



Division of Broadband and Digital Equity

Broadband Pole Replacement Program Guidance Document

Funded by the Federal American Rescue Plan Act

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About the N.C. Department of Information Technology

The mission of the N.C. Department of Information Technology (NCDIT) is to promote a stronger North Carolina that connects customers, citizens, business, education, and government. The NCDIT Division of Broadband and Digital Equity is charged with closing the digital divide in North Carolina by expanding availability of affordable, reliable high-speed internet and promoting the adoption by addressing the high costs of internet service, the availability of devices, and building digital literacy across the state.

The division houses two offices, the Broadband Infrastructure Office and the Office of Digital Equity and Literacy, charged with ensuring every North Carolinian has access to an affordable, high-speed Internet connection. The division is using American Rescue Plan Act funds to ensure that 98% of North Carolina households have access to high-speed internet service by 2025; that 80% of North Carolina households subscribe to high-speed internet, and 100% of households with schoolchildren subscribe to broadband internet.

The Broadband Infrastructure Office (the office) serves as a statewide resource for broadband expansion and first-responder communications. The office works collaboratively with state, federal, local, private, and nonprofit partners to address the digital divide by administering broadband grant programs, facilitating partnerships with broadband providers, gathering data to identify unserved areas, and providing policy and technical guidance to local and state leaders.

1. PROGRAM SUMMARY

NCDIT's Broadband Infrastructure Office seeks applications for reimbursement for a portion of eligible pole replacement costs incurred by communications service providers in unserved areas for the purposes of broadband expansion. The office will disburse \$100 million in American Rescue Plan Act (ARPA) funds in the Broadband Pole Replacement program (the program) established under S.L. 2021-180 as amended by S.L. 2022-6.

As authorized by statute, the purpose of the program is to speed and facilitate the deployment of broadband service to individuals, businesses, agricultural operations, and community access points in areas unserved with broadband. A communications service provider that pays for or incurs the costs of removing and replacing an existing utility pole in connection with a qualified project may apply to the department for reimbursement in an amount equal to 50% of eligible pole replacement costs paid or incurred by the applicant or \$10,000, whichever is less, for each pole replaced. Communications service providers may submit eligible costs incurred after June 1, 2021.

These program guidelines are for use by communications service providers when applying for reimbursement through this program. Section 1.E contains key definitions relevant to the administration of the program. The office has developed these guidelines based on the authorizing session laws for the Broadband Pole Replacement program and applicable federal

guidance. The guidelines may change in accordance with any changes to state or federal laws, rules, or regulations. Participants in the program will be notified of any changes via email and posting on the program webpage at ncbroadband.gov.

Disclaimer

The information contained in this document is not legal or professional advice. While the office is available to answer questions and will attempt to help resolve any concerns, we cannot provide legal advice to applicants.

A. Explanation of Make-Ready Work and Pole Replacement

As broadband providers deploy infrastructure in remote areas, utility poles are critical resources. Fiber and other communications assets can be attached to utility poles within particular spaces and heights on the pole. Communications service providers deploying broadband may seek space for aerial deployments on poles owned by other entities. Some utility poles lack space for additional attachments or are unable to carry the additional loading resulting from newly added facilities. In such cases, a project may require existing utility poles to be replaced with new poles to increase the capacity to accommodate additional infrastructure attachments. The attaching communications service providers must pay the pole owners to implement these needed utility pole replacements. “Make-Ready Work” is that work needed to prepare the pole for attachments from a communications service provider. See Appendix A – Explanation of Make-Ready Work and Pole Replacement for additional general information.

B. Funding Source & Funding Availability

N.C. Session Law 2021-180 and the corresponding appropriations committee report, as amended by S.L. 2022-6, appropriates \$100 million from the Coronavirus State and Local Fiscal Recovery Funds (SLFRF) from the American Rescue Plan Act of 2021 for the Broadband Pole Replacement program. This appropriation has been designated by the North Carolina Office of State Budget and Management under the revenue loss eligible use category. The NCDIT Division of Broadband and Digital Equity’s Broadband Infrastructure Office will administer these funds in accordance with the requirements of state law, the SLFRF Treasury Guidance relevant to revenue loss funds, and applicable provisions of the Uniform Guidance (2 CFR 200) for contractors.

State and federal Terms and Conditions for use of this funding will be outlined in the Broadband Expansion and Access Statewide IT Convenience Contract (see Section 4 of this guidance). The department may use up to 1% of the funds appropriated for the program, not to exceed the total sum of \$250,000 in each fiscal year, to administer the program.

Section 38.10(c) of N.C.S.L. 2021-180 states that funds appropriated for this program shall be held by the department in a special fund and shall not revert to the General Fund but shall

remain available to reimburse communications service providers as authorized until Dec. 30, 2026, provided that reimbursements shall comply with applicable federal guidelines for the use of these recovery funds. In contrast, Section 38.10(p) states that the program language expires on Dec. 31, 2024. For now, the office is planning to provide reimbursements for submissions up to Dec. 31, 2024, unless further clarification to state law or federal guidance becomes available. Consistent with the U.S. Treasury rules, ARPA SLFRF funds must be obligated by Dec. 31, 2024.

C. Public Dashboard

Upon commencement of the program the office shall maintain and publish on its website ncbroadband.gov all the following information:

- The number of applications for reimbursement received, processed, and rejected, including the reasons applications were rejected.
- The amount of each reimbursement, the total number of reimbursements, and the status of any pending reimbursements.
- The estimated remaining balance in the program special fund.

This information will be updated monthly.

D. Eligible Applicants/Recipients

Eligible applicants are “Communications Service Providers” as defined in N.C.G.S. § 62-350(e). That statute defines “Communications Service Provider” as “a person or entity that provides or intends to provide: (i) telephone service as a public utility under Chapter 62 of the General Statutes or as a telephone membership corporation organized under Chapter 117 of the General Statutes; (ii) broadband service, but excluding broadband service over energized electrical conductors owned by a municipality or membership corporation; or (iii) cable service over a cable system as those terms are defined in Article 42 of Chapter 66 of the General Statutes.”

Funding under this program is available to communications service providers that have incurred eligible pole replacement costs in connection with qualified projects to provide qualifying internet access service in unserved areas of the state. For purposes of this guidance, communications service providers also may be referred to as broadband providers, providers, applicants, or respondents.

Eligible providers also must seek prequalification through the Broadband Expansion and Access Convenience Contract. See Section 4 of this guidance.

E. Definitions

The following definitions apply to the Broadband Pole Replacement program, pursuant to S.L. 2021-180, Section 38.10(j):

- **Broadband service:** As defined in N.C.G.S. § 143B-1373(a). For the purposes of this section, terrestrially deployed Internet access service with transmission speeds of at least 25 megabits per second (Mbps) download and at least 3 megabits per second upload (25:3).
- **Communications service provider:** Defined in N.C.G.S. § 62-350(e) as “a person or entity that provides or intends to provide: (i) telephone service as a public utility under Chapter 62 of the General Statutes or as a telephone membership corporation organized under Chapter 117 of the General Statutes; (ii) broadband service, but excluding broadband service over energized electrical conductors owned by a municipality or membership corporation; or (iii) cable service over a cable system as those terms are defined in Article 42 of Chapter 66 of the General Statutes.”
- **Department:** The N.C. Department of Information Technology.
- **Eligible Pole Replacement Cost:** The actual and reasonable costs paid or incurred by a communications service provider after June 1, 2021, to remove and replace a pole, including the amount of any expenditures to remove and dispose of the existing pole, purchase and install a replacement pole, and transfer any existing facilities to the new pole. The term includes costs paid or incurred by the party responsible for the costs of a pole replacement to reimburse the party that performs the pole replacement. The term does not include costs that the party incurs initially that have been reimbursed to the party by another party ultimately responsible for the costs.
- **Pole:** Any pole used, wholly or partly, for any wire communications or electric distribution, irrespective of who owns or operates the pole.
- **Pole owner:** A city or cooperatively organized entity that owns utility poles.
- **Qualified Project:** A project undertaken by a communications service provider, that is not affiliated with a pole owner, seeking to provide qualifying internet access service on a retail basis to one or more households, businesses, agricultural operations, or community access points in an unserved area.
- **Qualifying Internet Access Service:** Fixed, terrestrial internet access service that is capable of speeds of 100 megabits per second or faster in both the downstream and upstream directions, pursuant to ARPA Guidelines from the U.S. Treasury.
- **Unserved Area:** An area in which, according to the most recent map of fixed broadband internet access service made available by the Federal Communications Commission, fixed, terrestrial broadband service at speeds of at least 25 megabits per second (Mbps) download and at least 3 Mbps upload is unavailable at the time the communications service provider requests access. A pole shall be presumed to be located in an unserved

area if the pole is located in an area that is the subject of a federal or state grant to deploy broadband service, the conditions of which limit the availability of a grant to unserved areas.

2. ELIGIBLE BROADBAND INFRASTRUCTURE PROJECT AREAS

A. Planning Your Project Areas

Applicants to this program must be seeking reimbursement for costs of removing and replacing an existing pole in connection with a qualified project as defined above, and one that is an eligible broadband infrastructure project per the U.S. Department of the Treasury ARPA SLFRF rules.

Eligible broadband project areas may include:

- An area that is the subject of a federal or state grant to deploy broadband service, the conditions of which limit the availability of a grant to unserved areas;
- An area that is the subject of a county-funded grant to deploy broadband service, the conditions of which limit the availability of a grant to unserved areas; or
- An area where a broadband provider is deploying, or has deployed since June 1, 2021, a broadband project to build service specifically to unserved locations using private funds.

Applications must have approval from the office that the broadband project areas are eligible areas before the office will process applications for individual pole replacements within that project area.

B. Publication of Online Mapping Tool

The Broadband Infrastructure Office and its partner, the NCDIT Center for Geographic Information and Analysis (CGIA), will publish an Online Mapping Tool in the North Carolina Broadband section of the NC One Map at <https://www.nconemap.gov/pages/broadband> for use in the Broadband Pole Replacement program.

The Online Mapping Tool will utilize data from the Broadband Data Collection (BDC) system of the Federal Communications Commission (FCC) to identify locations unserved with broadband as defined in legislation for the program. While the BDC system provides foundational data, the office will evaluate technology types or other factors that may limit the ability to serve a location with broadband and will factor this assessment into the mapped data, consistent with U.S. Treasury guidance. The office will display locations using the Broadband Serviceable Location fabric utilized by the FCC.

Applicants must utilize the published **Online Mapping Tool** to identify unserved locations within eligible broadband projects, for developing and submitting data on broadband project areas for approval. Because applicants may submit reimbursement requests for eligible expenses dating back to June 1, 2021, some eligible locations may now show on the current BDC layer of the

Online Mapping Tool as served. In such cases, the office will use unserved locations based on earlier iterations of FCC broadband availability data from the time the request for pole access was made to determine eligibility.

The Online Mapping Tool will be refreshed periodically based on changes in FCC data and other challenge processes, and the date of most recent edits will be shared in the Mapping Tool.

C. Areas with Federal or State-Funded Broadband Deployment Projects

The Online Mapping Tool will reflect areas where a broadband provider has been designated to receive funds through other federal or state-funded programs designed specifically for broadband deployment to unserved areas [such as the state’s Growing Rural Economies with Access to Technology (GREAT) grant program or the Rural Digital Opportunities Fund (RDOF) program]. In these areas, the funding entity for the underlying broadband deployment program may have differing levels of mapping granularity available, so these project areas may be displayed at the polygon level or location level, depending on the underlying program. The Tool will display federally funded areas as published in the FCC Broadband Funding Map.

While these deployment project areas are often “protected” from additional broadband investments under rules of many infrastructure programs, they are allowable project areas for the program in certain instances. Pursuant to Session Law 2021-180, Section 38.10(j)(9), the office will consider an area that is the subject of a federal or state award to deploy broadband service, the conditions of which limit the availability of a grant to unserved areas, a qualified project area for purposes of the program. However, the following requirements must also be met:

- The rules or terms of the state or federal program funding broadband deployment in that area must not disallow these complementary pole replacement costs to be funded through the program; and
- The eligible reimbursement costs submitted for reimbursement under the program must not be reimbursed or otherwise included in the underlying broadband deployment grant award costs or matching funds for that program; and

Providers are responsible for compliance with underlying funding programs, including but not limited to ensuring that the rules of the program do not prohibit reimbursement for pole replacement costs. Should the office become aware that a provider is not in compliance with the underlying program, the office may decline reimbursements for pole replacement costs in those areas, seek claw back of pole replacement costs previously paid, and/or pursue any other remedy available by law.

D. Areas with County-Funded or Privately Funded Broadband Deployment Projects

The Online Mapping Tool will display unserved locations using the Broadband Serviceable Location fabric utilized by the FCC. Unserved areas will also be displayed as aggregations of unserved locations within an area, represented with the H3 hexagonal (H3 cells) hierarchical

geospatial indexing system (<https://h3geo.org/>). For county-level or privately funded broadband deployment projects, project areas should be mapped and submitted to the office at the location level, by the applicant. An applicant should confirm all locations to be served by the eligible broadband project, by sharing the location ID field from the fabric. Location IDs would be submitted to the office as part of the application. Applicants will need to obtain a no-cost, CostQuest Tier D license agreement to use the BSL fabric for this purpose.

Note: NCDIT is reviewing and assessing the licensing allowances of the fabric as detailed processes for this step are being developed and finalized. As applicants submit eligible broadband project areas to the office as an initial step in the application process, the office will review these areas with other mapped data to confirm eligibility for the program.

As with state and federally funded programs, providers are responsible for ensuring compliance with the terms of any county-funded deployment project, including ensuring that the terms do not prohibit reimbursement for pole replacement costs and that pole replacement costs are not otherwise included in the county award.

E. Locations of Individual Utility Poles

Applications for reimbursements for this program will require applicants to certify that replaced utility poles for which reimbursement costs are being requested are located within the eligible broadband project area(s). Information that allows the office to identify specific locations of individual poles being replaced, relevant H3 hexagons, or a list of the hexbin IDs, may also be required to describe specific portions of the qualifying project area where pole replacement is needed.

Polygon project areas

Eligible broadband project areas that are the subject of a federal or state program to deploy broadband service to unserved areas, may be mapped according to the granularity level of that grant program. A pole shall be presumed to be located in an unserved area if the pole is located in an area that is the subject of a federal or state grant to deploy broadband service, the conditions of which limit the availability of a grant to unserved areas. For Eligible Project Areas that are mapped to the polygon level, utility poles eligible for reimbursement in the program must be located within those polygons.

Location-level project areas

For eligible broadband project areas that are mapped to the location level, utility poles eligible for reimbursement in the program must be located within the boundaries of H3 cells that reflect unserved locations for the project. H3 cells from the H3 hexagonal hierarchical geospatial indexing system (<https://h3geo.org/>) will be used to aggregate unserved locations for the purposes of this definition.

3. COORDINATION WITH POLE OWNERS

Section 38.10(g) and (h) of Session Law 2021-180, as amended by S.L. 2022-6, outline the coordination required between a pole owner and communications service provider as providers seek access to poles.

A pole owner shall promptly review a request for access, perform surveys, provide estimates and final invoices, and complete, or require the completion by other attaching entities of, any make-ready work necessary for purposes of offering broadband service in an unserved area. A pole owner shall provide a good-faith estimate for any make-ready costs to the communications service providers within 60 days after receipt of a complete application for access. If requested by the communications service provider, the pole owner shall provide accompanying documentation indicating the basis of all estimated fees or other charges, including, but not limited to, administrative costs, that form the basis of its estimate. A good-faith estimate shall remain valid for 14 days. To accept a good-faith estimate, a communications service provider must provide the pole owner with written acceptance and payment of the good-faith estimate.

Make-ready work shall be conditioned upon payment of the good-faith estimate and shall be completed within a reasonable time frame mutually agreed to by the communications service provider and the pole owner. A pole owner may treat multiple requests from a single communications service provider as one application for access when the requests are filed within 90 days of one another. A pole owner may deviate from the time limits specified during performance of make-ready work for good and sufficient cause that renders it infeasible to complete make-ready work within the time limits specified. Any deviation from the time limits shall extend for a period no longer than necessary. A communications service provider shall promptly be notified, in writing, of the reason for a deviation and the new completion date estimate. A communications service provider shall provide notice, in writing, to the pole owner no later than 14 days after attaching equipment to the pole in an unserved area.

A party subject to a dispute arising under subsection (g) of this section may invoke the dispute procedures authorized in G.S. 62-350 in the same manner as a party seeking resolution of a dispute under G.S.62-350(c), and the Utilities Commission shall issue a final order resolving the dispute within 120 days of the date the proceedings were initiated; provided, however, the Commission may extend the time for issuance of a final order for good cause and with the agreement of all parties. In such a dispute, the Commission shall apply the provisions outlined above, notwithstanding any contrary provisions of any existing agreement.

The office does not have an active role in the coordination between these parties, except for working with pole owners and communications service providers to confirm eligible pole replacement costs for the purposes of this program, reviewing documentation of eligible costs, confirming completion of work, and reviewing the submission of other relevant documentation for the Broadband Pole Replacement program.

All payments made under the program are reimbursements based on the submission, review, and approval of the required documentation as outlined further in this guidance document. While the session law contemplates possible advance payments before completion of work because this is a reimbursement program, the office is requiring that all submitted funding requests include documentation sufficient to establish that the pole replacements have been completed. The office will re-evaluate the need for advance payments closer to the deadline for the expiration of the program or applicable federal deadlines, and it may revise this Guidance accordingly.

4. APPLICATION AND AWARD PROCESS

A. Application Requirement Phase I: Qualification under Statewide IT Convenience Contract

Participation by communications service providers in the Broadband Pole Replacement program requires a two-phase application process. NCDIT released a request for proposals (RFP) for Broadband Expansion and Access to qualify broadband providers for participation in infrastructure programs such as the Completing Access to Broadband program, the Broadband Pole Replacement program, and additional infrastructure programs.

The outcome of the Broadband Expansion and Access RFP is the creation of a statewide IT Convenience Contract (09 NCAC 06B .0701(c)) to identify broadband service providers that have the financial, operational, and technical capacity to deploy broadband infrastructure for the provision of internet service in unserved and underserved areas of the state. This RFP does not result in a direct project award but acts as a review of qualifications of broadband providers. Respondents are evaluated on a pass/fail basis to determine eligibility to participate in subsequent scopes of work for broadband deployment services needed by the state. Use of this Convenience Contract allows broadband providers to be vetted at one time for these upcoming projects, thereby avoiding the duplication of efforts under multiple programs and projects.

Applicants for the Broadband Pole Replacement program must participate and qualify under this Convenience Contract to be eligible for participation in the program. Qualifying applicants will enter into a Convenience Contract with the N.C. Department of Information Technology that includes relevant state and federal terms and conditions.

B. Application Requirement Phase II: Application for Reimbursement

Communications service providers approved under the Broadband Expansion and Access Convenience Contract that have incurred eligible pole replacement costs in connection with qualified projects to provide qualifying internet access service in unserved areas of the state may submit applications for Reimbursement to the office from the program. As part of the application form, applicants must certify that the work has been completed and is part of a qualified broadband project.

A communications service provider that pays or incurs the costs of removing and replacing an existing pole in connection with a qualified project may apply to the office for reimbursement in an amount equal to 50% of eligible pole replacement costs paid or incurred by the applicant or \$10,000, whichever is less, for each pole replaced. Communications service providers may submit eligible costs incurred after June 1, 2021.

Pursuant to S.L. 2021-180, Section 38.10(d), each applicant for reimbursement under the program shall provide the following as part of the application for reimbursement:

- Documentation to establish that the broadband project area is an eligible project area under this program.
- Information sufficient to establish the number, cost and eligibility of pole replacements and the identity of the communications service provider attaching the broadband facilities.
- Documentation sufficient to establish that the pole replacements have been completed. *(While the session law contemplates possible advance payments before completion of work, the office is currently requiring completion of work prior to submission of funding requests. The office will re-evaluate the need for advance payments closer to the deadline for the expiration of the program or applicable federal deadlines, and it may revise this guidance accordingly.)*
- The amount of reimbursement requested and documentation or information justifying the amount requested.
- A verified statement from an officer or agent of the applicant declaring that the contents of the application are true and accurate.
- Any other information the office deems necessary for final review of the application and award of reimbursement.

The office will review a completed application for reimbursement no later than 60 days after the date of submission, consistent with S.L. 2021-180, Section 38.10(e). If the application establishes that the applicant has paid or incurred costs eligible for reimbursement under the program and there are sufficient funds in the program special fund, the office will reimburse the applicant as authorized.

The office will reimburse the applicant no later than 30 days after the date the office determines reimbursement can be made. If a communications service provider incurs eligible pole replacement costs, the pole owner shall cooperate and coordinate with the provider to supply all information required by the office to aid the provider in promptly completing and submitting an application for reimbursement under this program. A pole owner shall reasonably and promptly cooperate with any request by the office for substantiation of charges assessed by the pole owner.

The Application Form and specific processes will be posted on the program webpage at ncbroadband.gov. The office will process applications for reimbursement that meet the eligibility criteria for this program on a first-come, first-served basis, as funding is available. As

described earlier in the guidance, the office will publish the fund balance for the program on a monthly basis on the program webpage at ncbroadband.gov. When the office has disbursed 70% of program funding to program participants, the office will develop additional guidance related to the evaluation and prioritization of remaining reimbursement requests.

Appendix A. Explanation of Make-Ready Work & Pole Replacement

As broadband providers deploy infrastructure in remote areas, utility poles are critical resources. Fiber and other communications assets can be attached to utility poles within particular spaces and heights on the pole. Communications service providers deploying broadband may seek space for aerial deployments on poles owned by other entities. “Make-ready Work” is the work needed to prepare the utility pole for attachments from a new communications service provider.

When these utility poles lack space for additional attachments or are unable to carry the additional loading resulting from added facilities, the project may require existing utility poles to be replaced with taller or larger poles to add space to accommodate the additional infrastructure attachments. This work is referred to as “pole replacement.” The attaching communications service providers must then pay the Pole Owners to then implement these needed utility pole replacements.

In reviewing the process at a high level, a communications service provider will make plans to provide new service in an area. During the planning process, the service provider will identify routes and document those poles that need to be replaced to accommodate new broadband supporting cable. Below is a general description of typical make-ready and pole replacement steps necessary for coordination:

As part of planning for necessary make-ready work, a broadband provider will contact and provide a pole owner a request for make-ready including pole replacements and request an estimated cost for such work. The pole owner may conduct its own review including a determination of whether there is room for new cabling and equipment, and if there are safety or other issues to be resolved before construction can advance. The pole owner will, following its review, deliver to the broadband provider an estimate of the costs of make-ready including the cost of any pole replacements. The parties then work to reach a mutually acceptable agreement for the make-ready work including the pole replacement project. Typically, make-ready costs must be pre-paid before work begins.

Once an agreement has been reached, line crews for the pole owner will change out poles, relocate transformers, move wires on the pole, add new anchors to the poles, and perform other work to prepare for placement of the new fiber. The broadband provider can then install fiber/cable on the pole.