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**IDAPA 09
TITLE 03
CHAPTER 01**

09.03.01 - RULES OF THE RURAL BROADBAND DEVELOPMENT MATCHING FUND PROGRAM

000. LEGAL AUTHORITY.

These rules are promulgated under the legal authority of Section 67-4702, Idaho Code. (3-30-07)

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 09.03.01, "Rules of the Rural Broadband Development Matching Fund Program." (3-30-07)

02. Scope. These rules implement Senate Bill 1498, enacted by the Second Regular Session of the Fifty-eighth Idaho Legislature and signed into law on April 12, 2006. These rules implement the Department's procedures for project selection, award and disbursement of grant funds for the Rural Broadband Development Matching Fund Program. (3-30-07)

002. WRITTEN INTERPRETATIONS.

The Department has no written interpretations of these rules. (3-30-07)

003. ADMINISTRATIVE APPEALS.

The award of grants under the Rural Broadband Development Matching Fund Program is a function to be performed by the Department in its sole discretion. In light of the discretionary nature of awarding these grants, there is no administrative appeal under these rules. (3-30-07)

004. OFFICE -- OFFICE HOURS -- ADDRESS AND CONTACT INFORMATION.

The mailing address of the Department for information regarding the Rural Broadband Development Matching Fund Program is: Idaho Department of Labor, Broadband Grant Program, 317 West Main Street, Boise, ID 83735. The telephone number is (208) 332-3570 ext. 3229 and the facsimile machine number is (208) 334-6430. Office hours are between 8 a.m. and 5 p.m. on regular business days Monday through Friday. (3-30-07)

005. PUBLIC RECORDS ACT COMPLIANCE.

All rules contained in this chapter are subject to and in compliance with the Idaho Public Records Act (title 9, chapter 3, Idaho Code). (3-30-07)

006. -- 012. (RESERVED).

013. DEFINITIONS.

01. Broadband Service. The availability to the average residential or small-business subscriber of a transmission signal at a rate of at least two hundred and fifty-six thousand (256,000) bits per second (256 kbps) from a subscriber (upstream) and at least five hundred and twelve thousand (512,000) bits per second (512 kbps) to a subscriber (downstream). (3-30-07)

02. Department. Idaho Department of Labor. (3-30-07)

03. Fund. The Rural Broadband Development Matching Fund. (3-30-07)

04. Project. Discrete activities proposed by an applicant directly related to the provision of rural broadband services to potential new subscribers. (3-30-07)

05. Proposal. One (1) or more projects submitted to the Rural Idaho Broadband Investment Program. (3-30-07)

06. Qualified Entity. Any legal entity in good standing and authorized to conduct business in the state of Idaho as an incorporated organization, cooperative, or limited liability company organized on a for profit or not-for-profit basis; an Indian tribe or tribal organization as defined in 25 U.S.C. 450b(e) and (l); or a local unit of

government. (3-30-07)

07. Rural. Any city or unincorporated area of less than ten thousand (10,000) in population based upon the most recently published population statistics of the U.S. Bureau of the Census. Excluded from the definition of “rural” is any territory, incorporated or unincorporated, included in an urbanized area, as defined by the U.S. Bureau of the Census as of August 10, 1993. (3-30-07)

014. PROGRAM PROPOSAL SUBMISSION GUIDE.

The Department shall develop a “Rural Idaho Broadband Investment Program Proposal Submission Guide.” This Guide shall give a general description of the Rural Idaho Broadband Investment Program and provide the forms and instructions for submitting a project proposal. Copies of the Guide are available for public inspection and copying at the address indicated above or at <http://cl.idaho.gov>. (3-30-07)

015. REQUIRED PROJECT PROPOSAL FORMAT.

01. Format and Order. Project proposals shall be submitted using the format and order contained in the most recent “Rural Idaho Broadband Investment Program Proposal Submission Guide.” Proposed projects not following the required format and order will be deemed to be unresponsive and will not be considered for selection. (3-30-07)

02. Multiple Projects. Multiple projects can be submitted together as one proposal. However, each individual project will be evaluated and scored based upon its own merits. Each project must be described separately, with its own project budget and related project pages. Applicants must indicate whether the approval of one project in the proposal is a prerequisite to the applicant’s ability to complete any other project in the proposal. Multiple projects without prerequisites must be numbered and described in the proposal before those having prerequisites. (3-30-07)

016. ELIGIBLE APPLICANTS.

To be eligible for reimbursement from the Fund, an applicant must be a qualified entity or a partnership of qualified entities; have the legal capacity and authority to enter into contracts; and have the legal capacity and authority to own and operate the broadband service facilities being proposed. Eligible applicants shall not include individuals. (3-30-07)

017. ELIGIBLE PROJECTS.

To be eligible for reimbursement from the Fund, eligible applicants must propose projects that provide broadband services to potential new subscribers in a rural area. In their project proposals, applicants must clearly identify and document the following: (3-30-07)

01. The Source, Amount and Availability of Matching Contributions. The source, amount and availability of matching contributions must be clearly identified and described. If matching contributions are to be provided by a third party, documentation of the third party’s commitment must be provided to the Department no later than the date specified in the most recent “Rural Idaho Broadband Investment Program Proposal Submission Guide.” Applicants who fail to timely document the commitment of third party matching contributions to the sole satisfaction of the Department will not be eligible for project funding. (3-30-07)

02. The Number of Potential New Subscribers. The number of potential new subscribers in a rural area to be served by the project and a description of the methodology used for determining that number. (3-30-07)

03. Marketing Plan. The marketing plan to be used for advertising the availability of broadband services to potential new subscribers in the project’s rural area. (3-30-07)

04. Start-Up Costs. The start-up costs, if any, to be paid for broadband services by potential new subscribers. Start-up costs include charges for equipment, one-time charges, initial set-up charges, installation charges, or any other charge to a potential new subscriber that is over and above the regular monthly subscription charge. (3-30-07)

05. Budget. An itemized budget for the proposed project. (3-30-07)

018. MATCHING CONTRIBUTIONS.

Applicants must contribute a matching contribution of at least fifty percent (50%) of the total project cost. For example, if the total project cost is \$100,000, an applicant's matching contribution must be at least \$50,000. Proposals from applicants providing greater than a 50% matching contribution will receive greater weight in the evaluation process. Applicants may use matching contributions from any source, but all matching contributions from third party sources must be guaranteed as available to the applicant no later than the date specified in the most recent "Rural Idaho Broadband Investment Program Proposal Submission Guide." Applicants who fail to timely document the commitment of third party matching funds to the sole satisfaction of the Department will not be eligible for project funding. Matching contributions shall not include contributions incurred by the applicant, or others on behalf of the applicant, for facilities or equipment installed, or other services rendered prior to project approval. (3-30-07)

019. RECAPTURE.

Eligible projects from eligible applicants selected for funding must actually result in broadband services being offered to potential new subscribers in a rural area. Applicants selected for funding who fail to deliver broadband services as required by the terms of their contract with the Department shall repay to the Department all amounts from the Fund that have been disbursed to the applicant. (3-30-07)

020. SCORING CRITERIA.

In its discretion as to the weight of each criterion, the Department shall assign points and evaluate and score projects based upon the following: an applicant's successful completion of similar projects; the number of potential new subscribers for the project; the cost to the Fund per potential new subscriber; the affordability of broadband services proposed by the project; the number of free access points for public use; the start-up costs to be paid by potential new subscribers; and the level of project matching funds. The Department shall also assign points to be awarded by the Idaho Economic Advisory Council based upon the Council's independent assessment of project merit. (3-30-07)

021. PROJECT PROPOSAL REVIEW AND SELECTION PROCESS.

Project proposals that have been submitted in a timely manner will go through the following process: (3-30-07)

01. Technical Review. The Department will perform an initial technical review against the selection criteria and determine applicant and project eligibility. Projects that do not meet both applicant and project eligibility standards in the sole discretion of the Department will not be eligible for funding. (3-30-07)

02. Preliminary Scoring. Following the technical review, eligible projects from eligible applicants will be awarded points by the Department as outlined in the most current "Rural Idaho Broadband Investment Program Proposal Submission Guide." (3-30-07)

03. Submission to Idaho Economic Advisory Council. Scored projects will then be presented to the Idaho Economic Advisory Council. The Council will award its points as outlined in the most current "Rural Idaho Broadband Investment Program Proposal Submission Guide" based upon the Council's independent assessment of project merit. (3-30-07)

04. Ranking and Award. The Department will calculate a cumulative point total and give a final priority ranking to each project with the highest number of total points ranked first and the lowest number of total points ranked last. The Department will send Notices of Award and begin the contracting process. Projects will be funded in the order of their priority ranking until all moneys in the Fund have been obligated. (3-30-07)

022. CONTRACT REQUIREMENT.

All applicants that are awarded funding shall execute a contract with the Department within thirty (30) days of the date of their Notice of Award. Applicants who fail to execute a contract within this time period shall lose their eligibility for funding. A sample copy of the contract that must be executed by the applicant is included in the most recent "Rural Idaho Broadband Investment Program Proposal Submission Guide." (3-30-07)

023. STANDBY PROJECTS.

Ranked projects meeting the eligibility and selection criteria, but not receiving an award due to a lower priority ranking, may become standby projects. Standby projects may be eligible for funding should applicants with a higher priority ranking fail to timely execute a contract with the Department. The Department reserves the right, in its sole discretion, to either award or not award funding to standby projects. (3-30-07)

024. -- 999. (RESERVED).

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