data from the New York State Public Service Commission Broadband Assessment Program; and may consider the relative conditions of proposed locations across Projects as an indication that a location or area is underserved.

Will a Municipal Infrastructure Program grant awardee be restricted to apply for other grant programs (e.g. BEAD)?

No.

6. Will applicants be required to follow additional NYS award guidelines, or will it just be the ARPA guidelines?

There are additional requirements for Grantees beyond those specified by the Treasury Department. Please refer to the Request for Applications, including but not limited to the “Project Requirements” section on page 7, which states, in pertinent part - “Federal and State Requirements: Applicants must follow all the requirements listed in the federal guidance for the CPF program, as described in the U.S. Treasury Guidance for The Coronavirus Capital Projects Fund for States, Territories & Freely Associated States, and associated guidance documents, including the Supplementary Broadband Guidance and FAQs, as well as the New York State WIRED Broadband Act. In case of conflicting requirements, the more stringent requirements will precede.”

7. Is there a way to download the Consolidated Funding Application (CFA) questions?

Yes. A complete list of CFA Municipal Infrastructure Program application questions can be downloaded at

<https://apps.cio.ny.gov/apps/cfa/programQuestions.cfm?programId=652>.

8. What letters are requested in the Municipal Infrastructure Program application?

Eligible Public Applicants should provide letters from internet service providers that will deliver service over the proposed public infrastructure. Eligible Private Partner Applicants require letters from the public entities where the network will operate. ConnectALL also encourages letters of commitment or other indications of partnership from subcontractors, digital equity practitioners (i.e., to support adoption of the service), training or workforce development partners, or other indications of project readiness and support.

9. Does “open-access and predominantly publicly controlled last mile fiber broadband infrastructure” mean that the new infrastructure should give customers the option to

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choose from multiple internet service providers (ISPs) rather than just one, which would require a partnership with multiple ISPs?

Generally, yes, this is envisioned. However, ConnectALL understands that there may be some circumstances where this is not feasible because the proposed service area will only sustain a single service provider, because the local government or other association of residents (e.g. through a cooperative) have established a mutually-beneficial agreement with a singular provider, or because the Eligible Public Applicant intends to own the infrastructure and be the internet service provider. Notwithstanding other factors, a proposal for publicly-owned infrastructure with commitment from multiple service providers may score higher than a proposal from a municipality or cooperative that will both own the infrastructure and be the exclusive provider of service, and those may score higher than one with a time-bound exclusive arrangement with a single private entity, but such proposals are not generally excluded and ConnectALL encourages all such applicants to apply to the Program.

10. What is the difference between publicly owned and publicly controlled broadband infrastructure?

Publicly owned broadband infrastructure means the Eligible Public Applicant directly owns the physical assets of the planned infrastructure, in whole or in partnership.

Publicly controlled broadband infrastructure means the Eligible Public Applicant has meaningful influence and authority over the network sufficient to enforce specific commitments from service providers using that infrastructure. The control may come in the form of regulatory oversight, contractual agreements, or partnerships with private entities.

11. Does the Municipal Infrastructure Program include a funding component for applicants to train individuals gaining broadband access, such as digital literacy training?

No, not specifically. Applicants should refer to the “Eligible Uses of Funds” section on page 6 of the Request for Applications. Notwithstanding, ConnectALL may consider partnerships with providers of digital literacy training and other supports for broadband adoption in its scoring in the section 7 of the “Application Content and Scope of Services” section on page 13 of the Request for Applications.

12. Do areas that have no infrastructure have a higher priority than those with some infrastructure?

Yes.

13. What is the deadline to complete the deployment of Municipal Infrastructure Program projects?

All projects must be substantially complete by December 2026, per the *U.S. Treasury Guidance for The Coronavirus Capital Projects Fund for States, Territories & Freely Associated States*<sup>1</sup>.

14. Is there a preferred cost-per-premise or cost-per-mile amount for the Municipal Infrastructure Program application?

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<sup>1</sup> <https://home.treasury.gov/system/files/136/Capital-Projects-Fund-Guidance-States-Territories-and-Freely-Associated-States.pdf#page=19>

No. The costs should be appropriate to the location and service area.

15. Can a town or village with limited capacity to operate the broadband infrastructure and heavily reliant on an internet service provider submit an application? What might public ownership or control look like in such a situation?

Yes. Eligible Public Applicants may apply in teams with other Eligible Public Applicants and/or with Eligible Private Partner Applicants to fulfill the broadband deployment, operation, maintenance, and end-user ISP roles.

There are a wide variety of successful public-private partnerships across the country that could be eligible for this Program. In a situation where a town or village with limited capacity to operate the broadband infrastructure relies heavily on a private entity, it could own the infrastructure and have the right to make it available to another entity if certain performance, service availability (including price, speed, reliability, etc.) or other requirements are not met; or it could offer an exclusive lease to a private entity for a specific period of time.

As a matter of best practice, such arrangements would include an apportionment of project income so the Eligible Public Applicant can demonstrate it will have the resources to enforce and operationalize its rights under the arrangement with the Eligible Private Partner.

16. Can an application be completed under one person's login (the application writer) and the certification questions are electronically "signed" by a different person (i.e. county manager, county executive, or county supervisor)? Is there a way to provide access to the application for the signatory or would they just access within the applicant's profile? Once an application is started it, must be submitted through the same account, including the certifications and attestations. The person submitting the application must either have or be designated the authority (in writing) to submit the application on behalf of the applying entity.

----- UPDATE 1; Published March 04, 2024 -----

17. For questions 14704 and 14706 in the application, what are the definitions of "low-income area" and "investment" or "non-investment" area?

Terminology is derived from the Infrastructure Investment and Jobs Act, which is the implementing statute for relevant broadband legislation. For additional clarity, the Digital Equity Act defines low-income as "households with incomes at or below 150% of the poverty line." Please select the option in response to question 14704 that you see as best reflecting the area around the proposed project. Please use your response to question 14706 to explain your selection. Include any data to support your assessment, along with a discussion of current levels of internet service and any past efforts to solicit or facilitate private investment to provide reliable, quality services in the area.

18. If an ISP is the contracted vendor for buildout, do we need to indicate them as a partner in this application?

It will be helpful to include them in your response to question 14456 with the details of their role and services. The application should make clear who the internet service provider is that will serve homes and businesses over the municipal infrastructure.

19. Is the Municipal Infrastructure Program Federal or State funding?

Please see the “Funding Sources” section on page 4 of the Request for Applications: “New York State received \$228.2 million in federal funding from the U.S. Department of Treasury through the American Rescue Plan Act to support New York’s program to promote publicly controlled open-access broadband network deployments.”

20. The demand for broadband infrastructure materials and labor during the next three to five years will be quite high, considering all the ConnectALL programs in the New York State and similar programs in other States. Given the requirement to have Municipal Infrastructure Projects 100% completed by December 2026, is there potential for a project term to be extended?

According to governing guidelines as set forth in the *U.S. Treasury Guidance for The Coronavirus Capital Projects Fund for States, Territories & Freely Associated States*<sup>2</sup>, “Projects must reach substantial completion before December 31, 2026;” and “all funds must be expended by December 31, 2026, which is the end of the period of performance”.

21. Do the financials from 3 years need to be combined into one file? If applying in a partnership, are you also requiring the partner’s financials to be uploaded?

As stated in the *Application Instructions and Checklist*<sup>3</sup>, “Multiple files for the same attachment question must be combined into a single .zip file”. If applying in a partnership, then partners’ financials also need to be included in the .zip file.

22. What is the difference between Phase 1 and Phase 2? Is preference given to applicants under Phase 1 and if funding is exhausted, then are there any chances that Phase 2 applications may not be awarded?

The difference between Phase 1 and Phase 2, which are both for public entity applicants, is the due dates. Phase 1 applications will be reviewed after the due date of March 8, 2024. Phase 2 applications will be reviewed after the due date of April 19, 2024, contingent on funding availability. Phase 1 proposals that do not have received a final award commitment may be superseded by proposals in Phase 2 that receive higher scores. Respondents are encouraged to submit applications as soon as they are able.

While not required, ConnectALL requests that Applicants who plan to serve currently unserved or underserved locations apply in Phase 1 so those proposals can be reviewed before ConnectALL launches the Deployment Program.

23. Will funding be equitably distributed across the State between regions?

Funding will be granted to the highest scoring applications accepted according to the phased review schedule referenced in the Application Review Section on page 15-16 of the Request for Applications, until the available funds are committed or until ConnectALL pauses or closes the Request for Applications. ConnectALL intends to limit any individual grant award under the Municipal Infrastructure Program to a maximum of \$30 million. ConnectALL has a mandate to support broadband deployment and a robust broadband marketplace across the state.

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<sup>2</sup> <https://home.treasury.gov/system/files/136/Capital-Projects-Fund-Guidance-States-Territories-and-Freely-Associated-States.pdf>

<sup>3</sup> <https://broadband.ny.gov/mip-application-instructions-and-checklist>

24. On Page 11 under 4) c), could you please expand on the point "minimum duration of shared public ownership for public-private partnership" - is there a required amount of time for public ownership?

The public ownership or other public control of the infrastructure must be maintained at least until December 31, 2034.

25. Will Municipal Infrastructure Program projects require a Professional Engineer (PE) to be the lead? And would all the design work need to have a PE stamp?

Considering the Municipal Infrastructure Program application deadlines, the network design and architecture submitted as a part of the application does not require a Professional Engineer (PE) stamp; however, the final network design and architecture documents will require a PE stamp prior to the contract (incentive proposal). The projects do not require a PE to be the lead.

26. Is there a limit of \$30 million per Municipal Infrastructure Program application?

Please see the "Overall budget request" section on page 7 of the Request for Applications: ConnectALL "intends to limit any individual grant award under the Municipal Infrastructure Program to a maximum of \$30 million. Applicants are encouraged to break larger projects into components to be under the \$30 million threshold. If a project cannot be segmented into multiple projects under the threshold, Applicant may submit a written request with justification for a waiver to exceed the threshold for a single project."

27. The Request for Applications (RFA) mentions Community Anchor Institutions (CAI) - is there a requirement that applications be tied to a CAI?

No, applications do not have to be tied to a CAI.

28. Our municipality has areas without identified broadband serviceable location (BSL) on the FCC fabric data (e.g. park, beach, boardwalk, etc.). Would those locations be considered for Municipal Infrastructure Program grants?

The application may be considered for grant funding if it meets all the "Project Requirements" on page 7 and "Eligible Use of Funds" on page 6 of the Request for Applications. Considering that Municipal Infrastructure Program is a last-mile program, specific homes and businesses, even if those are not identified as BSL on FCC fabric data, will still need to be identified where the proposed service is to be delivered.

29. Our County is currently administering USDA ReConnect grant, where we are not able to apply for funding even in the un-and-underserved areas that have Rural Digital Opportunity Funding (RDOF). Would those areas be eligible for funding under this grant?

Please see the "Project Requirements" section on page 7 of the Request for Applications: "No duplication of federal or state funding: Projects already receiving funding from other federal or state sources are not eligible for MIP funding for the same activity." If there is a partial overlap of locations with a different entity receiving different federal funds, the Applicant should explain why those locations are necessary as part of a coherent and sustainable network and how the federal funds from the Municipal Infrastructure Program would not duplicate the benefit of the other federal funds (e.g., an additional consumer choice or economic development impact).

[Added: April 12, 2024] More generally, to the extent applicants are proposing to deploy broadband to locations where there are existing enforceable federal or state funding commitments for reliable wireline service at speeds of at least 100 Mbps of download speed and 20 Mbps of upload speed, the Applicant must explain how the Municipal Infrastructure Program grant funding will not be used for costs that will be reimbursed by the other federal or state funding stream(s). That is, MIP grant funds must be used only for complementary purposes. Applicants must ensure there is additional public benefit and a justification for using additional public funding to deploy to those locations.

30. For the FCC Location IDs requested in the MIP Location Data template, we are in the process of obtaining access to the Broadband Serviceable Location (BSL) Fabric through the FCC, which could take up to 10-15 business days. This delay might affect our application. Are there any faster alternatives?

If the applicant is unable to gather the FCC Location IDs prior to the deadlines for the Municipal Infrastructure Program, or if the locations to be served do not have FCC Location IDs, then the applicant should provide street address and latitude/longitude information for the proposed BSLs. Applicants should be ready to engage with ConnectALL to resolve any ambiguities around locations to be covered. ConnectALL advises applicants to still pursue access to the FCC's Fabric data, as FCC Location IDs will be necessary for conditionally approved applicants to provide prior to the contract (incentive proposal) to avoid any funding duplication with other ConnectALL applications.

----- UPDATE 2; Published March 11, 2024 -----

31. The application asks for the applicant's participation in the Affordable Connectivity Program (ACP). As a public entity applying for MIP, is ConnectALL looking for ways the ISP partner has participated in any public subsidy programs like ACP or is ConnectALL looking for ways the public applicant has done outreach for affordability to the community?

The applicants are requested to provide details demonstrating ISP partners' adherence to any current or previous participation in the Affordable Connectivity Program (ACP) or other public subsidy programs.

32. Has CAO set targets for using MIP funding to address unserved and underserved areas?

The Municipal Infrastructure Program will prioritize projects that address unserved and underserved locations. ConnectALL encourages Eligible Public Applicants that intend to serve unserved and underserved locations to apply as early as possible.

33. Will CAO award MIP grants to applicants wishing to build networks in areas that are mostly served?

Applications are not excluded based on the proposed service area.

34. Will grant recipients be required to publicly release data regarding the financial and operational performance of MIP-funded networks?

At minimum, Grantees must adhere to the following reporting requirements:

- Performance report to the State including, but not limited to, project management key performance indicators, financials, speed and latest tests, maps, compliance (e.g. prevailing wages), subscription information, etc.

- Quarterly Project and Expenditure Report (P&E) ConnectALL must make to the Treasury
- Annual Performance Report ConnectALL must make to the Treasury
- Minority and Women-owned Business Enterprises (MWBE) utilization
- Certify continued participation in the FCC Affordable Connectivity Program (ACP)

35. Regarding Affordable Pricing requirements, will MIP grantees be permitted to offer service at below-cost prices?

While specific pricing structures are not prescribed, Applicants must provide the break-even take-rate to cover the Operations and Maintenance (O&M) costs to ensure viability and sustainability of the proposed projects.

36. Will applicants be required to submit detailed pro forma and other financial information regarding their proposed projects?

Yes, the applicants are required to submit a detailed breakdown of the project budget using the “MIP Budget Templates” tab of the MIP RFA Templates file.

37. Will MIP grantees be required to offer free or low-cost broadband service in the event the ACP is not renewed?

Grantees are not required to offer free broadband service; however, notwithstanding other factors, a proposal with free service tiers or offerings below \$30 per month may score higher than a proposal with higher pricing tiers provided in the “MIP Service Tiers and Pricing” tab of the MIP RFA Templates file.

Please also see the “Project Requirements” section on page 7 of the Request for Applications: “Affordable Pricing: Applicants shall offer a Broadband Service of symmetrical 100 Mbps Download/Upload speeds) at a cost to residential customers that is generally below the costs for other residential service in the area. Applicants must also participate in federal programs like FCC’s Affordable Connectivity Program (ACP) or any successor program that provide low-income consumers with subsidies on broadband internet access services.”

38. Is there an environmental review needed for the project? Will applicants be able to follow the standard telecom practices?

Yes, ConnectALL projects will require environmental review under the State Environmental Quality Review Act (SEQR)<sup>4</sup>. Applicants are permitted to follow the standard telecom practices.

39. What specific network design and architecture documentation is required for question 14689 in the Consolidated Funding Application (CFA)?

To fulfill the requirements of question 14689 in the Consolidated Funding Application (CFA), please include the (1) network design with architecture and (2) detailed fiber plant drawings showing fiber cable size, route, backbone and proposed splice points. Please ensure that the submitted documentation aligns with the specifications outlined in question 14689 and in the "5) Network Design" section under the "Application Content and Scope of Services" on page 12 of the Request for Applications. This design should

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<sup>4</sup> <https://dec.ny.gov/regulatory/permits-licenses/seqr>



demonstrate applicants' readiness to undertake the project in order to complete by December 2026.

----- UPDATE 3; Published April 12, 2024 -----

40. We have a unique situation where the build would require connecting to existing facilities in a neighboring state. Can the middle mile portion of the facilities connect to existing network in a neighboring State if it is being used to connect the New York residents/businesses? Would the out-of-state connection be allowable by the Municipal Infrastructure Program?

ConnectALL prefers that all infrastructure be located within the state. If a proposed Project calls for any infrastructure in another state, the Applicant should include a justification that explains why the design is necessary for the specific conditions of the project. The Applicant should also explain how the public entity will exercise ownership or control over the infrastructure outside of the state and facilitate any inspections of the out-of-state infrastructure that ConnectALL or its agents may need to conduct. Program funds cannot be used for last mile connections outside of the State of New York.

----- UPDATE 4; Published June 14, 2024 -----

41. Is the Municipal Infrastructure Program (MIP) Application Phase 3 exclusive for Eligible Private Applicants?

Eligible Public Applicants as well as Eligible Private Applicants can apply in MIP Phase 3.

----- UPDATE 5; Published July 11, 2024 -----

In the case where a municipality gets funded for Phase 3 as a network owner with an identified ISP to design, construct, and operate the broadband network, are they required to follow state procurement laws and place everything out to bid? Or are they allowed to let the ISP procure everything to be reimbursed by the municipality?

The municipality is not required to procure anything on its own behalf unless it has adopted a law, rule or policy that requires it to do so. Absent such a law, rule or policy, the municipality may elect to permit a third party to complete procurements on its behalf, but the third party would have to follow the same laws, rules and policies that the municipality must follow in completing procurements. Having a third party conduct the solicitations does not relieve the municipality of its obligations to follow the laws, rules and policies that govern its procurements.

----- UPDATE 6; Published July 12, 2024 -----

Will grantees of the Municipal Infrastructure Program (MIP) need to comply with Build America, Buy America?

MIP grantees do not need to comply with Build America, Buy America if the project is funded solely with Capital Projects Fund (CPF) funds. When CPF funds are used on a project in conjunction with funds from other federal programs that require compliance with the Buy America Preference requirements, CPF recipients may be otherwise subject to the Buy America Preference requirements.