



# Washington State Broadband Office

## Broadband Infrastructure Grant

**Notice of Funding Opportunity (NOFO) – WSBO 23-001  
ARPA Capital Application Guidelines**

**11/22/2022**

**Guidelines subject to change based on the release of additional guidance for the use of American Rescue Plan Act (ARPA) Coronavirus Capital Projects Account funds.**

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# CONTENTS

- WSBO BROADBAND INFRASTRUCTURE GRANT PROGRAM ..... 3**
  - Eligible applicants: ..... 3
  - WSBO Goals: ..... 4
  - Broadband Construction Funding ..... 4
  - Application Cycle Timeline ..... 4
  - Existing Network Service Providers Notification ..... 4
  - Period of Performance ..... 5
  - Eligible Project Activities and Costs ..... 5
  - Ineligible Costs ..... 5
  - Online Application Instructions ..... 6
  - Federal Requirements - Uniform Guidance (2 CFR Part 200) ..... 6
- THRESHOLD REQUIREMENTS AND MANDATORY ATTACHMENTS ..... 7**
  - Committed Network Provider ..... 7
  - Evidence of unserved status of proposed project area ..... 7
  - Governor’s Executive Order 21-02 Compliance ..... 7
  - Archaeological & Cultural Resources* ..... 7**
  - Process Administration* ..... 7**
    - Indirect Rates ..... 8
    - Existing Network Service Provider Notification ..... 8
    - Project Location Information ..... 8
    - Minimum 10% Match Requirement ..... 8
    - Distressed Rural Counties and/or Indian Country – Match Requirement Waived ..... 8
    - Definition of Distressed Area* ..... 8**
    - Suspension & Debarment ..... 8
- OBJECTION PROCESS ..... 9**
- SCORING AND TECHNICAL ASSISTANCE? ..... 11**
  - Who should I contact if I have a questions? ..... 11*
- WSBO: BROADBAND DEFINITIONS AND NOTES ..... 12**
- WSBO CONTRACT CONDITIONS ..... 15**
  - Broadband Minimum Speed at Construction Completion ..... 15
  - Network Provider Participation in Affordable Connectivity Program ..... 15
  - Partnership Agreement(s) and/or Indefeasible Rights of Use (IRU) ..... 15
  - Site Control, Broadband Connectivity and Public Benefit ..... 16

## WSBO BROADBAND INFRASTRUCTURE GRANT PROGRAM

The Washington State Broadband Office (WSBO) is authorized by state statute ([RCW 43.330.534](#)) to fund broadband infrastructure that creates greater broadband access to unserved and underserved areas of the state.

ARPA Capital funds focus on critical capital broadband projects that directly enable work, education and health monitoring, including remote options, in response to the public health emergency. "All projects must demonstrate that they meet the critical connectivity needs highlighted and amplified by the COVID-19 pandemic."

Projects must focus on households and businesses without access to broadband and those with connections that do not provide minimally acceptable speeds.

**The requirements contained within this NOFO are not to be considered as a precedent for future funding rounds administered by the WSBO. Future funding requirements may change based on funding source.**

### Eligible applicants:

- Units of local government, including but not limited to ports and public utility districts
- Federally recognized tribes
- Nonprofit organizations
- Nonprofit cooperative organizations
- Multiparty entities comprised of a combination of public entity members or private entity members. A multiparty entity cannot be solely comprised of private entities.

### Eligible Projects:

"Broadband Infrastructure Projects" are eligible for funding under ARPA Capital if the infrastructure is designed to deliver, upon project completion, service that reliably meets or exceeds symmetrical download and upload speeds of 100 Mbps. If it would be impracticable, because of geography, topography or excessive cost, the Project must be designed so that it reliably meets or exceeds 100 Mbps download and 20 Mbps upload speeds and be scalable to a minimum of 100 Mbps symmetrical.

Applicants are to focus on projects that achieve last-mile connections. "Last mile infrastructure" means broadband infrastructure that serves as the final connection from a broadband service provider's network to the end-user's on-premises telecommunications equipment.

Middle-mile projects are eligible, and are encouraged to have commitments in place to support new and/or improved last-mile service.

Applicants are also encouraged to prioritize investments in fiber-optic infrastructure where feasible, as such advanced technology better supports future needs.

ARPA Capital awards are to assist in the acquisition, installation and construction of last mile infrastructure that supports broadband services, and to assist in strategic planning for deploying broadband service in **unserved** areas.

In selecting an area to be served by a project, applicants are required to avoid investing in business and residential

locations that have existing service or a verifiable agreement to build reliable wireline service with minimum speeds of 100 Mbps download and 20 Mbps upload, scalable to 150 Mbps symmetrical by 2028. Anchor institutions need to receive at least 1 Gbps symmetrical broadband service by 2026.

### WSBO Goals:

It is a goal of the state of Washington that:

- By 2026, all communities have access to at least 1 Gbps symmetrical broadband service at anchor institutions like schools, hospitals, libraries, and government buildings
- By 2028, all businesses and residences have access to at least one provider of broadband with speeds of 150 Mbps symmetrical.

### Broadband Construction Funding

There are approximately \$120 million available in federal ARPA Capital grant funding. Awards are determined through a competitive process.

The maximum amount of funding the WSBO may award is \$12 million per project.

The application cycle is open from November 22, 2022 to January 17, 2023. Applications are due by midnight January 17, 2023. Application rating and ranking begins January 18. The WSBO will make conditional awards in February 2023.

### Application Cycle Timeline

- Application Cycle Opens 11/22/22
- Application Cycle Closes 01/17/23
- Applications Review 01/18/23 to 02/20/23
- Challenge Request Due 02/10/23
- Awards 02/28/23

### Existing Network Service Providers Notification

The application must include evidence of consultation with existing network service providers in the area (Ports, Public Utility Districts and/or Internet Service Providers) and indicate the incumbent's position on the project (support, neutral, opposed). Consultation will be considered completed if the applicant can document a good-faith effort to consult with the representative identified in [UTC list of registered telecommunications companies](#).

For existing network service providers that may not be on the UTC list of registered companies, the applicant must make a good-faith effort to identify and contact ISPs by using the [FCC's Broadband Deployment website](#).

Applicants are to contact existing network service providers and request their delivery of, or plan to upgrade broadband service in the project area to speeds that meet or exceed the federal definition for broadband service. Plans to provide future service must indicate if they are currently under construction or will start within the next year.

At least two attempts must be made to each incumbent network service provider in the project area. The good faith effort will be considered satisfied if the incumbent network service provider responds and provides the requested information, or if they have not responded within 30 days of the inquiry.

Under federal guidelines, recipients are encouraged to avoid investing in locations that have existing agreements to build reliable wireline service with minimum speed of 100 Mbps download and 20 Mbps upload by December 31, 2024.

## Resources for Locating Existing Network Service Providers

[UTC Registered Telecommunications Companies](#)

[ILEC Exchange Boundaries](#)

[Federal Communications Commission Fixed Broadband Deployment](#)

## Period of Performance

Cost may be incurred from the date of the Award Letter (February 2023) to October 30, 2026. Recipients must expend all funds for the financial obligations incurred by October 30, 2026. Project completion is 3 years and 8 months under this PROGRAM.

## Eligible Project Activities and Costs

Costs must be directly related to the scope of work of the project being financed by the PROGRAM. Eligible project activities and costs include:

- Design, architectural & engineering work
- Building permits/fees
- Archeological/historical & cultural review
- Construction labor and materials
- Demolition/site preparation
- Equipment rental/lease as allowed under [2 CFR § 200.465, except covered communications equipment or services](#) as defined in section 9 of the Secure and Trusted Communications Networks Act of 2019 (47 U.S.C. 1608).
  - [If equipment rental/lease cost exceeds the cost to purchase, contact your WSBO project manager for approval to purchase the equipment as allowed under 2 CFR § 200.439.](#)
- Indirect Rate: federal approved indirect rate or 10 percent of the modified total

direct costs

- Capitalized equipment
- Construction or project management
- Landscaping
- “Program Administrative Cost” means the costs incurred by a Recipient related to the administration of Capital Projects Fund awards, the provision of technical assistants to potential Sub-recipients, and compliance with grant administration and audit requirements.\*\*
- Personnel costs including salaries and fringe benefits for staff and consultants required for carrying out a Capital Project (such as project managers, program directors, subject matter experts, equity consultants, grant administrators, financial analysts, accountants, and attorneys)
- Real property when purchased specifically for the project, and associated costs. \*\*

**\*ARPA Capital funds limited the Program Administration to the grantee and subrecipients to 5% of the ARPA Capital award, or \$25,000 whichever is higher.**

**\*\*Costs directly associated with property acquisition include: appraisal fees, title opinions, surveying fees, real estate fees, title transfer taxes, easements of record, and legal expenses.**

## Ineligible Costs

The following costs are not eligible for reimbursement:

- Operating expenses, other than grant administration costs
- Fundraising activities
- Computers or office equipment
- Rolling stock (such as vehicles and

generators)

- Lease payments for rental of equipment or facilities
- Mortgages and property leases (including long-term)

### Online Application Instructions

All applications for the PROGRAM, are submitted electronically through ZoomGrants. Paper copies are not accepted.

Click [Apply for WSBO Broadband Construction ZoomGrants](#) to reach the ZoomGrants website. If you have a ZoomGrants account, log in and follow the instructions. If you are a new user, complete the required information for a new ZoomGrants account to create a profile. Please do not use "The" as the first word in the agency name.

Once the agency profile has been created, select WSBO ARPA Capital Grant, check the "apply" button, and start your proposal. Answers are automatically saved.

Applications must be submitted to the WSBO no later than midnight on Tuesday, January 17, 2023. In order to successfully submit an application, all questions must be completed and all required documents must be attached.

### Federal Requirements - Uniform Guidance (2 CFR Part 200)

The following are some of the federal requirements and ARPA Capital guidelines:

- Cost Principles and Single Audit Act
- State prevailing wage law requires the payment of not less than the prevailing rate of wage to all "laborers, workers, or mechanics, upon all public works." ([RCW 39.12.020](#).) Public work is defined as

"all work, construction, alteration, repair, or improvement... **executed at the cost of the state or of any municipality...**" ([RCW 39.04.010\(4\)](#).)

- Prepare financial statements, including the Schedule of Expenditures of federal Awards
- Quarterly and possible annual reporting requirements, until approximately March 31, 2027.
- ARPA Capital Projects Fund will be requesting performance reports. The US Treasury will release detailed reporting guidance soon after the Capital Projects Fund Portal is launched.
- All Grantees must complete the [NEPA Checklist](#). The grantee must perform the proper due diligence to ensure their project complies with all applicable laws. Additionally, recipients must retain records, permits, and documentation necessary to evidence compliance with all environmental requirements.
- Professional services or contractors are verified as not being [suspended, debarred, or otherwise excluded](#) prior to awarding a contract
- Professional services, including engineering, require competitive proposals
- Methods of procurement – Sealed Bids for construction

## THRESHOLD REQUIREMENTS AND MANDATORY ATTACHMENTS

The following are threshold requirements and mandatory attachments necessary to qualify for PROGRAM funding (if applicable to the applicant).

### Committed Network Provider

To apply for construction funds, an applicant must have a committed Internet Service Provider (ISP) or Existing Network Provider.

In order to show that a network provider will partner with the applicant, but will do so only if WSBO funding is made available to the applicant, the WSBO requires a signed Contingency Agreement(s) or a commitment letter between the applicant and each network provider named in the application.

### Evidence of unserved status of proposed project area

Please provide evidence regarding the unserved nature of the area(s) impacted by this project. Acceptable evidence of the unserved area can be illustrated by service location address or block of addresses and/or a map with a representative sampling of data points indicating service location and subscriber speeds. Maps must include identifiable markers and road designation information. For larger projects, please utilize multiple map images to provide the necessary level of detail.

### Governor's Executive Order 21-02 Compliance

#### **Archaeological & Cultural Resources**

In order to protect the rich cultural heritage of Washington State, Governor Jay Inslee signed Governor's Executive Order 21-02 (GEO 21-02). All projects awarded state capital funds must have consultation conducted with the Department of Archaeology & Historic Preservation (DAHP) and any federally recognized Indian tribes that may have cultural/historic interest or concerns in your project's vicinity.

However, if projects, through federal involvement, will be subject to Section 106 of the National Historic Preservation Act, that approval may satisfy the GEO 21-02 process.

Please remember that the GEO 21-02 process must be completed prior to the start of Broadband Construction.

#### **Process Administration**

- In ZoomGrants, attach the EZ1 form or prior-approved Section 106 documentation.
- The Broadband Infrastructure Programs Manager will conduct the consultation with DAHP and the tribes.

**Please note:** DAHP is currently requiring a professional archaeologist monitoring plan for all broadband projects. This is most likely going to be a requirement for all awardees.

## Indirect Rates

Attach the Federal approved indirect rate letter from the approving agency or the “Certification of Indirect Costs” rate. If you don’t have a current negotiated federal approval letter, you may charge 10% de Minimis rate per 2 CRF §200.414.

## Existing Network Service Provider Notification

The applicant will provide documentation of contact with all existing network service providers (see Existing Network Service Provider Notification form). These letters or emails must be submitted with the applicant’s online grant application. Provide each document that was sent, as well as all responses from each existing network service provider if one was received, or indicate that no response was received. Phone contact is encouraged, but must be followed up with an email or direct mail confirming the content of the phone call.

## Project Location Information

Project location information includes a written description of the specific roads, streets, neighborhoods, or other bounding information describing the project area.

## Minimum 10% Match Requirement

The required minimum secured cash match is 10% of the total project cost; however, this requirement may be waived if the project is located in a distressed rural county or Indian Country. In kind is acceptable for match beyond the 10% required. The recipient may use eligible expenses that have been incurred from March 15, 2021 until the award letter effective date as match.

## Distressed Rural Counties and/or Indian Country – Match Requirement Waived

Distressed status relates to projects in distressed rural counties and/or Indian Country.

### **Definition of Distressed Area**

Rural counties are defined as those with a population density of fewer than 100 persons per square mile or a county smaller than 225 square miles, as determined by the Office of Financial Management ([RCW 43.160.020](#)). A project located in any of these 15 rural counties, or [Indian Country](#) qualify as distressed as identified by the [Employment Security Department](#).

### **15 Rural Counties Qualifying for Distressed Status**

Clallam	Franklin	Jefferson	Okanogan	Stevens
Cowlitz	Grant	Lewis	Pacific	Wahkiakum
Ferry	Grays Harbor	Mason	Pend Oreille	Yakima

## Suspension & Debarment

WSBO Staff will verify the applicant and committed internet service provider(s) are not suspended, debarred or otherwise excluded from receiving federal funding during application review.

## OBJECTION PROCESS

Within 3 days of the close of the grant application cycle on January 17, the WSBO shall publish on its website the proposed geographic broadband service area and the proposed broadband speeds for each application submitted.

An existing network service provider that currently serves or has begun construction to serve the proposed project area may object to an application for broadband construction funding unless one of the following is true:

- The affected existing network provider confirmed in writing that end users in the proposed project area are not currently receiving broadband service at 100/20 Mbps or speeds equal to or greater than state speed goals (RCW [43.330.536](#)).
- The affected existing network provider confirmed in writing that they have begun construction, or will begin construction within a year of the date that the WSBO awards are issued, to provide broadband service in the proposed project area at 100/20 Mbps or speeds equal to or greater than state speed goals.
- The affected existing network provider did not engage in a timely manner with the project applicant after good faith attempts were made to seek such review.

Any qualifying objection must be submitted to the WSBO by February 10, 2023, using the process set forth below. The WSBO will not consider objections received after the close of business on that date. All objections will be processed by the WSBO as quickly as possible, and a synopsis of the objections and their nature will be posted to the WSBO's website.

Objectors must use and complete the Objection Intake form. At the time of submittal, a qualifying objection must include all documents and information demonstrating the nature of the objection and relief requested, including:

- The Objector's contact information
- All relevant project information, including maps, and other documentation
- A clear and concise statement expressing the objection's nature and scope and the scope of the relief requested

The completed Objection Intake form will be treated as the Objector's sworn affidavit to the veracity of the facts supporting the objection, and will serve as the Objector's express commitment to provide to the WSBO the confidential financial and business information needed to fully process and determine the outcome of the objection.

Only objections that demonstrate the following circumstance will be considered:

The proposed project will result in overbuild because the objecting party currently provides, has begun construction to provide, or will begin construction within a year of the date that the WSBO awards are issued to provide broadband service to end users at 100/20 Mbps or speeds equal to or greater than state speed goals (RCW [43.330.536](#)). The WSBO reserves the right to require an objector to provide a bond, letter of credit or

other indications of financial commitment guaranteeing the construction project's completion.

Credible objections will be included as additional information in evaluating applications for funding. A partial objection may not disqualify an entire application. Recommendations for funding awards, including those with objections, will be forwarded to the WSBO Director for consideration.

## SCORING AND TECHNICAL ASSISTANCE?

The proposed Scoring points are divided into the following areas:

- Project Need - Maximum Score 30 points
- Readiness to Proceed - Maximum Score 30 points
- Sustainability - Maximum Score 20 points
- Affordability and Adoption - Maximum Score 20 points

A maximum of 100 points may be achieved for the entire application and the minimum score to meet funding threshold is 65 points.

### **Who should I contact if I have a questions?**

Questions about the content of your application:

Tammy Mastro, Broadband Infrastructure Programs Senior Specialist

[Tammy.Mastro@commerce.wa.gov](mailto:Tammy.Mastro@commerce.wa.gov) or (360) 791-2805

Questions about Cultural Resources Review:

Connie Rivera, Broadband Infrastructure Programs Manager

[Connie.Rivera@commerce.wa.gov](mailto:Connie.Rivera@commerce.wa.gov) or 360-704-9535

ZoomGrants Technical questions, contact Tech Support Desk:

[Questions@ZoomGrants.com](mailto:Questions@ZoomGrants.com) (866) 323-5404 ext. 2

## WSBO: BROADBAND DEFINITIONS AND NOTES

**Affordable:** Broadband service is available at comparable rates in all parts of the state consistent with the requirements of the Federal Communications Commission (FCC).

**Community Anchor Institutions (CAI):** Are schools, libraries, medical and health care providers, public safety entities, community colleges and other institutions of higher education, and other community support organizations and agencies that provide outreach, access, equipment, and support services to facilitate greater use of broadband service by vulnerable populations, including low-income, unemployed, and the aged.

**Community Engagement:** Seek to better engage the community to achieve long-term and sustainable outcomes, processes, relationships, discourse, decision-making, or implementation. To be successful, it must encompass strategies and processes that are sensitive to the community-context in which it occurs.

**Contingency Agreement:** Is any contract that depends on one or more events that may or may not take place. If the specified events occur, the parties may have a binding contract or the contract will be invalidated depending on the nature of the contingency.

**Existing Service Provider:** a broadband service provider that currently serves or has begun construction to serve end users with reliable wireline high speed broadband service with minimum speeds of 100 Mbps download and 20 Mbps upload, scalable to 150 Mbps symmetrical by 2028. Anchor institutions need to receive at least 1 Gbps symmetrical broadband service by 2026.

**Gigabit per Second (Gbps):** Units of measurement for network bandwidth and throughput. They are used to show how fast a network or internet connection is. A gigabit is 1,000 megabits.

**Incumbent Local Exchange Carrier (ILEC):** Company that provides basic telephone services, among other telecommunications services, to the residents of the Local Government

**Internet Service Provider (ISP):** A company that provides subscribers with access to the internet.

**Last Mile:** Broadband Infrastructure that serves as the final connection from a broadband service provider's network to the end-use customer's on-premises telecommunications equipment.

**Megabits per Second (Mbps):** Units of measurement for network bandwidth and throughput. They are used to show how fast a network or internet connection is. Each Mbps represents the capacity to transfer 1 billion bits each second.

**Open Access:** During the useful life of the infrastructure, broadband network owners must insure that internet service providers may use network services and facilities at rates, terms, and conditions that are not discriminatory or preferential between providers, and employ accountable interconnection arrangements published and available publicly.

**Middle Mile:** Broadband Infrastructure that links a broadband service provider's core network infrastructure to the last mile infrastructure.

**Public-Private Partnership:** a partnership among one or more government entities and one or more non-government entities for the purpose of expanding broadband access where public entities are the lead applicant and will be the entity with whom WSBO establishes a contract.

**Recipient:** Applicant whose proposal has been accepted by WSBO and is awarded a fully executed, written grant contract.

**Regional Partners:** Any combination of local governments, tribal nations, nonprofits, nonprofits cooperatives, or multi-party entities consisting of public entities, or public entities and private entities. Each entity has a distinct role in the project: funding, right of way, permitting, staffing, etc.

**Scalable:** Technology must have the capability to easily expand or upgrade to speeds required.

**Serviceable Connection/Passing:** Serviceable connections are completed internet connections between a network and end-user capable of delivering high-speed broadband service that meets or exceeds program required speeds. Passings are potential connections based on broadband infrastructure passing a residence or business, but not establishing the end-user connection.

**Shovel Ready (Project Readiness):** A project is at the stage where workers can be employed and construction can begin within a six month window, clock starts on award date.

**Unserved:** Areas of Washington in which households and businesses lack access to broadband service of speeds at a minimum of 100 Mbps download and at a minimum 20 Mbps with latency less than or equal to 100 milliseconds. [SSB 5651, Sec. 1041(1) (e) (I)]

**Underserved:** Areas of Washington in which households and businesses lack access to broadband service of speeds at symmetrical download and upload speeds of 100 Mbps.

## Notes

### **Applicants And Internet Service Providers Consult With Their Tax Professionals:**

The [Tax Cuts and Jobs Act of 2017, Public Law 115-97\(2017\)](#) has material relating to the manner by which funds awarded from this NOFO are viewed for tax purposes. The WSBO recommends that all Applicants and Internet Service Providers consult with their tax professionals to ensure full understanding of the tax implications in the event that their proposed projects are selected for funding.

### **Proprietary Information and Public Disclosure**

Applications submitted in response to this competitive procurement shall become the property of the WSBO. All applications received shall remain confidential until the Apparent Successful Grantees are announced; thereafter, the Applications shall be deemed public records as defined in [RCW 42.56](#).

Any information in the proposal that the Applicant desires to claim as proprietary and exempt

from disclosure under the provisions of RCW 42.56, or other state or federal law that provides for the nondisclosure of your document, must be clearly designated. The information must be clearly identified and the particular exemption from disclosure upon which the Applicant is making the claim must be cited. Each question containing the information claimed to be exempt from disclosure must be clearly identified in a narrative (one narrative for all the exemption requests) submitted in the documents tab. Marking the entire application exempt from disclosure or as Proprietary Information will not be honored.

If a public records request is made for the information that the Applicant has marked as "Proprietary Information", the WSBO will notify the Applicant of the request and of the date that the records will be released to the requester unless the Applicant obtains a court order enjoining that disclosure. If the Applicant fails to obtain the court order enjoining disclosure, the WSBO will release the requested information on the date specified. If an Applicant obtains a court order from a court of competent jurisdiction enjoining disclosure pursuant to RCW 42.56 or other state or federal law that provides for nondisclosure, the WSBO shall maintain the confidentiality of the Applicant's information per the court order.

A charge will be made for copying and shipping, as outlined in RCW 42.56. No fee shall be charged for inspection of contract files, but twenty-four (24) hours' notice to the NOFO Coordinator is required. All requests for information should be directed to the NOFO Coordinator.

## WSBO CONTRACT CONDITIONS

### Broadband Minimum Speed at Construction Completion

The broadband technology funded by this grant will result in minimum service speed to each premises that reliably meets or exceeds 100 Mbps and 20 Mbps and be scalable to a minimum of 100 Mbps symmetrical download and upload speeds.

### Network Provider Participation in Affordable Connectivity Program

Recipient must require that all retail internet service providers using the broadband funded through this grant either:

- Participate in the Federal Communications Commission's Affordable Connectivity Program (ACP); or
- Provide access to a broad-based affordability program to consumers with low incomes in the broadband infrastructure proposed service area that provides benefits commensurate with those provided under the ACP.

### Open Access

The Internet Service Provider partnering with the Recipient may retain exclusive rights to the network constructed with grant funds upon contract execution for a maximum of three years after the funded project construction is complete. After three years, the network must be open access for the remainder of its useful life. Open access means that during the useful life of the infrastructure, broadband network owners must ensure that internet service providers may use network services and facilities at rates, terms and conditions that are not discriminatory or preferential between providers, and employing accountable interconnection arrangements published and available publicly.

### Partnership Agreement(s) and/or Indefeasible Rights of Use (IRU)

Submit executed Partnership Agreement(s) and/or Indefeasible Rights of Use (IRU), no later than thirty (30) days prior to the anticipated construction completion date or contract end date.

### Professional Archaeological Monitoring

DAHP is currently requiring a professional archaeologist monitoring plan for all broadband projects. This is most likely going to be a requirement for all awardees.

### Project Completion

Submit report on the number of serviceable connections to residential and anchor institutions. In addition, submit a final shape file of the project to release the ten percent retainage.

### Recipient required to obtain and maintain Unique Identifier Number (SAM)

All Recipients must have an active registration with the [System for Award Management \(SAM\)](#) and maintain it through the period of the contract, as required by [2 CFR Part 25](#). A contract can't be issued until the Recipient provides the number.

### Scope of Work Approval and Contract Execution Date

Recipients awarded WSBO funding must return a Scope of Work approval within two months of receipt of a draft from the WSBO. Recipients must return an executed contract within six months of receipt. Failure to do so shall result in withdrawal of the award.

### Site Control, Broadband Connectivity and Public Benefit

Recipients must maintain project site control for a minimum of 25 years, either through ownership or a long-term lease. Funded infrastructure must provide broadband connectivity for a minimum of 25 years. Additionally, the infrastructure must provide public benefit for 25 years where feasible.

### Statewide Vendor Number

In order to execute a WSBO contract, Recipients must establish a statewide vendor (SWV) number through the WA State Office of Financial Management (OFM). The statewide registration forms can be found at OFM's website at:

<https://ofm.wa.gov/it-systems/statewide-vendorpayee-services>

OFM may be contacted at 360-407-8180 or [payeehelpdesk@ofm.wa.gov](mailto:payeehelpdesk@ofm.wa.gov).