



## Telecom Regulatory Policy CRTC 2024-328

PDF version

References: 2023-89, 2023-89-1, and 2023-89-2

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### **Broadband Fund policy review – New policy for funding capital projects**

#### **Summary**

Canadians need access to reliable, affordable, and high-quality Internet and cellphone services for every part of their daily lives. The Commission launched the Broadband Fund in 2019 to help ensure that all Canadians, regardless of where they live, have access to fast and reliable Internet and cellphone services.

Through its Broadband Fund, the Commission contributes to a broad effort by federal, provincial, and territorial governments to address the gap in connectivity in underserved areas across Canada, including rural, remote, and Indigenous communities.

To date, the Broadband Fund has helped improve or introduce Internet and cellphone services in 270 communities, connecting households and essential institutions, such as health care centres, schools, and community centres. It has also helped improve or introduce cellphone services along more than 630 kilometres of major transportation roads, which enhances public safety.

In March 2023, the Commission launched the [Broadband Fund policy review](#). The review has three objectives:

1. improving the speed and efficiency of the funding process;
2. helping to advance reconciliation with Indigenous peoples; and
3. increasing Canadians' access to high-speed Internet and cellphone services.

To meet these objectives in a timely way, the Commission is conducting the review in three phases. This regulatory policy presents the outcomes of the first phase. It focuses on streamlining and improving the process for funding capital projects, including improvements that reduce barriers for Indigenous applicants and increase requirements for community engagement and consent by Indigenous communities.

This policy represents a crucial step by the Commission to help close the digital divide in Canada by making it faster and easier for all applicants to apply for and obtain funding to connect underserved areas. The improvements made in this policy will be integrated into the Commission's next call for Broadband Fund applications.

In the next phase of the review, the Commission will consider whether to fund projects that improve network resiliency. In the final phase, the Commission will address any

additional funding gaps, such as funding operational costs. While these phases are ongoing, the Commission will launch a separate process to develop an Indigenous stream of the Broadband Fund in collaboration with Indigenous groups and communities.

## **Background**

1. Canadians use telecommunications services to communicate with family and friends, to participate in the digital economy, and to access health care, education, government, and public safety services. However, some Canadians who live and work outside of densely populated areas do not yet have access to services that are comparable to those in urban areas.
2. To help ensure that Canadians can access reliable telecommunications services that meet minimum standards in terms of speed, capacity, quality, and price, the Commission established the following universal service objective in Telecom Regulatory Policy 2016-496: “Canadians, in urban areas as well as in rural and remote areas, have access to voice services and broadband Internet access services, on both fixed and mobile wireless networks.” The Commission also set out the following criteria to measure the successful achievement of the universal service objective:
  - Canadian residential and business fixed broadband Internet access service subscribers should be able to access speeds of at least 50 megabits per second (Mbps) download and 10 Mbps upload (50/10 Mbps), and to subscribe to a service offering with an unlimited data allowance; and
  - the latest generally deployed mobile technology should be available not only in Canadian homes and businesses, but on as many major transportation roads as possible in Canada.
3. The Commission launched the Broadband Fund in 2019. Its purpose is to increase Canadians’ access to telecommunications services by funding projects that will improve Internet and cellphone services in areas that otherwise may not have access to universal service objective-level services. Since 2019, other funding programs have also been introduced, and there is now significant funding available from all levels of government to improve connectivity across the country.
4. To date, the Commission has issued three calls for applications under the Broadband Fund. It has selected projects to help improve or introduce high-speed Internet and cellphone services in 270 communities, connecting households and essential institutions (including health care centres, schools, and community centres), and along more than 630 kilometres of major transportation roads, enhancing public safety.

5. In March 2023, the Commission launched a public consultation to review the policy governing the Broadband Fund.<sup>1</sup> The intent of the consultation was to explore how to improve the Broadband Fund and its processes, including making the application and evaluation processes faster and easier. In addition, the consultation presented an opportunity for the Commission to increase its focus on the role it must play in helping to advance reconciliation with Indigenous peoples. The Commission received comments from 44 organizations and 31 individuals (hereafter, the parties).<sup>2</sup>
6. The Broadband Fund policy review, based on the public consultation, has three objectives:
  - improving the speed and efficiency of the funding process;
  - helping to advance reconciliation with Indigenous peoples; and
  - increasing Canadians' access to high-speed Internet and cellphone services.
7. The Commission is conducting the policy review in three phases. In the first phase, it focused on improving the Broadband Fund's policy for capital projects that build and upgrade Internet and cellphone infrastructure. That phase has concluded, and the Commission is now issuing a new policy for funding capital projects. The new policy also sets out the eligibility and assessment criteria that applicants must meet for the Commission to consider providing funding for a proposed capital project.
8. In the next phases of the review, the Commission will consider (i) improving network resiliency by funding projects to increase redundancy in rural and remote areas; and (ii) addressing any additional funding gaps, such as funding operational costs.
9. The following sections provide an overview of the new policy for funding capital projects. A complete list of the specific policy items, including details on project types and related eligibility and assessment criteria, is set out in Appendix 1 to this regulatory policy.

### **Improving speed and efficiency**

10. The Commission heard from parties that there are opportunities to improve the speed and efficiency of the Broadband Fund by, for example, streamlining the application and evaluation processes. Some parties also suggested that the Commission use a different funding model.
11. Based on the feedback received, as well as the Commission's experience and the lessons it learned from the first three calls for applications, the Commission is making

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<sup>1</sup> In Telecom Notice of Consultation 2023-89, the Commission launched the public consultation. In Telecom Regulatory Policy 2018-377, the Commission set out the original Broadband Fund policy.

<sup>2</sup> See Appendix 3 to this regulatory policy for a full list of the Indigenous rights holders, governments, organizations, and service providers; Internet and cellphone service providers; public interest groups; other levels of government; and associations that provided their views.

improvements to the application and evaluation processes, the evaluation criteria, and the funding process. The Commission is also making improvements to futureproof the Broadband Fund policy.

### **Application and evaluation processes**

12. Many parties urged the Commission to make the application and evaluation processes faster and easier. For example, Access Communications Co-operative Limited; Bragg Communications Incorporated, carrying on business as Eastlink; Eeyou Communications Network; and Saskatchewan Telecommunications suggested that the Commission could have clearer timelines for application evaluations and notifications, faster decision making, and better communication with applicants. They submitted that these improvements would speed up the funding process and assist applicants with scheduling capital projects and procuring equipment and materials.
13. Faster and easier application and evaluation processes will benefit applicants and underserved Canadians. With that as a guiding principle, the Commission is making changes, including some procedural changes, to improve the application and evaluation processes.
14. For example, the Commission is implementing new measures that will allow it to:
  - triage the evaluation of applications, as appropriate, so that it can focus on priority underserved areas first; and
  - stop evaluating an application that does not meet key assessment criteria, which will give it greater flexibility to assess applications more quickly.
15. In addition, the Commission will continue to notify applicants whose proposed projects are not selected for funding. The Commission began providing this type of notification during the third call for applications, which applicants have appreciated. The Commission is therefore incorporating this notification process into the Broadband Fund policy as a best practice to provide clarity to applicants and assist them in their capital project planning.

### **Evaluation criteria**

16. Smaller telecommunications service providers (TSPs) and Indigenous parties, such as the Coalition<sup>3</sup> and the First Nation of Na-Cho Nyäk Dun (FNNND), submitted that the technical and financial information required, in addition to the complex eligibility and assessment criteria, discouraged them from applying for funding.
17. Incumbent TSPs, such as Bell Canada and TELUS Communications Inc. (TCI), generally agreed that the evaluation criteria could be streamlined. They also noted

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<sup>3</sup> The Coalition is made up of the British Columbia Broadband Association, the Canadian Association of Wireless Internet Service Providers, the Canadian Communication Systems Alliance, the Competitive Network Operators of Canada, and the Independent Telecommunications Providers Association.

that some evaluation criteria required applicants to provide a significant amount of information at the application stage, and again at later stages of the funding process, resulting in a duplication of effort. They suggested that the Commission should collect more detailed information only upon request or at a later stage, after a project has been selected for funding.

18. To make the application process faster and easier, and to reduce the amount of information that applicants must submit, the Commission is simplifying some eligibility and assessment criteria and reducing duplication within its processes.
19. For example, when an applicant submits an application, it must commit to providing service packages that meet certain criteria. However, the applicant is no longer required to propose specific wireline or wireless broadband Internet access service, mobile service, and wholesale open access service packages and rates to meet eligibility requirements. Instead, this information is only required when the applicant submits its statement of work for approval. This approach will reduce duplication and ensure that the information provided is current.
20. In addition, the Commission is simplifying certain financial evaluation criteria to require less information from applicants. It is also eliminating the requirement for an applicant to invest in its project to be eligible for funding. However, the Commission will still evaluate the level of an applicant's investment in the assessment phase.
21. Moreover, the criteria that were previously used to assess transport-only projects will be largely phased out. This is consistent with changes to the project types, as set out in section A4 of Appendix 1 to this regulatory policy.

### **Funding process**

22. The Commission manages all stages of the funding process, from evaluating applications and selecting projects for funding, to monitoring completed projects to ensure that each recipient is fulfilling the funding conditions and delivering services as approved.
23. Most parties called for a more transparent funding process to create additional certainty and reduce administrative burden. For example, the Public Interest Advocacy Centre (PIAC) emphasized that improving the administrative process at all stages would address many of the concerns raised by TSPs regarding the administrative burden and the duplication of effort required during the funding process of the Broadband Fund.
24. The Commission is streamlining the funding process to offer greater transparency and certainty to applicants, lessen the administrative burden, and reduce duplication of effort. Streamlining measures include:
  - reducing the amount of information required at all stages of the funding process, from application to project completion;

- clarifying that the funding approval process requires two Commission decisions before funding can be distributed to the recipient: a conditional funding decision, in which projects are initially selected for funding, and a final funding decision, in which the statement of work and funding for the project are approved by the Commission; and
- consolidating two separate recipient reports into one report that the funding recipient must submit once the project is complete (the project completion report).

### **Futureproofing**

25. Many parties supported futureproofing the policy. They submitted that doing so would make the Broadband Fund more adaptable to the evolving needs of Canadian consumers. Parties added that the flexibility created by removing specific targets would ensure the Broadband Fund remains effective going forward, as standards for speeds and technology change.
26. The Commission is removing specific numerical targets and objectives from the Broadband Fund policy and replacing them with more general language. This change will limit references to specific speeds, capacities, or technologies that may change over time.
27. For example, instead of setting out specific Internet speed targets (e.g., 50/10 Mbps), the new policy will simply refer to the goal of achieving speeds that meet the universal service objective. Therefore, if the Commission changes the speed targets to measure achievement of the universal service objective, it can set out the latest targets in each call for applications.
28. In addition, the Commission is removing specific numerical targets from certain evaluation criteria. As a result, the Commission will have the flexibility to change these targets in the future to account for changing priorities or improvements in technology.

### **Funding model**

29. Overall, the record of this proceeding indicated that the foundations of the Broadband Fund program are working well. However, Infrastructure Ontario and PIAC proposed that the Commission shift to using a reverse auction mechanism to select projects for funding, similar to the model that Infrastructure Ontario used for its Accelerated High-Speed Internet Program. With this type of funding model, a request is made for service providers to bid on a project to provide telecommunications services in a specific geographic area. The service provider that requests the lowest amount of funding to complete the project wins the bid.
30. Many parties opposed the use of a reverse auction mechanism. For example, Bell Canada noted that Infrastructure Ontario's reverse auction did not result in bid awards for the most difficult-to-serve geographic areas.

31. In its first three calls for applications, the Commission used a comparative selection model to allocate funds to successful applicants. With this model, the Commission issues a call for applications to invite applicants to propose projects that will provide telecommunications services in eligible geographic areas. The Commission then evaluates applications and compares the proposed projects to each other, using a variety of criteria (not just lowest cost) to identify the projects that are most suitable for funding.
32. The reverse auction mechanism is limited when it comes to reaching Canada's most remote areas. It is more expensive to deliver telecommunications services in these underserved areas, making it difficult for applicants to make viable, competitive bids to provide services to such areas using a reverse auction mechanism.
33. Furthermore, the Commission has conducted the policy review with the intention of reducing barriers to applicants. However, as PIAC noted, a reverse auction mechanism would likely represent a barrier to smaller applicants and community initiatives.
34. The comparative selection model enhances the Commission's ability to fund projects to provide telecommunications services in the remaining underserved communities in Canada, which are the most challenging and costly areas to serve. It also enables the Commission to evaluate applications using criteria that it considers to be important. These criteria include engagement with communities that would be served by a funding recipient and the social benefits of the project to those communities.
35. Accordingly, the Commission will continue to use a comparative selection model to allocate funds to successful applicants under the Broadband Fund.

### **Helping to advance reconciliation**

36. In keeping with its role in helping to advance reconciliation, the Commission is implementing improvements to the Broadband Fund to help support Indigenous applicants and communities and encourage Indigenous-led projects. These improvements include reducing barriers for Indigenous applicants, requiring all applicants to engage meaningfully with Indigenous communities, and requiring applicants to provide proof of consent from any Indigenous community where they plan to build infrastructure.
37. Moreover, the Commission announced in Telecom Notice of Consultation 2023-89-2 that it will launch a separate process to develop an Indigenous stream of the Broadband Fund in collaboration with Indigenous groups and communities.
38. The Commission has created an Indigenous Relations Team (IRT) to act as a dedicated point of contact for First Nations, Inuit, and Métis groups and communities. The IRT's role is to engage with these groups and communities to inform them of Commission issues, as well as to support Indigenous peoples' participation in Commission processes. The IRT will assist in developing an Indigenous stream to

ensure that the diverse needs, perspectives, and experiences of Indigenous peoples are heard.

### **Reducing barriers for Indigenous applicants**

39. Many Indigenous parties, such as the First Mile Connectivity Consortium (FMCC), the FNNND, and the Indigenous Connectivity Institute, submitted that the Broadband Fund application process is administratively complex and therefore acts as a barrier to applying for funding. These parties suggested that extending application deadlines, providing upfront funding, and making funding available for training would encourage Indigenous-led applications.
40. The FMCC stated that substantive reconciliation is supported through enabling the self-determined development goals of Indigenous communities, including their ownership and control of telecommunications infrastructure and services.
41. The Indigenous Connectivity Institute suggested that the Commission invest in developing an Indigenous workforce that builds on existing, culturally relevant network training to deepen Indigenous peoples' experience and knowledge in the industry. Other Indigenous parties shared this view.
42. The FNNND submitted that the level of technical and financial expertise required to develop an application for a Broadband Fund project is daunting for inexperienced applicants and presents a significant barrier for small communities and Indigenous governments. The FMCC agreed with this view and submitted that one of the major reasons its members have focused their application efforts on programs like Indigenous Services Canada's First Nations Infrastructure Fund is that such programs provide upfront funding. The FMCC added that non-profit and Indigenous providers have historically encountered difficulty obtaining commercial working capital lines of credit. When they have been able to obtain a line of credit, the total available amount may be limited to less than one month's invoices for a large capital project.
43. To address the concerns raised by Indigenous parties and to help advance reconciliation, the Commission is adopting new measures that will support Indigenous applicants. These measures are intended to reduce barriers and complexity for Indigenous-led projects and to promote Indigenous ownership, governance, and control over the infrastructure that serves Indigenous communities.
44. To support Indigenous ownership and control of telecommunications infrastructure and services, the Commission is exempting Indigenous funding recipients from the requirement to provide retail and wholesale open access to funded transport infrastructure. Instead, Indigenous funding recipients can decide who will be able to access their networks and can determine the terms and conditions of access. Furthermore, they can choose to offer retail or wholesale open access to their funded transport infrastructure and may still request the capital funding required to provide such access at the application stage. This exemption is consistent with Canada's



commitment to recognizing the right of self-determination, which includes economic self-determination.

45. Remote Indigenous communities in Canada are particularly underserved when it comes to telecommunications services. The latest data available indicate that only 50% of First Nation reserve areas have universal service objective-level service, compared with 93% of areas in the rest of Canada.<sup>4</sup> These geographically remote areas with low population densities are more difficult for TSPs to profitably serve and are less likely to attract competitive investment as a result. Therefore, residents in Indigenous communities are unlikely to benefit from competitive service offerings, even if retail and wholesale open access to funded transport infrastructure is provided.
46. Once the Commission has identified a group of projects that are suitable for funding based on its evaluations against the assessment criteria, it uses defined considerations to select a subset of these projects for funding. To further support Indigenous-led projects, the Commission may give special consideration to projects proposed by Indigenous applicants, meaning that it may prioritize these projects over others when it selects projects from the group identified as suitable for funding.
47. To support the development of technical skills for Indigenous people and promote more resilient Indigenous-owned networks, the Commission is providing funding for up to two years of technical training for local Indigenous staff in communities that Indigenous applicants propose to serve as part of funded capital projects.
48. To help resolve the financial barriers faced by Indigenous-led applicants, the Commission is providing up to 15% of the funding committed to a capital project (to a maximum of \$750,000) up front for Indigenous funding recipients following the final funding decision.
49. Furthermore, the Commission is exempting Indigenous funding recipients from the requirement for a 10% holdback (i.e., the amount of funding, equal to 10% of project costs, that is withheld until six months after project completion) for projects with approved funding of \$5 million or less. The holdback requirement has been useful to minimize the risk of a funding recipient not fulfilling all the conditions of service for a capital project. However, in light of the financial barriers experienced by Indigenous applicants, exempting those that propose smaller projects strikes the appropriate balance between supporting Indigenous applicants and ensuring that Indigenous funding recipients fulfill all conditions of service for larger capital projects.
50. The upfront funding and the holdback exemption should provide Indigenous applicants with increased financial stability, both before a project is implemented and after it is completed. This stability will help Indigenous applicants secure the resources they need to successfully complete their projects and provide

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<sup>4</sup> See the [Communications Market Reports](#).

telecommunications services to end-users. Offering these measures appropriately balances the objectives of minimizing risk and supporting Indigenous recipients.

### **Outreach and engagement**

51. Indigenous rights holders, governments, and organizations emphasized the need for respectful and continuous engagement with Indigenous communities.
52. Many parties, including TSPs such as Rogers Communications Canada Inc. (including Shaw Cablesystems G.P.) and TCI, supported evaluation criteria that require direct, meaningful, and early engagement with Indigenous communities. In recognition of the different cultures, traditions, and priorities of Indigenous communities, many parties also advocated for flexibility regarding the evaluation of engagement activities.
53. In its third call for applications, the Commission increased its emphasis on engagement with the communities that would be affected by a proposed project. This approach was consistent with the feedback the Commission received about the importance of meaningful engagement and with the need expressed by Indigenous parties for appropriate engagement with Indigenous communities. The Commission provided applicants with additional guidance and tools to support this increased emphasis. It also provided flexibility to applicants to reflect continuous engagement with Indigenous communities. As a result, applicants to the third call for applications generally provided evidence of greater efforts to engage with communities that would be affected by proposed projects.
54. Building on the improved engagement efforts made by applicants to the third call for applications, the Commission is improving its evaluation standards for outreach to and engagement with Indigenous communities that will be served as a result of a proposed project being completed.
55. A distinctions-based approach is needed when an applicant works with Indigenous communities and groups. This will help ensure that the unique rights, interests, and circumstances of First Nations, Inuit, and Métis are acknowledged, affirmed, and implemented. Outreach to Indigenous communities and groups must be carried out in the appropriate format and timeline based on the project's particular circumstances. It must also be done in a way that aligns with the community's desired level of engagement and capacity to participate.
56. Moreover, an applicant is expected to contact Indigenous communities and groups in the area of its proposed project as early as possible when developing its application. This approach will enable the applicant to understand the potential impacts of the project on the rights and interests of the Indigenous communities and groups and respond to any concerns they raise. As rights holders, Indigenous communities and groups are best positioned to identify any potential impacts the proposed project may have on Aboriginal or treaty rights and to advise on potential measures that may be taken to avoid any adverse effects of such impacts.

57. Each applicant will also be required to commit to undertaking any further outreach or engagement efforts that the Commission considers necessary. This commitment includes, but is not limited to, any obligations with respect to engagement with Indigenous communities and groups that are published in any Commission funding decision.
58. In addition, in its third call for applications, the Commission implemented a mechanism for communities that would be affected by a proposed project (or representatives of those communities) to contact the Commission on a confidential basis to provide feedback, indicate their support for the project, or discuss any potential adverse impacts of the project. This approach was beneficial to communities, applicants, and the Commission. Therefore, the Commission expects that the mechanism will continue to provide the opportunity for such engagement in future calls for applications.

### **Consent to build in Indigenous communities**

59. Indigenous rights holders, governments, and organizations stated that funding recipients should receive consent from Indigenous communities to build infrastructure in their communities. In relation to this, the Government of British Columbia noted its Connecting Communities BC funding program. This program requires an applicant to work with an Indigenous community to gain support and submit a band council resolution to indicate consent whenever a decision or activity could impact treaty rights or asserted or established Indigenous rights.
60. Support from representatives of Indigenous communities for applications to build infrastructure in those communities is critical. This support shows that the applicant has informed the community, worked with its representatives, addressed any concerns raised, and collaborated to reduce any potential adverse impacts that the proposed project may have on that community.
61. Accordingly, the Commission is requiring that each applicant obtain consent from any Indigenous community in which it plans to build infrastructure as part of a capital project. Proof of consent should be included as part of the application, and the Commission will view such proof favourably in its comparative assessment of the applicant's outreach and engagement efforts.
62. The Commission recognizes, however, that Indigenous communities have many competing priorities, and that obtaining informed consent can take time. Accordingly, if proof of consent is not available at the application stage, it may be submitted after the close of a call for applications. The applicant, however, will be required to provide it prior to the final funding decision.
63. The Commission also encourages applicants and funding recipients that are building infrastructure in Indigenous communities to provide economic benefits and employment opportunities to those communities. The Commission will assess applications with these benefits favourably.

## **Increasing access for all Canadians**

64. According to the most recent data available, 93.1% of Canadian households have access to 50/10 Mbps unlimited Internet service, and 99.5% of Canadians have access to cellphone services provided using the latest generally deployed mobile technology.<sup>5</sup> However, the remaining underserved areas are the most challenging to serve.
65. By improving the geographic models used to determine eligible areas, the Commission is enabling applicants to strategically target these remaining underserved areas and provide all Canadians with fast and reliable Internet and cellphone services.
66. Furthermore, by refining the types of projects that are eligible for funding, the Commission is emphasizing that proposed projects must provide services that meet the universal service objective to end-users in the remaining underserved areas.

## **Geographic modeling**

67. In the original Broadband Fund policy, the Commission specified that it would use a geographic model based on hexagons of 25 square kilometres to determine the eligible locations where an applicant could propose a project for funding. However, as technology and geographic modeling evolved, this approach limited the Commission's ability to identify underserved areas.<sup>6</sup>
68. TSPs generally agreed that the hexagon-based geographic model had limitations because it did not provide enough granularity to pinpoint all underserved areas in Canada. They proposed practical adjustments, such as altering the geographic model and expanding the definition of major transportation roads.
69. The models that are used to define coverage or underserved areas are updated over time to more accurately identify those areas. To provide flexibility in the new policy, the Commission will determine the appropriate geographic model on a call-by-call basis so that it can make use of a geographic model that is accurate and familiar to applicants.
70. In addition, the Commission is expanding the definition of major transportation roads and introducing a mechanism that allows applicants to identify roads that provide key linkages between communities. This approach is consistent with the latest geographic models used by other funding programs and will enable the Commission to more effectively target underserved areas and remaining connectivity gaps.

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<sup>5</sup> See the CRTC Communications Market Reports: [High-speed broadband coverage](#) and [Mobile wireless coverage](#).

<sup>6</sup> For example, Innovation, Science and Economic Development Canada's Universal Broadband Fund program uses a model based on 250-metre road segments, which better identifies remaining underserved areas.

## **Project types**

71. Most parties generally agreed that the evolving connectivity needs of Canadians demand service that meets the universal service objective as the minimum standard to ensure safety, security, and equitable access to Internet and cellphone services. Parties submitted that the Broadband Fund should remain focused on funding projects that will provide services at this level or higher.
72. Some TSPs indicated that the Broadband Fund should consider both access and transport needs simultaneously. They added that transport infrastructure alone does not sufficiently address the connectivity gaps in underserved areas.
73. The Commission recognizes that transport projects on their own do not offer universal service objective-level services to Canadians. Furthermore, transport-only projects have presented some challenges regarding geographic eligibility. The Commission is addressing these challenges by merging the previous access, transport, and mobile project types into one project type: universal service objective projects.<sup>7</sup>
74. The Commission is considering additional project types and may add them to the funding program in future regulatory policies related to the Broadband Fund policy review.

## **What will remain the same**

75. In this proceeding, the Commission reviewed over 100 policy considerations related to funding for capital projects. The record indicates that many of the existing measures are effectively contributing to the success of the Broadband Fund. Accordingly, the following broad areas of the policy remain largely unchanged:
  - Administrative approach
    - Comparative selection approach
    - Program management by the Commission
    - Accounting function by the Canadian Telecommunications Contribution Consortium Inc. and the Central Fund Administrator
  - Application process
    - Issuance of calls for applications
    - Provision of an application guide accompanying each call for applications
    - Process to evaluate applications and select projects
      - Flexibility for the Commission to emphasize certain assessment criteria in a call for applications

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<sup>7</sup> This change eliminates the transport-only project type, except for projects proposing to build terrestrial transport infrastructure to satellite-dependent communities.

- Most selection considerations
      - Efficient use of funds
      - Projects in multiple regions of Canada
      - Project type
  - Evaluation criteria
    - Many eligibility and assessment criteria remain relatively unchanged (criteria to determine eligible applications, description of ineligible applications, level of service improvement, project coverage, etc.)
  - Definition of satellite-dependent communities
  - Maintaining confidentiality of information about applicants and applications
  - Imposing funding conditions on funding recipients and enforcing requirements
  - Funding distribution and claims reporting
    - Process to handle material changes to a project
    - Conditions in the event of a sale of funded assets
    - Auditing requirements

## **Conclusion**

76. This policy replaces the original Broadband Fund policy issued in Telecom Regulatory Policy 2018-377. With this new Broadband Fund policy for capital projects, the Commission is (i) making its funding process faster and more efficient, (ii) helping to advance reconciliation with Indigenous peoples, and (iii) increasing Canadians' access to high-speed Internet and cellphone services.
77. Appendix 1 to this regulatory policy provides a more detailed description of the new Broadband Fund policy. Appendix 2 provides a list of items from the original policy that are no longer part of the new policy. Appendix 3 provides a list of parties that participated in this proceeding.
78. The Commission is continuing its work to improve the Broadband Fund. Future work includes considering whether to provide funding for projects that improve the resiliency of telecommunications networks, whether to provide funding for operational costs, and the level of Broadband Fund contributions to be collected in future years.
79. The dissenting opinion of Commissioners Bram Abramson, Ellen Desmond, and Stéphanie Paquette and additional dissenting opinion of Commissioner Abramson are attached to this regulatory policy.

Secretary General

## Related documents

- *Competition in Canada's Internet service markets*, Telecom Regulatory Policy CRTC 2024-180, 13 August 2024
- *Call for comments – Broadband Fund policy review*, Telecom Notice of Consultation CRTC 2023-89, 23 March 2023; as amended by Telecom Notices of Consultation CRTC 2023-89-1, 17 April 2023; and 2023-89-2, 25 July 2024
- *Notice of hearing – Review of the wholesale high-speed access service framework*, Telecom Notice of Consultation CRTC 2023-56, 8 March 2023
- *Call for comments regarding potential regulatory measures to make access to poles owned by Canadian carriers more efficient*, Telecom Notice of Consultation CRTC 2020-366, 30 October 2020; as amended by Telecom Notice of Consultation CRTC 2020-366-1, 18 November 2020
- *Call for comments regarding potential barriers to the deployment of broadband-capable networks in underserved areas in Canada*, Telecom Notice of Consultation CRTC 2019-406, 10 December 2019 as amended by Telecom Notices of Consultation CRTC 2019-406-1, 20 December 2019; and 2019-406-2, 21 April 2020
- *Development of the Commission's Broadband Fund*, Telecom Regulatory Policy CRTC 2018-377, 27 September 2018
- *Modern telecommunications services – The path forward for Canada's digital economy*, Telecom Regulatory Policy CRTC 2016-496, 21 December 2016

# Appendix 1 to Telecom Regulatory Policy CRTC 2024-328

## New Broadband Fund policy for capital projects

### Definitions

**Applicant** means an entity or a group of entities that submits an application to request funding for a proposed project in response to a call for applications for the Broadband Fund. An applicant becomes a funding recipient upon publication of a final funding decision.

**Conditional funding decision** means a decision published by the Commission to announce a project that is selected for funding. In this decision, the Commission conditionally approves the project for funding and sets out certain requirements that the applicant must meet, such as submitting its statement of work package for Commission approval, before the project can receive final approval for funding.

**Eligibility date** means the date the Commission issues the conditional funding decision for a project. Project costs incurred on or after this date are eligible for reimbursement. Project costs incurred before this date cannot be claimed for reimbursement and are deemed ineligible.

**Final funding decision** means a decision published by the Commission when an applicant has fulfilled the requirements set out in the conditional funding decision to the Commission's satisfaction. In this decision, the Commission approves the statement of work and provides final approval for funding for the project. A funding recipient cannot submit claims for eligible costs incurred for the project until the final funding decision is issued.

**Funding recipient** means an applicant whose proposed project has received final funding approval in a final funding decision.

**Holdback** means a portion (10%) of each recipient's funding amount that the Commission withholds until it confirms that the funding recipient is fulfilling all the conditions of service outlined in the funding decisions for any capital project.

**Indigenous applicant** means an eligible applicant that is:

- a profit or non-profit organization that is at least 51% owned and controlled by Indigenous peoples;
- a band council within the meaning of section 2 of the *Indian Act*; or
- an Indigenous government authority established by a self-government agreement or a comprehensive land claim agreement.

**Project completion date** means the date a project is complete and telecommunications services are being offered. Although the Commission recognizes that the timing of project implementation will vary, it expects each funding recipient to aim to complete its capital project and have service available within three years following the conditional funding decision.



**Project completion report** means a detailed report that a funding recipient must file with the Commission after the project completion date. This report should demonstrate how the recipient meets the conditions and obligations specified in the conditional funding decision, the statement of work, and the final funding decision. It should also include details of the completed project, any project delays, service uptake, and any open access requests.

**Project start date** means the date an applicant proposes to begin implementing its project. This date must be after the conditional funding decision is published but can be before the publication of the final funding decision. If the applicant incurs project costs before the Commission issues the conditional funding decision, those costs are not eligible for reimbursement under the Broadband Fund and are at the sole expense of the applicant (see “Eligibility date” definition).

**Remote** describes an area or a community that is classified as such by Statistics Canada using an [Index of Remoteness](#). Statistics Canada’s [recommendation](#) at the time of publishing this regulatory policy is to classify a community that has an Index of Remoteness of 0.4 or above as remote. Statistics Canada concludes that this classification is generic, and that different applications might require specialized groupings by remoteness. The classification is subject to change. Accordingly, the Commission may update this definition in the application guide provided for each call for applications for the Broadband Fund.

**Rural** describes an area that is [defined](#) by Statistics Canada as including any area of Canada that is not within a population centre. At the time of publishing this regulatory policy, [rural areas](#) include any area with a population of less than 1,000 or a density of less than 400 people per square kilometre. This classification is subject to change. Accordingly, the Commission may update this definition in the application guide provided for each call for applications for the Broadband Fund.

**Satellite-dependent community** means a community that relies on satellite transport capacity for one or more telecommunications services (such as voice, wireless [both fixed and mobile], and Internet services).

**Satellite-dependent community project** means an operational project or a capital project to provide improved telecommunications service to a satellite-dependent community.

**Universal service objective project** means a capital project to build or upgrade broadband infrastructure in an eligible geographic area, including terrestrial transport infrastructure if needed, to achieve the universal service objective in an underserved area that is not considered a satellite-dependent community. This type of project includes both fixed broadband projects and mobile projects.

## **A) Broadband Fund administration**

### **1. General fund design**

The Commission will use a comparative selection process to allocate funds to successful applicants under the Broadband Fund.

Applicants will be invited to submit applications for projects that conform to the eligible project types identified in each call for applications.

## **2. Broadband Fund objective**

The objective of the Broadband Fund is to help close the gap in connectivity in underserved areas and achieve the universal service objective by funding projects that support continuing access for Canadians to reliable and affordable basic telecommunications services.

This objective aligns with the Commission's broader objectives and mandate, as outlined in:

- the *Telecommunications Act* (the Act):
  - subsection 46.5(1): “The Commission may require any telecommunications service provider to contribute, subject to any conditions that the Commission may set, to a fund to support continuing access by Canadians to basic telecommunications services”, and
  - section 7: the Canadian telecommunications policy objectives;
- the Commission's universal service objective, which defines basic telecommunications services as:
  - fixed and mobile broadband Internet access services (i.e., Internet and cellphone services), and
  - fixed and mobile voice services;
- the Government of Canada's Connectivity Strategy, which is currently to make broadband Internet speeds of 50 megabits per second (Mbps) download and 10 Mbps upload available to 100% of Canadian households by 2030; and
- the most current Policy Direction issued by the Government of Canada.

## **3. Project component types**

The Broadband Fund will provide funding for projects in all areas of Canada, including satellite-dependent communities, and will cover all broadband technologies that meet its eligibility requirements.

## **4. Project types**

Under the Broadband Fund, the Commission will provide funding for the following project types:

- universal service objective projects, including:
  - fixed broadband projects that provide new or improved wireline or wireless broadband Internet access service to households,
  - mobile projects that provide new or improved mobile services (voice and data) to households in one or more communities, and

- mobile projects that provide new or improved mobile services (voice and data) along major transportation roads; and
- satellite-dependent community projects, including:
  - projects requesting funding for operational expenses to increase satellite transport capacity and improve the telecommunications services offered in a satellite-dependent community beyond the highest service speeds currently available in the area,
  - capital projects to build or upgrade earth station equipment and/or access infrastructure to improve telecommunications services, and
  - capital transport projects to connect a satellite-dependent community to an existing terrestrial network, eliminating the dependency on satellites for telecommunications services.

## **5. Program management and recipient oversight**

The Commission is accountable for the project management function of the Broadband Fund and carries out the following tasks:

- developing the scope of each call for applications;
- developing and providing an application guide and other resources for applicants;
- issuing calls for applications;
- assessing applications and selecting projects to be funded;
- communicating with each applicant about the status of its application;
- establishing and enforcing funding conditions;
- monitoring progress, reviewing and approving claims for reimbursement, and ensuring compliance with funding conditions;
- reporting on the progress of projects;
- reporting on the performance of the Broadband Fund; and
- auditing projects.

## **6. Accounting function**

The Canadian Telecommunications Contribution Consortium Inc. (CTCC)<sup>8</sup> and the Central Fund Administrator are responsible for the following activities given that they relate to providing funding to Broadband Fund recipients:

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<sup>8</sup> The CTCC is responsible for establishing the procedures necessary to operate the National Contribution Fund, the funding mechanism used to support various Commission funding programs, including the Broadband Fund. The CTCC is also responsible for contracting a company designated by the Commission, in accordance with subsection 46.5(2) of the Act, to act as the Central Fund Administrator.

- implementing Commission decisions with respect to the CTCC's operating procedures and the contribution pay-in rate;
- maintaining the system used by telecommunications service providers (TSPs) to report their revenue information;
- collecting monthly revenue information from TSPs;
- collecting contributions from TSPs;
- making payments to funding recipients based on the schedule set out by the Commission;
- updating and enforcing the National Contribution Fund Administration Agreement, which is a contract between the CTCC, the Central Fund Administrator, each TSP that is required to contribute to the National Contribution Fund, and each funding recipient; and
- conducting an annual audit of the National Contribution Fund's financial statements and the Central Fund Administrator's compliance with the National Contribution Fund Administration Agreement.

The Commission is responsible for the following activities:

- approving the procedures for the accounting function;
- determining the revenue-percent charge contribution pay-in rate every year;
- determining the allowable deductions within the contribution regime;
- performing other related tasks, such as reviewing TSPs' annual contribution-eligible revenue reports; and
- providing the Central Fund Administrator with a list of recipients and payment schedules.

#### **7. The CTCC audit and management committee**

Currently, the CTCC's board of directors uses an external auditor to provide annual reports on the Central Fund Administrator's performance and financial statements. The reports are presented to and reviewed by the CTCC's audit and management committee. The use of an auditor has proven to be an effective safeguard. The CTCC should therefore continue to use an external auditor to annually audit the National Contribution Fund's financial statements and the Central Fund Administrator's compliance with the National Contribution Fund Administration Agreement.

#### **8. Amounts to be collected**

The Commission established the Broadband Fund with \$100 million in funding for the first year, rising to \$150 million by the third year through annual \$25-million increases. Future incremental increases were to be contingent on a review in the third year (2022).

In Telecom Notice of Consultation 2023-89, the Commission continued to apply the \$150-million cap in years four (2023) and five (2024).

The cap of \$150 million for annual distribution will continue to apply until the final phase of the Broadband Fund policy review is completed, at which point the Commission will set a new cap for the annual distribution of funding.

## **B) Application process**

### **1. Calls for applications**

The Commission will initiate the funding process by publishing a call for applications, along with an application guide, any associated forms, and information about eligible geographic areas. The call for applications will provide important information for potential applicants in addition to the criteria set out in this regulatory policy, including the scope of the call, application deadlines, and any procedural rules.

To achieve the objectives of the Broadband Fund, the Commission sets its own schedule for receiving applications. Potential applicants are invited to review the Commission's [Broadband Fund webpage](#) for the latest information on the next call for applications. The Commission may provide notice ahead of a call for applications to give potential applicants sufficient time to prepare.

### **2. Deadline for each call for applications**

The Commission will accept applications on a per-call basis, and the deadline will be set out in each call for applications.

The Commission may adjust its usual process on a call-specific basis. For example, the Commission may allow for certain specified information to be submitted after the application deadline (e.g., letters of support from communities that the applicant proposes to serve). The call for applications will explicitly outline any adjustments to its usual process.

### **3. Frequency of calls for applications**

The Broadband Fund does not cover a defined period or have a set end date. The Commission may issue multiple calls for applications to help achieve the universal service objective and close the gap in connectivity in underserved areas. Each call will have a set application intake period that the Commission will communicate to the public as early as possible.

The determination of whether to issue a call for applications, and what the scope of the call would be, will depend on many factors. These factors include coordination and collaboration with other government programs, the Commission's experiences with the previous call, and the type and timing of projects that the Commission has previously selected for funding.

In addition, the Commission can determine the scope of a call for applications, such as limiting it to specific project types or making only certain geographic areas eligible for funding. Any deviations from the evaluation criteria stated in this regulatory policy that apply to a particular call for applications will be clearly indicated in that call and in the related application guide.

#### **4. Application guide**

All the information that applicants will need to include in their applications for funding will be described in an application guide published with each call for applications.

The application guide will contain details specific to the call, such as eligible project types and minimum speeds, capacity, and/or technical requirements. The guide will also explain the assessment criteria and provide application instructions, including deadlines, required supporting documents, and steps for applying. The guide will provide a standard list of funding conditions and obligations as well.

#### **5. Triaging the evaluation of projects**

Once the application submission period has ended, the Commission may prioritize (triage) the evaluation of applications according to predetermined criteria that are specified in the call for applications. For example, the Commission may triage its evaluation based on applications that:

- target the most underserved areas—applications for projects in geographic areas that have the largest current gap to universal service objective-level service, usually the most remote areas of the country;
- advance reconciliation—applications by Indigenous applicants and/or proposing projects to serve Indigenous communities;
- target certain geographic areas; or
- represent a specific project type.

#### **6. Process to evaluate applications and select projects for funding**

The Commission evaluates applications and selects projects for funding in three stages.

In the first stage, the Commission evaluates applications according to defined eligibility criteria. An application must meet all eligibility criteria before it can proceed to the next stage of evaluation.

In the second stage, the Commission assesses eligible applications according to an established list of assessment criteria. Some criteria are common to all project types, while others are specific to each project type, as set out in this policy. The purpose of the assessment stage is to identify a subset of applications for projects that are suitable for funding.

In the third stage, the Commission selects projects for funding from the subset of applications for projects identified as suitable for funding. The Commission uses specific selection considerations that enable it to choose the projects that best meet the Broadband Fund's objectives and stay within the limits of available funds.

The Commission issues a conditional funding decision to announce each project that is selected for funding and to set out the requirements that the applicant must meet. Once the applicant has fulfilled these requirements to the Commission's satisfaction, the Commission publishes a final funding decision, at which point the applicant becomes a

funding recipient. The funding recipient can then begin to submit claims for eligible costs incurred.

#### **7. Use of most recent data for the evaluation of applications**

The Commission will use the most recent verified data available when it evaluates and selects applications for funding. This approach will support the efficient use of funds and mitigate the risk of funding projects in areas that either already have access to services that meet the universal service objective or have other committed funding. The data used may include publicly available information announced by companies or governments or information that the Commission has collected in confidence (e.g., from the Commission's Annual Facilities Survey or from other government departments and agencies).

#### **8. Notification to applicants**

The Commission will notify each applicant that its application has been received and will provide a confirmation number.

The conditional funding decision will notify the applicant that its project has been selected for funding. Each conditional funding decision will include information about the selected project and the applicant, provide the broad reasons why the project was selected, and establish the funding conditions.

Each applicant whose project is not selected for funding will be confidentially notified when its application is no longer being considered.

#### **9. Self-identification of Indigenous applicants**

During the application process, Indigenous applicants will be invited to self-identify for the purpose of benefiting from certain measures that are intended to help advance reconciliation with Indigenous peoples.

#### **10. Reducing barriers for Indigenous applicants**

The Commission is reducing barriers for self-identified Indigenous applicants, with the intention of helping to advance reconciliation with Indigenous peoples. For applicant groups that include an Indigenous partner, that partner must exercise ownership and control over the funded infrastructure.

In its funding decisions, the Commission will not impose requirements for Indigenous applicants to provide wholesale and retail open access to any funded transport infrastructure. However, Indigenous funding recipients can choose to offer wholesale and retail open access services and may still request the capital funding required to provide such services.

When the Commission selects projects for funding from the group of projects identified as suitable for funding, it may give special consideration to whether a project is proposed by an Indigenous applicant that would provide service to an eligible Indigenous community.

The Commission will provide funding for costs for up to two years of initial technical training (e.g., training on equipment installation, operation, and repairs and maintenance). The training must be for Indigenous staff in an eligible Indigenous community that the Indigenous applicant proposes to serve. The applicant will need to provide justification in its application as to the number of staff that require training in each affected community. These costs are only eligible if the proposed project is one of the project types listed in section A4 of this appendix.

Upfront funding is available for projects proposed by Indigenous applicants. The amount of upfront funding will be determined by the Commission when it approves a statement of work (through a final funding decision). The amount will be linked directly to a contract or contracts related to the eligible costs in the initial stages of the project for required equipment, material, or expertise. The contract(s) must be submitted before the final funding decision is issued. Upfront funding will be capped at 15% of total approved funding, to a maximum of \$750,000, and will be provided to the Indigenous funding recipient after the Commission has published the final funding decision.

Indigenous funding recipients are not subject to the 10% holdback requirement for projects with approved funding of \$5 million or less.

#### **11. Revising the scope of proposed projects**

In each call for applications, the Commission will provide data to enable applicants to identify eligible geographic areas for their proposed projects. However, when evaluating applications, the Commission may use more recent information, whether public or confidential, as it becomes available and is verified.

If current information indicates that a portion of a proposed project is no longer geographically eligible, the Commission may consider funding only the portion of the project that remains eligible. The Commission will consider whether to fund a portion of a proposed project based on the assessment results for that project and the project's benefits for the eligible geographic area.

If the Commission intends to fund only a portion of a project, it will send a request for information to ask whether the applicant would still be interested in implementing that portion of the project if the Commission selects it for funding. The Commission may also request that the applicant provide revised costs and a revised funding amount for the relevant portion of the project.

### **C) General eligibility criteria**

#### **1. Geographic models and definitions**

For the purposes of the Broadband Fund, in each call for applications, the Commission will define eligible geographic areas using the latest geographic model generally used by other funding program administrators at the time of the call.



## **2. Geographic eligibility**

An applicant must propose to build or upgrade infrastructure in an eligible geographic area. When the Commission issues a call for applications, it will identify the eligible geographic area(s) for each eligible project type (e.g., maps that identify eligible geographic areas for fixed broadband projects and mobile projects), consistent with the scope of the call. The identification of eligible geographic areas will be based on data provided by the industry and other sources and on the definitions of eligible geographic areas provided by the Commission.

The Commission will also provide a list of eligible satellite-dependent communities.

## **3. Mechanism for applicants to identify underserved households**

The Commission will identify eligible geographic areas for eligible project types affecting households where at least one underserved household is present. If the Commission's data do not show the presence of underserved households in an area where an applicant believes there are such households, the applicant will be able to provide evidence that underserved households exist in the area.

The Commission will set out the mechanism for applicants to provide up-to-date information on underserved households in the call for applications.

## **4. Applicant eligibility – Eligible applicant types and roles and responsibilities**

An applicant must demonstrate that it is one of the following:

- a) a corporation, either for-profit or not-for-profit, incorporated under the laws of Canada, a Canadian province, or a Canadian territory;
- b) a Canadian provincial, territorial, or municipal entity, including a public sector body that is established by statute or by regulation or that is wholly owned by a Canadian provincial, territorial, or municipal government;
- c) a band council within the meaning of section 2 of the *Indian Act*, or an Indigenous (First Nations, Inuit, or Métis) government as established by a self-government agreement or a comprehensive land claim agreement; or
- d) a partnership, joint venture, or consortium that is composed of the parties identified in (a), (b), and/or (c) above (hereafter, an applicant group).

An applicant group must describe the roles and responsibilities that each group member will have in managing and implementing the project. For projects that receive funding to build capital infrastructure, an applicant group must identify which entity will own the funded network assets, which entity will build the network, and which entity will operate the network.

## **5. Ineligible applicant types**

Individuals, federal departments, agencies, boards, commissions, Crown corporations, and special operating agencies are ineligible for funding from the Broadband Fund as applicants or as members of an applicant group.

## **6. Applicant eligibility – Eligible to operate as a Canadian carrier**

An applicant, or at least one member of an applicant group, must demonstrate that it is eligible to operate as a Canadian carrier under section 16 of the Act.

## **7. Applicant eligibility – Financially solvent**

An applicant or each member of an applicant group, except for an applicant that is a provincial or territorial government, must adequately demonstrate its financial solvency and reliability by providing independently prepared financial statements for the last two years.

Each applicant must submit a full, finalized financial package. The applicant may not be eligible to receive funding if its application does not include all required information, such as a demonstration of the applicant's financial solvency, complete applicant and/or project financials, and confirmation of third-party funding details if a third party is providing funding (e.g., letters confirming the funding commitment).

## **8. Applicant eligibility – Experience building and operating broadband infrastructure**

To receive funding for an eligible project, an applicant must demonstrate that:

- it, or at least one member of the applicant group, has experience building and operating broadband infrastructure in Canada for a minimum of three years; or
- it will rely on a supplier or contractor that is an entity as described in (a), (b), and/or (c) of section C4 of this appendix and that has experience building and operating broadband infrastructure in Canada for a minimum of three years.

An applicant group can use combined experience to meet this eligibility criterion. For example, one member of an applicant group can have the required minimum of three years of experience building broadband infrastructure in Canada, while another member can have the required minimum of three years of experience operating broadband infrastructure in Canada.

If an applicant will rely on a third-party entity such as a supplier, contractor, or equivalent to meet this eligibility requirement (hereafter, the entity), it will be required to (i) identify the entity that will provide the required experience, (ii) describe how the entity meets the eligibility criteria, and (iii) provide a letter of intent or equivalent confirming the entity's commitment to the proposed project.

## **9. Project eligibility – Outreach**

Notification and outreach to all communities that an applicant proposes to serve is a crucial aspect of effective project planning and successful implementation. Outreach efforts establish a line of communication between the communities and the applicant, enabling the applicant to understand the needs of the communities it intends to serve. Proper notice of the proposed project must be given to key community representatives (e.g., elected officials, associations, and other representative bodies) early, openly, and respectfully. Outreach to representatives of the communities must include an invitation to

communicate with the applicant about their priorities and any concerns they may have about the proposed project.

A project may impact an Indigenous community's Aboriginal or treaty rights, even if the applicant is not proposing to directly serve that community. Therefore, each applicant must take a generous and expansive approach to identifying potentially impacted Indigenous communities and must ensure that representatives of those communities are made aware of, and are invited to discuss, the applicant's proposed project.

A distinctions-based approach is needed when an applicant works with Indigenous communities and groups. Such an approach will help ensure that the unique rights, interests, and circumstances of First Nations, Inuit, and Métis are acknowledged, affirmed, and implemented. Outreach to Indigenous communities and groups must be carried out in the appropriate format and timeline based on the project's particular circumstances. It must also be done in a way that aligns with the community's desired level of engagement and capacity to participate.

Moreover, an applicant is expected to contact Indigenous communities and groups in the area of its proposed project as early as possible when developing its application. This approach will enable the applicant to understand the potential impacts of the project on the rights and interests of the Indigenous communities and groups and respond to any concerns they raise. As rights holders, Indigenous communities and groups are best positioned to identify any potential impacts the proposed project may have on Aboriginal or treaty rights and to advise on potential measures that may be taken to avoid any adverse effects of such impacts.

In light of the above, to be eligible to receive funding from the Broadband Fund, an applicant must:

- identify and list all communities that will be served by the proposed project or that are located where the proposed infrastructure will be built, clearly indicating which of these communities, if any, are Indigenous;
- provide evidence of notification and outreach efforts to demonstrate that it has contacted each of these communities before the application deadline and has invited community representatives to respond;
- identify any established or asserted Aboriginal or treaty rights that the proposed project may impact;
- indicate whether the applicant considers that the proposed project presents a risk of adversely affecting any established or asserted Aboriginal or treaty rights; and
- demonstrate how its consideration of established or asserted Aboriginal or treaty rights was informed, describing the specific efforts it has made to identify potential impacts to Aboriginal or treaty rights.

For a mobile project providing service along a major transportation road, the applicant is required to contact representatives of the community or the provincial, territorial, or federal government that owns the land on which the applicant will build the proposed infrastructure.

Each applicant will be required to commit to undertaking any further outreach or engagement efforts that the Commission considers necessary. This commitment includes, but is not limited to, any obligations with respect to engagement with Indigenous communities and groups that are published in any Commission funding decision.

The Commission will provide guidance to applicants on how to appropriately contact communities in each call for applications. The Commission will also identify tools and resources that an applicant will be expected or required to use to identify potentially affected Indigenous communities and groups in the area of its proposed project.

The Commission will evaluate the quality of outreach and engagement efforts, including how effectively the applicant has addressed any concerns raised by communities that the applicant proposes to serve, under the assessment criterion set out in section D6 of this appendix.

#### **10. Project eligibility – Contingency**

An application cannot be contingent on factors such as (i) funding for another application under the Broadband Fund or (ii) funding from another program that has not been secured by the time the application is submitted. Each application must be technologically and financially independent and will be assessed on its own merit. An application that is contingent on other factors for successful project completion will not pass eligibility and will no longer be considered for funding.

#### **11. Project eligibility – Project type**

As set out in section A4 of this appendix, the following types of projects are eligible for funding:

- universal service objective projects, including:
  - fixed broadband projects that provide new or improved wireline or wireless broadband Internet access service to households,
  - mobile projects that provide new or improved mobile services (voice and data) to households in one or more communities, and
  - mobile projects that provide new or improved mobile services (voice and data) along major transportation roads; and
- satellite-dependent community projects, including:
  - projects requesting funding for operational expenses to increase satellite transport capacity and improve the telecommunications services offered in a satellite-dependent community beyond the highest service speeds currently available in the area,
  - capital projects to build or upgrade earth station equipment and/or access infrastructure to improve telecommunications services, and

- capital transport projects to connect a satellite-dependent community to an existing terrestrial network, eliminating the dependency on satellites for telecommunications services.

The Commission may modify the eligible project types in each call for applications.

## 12. Eligible costs

The Commission will provide funding for eligible costs only. Eligible costs include costs for activities that are directly associated with implementing the proposed project as set out in the application and in the Commission's funding decisions, such as engineering and design, environmental scans and assessments, and purchase and installation of equipment and infrastructure (including the provision of backhaul capacity and other one-time access-driven costs). These eligible costs for all eligible project types include, but are not limited to, the following:

- direct equipment costs, meaning the costs of the equipment required for project completion, including the costs of servers, switching and transmission equipment, fibre optic cable, repeaters, radio and microwave equipment, towers, poles, shelters and enclosures, backup power systems, and network broadband connectivity devices, including upgrades and adaptations;
- direct material costs, meaning the costs of materials that can be specifically identified and measured as having been used for the implementation of the project;
- direct labour costs, meaning the portion of gross wages or salaries for work that can be specifically identified and measured as having been done on the project, including the one-time costs associated with the engineering and installation of capital equipment, network deployment, and service provision;
- direct training costs, meaning the costs for up to two years of initial technical training on equipment installation, operation, and repairs and maintenance for:
  - local staff in communities without year-round road access, and
  - local Indigenous staff in eligible Indigenous communities (for projects proposed by Indigenous applicants);<sup>9</sup>
- direct labour-related travel costs, meaning the costs of travel that is deemed necessary to complete the project, such as travel associated with engineering, installation, network deployment, and service provision, considered on a case-by-case basis (for travel costs to be eligible, the purpose of each trip must be clearly documented—travel expenses, at economy rates, will be charged as actual costs); and

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<sup>9</sup> The applicant will need to provide justification in its application as to the number of staff that require training in each affected community.

- other direct costs, meaning applicable costs that do not fall within one of the categories listed above but that can be specifically identified and measured as having been incurred for the implementation of the project, including costs incurred from subcontractors (if the funding recipient hires a subcontractor to conduct part or all of the work on the project, the Commission may ask the recipient to provide a breakdown or a detailed invoice of costs paid to the subcontractor that lists the subcontractor's costs).

In addition, the following costs are eligible for funding for projects in satellite-dependent communities:

- operational costs associated with improving the speed, capacity, and quality of telecommunications services in comparison to the level of service already provided in the area;
- direct equipment costs, particularly costs directly related to building and/or upgrading earth stations; and
- direct training costs, meaning the costs for up to two years of initial technical training on equipment installation, operation, and repairs and maintenance, for local staff in satellite-dependent communities, with training to be provided in the first year of operation of the network.

### **13. Ineligible costs**

For all types of projects, the Broadband Fund will not provide funding to recipients to cover ineligible costs.<sup>10</sup> Such costs include, but are not limited to, the following:

- costs incurred after the project completion date;
- costs related to developing the application for funding;
- costs for existing capital assets, including land, buildings, and vehicles, as well as other indirect, fixed, and/or capital costs;
- costs of contracts for services, such as satellite capacity, that the recipient entered into before submitting the application;
- land purchase costs and other costs related to purchasing land or buildings (except for equipment shelters not meant for human occupation), and associated real estate and other fees;
- costs for leasing land, buildings, and other facilities, including permanent shelters for housing network-related equipment (except for temporary facilities directly related to project construction);
- operational costs to run infrastructure built as a result of the project;

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<sup>10</sup> This includes ineligible costs arising from any contract the recipient has entered into with a subcontractor.

- costs for general repairs and ongoing maintenance resulting from the project and related structures;
- contingency provision costs;
- costs for legal fees;
- costs for taxes for which the recipient is eligible for a tax rebate, and all other costs related to expenses that are eligible for rebates;
- insurance costs, including insurance premiums, deductible payments, and insurable losses incurred during the implementation of the project and after the project completion date;
- costs for customer premise equipment, including customer mobile devices;
- costs for any goods and services that are received through donations or in-kind;
- financing or carrying costs, loan costs, and interest payments;
- overhead costs for general office space and equipment;
- costs for training to set up an Internet service provider (except for training costs, as outlined in section C12 of this appendix);
- ongoing training costs to implement the project or operate the funded infrastructure (except for training costs, as outlined in section C12 of this appendix);
- costs for advertising/promotion activities; and
- radio and spectrum licensing fees.

If the funding recipient hires a subcontractor to conduct part or all of the work on the project, the Commission may ask the recipient to provide a breakdown or a detailed invoice of costs paid to the subcontractor that lists the subcontractor's costs. A claim for reimbursement for subcontractor costs must correspond to a cost listed above as an eligible cost.

## **D) General assessment criteria**

### **1. Assessment process – General overview**

In the second stage of the evaluation process, the Commission evaluates all eligible projects against defined assessment criteria to create a subset of projects identified as suitable for funding. If an application receives an unfavourable evaluation for one or more assessment criteria, it may not be evaluated further, and the proposed project may not be considered for funding. The Commission will notify applicants whose projects are not selected.

## **2. Assessment criteria – Weighting**

Each assessment criterion is important and should receive due consideration in the evaluation process; giving more weight to certain criteria in general would diminish the importance of the remaining criteria. This could disadvantage certain applications or be detrimental to communities in certain regions or to applications proposing certain technology types. However, there could be specific circumstances in which the Commission may wish to emphasize a certain criterion. In such cases, the Commission will state in the call for applications whether any assessment criteria will receive greater emphasis.

## **3. Assessment criterion – Technical merit**

The Commission will use this criterion at the application stage to determine whether a proposed project is technically feasible and resilient.

The feasibility of a project refers to the appropriateness of the network technology and infrastructure to be deployed and continually operated in the project's eligible geographic area. The applicant should provide rationale for:

- the proposed technology to be used;
- how the proposed capacity of the project will be able to support the services committed to in the application in the future;
- how the proposed technology overcomes any specific limitations or concerns in the applicable geographic areas; and
- where applicable, how the proposed technology will be able to support the coverage as described in the application.

Resiliency means the proposed network's ability to continue to provide and maintain an acceptable level of service, both during normal operations and in unforeseen circumstances, when a network failure occurs. Such circumstances may include physical network failures such as fibre cuts or equipment malfunctions, radio failures due to weather, power failures, and natural disasters. The Commission will evaluate the inherent resiliency of the proposed project and/or how the project would improve the resiliency of existing infrastructure. The applicant should include details on steps it has taken to enhance the reliability and resiliency of the proposed network and/or how the proposed infrastructure will introduce additional resiliency to the applicant's existing network.

The Commission will assess a project more favourably if it incorporates advanced and adaptable network technologies, robust infrastructure, and proactive maintenance plans.

In its statement of work, the applicant will be required to provide further details demonstrating the ability of the proposed network(s) to handle future growth and ensure long-term viability.



#### **4. Assessment criterion – Financial viability**

The Commission will use this criterion to evaluate the potential financial success of a proposed project, based on an accurate and realistic business model, to ensure that the project is viable and sustainable over the long term.

A proposed project should not be financially viable without funding from the Broadband Fund. To demonstrate this, the applicant must submit a business plan for its project based on (i) pro forma standardized financial projections for the project and (ii) the assumption of zero funding from the Broadband Fund. The Commission will assess the business plan, together with the applicant's financial statements, to determine the project's financial viability. The Commission will then factor in the requested funding amount to calculate the project's net present value (NPV). A business plan that demonstrates a positive NPV would generally be considered viable with funding, while a business plan that demonstrates a negative NPV would generally be considered not viable even with the applicant's requested amount of funding.

The Commission will provide tools and resources on how to submit information regarding financial viability in each call for applications.

#### **5. Assessment criterion – Level of funding from other sources**

The Commission will use this criterion to measure whether the applicant has successfully raised funds for the proposed project and if so, how much was raised. This will help ensure that telecommunications companies and various levels of government continue to invest in broadband infrastructure, and that funding from the Broadband Fund is used efficiently.

The Commission will assess a project more favourably if it includes funding from sources other than the Broadband Fund (either the applicant itself or third-party sources) towards total eligible project costs. The Commission will evaluate this criterion by dividing the amount of funding requested from the Broadband Fund by the total eligible project costs to obtain a percentage.

#### **6. Assessment criterion – Engagement**

The Commission will use this criterion:

- to assess the quality and outcome of early outreach and engagement with communities that the applicant proposes to serve;
- whenever possible, to determine whether these communities support the project and are likely to subscribe to the services provided as a result of the project; and
- where applicable, to help the Commission understand the needs of the Indigenous communities that will receive the services provided as a result of the project and to assess the quality and outcome of outreach to those Indigenous communities.

The Commission will assess an application based on the quality of the applicant's outreach efforts with communities. Outreach should be informative and timely and should establish a line of communication between the communities and the applicant.

If the applicant is responsive to concerns raised by the communities and provides evidence of collaboration with the communities, the Commission will assess the application more favourably.

In addition, the Commission will assess an application more favourably if it has a greater level of community support. The applicant should prioritize direct engagement with the communities to be served or with representatives of those communities. Evidence of engagement with, or support from, communities could take many forms, such as a letter of support from an elected official, minutes from meetings or telephone calls, and community investment (financial or otherwise) in the project.

### ***Consent for infrastructure to be built in Indigenous communities***

An applicant may propose to provide service that meets the universal service objective in an eligible geographic area in an Indigenous community (i.e., a fixed broadband project or a mobile project providing service to households). It may also propose to build infrastructure in an Indigenous community. In either of these cases, the applicant must provide evidence of consent from the representatives of the Indigenous community before the Commission provides its final funding approval. In these circumstances, the Commission may issue a conditional funding decision requiring the applicant to provide proof of consent from the representatives of the Indigenous community before it issues the final funding decision.

The Commission will assess an application that provides proof of consent from an Indigenous community more favourably. The Commission will provide guidance on the forms of consent that would meet this criterion in each call for applications.

### ***Engagement with Indigenous communities and groups***

A proposed project may impact Indigenous communities, Aboriginal rights, or treaty rights. The applicant should take a distinctions-based approach to engagement to ensure its efforts align with the community's preferred or established approach. If applicable, the applicant must provide information gathered in its early engagement efforts, including:

- whether the potentially impacted Indigenous communities and groups have responded, and whether they have identified adverse impacts to any established or asserted Aboriginal or treaty rights; and
- what those adverse impacts are, and what accommodation measures, if any, have been or will be implemented, along with any plans for future engagement or accommodation measures.

The Commission will assess a proposed project more favourably if the applicant demonstrates responsiveness to concerns raised by representatives of Indigenous communities or groups and provides evidence of collaboration with potentially impacted Indigenous communities or groups.

The applicant should engage with Indigenous communities and groups using respectful timelines and in a way that is satisfactory to the community or group being engaged. The Commission will assess a proposed project more favourably if it has the support of potentially impacted Indigenous communities or groups.

The Commission will also assess a proposed project favourably if it will provide economic benefits and/or employment opportunities to Indigenous communities and groups. Community benefit agreements, ongoing employment opportunities, co-investment, and co-ownership agreements are examples of benefits that would be consistent with the Crown's commitment to helping to advance reconciliation.

**E) Universal service objective projects and project-specific eligibility and assessment criteria**

**1. Project type definition – Universal service objective project**

A universal service objective project uses terrestrial infrastructure to provide wireline or wireless broadband Internet access and/or mobile services to eligible underserved households and/or along eligible major transportation roads. This project type focuses on building or upgrading fixed broadband Internet infrastructure and/or mobile infrastructure, but an applicant can also request funding to build or upgrade any terrestrial transport infrastructure required to directly support the project.

***Fixed broadband projects***

A fixed broadband project builds or upgrades broadband network infrastructure and uses fixed broadband technology to provide wireline or wireless broadband Internet access service to underserved households. A funding recipient must provide new or improved Internet service directly to end-users as a result of a fixed broadband project.

Fixed broadband infrastructure includes all the equipment and material required to connect eligible households to transport infrastructure. It also includes any new or upgraded transport infrastructure that is necessary to meet the universal service objective. Customer premise equipment is not eligible for funding.

***Mobile projects***

A mobile project builds or upgrades terrestrial mobile network infrastructure to provide new or improved mobile services (voice and data) to underserved households and/or along major transportation roads. A mobile project must provide end-users with the ability to access voice and data services (other than voice over Internet protocol [VoIP] services) using mobile devices. The applicant must propose to use, at a minimum, the latest generally deployed mobile technology, which will be identified in each call for applications.

Mobile infrastructure includes all the equipment and material required to provide voice and data connectivity for mobile devices in an eligible geographic area. Customer mobile devices are not eligible for funding.

## **2. Fixed broadband project – Eligibility criterion – Geographic eligibility**

An applicant's proposed project must serve one or more households that do not have terrestrial service that meets the universal service objective for broadband Internet access service within an eligible geographic area.

The Commission will define eligible geographic areas in each call for applications.

## **3. Fixed broadband project – Eligibility criterion – Minimum service levels**

An applicant must commit to meeting minimum service levels for fixed broadband Internet access services, which the Commission will define in each call for applications. These defined service levels will be based on the universal service objective criteria for wireline or wireless broadband Internet access service, including (i) target download and upload speeds, (ii) unlimited data allowance, and (iii) certain quality of service metrics.

## **4. Fixed broadband project – Eligibility criterion – Pricing and affordability for wireline or wireless broadband Internet access services**

An applicant must commit to meeting the requirements set out in section I18 of this appendix for the wireline or wireless broadband Internet access service packages that it will offer.

If the applicant receives conditional funding approval, it will be required to propose, in its statement of work, wireline or wireless broadband Internet access service packages with rates, speeds, and data allowances that meet the commitments set out in section I18 of this appendix.

## **5. Fixed broadband project – Assessment criterion – Level of service improvement**

The Commission will use this criterion to compare the highest proposed wireline or wireless broadband Internet access speeds with the highest speeds currently available in the eligible geographic area(s). The Commission will also compare proposed and existing speeds to the target speeds in the universal service objective. The Commission will assess a project more favourably based on the extent to which the proposed service speeds:

- meet or exceed universal service objective-level speeds; and
- exceed the speeds of any wireline or wireless broadband Internet access services currently being offered in the eligible geographic area(s).

## **6. Fixed broadband project – Assessment criterion – Coverage**

The Commission will use this criterion to assess the number of households to be served in the eligible geographic area(s). If two or more projects propose to serve the same eligible geographic area(s), the Commission will assess the project that serves the most households in the area(s) more favourably.

### **7. Fixed broadband project – Assessment criterion – Cost per household**

The Commission will use this criterion to determine whether funds are being used efficiently to connect as many households as possible in the eligible geographic area(s). The Commission will assess a project with a lower eligible cost per household more favourably.

### **8. Fixed broadband project – Assessment criterion – Geographic scope of the proposed project**

The Commission will use this criterion to assess the geographic scope of a project and determine whether the project should be considered further for funding. The Commission will assess a project less favourably if there are other proposed or funded projects in the same geographic area(s) or if the project includes transport infrastructure that is not required to support the project. If the project cannot use existing transport infrastructure (e.g., the existing transport provider has no available capacity), the applicant must demonstrate that any existing transport infrastructure is not feasible or sufficient.

### **9. Mobile project – Definition of a major transportation road**

For the purposes of the Broadband Fund, the definition of a major transportation road includes all major transportation roads as defined in *Modern telecommunications services – The path forward for Canada’s digital economy*, Telecom Regulatory Policy CRTC 2016-496, 21 December 2016, including:

- key interprovincial and international corridor roads;
- key linkages to these roads from population and economic centres; and
- key linkages from major roads that provide the primary means of access to northern and remote areas.

The Commission will identify specific eligible geographic areas for mobile projects in each call for applications.

### **10. Mobile project – Eligibility criterion – Geographic eligibility**

An applicant must propose to build or upgrade infrastructure in an eligible geographic area, which is defined as either:

- an area containing one or more households that do not have access to mobile services that meet the universal service objective level; or
- part of a major transportation road that does not have access to mobile services that meet the universal service objective level.

The Commission will identify specific eligible geographic areas for mobile projects in each call for applications.

### **11. Mobile project – Eligibility criterion – Pricing and affordability for mobile services**

An applicant must commit to meeting the requirements set out in section I18 of this appendix for the mobile service packages that it will offer.

If the applicant receives a conditional funding approval, it will be required to propose, in its statement of work, mobile service packages with rates, mobile technology, and data allowances that meet the commitments set out in section I18 of this appendix.

For a proposed mobile project that will be built along major transportation roads only, the applicant will not be required to provide mobile service packages and rates.

### **12. Mobile project – Eligibility criterion – Proposed technology**

As set out in the universal service objective, terrestrial mobile projects must use the latest mobile technology. Only proposed projects that use, at a minimum, the latest generally deployed mobile technology will be eligible for funding.

The Commission will identify the latest mobile technology, for both data and voice services, that will be used as the eligibility standard in each call for applications.

### **13. Mobile project – Assessment criterion – Level of service improvement**

The Commission will use this criterion to ensure that priority is given to projects in eligible geographic areas where there is currently no service. The Commission will take into consideration whether mobile services are already available in the area where a project is proposing to offer the latest generally deployed mobile technology. The Commission will assess a project more favourably based on how much improvement there would be in the mobile service available in the area because of the project.

### **14. Mobile project – Assessment criterion – Household and road coverage**

The Commission will use this criterion to assess the extent of the eligible geographic area(s) in which the proposed project will provide service.

The Commission will assess a project more favourably if it proposes to serve a greater number of:

- underserved households; and/or
- kilometres of underserved major transportation roads (as defined in section E9 of this appendix).

If two or more projects propose to serve the same area(s), the Commission will assess the project that serves the most underserved households and/or underserved kilometres in the eligible geographic area(s) more favourably.

### **15. Mobile project – Assessment criterion – Cost per household/kilometre**

The Commission will use this criterion to determine whether funds are being used efficiently to connect as many households and/or kilometres of roads as possible in the eligible geographic area(s). The Commission will assess a project more favourably if it

has a lower eligible cost per household and/or per kilometre of major transportation roads to be served by the project in eligible geographic area(s).

#### **16. Mobile project – Assessment criterion – Geographic merit**

The Commission will use this criterion to assess the geographic merit of a proposed project and evaluate the benefit of providing mobile service in the eligible geographic area(s). For example, the Commission will consider how the project fills the existing gap in service along a major transportation road leading to or from an Indigenous and/or remote community where residents are unable to place emergency calls as they travel to and from their community.

The applicant should:

- provide rationale for why the major transportation road it is proposing to serve is important to the surrounding communities; and
- explain how providing services along the road would support meeting the universal service objective for mobile service.

#### **17. Mobile project – Assessment criterion – Geographic scope of the proposed project**

The Commission will use this criterion to assess the geographic scope of a project and determine whether the project should be considered further for funding. The Commission will assess a project less favourably if there are other proposed or funded projects in the same geographic area(s) or if the project includes transport infrastructure that is not required to support the project. If the project cannot use existing transport infrastructure (e.g., the existing transport provider has no available capacity), the applicant must demonstrate that any existing transport infrastructure is not feasible or sufficient.

#### **18. Transport infrastructure**

As per the project types set out in section A4 of this appendix, the Commission will not provide funding for a project that consists of only transport infrastructure, unless the project connects a satellite-dependent community to terrestrial transport infrastructure. The Commission will provide funding for transport infrastructure only if it is part of a universal service objective project (either a fixed broadband project or a mobile project). This approach will ensure that funding is used to provide universal service objective-level services to underserved households or roads.

The criteria set out in sections E19 to E21 of this appendix apply to a proposed project that involves building or upgrading transport infrastructure to provide universal service objective-level services to underserved households and along major transportation roads.

#### **19. Transport infrastructure – Eligibility criterion – Geographic eligibility**

An applicant requesting funding for terrestrial transport infrastructure must propose to build a universal service objective project in an eligible geographic area. The proposed terrestrial transport infrastructure must be required to directly support the building or

upgrading of broadband infrastructure to provide universal service objective-level services to underserved households and along major transportation roads.

The applicant should use existing transport infrastructure where possible and should propose to build or upgrade transport infrastructure only if it is unable to rely on existing transport infrastructure.

**20. Transport infrastructure – Eligibility criterion – Wholesale open access to funded transport infrastructure**

An applicant that proposes to build or upgrade transport infrastructure as part of a universal service objective project must commit to (i) offering wholesale open access service packages and (ii) meeting the requirements set out in section I18 of this appendix for these packages.

Minimum speeds for these packages will be set out in each call for applications. Any sites along the proposed transport route will also be required to comply with the wholesale open access requirements.

If the applicant receives conditional funding approval, it will be required to propose, in its statement of work, wholesale open access service packages with rates and speeds that meet the commitments set out in section I18 of this appendix.

Existing regulatory obligations (e.g., the requirement to file tariffs for wholesale open access services that are not forborne from regulation) will apply to any funded project to build or upgrade transport infrastructure.

Indigenous applicants are not required to make this commitment in their applications.

**21. Transport infrastructure – Eligibility criterion – Retail open access to funded transport infrastructure**

An applicant that proposes to build or upgrade transport infrastructure as part of a universal service objective project must commit to providing retail open access to that infrastructure.

Existing regulatory obligations (e.g., the requirement to file tariffs for retail open access services that are not forborne from regulation) will apply to any funded project to build or upgrade transport infrastructure.

Indigenous applicants are not required to make this commitment in their applications.

**F) Satellite-dependent community projects and project-specific eligibility and assessment criteria**

**1. Satellite-dependent communities and the universal service objective**

When assessing a satellite-dependent community project, the Commission will consider the viability of the proposed technology solution and its potential to consistently meet the universal service objective in the future.

A community that receives universal service objective-level services through low Earth orbit (LEO) satellites will be considered a satellite-dependent community for the purpose



of eligibility for a satellite-dependent community project under the Broadband Fund. Even if a community receives universal service objective-level direct-to-home service through LEO satellites, the community likely has no connection to terrestrially based transport infrastructure. The community will therefore continue to rely on satellite transport to receive one or more telecommunications services (such as voice and Internet access services on both wired and wireless networks).

## **2. Evaluation process for satellite-dependent community projects**

The Commission will use a specific evaluation process for satellite-dependent community projects. This process will not disadvantage such projects when compared to terrestrial projects, which can generally provide higher speeds and capacities.

### **3. Satellite-dependent community project – Eligibility criterion – Geographic eligibility**

An applicant's proposed satellite-dependent community project must cover an eligible geographic area that is considered a satellite-dependent community as defined in this appendix.

### **4. Satellite-dependent community project – Eligibility criterion – Network improvement**

An applicant's proposed satellite-dependent community project must increase the existing transport capacity of each community that the proposed project will serve.

### **5. Transport infrastructure for a satellite-dependent community project – Eligibility criterion – Minimum capacity**

An applicant that proposes to build new terrestrial transport infrastructure to a satellite-dependent community must offer a minimum capacity of:

- 1 gigabit per second (Gbps) at each new site; and
- 10 Gbps at each existing site that must be upgraded to enable the necessary capacity for the new transport route.

### **6. Transport infrastructure for a satellite-dependent community project – Eligibility criterion – Wholesale open access to funded transport infrastructure**

An applicant that proposes to build or upgrade transport infrastructure to a satellite-dependent community as part of a satellite-dependent community project must commit to (i) offering wholesale open access service packages and (ii) meeting the requirements set out in section I18 of this appendix for these packages.

Minimum speeds for these packages will be set out in each call for applications. Any sites along the proposed transport route will also be required to comply with the wholesale open access requirements.

If the applicant receives conditional funding approval, it will be required to propose, in its statement of work, wholesale open access service packages with rates and speeds that meet the commitments set out in section I18 of this appendix.

Existing regulatory obligations (e.g., the requirement to file tariffs for wholesale open access services that are not forborne from regulation) will apply to any funded project to build or upgrade transport infrastructure.

Indigenous applicants are not required to make this commitment in their applications.

**7. Transport infrastructure for a satellite-dependent community project – Eligibility criterion – Retail open access to funded transport infrastructure**

An applicant that proposes to build or upgrade transport infrastructure to a satellite-dependent community as part of a satellite-dependent community project must commit to providing retail open access to that infrastructure.

Existing regulatory obligations (e.g., the requirement to file tariffs for retail open access services that are not forborne from regulation) will apply to any funded project to build or upgrade transport infrastructure.

Indigenous applicants are not required to make this commitment in their applications.

**8. Satellite-dependent community project – Eligibility criterion – Pricing and affordability for wireline or wireless broadband Internet access services**

For a proposed access service project in a satellite-dependent community, the applicant must commit to meeting the requirements set out in section I18 of this appendix for the wireline or wireless broadband Internet access service packages that it will offer.

If the applicant receives conditional funding approval, it will be required to propose, in its statement of work, wireline or wireless broadband Internet access service packages with rates, speeds, and data allowances that meet the commitments set out in section I18 of this appendix.

**9. Satellite-dependent community project – Assessment criterion – Level of service improvement**

The Commission will use this criterion to compare the highest proposed speeds for the proposed telecommunications services with the highest speeds currently available in the satellite-dependent community. The Commission will also compare proposed and existing speeds to the target speeds in the universal service objective. The Commission will assess a project more favourably based on the extent to which the proposed service speeds:

- meet or exceed universal service objective-level speeds; and
- exceed the speeds of any telecommunications services currently being offered in the satellite-dependent community.

## **10. Satellite-dependent community project – Assessment criterion – Cost per household**

The Commission will use this criterion to determine whether funds are being used efficiently to connect as many households as possible in the satellite-dependent community. The Commission will assess a project with a lower eligible cost per household more favourably.

### **G) Selection considerations**

#### **1. General**

Once the Commission has identified a group of projects suitable for funding based on its evaluations against the assessment criteria, it will use defined considerations to select a subset of these projects for funding. In deciding between projects identified as suitable for funding, the Commission will consider not only whether individual projects could contribute to meeting the universal service objective, but also which projects would have the most positive impact on Canadians. The Commission will consider the policy objectives set out in section 7 of the Act, including the need to develop broadband service offerings across the country and to meet the economic and social needs of users.

The Commission may choose to emphasize certain selection considerations in each call for applications; any such considerations will be identified in the call for applications.

#### **2. Efficient use of funds**

When selecting projects for funding, the Commission will consider the amount of funding required for each project, when such funding should be distributed, and the amount of funding available in the Broadband Fund. Additionally, different proposed projects may cover the same eligible geographic area(s), or public funding from another source may be committed to a project that is similar to a project the Commission is considering. In such cases, the Commission must have flexibility to distribute funding in a way that does not cause overlap between projects or funding sources to ensure the efficient use of funds.

Therefore, when the Commission selects projects from the group of projects identified as suitable for funding, it will give special consideration to the efficient use of funds.

#### **3. Projects in multiple regions of Canada**

Paragraph 7(a) of the Act sets out as a telecommunications policy objective to facilitate the orderly development throughout Canada of a telecommunications system that serves to safeguard, enrich, and strengthen the social and economic fabric of Canada and its regions. Paragraph 7(b) sets out as an objective to render reliable and affordable telecommunications services of high quality accessible to Canadians in both urban and rural areas in all regions of Canada. Consistent with these objectives, the Commission intends to distribute funding from the Broadband Fund, as much as possible, to projects in underserved areas in multiple regions of Canada and not only in a single region or a small number of regions.

Therefore, when the Commission selects projects from the group of projects identified as suitable for funding, it may give special consideration to selecting projects in multiple regions of Canada.

#### **4. Project type**

When the Commission selects projects from the group of projects identified as suitable for funding, it may give special consideration to selecting one project type over another. If a project type is to be prioritized, it will be identified in the call for applications.

#### **5. Social considerations**

It could be appropriate for the Commission to take various social policy considerations into account when it selects projects from the group of projects identified as suitable for funding. Such considerations include the following:

- in support of reconciliation with Indigenous peoples, the Commission may give special consideration to projects proposed by Indigenous applicants and/or projects that would serve Indigenous communities; and
- consistent with the Government of Canada's commitment in the *Official Languages Act* to support and assist in the development of English and French linguistic minority communities in Canada, the Commission may give special consideration to proposed projects that would serve official language minority communities.

Therefore, when the Commission selects projects from the group of projects identified as suitable for funding, it may give special consideration to (i) whether the communities to be served by a proposed project are Indigenous communities or official language minority communities, and (ii) whether a project is proposed by an Indigenous applicant or would provide service to an eligible Indigenous community.

### **H) Confidentiality**

#### **1. Sharing information with the CTCC**

The role of the third-party administrator of the Broadband Fund, currently performed by the CTCC, is to collect monies from TSPs and distribute funding to recipients identified by the Commission. The only information the administrator needs is the name of the recipient, the amount to be paid, and the date of the payment. Because this is all public information, the issue of confidentiality does not arise in this context.

#### **2. Public process for submitting applications and confidential information associated with applications**

Broadband Fund applicants can file their applications confidentially; there is no public process associated with funding applications. The Commission recognizes the value of confidentiality during the application process and respects applicants' best interests.

Relevant stakeholders can express their support for a given application given that community notification and engagement are required at both the eligibility and assessment stages. Any other public input at the application stage would be of limited use.

### **3. Commission disclosure of information associated with applications**

When a conditional funding decision is published, the confidentiality of certain information about the selected project is no longer justified. Such information will need to be included in the conditional funding decision and the final funding decision to ensure transparency. For instance, the following information may be published:

- the name of the applicant;
- the number of households or kilometres of roads that are expected to be served as a result of the project;
- the kilometres of fibre transport to be built (if applicable);
- the communities that the applicant proposes to serve;
- evidence of community support and/or consent from Indigenous communities;
- the amount of funding awarded;
- the geographic area(s) of the project;
- the technology to be implemented;
- the criteria that supported the selection of the project; and
- the status of the project, including the year and quarter of its anticipated completion.

Once the project is completed, the retail service packages and rates and, if applicable, the wholesale service packages and rates proposed by the funding recipient and included in the statement of work will be published on the Commission's website.

In addition, the recipient will be required to submit information in periodic reports or audits. The Commission may use some of this information in aggregate form to publicly report on, for example, the number of households connected as a result of funding from the Broadband Fund, which geographic areas have universal service objective-level coverage, the amount of funding disbursed to date, and the overall progress of funded projects.

Details with respect to information that will generally be kept confidential and information that will be made public at various stages (i.e., in funding decisions, reports to be filed by recipients, and reports filed as part of Commission monitoring) will be set out in the application guide in each call for applications.

#### **l) Funding conditions**

##### **1. Funding conditions – General**

Once the Commission has selected a set of projects to be funded, further actions will be required to finalize and implement the projects, such as announcing the selected projects and applicants, establishing the conditions of funding, and distributing the funding to recipients.

## **2. Imposing requirements on funding recipients and enforcing those requirements**

Instead of implementing funding agreements, the Commission will rely on its statutory powers under subsection 61(1) of the Act to make funding decisions conditional on the fulfillment of certain program requirements (i.e., conditional funding decisions). Those decisions will also set out other conditions that must be met for funds to be released.

The Commission will also rely on sections 24 and 24.1 of the Act to impose conditions on the offering and provision of any telecommunications services by a Canadian carrier and by a person other than a Canadian carrier, respectively.

The Commission will set out conditions that apply to all funding recipients regarding the construction or upgrade of proposed networks and conditions that are specific to each recipient.

Conditions will be published in the conditional funding decision and the final funding decision (as defined in the “Definitions” section at the beginning of this appendix). The Commission will publish a standard list of conditions for each call for applications.

If a funding recipient does not comply with the conditions, the Commission can implement compliance measures. These measures include refusing to release funds until the non-compliance is remedied and seeking reimbursement of any payments that have already been made to the recipient. For conditions imposed under section 24 or 24.1 of the Act, the Commission may also issue administrative monetary penalties (AMPs) or mandatory orders.

## **3. Publishing/setting out funding conditions for applicants and funding recipients**

In each conditional funding decision, the Commission will set out the conditions and obligations that apply to all successful applicants and to funding recipients and the conditions that are specific to the applicant or funding recipient for a given project, as follows:

- **Conditions of approval:** Conditions and procedural details that the applicant must meet to confirm its intent to proceed with the project and file a completed statement of work for Commission approval.
- **Conditions of funding:** Conditions that each applicant must meet before the construction or upgrade of a proposed network or service and each funding recipient must meet during and after the construction or upgrade of a proposed network service. These conditions relate to things such as project timelines, reporting, auditing, material changes, etc. Funding may not be disbursed until the conditions are met. If a recipient does not comply with the conditions, the Commission can implement compliance measures.

- Conditions of service: Conditions imposed under section 24 of the Act that each funding recipient must commit to and meet for funded infrastructure after the construction phase. These conditions generally include the rates, speeds, and data allowances of the broadband services to be provided; the availability and duration of retail pricing; and the associated wholesale service offerings that will be applicable once the infrastructure is built. The Commission may require reporting or conduct periodic audits to monitor compliance with these conditions. If the recipient does not comply with these conditions, the Commission may issue AMPs or implement other compliance measures. The release of holdback funds is also conditional on the Commission being satisfied that the conditions of service have been met.
- 4. Requirement to meet external standards and/or guidelines for construction of projects**

Funding recipients are expected to construct their projects in compliance with applicable regulatory obligations and federal, provincial, territorial, and industry-imposed standards. Recipients are also encouraged to follow best industry practices to safeguard the resiliency, security, and sustainability of their networks against foreseeable threats in the geographic areas or regions where they will build their projects.

A non-exhaustive list of standards and industry best practices includes:

- the National Building Code of Canada;
- standards published by the Canadian Standards Association;
- provincial, territorial, and municipal building codes;
- widely adopted international standards and/or recommendations, such as International Telecommunication Union recommendations for telecommunications infrastructure and the ANSI [American National Standards Institute]/APCO [Association of Public-Safety Communications Officials] Public Safety Grade Site Hardening Requirements;
- telecommunications company standards; and
- equipment manufacturers' installation recommendations.

**5. Project start and completion dates**

In its conditional funding decision and final funding decision, the Commission will approve the following key dates for each selected project:

- eligibility date;
- project start date; and
- project completion date.

## **6. Final funding decision – Statement of work approval**

As a condition of approval set out in each conditional funding decision, the Commission will require the applicant to provide additional project details and finalize the project plan in a statement of work. The Commission must approve the statement of work in a final funding decision before the applicant becomes a funding recipient, funding is secured, and the recipient can submit claims for reimbursement.

The statement of work will set out, in detail, the applicant's project implementation plan, including project scope; key project dates (including project start and completion dates); budget; project geographic area(s); technical details (such as logical network diagrams, network description, and equipment); project milestones and conditions; obligations; and reporting requirements.

Following the publication of the conditional funding decision, the applicant can start implementing its project and accruing project costs at its own risk and expense. If a final funding decision is not published for the project, the Commission will reimburse a maximum of 25% of the total amount of conditionally approved funding, up to \$250,000.

## **7. Reporting – General**

The Commission will set out in each funding decision the conditions that the applicant or funding recipient, as applicable, must meet. In the case of a final funding decision, the conditions include requirements for the funding recipient to demonstrate that it has attained project milestones and fulfilled conditions of service through reporting, auditing, material changes, etc. The reporting tools that the recipient must use include the following:

- Progress reports: The recipient must submit quarterly progress reports on the project to enable the Commission to monitor and assess progress.
- Quarterly report schedule: The recipient must file its first progress report after the final funding decision is published. It must file subsequent progress reports every three months thereafter until the project completion date. The Commission has the sole discretion to modify the reporting frequency and will notify the recipient of any changes.

## **8. Reporting – Notification of project completion date and submission of project completion report**

A funding recipient must notify the Commission within 10 days of the project completion date.

The funding recipient must file a project completion report with the Commission six months after the project completion date. The Commission may, where appropriate, request that the project completion report be certified by the recipient's external auditor or by an auditor approved by the Commission.



## **9. Other reporting requirements**

Each funding recipient may be subject to alternative or additional reporting requirements on a case-by-case basis, beyond those described above. The Commission may impose additional reporting requirements before the final funding decision is issued or during the implementation of the project. The Commission will notify the recipient in writing of any new, alternative, or revised reporting requirements.

## **10. Reporting – Claim reports**

To enable the Commission to determine the amount of each payment to be made, the recipient must file a claim for the eligible costs incurred. The claim must be certified by the recipient's chief financial officer (CFO) or CFO-equivalent or by a delegate and must include supporting documentation (invoices, receipts, etc.).

The recipient must file a claim along with its quarterly progress report every three months after the Commission issues the final funding decision. If three-month payment intervals are not appropriate for the recipient, it may request an alternative payment schedule when it submits its statement of work. The Commission will consider the recipient's request and determine whether an alternative payment schedule should be established.

The format of claims will be set out in each call for applications. The recipient must demonstrate that all costs claimed have been incurred or paid, as approved by the Commission in the final funding decision, and are related to the activities described in the project plan and the estimated budget in the statement of work.

The Commission may, if appropriate, request any related report, form, or other document from the recipient to support a claim and may request that the document be certified by the recipient's external auditor or by an auditor approved by the Commission.

If a progress report demonstrates a material change from the approved statement of work for the project, the Commission may withhold payment(s) until the recipient has received Commission approval of that change.

## **11. Audits**

In accordance with its powers under section 24 of the Act, the Commission may conduct periodic audits to verify the recipient's compliance with the conditions of funding and other conditions imposed on the provision of services using the funded infrastructure. These audits would use methodologies that the Commission may determine and would be for the duration specified in the conditional funding decision and/or the final funding decision.

For auditing purposes, the recipient must preserve and make available upon request, for a period of eight years following the project completion date, all books, accounts, and records of the project; its administrative, financial, and claim processes and procedures; and any other information necessary to ensure compliance with the terms and conditions of the Commission's funding decisions relating to the project.

## **12. Performance measurement program**

The Commission may require recipients to participate in a performance measurement program to enable the Commission to verify compliance with the conditions of funding and monitor the provision of telecommunications services using the funded infrastructure.

## **13. Material changes**

A material change is a change to a substantive aspect of a project identified by the Commission in its reasons for selecting the project for funding. Examples of a material change include a change in the ownership or control of the recipient or project, a major change to the financing or cost of a project, and a change to the scope of a project, including the removal or addition of households or kilometres of major transportation roads to be served. If a funded project changes materially from what the Commission approved in the final funding decision, the recipient must inform the Commission and request approval for any material changes.

## **14. Sale of funded assets**

A change in ownership during the project implementation phase is a material change, and the recipient must inform the Commission of this change, as noted in section I13 of this appendix.

Any conditions imposed by the Commission under section 24 or 24.1 of the Act will apply to the offering and provision of telecommunications services by the funding recipient and by any subsequent purchaser of the infrastructure built with the help of funding from the Broadband Fund. Thus, even if the recipient sells the funded assets, the purchaser must comply with the conditions that the Commission has imposed on the offering and provision of telecommunications services using those assets.

## **15. Withdrawal from the program**

If an applicant or a funding recipient wishes to withdraw from the Broadband Fund program, it must notify the Commission in writing as soon as possible.

The Commission may publish information about withdrawal requests on its website. If a recipient withdraws from the program after project costs have been incurred, the Commission may direct the Central Fund Administrator to seek reimbursement of any payments that have already been made to the recipient.

## **16. Publication of service packages and rates for wireline or wireless broadband Internet access services, mobile services, and wholesale open access services**

On the project completion date, when the recipient is offering wireline or wireless broadband Internet access services or mobile services (and wholesale services, in the case of funded transport infrastructure), the Commission will publish information about the recipient's approved service packages on its website. This information will include, at a minimum, details of the service packages (rates, speeds, and data allowances) and geographic areas where the service packages are available.

In addition, wireline or wireless broadband Internet access service packages and rates must be offered for a minimum of five years following the project's completion date.

#### **17. Indigenous engagement and the duty to consult**

As part of the application process, an applicant must (i) indicate whether it considers that its proposed project presents a risk of adversely affecting any established or asserted Aboriginal or treaty rights and (ii) provide the Commission with information about how this view was informed. As rights holders, Indigenous communities and groups are best positioned to identify any impacts the proposed project may have on Aboriginal or treaty rights and to advise on potential measures that may be taken to avoid any adverse effects of such impacts.

If such a risk is identified at the application stage, the applicant must also provide details of how it has consulted with affected Indigenous communities or groups and identify any accommodation measures that have been or will be implemented. The Commission may request more information from the applicant regarding these issues during the application stage.

Moreover, as part of the application process, the applicant must sign a declaration form confirming its understanding that if a duty to consult arises in relation to a project, it must carry out all necessary consultations to the Crown's satisfaction before the Commission publishes a final funding decision.

The funding decisions include a funding condition providing that if a risk of adverse impact becomes known following the approval of the statement of work as part of the final funding decision, the funding recipient must inform the Commission. The release of any further funding becomes contingent on the recipient demonstrating that any necessary consultations were held to the Crown's satisfaction.

The Commission's funding decisions may set expectations or requirements for recipients to conduct further consultation efforts in this respect.

#### **18. Project and service requirements considered in the development of the statement of work**

An applicant must provide additional information, as needed, as part of its statement of work to receive final approval for funding in the final funding decision.

##### ***Sustainability and scalability***

Each applicant must provide details demonstrating the ability of its proposed network to handle future growth and ensure long-term viability.

##### ***Service packages and commitments for wireline and wireless broadband Internet access services***

An applicant that proposes to provide wireline and/or wireless broadband Internet access services must propose service packages with rates, speeds, and data allowances that meet the following commitments:

- provide several wireline and/or wireless broadband Internet access service packages, with rates, speeds, and data allowances that address different customer needs, including at least one package that is suitable for low-income households;
- provide these packages at rates that are comparable to (i) the lowest rates already provided by the applicant in the proposed project's province or territory<sup>11</sup> or (ii) the rates offered in one of the major urban centres (to be identified by the Commission) in the proposed project's province or territory; and
- provide these packages at a rate no higher, and at a speed and with a data allowance no lower, than the original proposal, for a minimum of five years following the project completion date.

The applicant can propose to provide rates that match the lowest rates it already provides in its proposed project's province or territory. If the applicant proposes to match its own lowest rates, it must continue to match those rates for a minimum of five years following the project completion date.

A funding recipient will be expected to provide published proof showing that these service packages are being offered to customers once the project is complete.

#### ***Service packages and commitments for mobile services***

An applicant that proposes to provide mobile services must propose service packages with rates, mobile technology, and data allowances that meet the following commitments:

- provide several mobile service packages, with rates, mobile technology, and data allowances that address different customer needs, including at least one package that is suitable for low-income households;
- provide these packages at rates that are comparable to (i) the lowest rates already provided by the applicant in the proposed project's province or territory or (ii) the rates offered in one of the major urban centres (to be identified by the Commission) in the proposed project's province or territory; and
- provide these packages for a minimum of five years following the project completion date.

The applicant can propose to provide rates that match the lowest rates it already provides in its proposed project's province or territory. If the applicant proposes to match its own lowest rates, it must continue to match those rates for a minimum of five years following the project completion date.

A funding recipient will be expected to provide published proof showing that these service packages are being offered to customers once the project is complete.

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<sup>11</sup> For projects proposed in satellite-dependent communities, applicants must propose rates that are sufficiently comparable to rates offered in Iqaluit, Nunavut. However, in each call for applications, the Commission may identify a different satellite-dependent community that applicants must use to compare proposed rates.

***Service packages and commitments for wholesale open access services***

The Commission will require an applicant that proposes to build or upgrade any transport infrastructure to commit to offering, at a minimum, dedicated wholesale open access to that infrastructure. The applicant must propose wholesale open access service packages at rates and speeds that meet the minimum requirements set out in each call for applications. Each point of presence along the transport route must also comply with the wholesale open access requirements.

**J) Distribution of funding****1. Frequency of funding payments – General**

The Broadband Fund's funding distribution model balances giving access to a wide variety of funding recipients and projects with mitigating the risk of recipients not complying with requirements and projects not being completed.

Payments made every three months after the project start date for the eligible costs incurred during the preceding three-month period will minimize the need for advance payments. Furthermore, Commission-imposed reporting requirements will enable the Commission to monitor progress at regular intervals.

If a three-month payment schedule is not appropriate for a recipient, it may request an alternative schedule. The Commission will consider the recipient's request and determine whether an alternative payment schedule should be established.

The Broadband Fund will provide a certain amount of upfront funding to an Indigenous recipient, upon request. This amount will provide capital for the recipient to secure required resources related to eligible costs in the initial stages of the project, such as equipment, material, or expertise. Any upfront funding provided must be linked directly to a contract or contracts for such resources. The Commission will require proof of payment regarding the upfront funding amount.

This upfront funding will be available only for capital projects. The Indigenous recipient can request the upfront funding amount before submitting its statement of work, and the Commission will address the amount in the final funding decision. The upfront funding amount will be capped at 15% of total project costs, to a maximum of \$750,000. Payment of the amount will be provided to the recipient after the Commission has approved the statement of work in the final funding decision.

**2. Frequency of funding payments – Operational costs for satellite-dependent community projects**

Funding for operational costs for a satellite-dependent community project will be distributed to the funding recipient every three months after the project start date or according to an approved alternative payment schedule, upon receipt of the recipient's claim with proof of payment.

### **3. Holdback**

A holdback is an effective tool to ensure that recipients consistently provide reliable services in a timely manner and to enforce the conditions of service.

The Commission will retain a holdback of 10% of the amount of funding provided for each project, which it will disburse six months after project completion, provided that:

- the project is completed to the Commission's satisfaction;
- the Commission has approved the final quarterly progress report and the final claim;
- the recipient has submitted the project completion report and the report has been approved by the Commission; and
- the recipient demonstrates that it is fulfilling the conditions of service.

If any of these requirements have not been met, the Commission may retain the holdback amount until the recipient demonstrates compliance.

The 10% holdback will not apply to Indigenous recipients whose projects have approved funding of \$5 million or less.

## **Appendix 2 to Telecom Regulatory Policy CRTC 2024-328**

### **Previous Broadband Fund policy items that are no longer part of the new policy**

#### **Eliminated**

The following items have been removed from the Broadband Fund policy, either to streamline processes or to reflect the fact that the items are no longer relevant:

##### **1. Satellite component – 10% total annual funding limit**

The Commission is eliminating the 10% annual limit of the Broadband Fund previously allocated for projects in satellite-dependent communities. The removal of this limitation will simplify the application process for projects benefiting satellite-dependent communities and will encourage applicants to propose projects of sufficient scope to achieve the universal service objective in those communities.

##### **2. Review and vary of funding decisions**

Under provisions added to section 46.6 of the *Telecommunications Act* in 2021, review and vary applications do not apply to Broadband Fund decisions.

##### **3. Mobile project – Assessment criterion – Household coverage**

This criterion was removed to simplify the assessment process.

#### **Moved from eligibility to assessment stage**

The following items will no longer be evaluated at the eligibility stage; they will be evaluated only at the assessment stage:

##### **4. Project eligibility – Project viability without funding**

##### **5. Financial eligibility – Applicant investment**

#### **Removed from assessment stage**

As stated in section I18 of Appendix 1 to this regulatory policy, an applicant will be required to propose service packages in its statement of work, if its project is selected for funding. Therefore, the following criteria have been removed from the assessment stage, and applicants will not be required to propose service packages at the application stage:

##### **6. Fixed broadband project – Assessment criterion – Retail service pricing and offers**

##### **7. Satellite-dependent community project – Assessment criterion – Proposed level of service**

##### **8. Satellite-dependent community project – Assessment criterion – Retail service pricing and offers**

### **Merged with another policy item**

The following items have been merged into other policy items within the new Broadband Fund policy:

#### **9. Fixed broadband project – Assessment criterion – Proposed level of service**

This criterion was merged with section E5 of Appendix 1 to this regulatory policy.

#### **10. Imposing certain conditions on the offering and provision of broadband services through funded facilities**

This criterion was merged with section I3 of Appendix 1 to this regulatory policy to simplify the funding conditions.

#### **11. Reporting – Holdback report**

This report was combined with the project completion report to streamline the reporting process.

### **Removed due to changes in project types**

Certain items were no longer necessary because transport-only projects are not eligible for funding, except for transport-only projects that connect satellite-dependent communities to terrestrial facilities. Therefore, the following assessment criteria have been removed from the policy:

#### **12. Transport infrastructure project – Eligibility criterion – Capacity**

#### **13. Transport infrastructure project – Assessment criterion – Level of improvement in network and capacity offered**

#### **14. Transport infrastructure project – Assessment criterion – Number of points of presence for wholesale and retail services along the proposed transport route**

#### **15. Transport infrastructure project – Assessment criterion – Number of communities and households to be served**

#### **16. Transport infrastructure project – Assessment criterion – Presence, type, and number of anchor institutions to be served**

#### **17. Transport infrastructure project – Assessment criterion – Wholesale open access service offerings**

#### **18. Selection consideration – Transport infrastructure projects and fixed access infrastructure projects**



## **Appendix 3 to Telecom Regulatory Policy CRTC 2024-328**

### **Parties to this proceeding**

#### **Indigenous rights holders, governments, organizations, and service providers**

- Eeyou Communications Network
- First Mile Connectivity Consortium
- First Nation of Na-Cho Nyäk Dun
- Great Northern Wireless Inc.
- Indigenous Connectivity Institute
- Kuhkenah Network
- Spirit Mobile Inc.
- Taku River Tlingit First Nation
- Tłıchǫ Government

#### **Internet and cellphone service providers**

- 307NET
- Access Communications Co-operative Limited
- Bell Canada
- Bragg Communications Incorporated, carrying on business as Eastlink
- the Coalition<sup>12</sup>
- Cogeco Communications Inc.
- Leepfrog Telecom Ltd
- National Capital FreeNet
- Quebecor Media Inc. (including Videotron Ltd. and Freedom Mobile Inc.)
- Rogers Communications Canada Inc. (including Shaw Cablesystems G.P.)
- Saskatchewan Telecommunications
- SSi Micro Ltd.
- TELUS Communications Inc.
- TERAGO Networks Inc.

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<sup>12</sup> The Coalition is made up of the British Columbia Broadband Association, the Canadian Association of Wireless Internet Service Providers, the Canadian Communication Systems Alliance, the Competitive Network Operators of Canada, and the Independent Telecommunications Providers Association.

- Viasat Inc. and Viasat Canada Corp.
- Xplore Inc.

**Public interest group**

- Public Interest Advocacy Centre

**Other levels of government**

- City of Calgary
- Government of the Northwest Territories
- Infrastructure Ontario
- Kativik Regional Government
- Province of British Columbia
- Sunrise County
- Yves Perron (member of Parliament representing Berthier—Maskinongé)

**Associations**

- Agricultural Producers Association of Saskatchewan
- Alberta Rural Connectivity Coalition
- Association of Manitoba Municipalities
- Blue Sky Net
- Canadian Federation of Independent Business
- Federation of Canadian Municipalities
- Ontario Federation of Agriculture
- Rural Municipalities of Alberta
- Saskatchewan Association of Rural Municipalities
- Saskatchewan Wheat Development Commission
- SaskCanola

## **Dissenting opinion of Commissioners Bram Abramson, Ellen Desmond, and Stéphanie Paquette**

1. The Broadband Fund is a cornerstone of the Commission's updated toolkit for ensuring continuing access throughout Canada to basic telecommunications services in an Internet-first communications ecosystem. The Broadband Fund policy review takes stock of changes to the funding environment, and of the Commission's renewed focus on advancing reconciliation with Indigenous peoples. Further, it is part of the continuing work exemplified by Telecom Regulatory Policy 2016-496's commitment to shifting the focus of the Commission's telecommunications regulatory frameworks from fixed voice to pervasive broadband.
2. We agree with many of the positions taken by the full Commission's majority decision on this first phase of the Broadband Fund policy review. The decision engages changes to the Fund's application and evaluation processes, streamlines evaluation criteria, and relativizes references to universal service objectives. It prioritizes Indigenous-owned networks and training, commits to new forms of outreach and engagement, and corrects gaps in how consent is sought from Indigenous peoples and communities. Geographic models will be more flexible. Projects will be reviewed more holistically. A step-by-step approach will enable consideration of resiliency and Indigenous funding. All of these are steps forward for the Broadband Fund.
3. However, and with the greatest respect to our colleagues, we dissent in respect of two matters that relate to eliminating (i) open access requirements for Indigenous-owned and -controlled projects, and (ii) holdback requirements ("Holdback") for the smallest of such projects.

### **Open access requirements for Indigenous-owned and -controlled projects**

4. From Telecom Regulatory Policy 2018-377 until the current regulatory policy, all Broadband Fund recipients have been required to provide retail and wholesale open access to funded transport infrastructure. Transport capacity must be offered to retail purchasers (like resource projects, electricity or railway companies, and private enterprise and the public sector more broadly) and wholesale service-provider purchasers (like long-haul networks, mobile carriers assembling backhaul portfolios, and so on). This requirement is intended to:
  - (i) enable other service providers to expand their serving territory within a funded geographic area and extend the transport infrastructure to neighbouring communities, and (ii) result in the further deployment of mobile wireless technology to underserved communities and along major transportation roads.<sup>13</sup>
5. The majority's decision now withdraws this obligation as it applies to Indigenous project proponents. It does so for two reasons.

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<sup>13</sup> See Telecom Regulatory Policy 2018-377, paragraph 197.

## **Nations, communities, and proponents**

6. First, the majority decides that a means to support Indigenous ownership and control of telecommunications infrastructure and services and recognize the right of self-determination is to let Indigenous recipients decide who will be able to access their networks and at which terms and conditions of access. In effect, the majority situates self-determination with Indigenous network proponents, not with Indigenous nations or communities.
7. We support the stated goal. But it is not clear to us that the means adopted advances this objective. Nor has evidence been filed arguing that it does. The majority's approach confuses project proponents with the Indigenous peoples and communities they serve. More importantly, it bypasses meaningful consultation, including the consultation being pursued through our own process to develop an Indigenous stream of the Broadband Fund in collaboration with Indigenous groups and communities.
8. Where the project proponent is an institution stewarded by the community served, this confusion may have little consequence. But that will not always be the case. What if a nation or community preferred a policy of requiring, irrespective of the proponent's preference, a modified form of open access, like one that mandates supply to other Indigenous-owned and -controlled networks? They have not had the opportunity to weigh in on what authority they ought to have in this matter. They should.
9. The majority decision recognizes that "Indigenous communities have many competing priorities", just as any community might. Yet here it skips over these communities' authority to weigh priorities by leaving with project proponents the decision as to whether to allow open access, rather than with the communities they serve. The majority decision has done so, not on the basis of fulsome submissions or meaningful consultation with those communities, or even the submissions of project proponents, but of its own motion.
10. In our view, the Commission's decisions should be based on the record before it. That is all the more important when acting in the context of the Commission's duty to consult with Indigenous peoples and communities.
11. We have provided for such consultation through a planned Indigenous stream of the Broadband Fund in collaboration with Indigenous groups and communities. That would have been an occasion to test with Indigenous peoples and stakeholders the approach that the majority has instead, too hastily in our view, simply adopted.

### **If you build it, will no one come?**

12. The majority adds a subsidiary reason as to why exempting Indigenous funding recipients from open access to transport might be appropriate: remote Indigenous communities have much lower levels of service penetration than in the rest of Canada, so

[t]hese geographically remote areas with low population densities are more difficult for TSPs [telecommunications service providers] to profitably serve and are less likely to attract competitive investment as a result. Therefore,

residents in Indigenous communities are unlikely to benefit from competitive service offerings, even if retail and wholesale open access to funded transport infrastructure is provided.

13. This reason appears to forget the basis on which open access to subsidized transport was ordered in the first place. It is not only to serve competitive carriers. It is also to support complementary services, from mobile backhaul to long-haul transport networks that need to cut a route across multiple communities. Similarly, it is not just to serve wholesale users, but also retail ones, including public and band uses; energy, transportation, and resource projects; and other larger-scale users that have the Indigenous communities' consent to operate there.
14. Likewise, this subsidiary reason confuses project ownership with project location. The majority decision has structured this open access exemption based on the Indigenous character of funding recipients, not on the residents of the places they serve. Even if fostering competition was the only reason for the open access requirement—and it is not—the reason does not align with the approach taken. In practice, all subsidized locations are likely to be rural and remote or otherwise very costly to serve. But even where subsidized location is less rural and remote, the exemption will no less be granted.
15. The basis on which the majority concludes that competing or parallel uses cannot spring up in places served by Indigenous funding recipients is not obvious to us. In any case, even where no wholesale use is made of open access transport, the other uses that rely on it are ignored in justifying open access transport's withdrawal from communities served by Indigenous proponents. They ought not be.

### **Holdback and risk governance**

16. The majority likewise eliminates the Holdback for Indigenous funding recipients on projects with approved funding of \$5 million or less.
17. Holdback is a standard mechanism widely used in construction financing. It is an important risk management tool that helps ensure good governance, whether on small or large projects. Holdback fulfills a number of functions:
  - It provides a form of security as a project progresses.
  - It ensures the smooth flow of funds from the beginning to end of a construction project, protecting against unexpected errors.
  - In the event a construction lien is registered by a worker or subcontractor, the Holdback provides a means of recovery.
  - It protects the service's intended recipients—here, connectivity-deserving communities—because, if a project proponent encounters difficulties, the Holdback is in place to help pay the outstanding costs so that the project can be completed.

18. Risk governance mechanisms ought not be eliminated lightly. At the same time, measures that relate to Indigenous self-governance ought to flow from Indigenous peoples' own views of how to exercise economic self-determination in order to determine their own destinies. In our view, the Holdback exemption adopted fulfills neither criterion.
19. Broadband Fund capital projects are financed in a manner similar to the Broadband Fund's predecessor. Funds are collected from all telecommunications service providers, whether domestic or foreign, provided their Canadian telecommunications revenues exceed a threshold amount. As a result, the Broadband Fund resembles trust monies that must be carefully managed. The Holdback requirement is an important tool in doing so.
20. To this good governance tool for mitigating project risk, the majority, in a brief statement addressing the matter, counterposes the financial barriers faced by Indigenous applicants as sufficient basis for removing it. They find that the latter outweighs the former.
21. We are unable to agree. Holdback is only necessary once a project is underway and the disbursement of funds has commenced. Interveners did underline challenges in financing construction projects, including the issue of cash flow while waiting for reimbursement. Providing a percentage of funding up front will help alleviate some of these issues. But the majority identifies no basis on which eliminating the Holdback altogether will eliminate, in a substantial or meaningful way, a barrier for applying to the Broadband Fund.
22. Similar to the open access exemption addressed above, removing the Holdback was not sought in the submissions of Indigenous parties. It was not put forward on the record of this proceeding. No party suggested that removing the Holdback would incentivize investment, innovation, or construction. No Indigenous intervener, and no other intervener, suggested that reconciliation would be advanced by eliminating the Holdback.
23. As a result, the approach does not appear to us to be grounded in the record before us, nor to result from the kind of meaningful consultation that the decision itself prescribes. The Holdback is a linchpin risk governance mechanism. It is of fundamental importance to allow Indigenous rights holders to shape their own approaches to economic self-determination. The approach adopted, which substitutes the Commission's judgement for such consultation, honours neither of these.

## **Conclusion**

24. We agree with most of the positions expressed by the majority in its decision. But we dissent from the majority's exemption of Indigenous funding recipients from the requirements (i) to provide retail and wholesale open access to funded transport infrastructure, and (ii) for a 10% Holdback for projects with approved funding of \$5 million or less. Neither exemption results from meaningful consultation with

Indigenous rights holders. Neither is supported by the record of this proceeding. Neither decision leaves room for the Indigenous stream built into this very process to hear from Indigenous nations, communities, and other stakeholders on whether this meaningfully advances reconciliation.

## **Additional dissenting opinion of Commissioner Bram Abramson**

25. I further dissent on these two issues: transport pricing and measures to address overbuilding.

### **Transport pricing**

26. I have joined with my colleagues in dissenting on the majority’s withdrawal of open access transport on Indigenous funding awards. However, the conditions under which open access transport is mandated for non-Indigenous proponents remain wanting.
27. Broadband Fund projects address areas where market incentives alone are insufficient to drive investment. Their operators have market power.
28. Given connectivity’s essential character, the Commission has traditionally forestalled potential market power abuses. We have done so in two ways: regulating retail prices; or fostering competition, by mandating wholesale supply of the bottleneck facilities that underpin market power. In respect of the access segment, the Broadband Fund takes the former approach, requiring retail pricing to be set in relation to market pricing in a relevant competitive market. The Broadband Fund thus gives residents of high-cost serving areas access to connectivity at rates comparable to major centres. But in respect of the transport segment, the Broadband Fund takes neither approach; unsurprisingly, the rates at which transport is sold diverge wildly from project to project.
29. It is not clear whether the goal of mandating the sale of transport on subsidized networks is to make it available at rates comparable to competitive areas (the access approach), at cost-plus rates (like tariffed services), or at monopolist-set rates. However, monopolist rates—the current approach—yield an “open access” solution that is neither here nor there. Proponents are required to notionally make transport available, but they are not prohibited from pricing it at rates that no one could pay. That is a distinction without a difference.
30. Although various interveners made submissions on transport pricing, the majority decision does not address the issue. I dissent. Transport costs are a determinant of access costs. We have long recognized the need to review the competitive framework for transport.<sup>14</sup> In the meantime, the Broadband Fund addresses access market power created by its subsidies. It should address the transport market power it creates, too.

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<sup>14</sup> Telecom Notice of Consultation 2019-406, as modified by Telecom Notice of Consultation 2020-366; Telecom Regulatory Policy 2024-180, paragraph 46 (“[t]he Commission indicated in [Telecom Notice of Consultation 2023-56] that it will consider issues related to the availability of competitive transport services through a separate proceeding at a later date”).

## Green light, yellow light

31. Resilient broadband connectivity is an essential service. Most Canadians access this service through market-based investments in broadband facilities. However, the Broadband Fund exists—like the time-limited broadband funding programs introduced by all levels of government—because some markets cannot sustain such investments, usually due to the high cost of serving those areas.
32. As connectivity is extended into more communities, the average capital costs of serving the remaining unserved or underserved areas grow. Continued build-out means that what remains as the now-lowest-hanging fruit dangles ever higher. As does the height of the ladder needed to reach it. As does the challenge for any project proponent seeking a green light for a capital project, whether funded privately, publicly, or—frequently—a mixture of these.
33. Especially in this challenging context, broadband funding programs must first avoid harm. Creating an enabling environment for market-based investment aligned with Canada’s telecommunications policy objectives is broadband rollout’s prime directive. Subsidizing broadband projects where no such investment is sustainable is second-best.
34. Subsidizing broadband where fit-for-purpose projects are already underway—not in order to complete or complement these by adding necessary resiliency or competitive choice, to the extent either is desirable, but merely from a lack of coordination—is particularly harmful. Parties to this proceeding underlined the dangers of uncoordinated “overbuilds.” Consider the joint submissions of the British Columbia Broadband Association, Canadian Association of Wireless Internet Service Providers, Canadian Communication Systems Alliance, Competitive Network Operators of Canada, and Independent Telecommunications Providers Association, which intervened together as a five-association “Coalition”:

Coalition member companies are extremely concerned over the potential for scarce public subsidy dollars to be used for over-building existing networks, many of which have been built with private money. In fact, Coalition member companies, most notably in Ontario, report that network duplication, funded via subsidy program award dollars, is occurring right now. The funding regime should maintain a bias against over-building and toward leveraging existing network resources, together with the entrepreneurial drive and local knowledge of their locally-based operators.<sup>15</sup>

35. Avoiding overbuilds safeguards investment and prevents inadvertently turning green lights yellow. The “substantial change in the funding environment with significant new funding available from all levels of government”, which the Summary to Telecom

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<sup>15</sup> Intervener #68, 21 July 2023, paragraph 10.



Notice of Consultation 2023-89 cited as a primary basis for this proceeding, is one that is particularly vulnerable to overbuilding.

36. We have schematized our Broadband Fund policy implementation into four phases: funding for capital projects, network resiliency, operational costs, and a dedicated Indigenous stream. While I remain hopeful for robust anti-overbuilding measures in the future, such safeguards belong in the current regulatory policy. These measures are distinct from separate policy questions, like subsidizing planned redundancy for resiliency, which will be addressed in the next phase, or for facilities-based competitive choice.
37. I therefore dissent from the omission of anti-overbuilding measures in our approach to funding capital projects under the Broadband Fund. Telecom Notice of Consultation 2023-89 calls expressly, through its Summary, for us to respond to the sprawl of government broadband funding programs that heightens overbuild risk. As a federal regulatory agency tasked with advancing the Canadian Telecommunications Policy,<sup>16</sup> the Commission should lead on this issue. In response to interventions filed, and noting practices in other jurisdictions, I would have launched a follow-on proceeding to consider a Broadband Challenges program letting parties file one of three types of challenges aimed at mitigating overbuild risk: *availability* challenges, *local provider* challenges, and *delay* challenges.

#### **Availability challenges**

38. An availability challenge would provide a structured route, and public record, on which to challenge the geographic eligibility, including satellite-dependent status, of a community or location shown on the eligibility map shared by Canada's two federal telecommunications regulators, the Commission and Innovation, Science and Economic Development Canada.
39. Potential evidence, while at the discretion of the filing party, would likely include speed-testing data showing speed "floors"; evidence of deployed fibre not yet put to use for broadband, but falling within the Commission's jurisdiction; information as to freshly-completed or still-underway builds; and so forth.
40. Parties could, as usual, seek confidentiality over submitted documents. However, a marker would have been put down that could more readily be noted by third-party funding programs.

#### **Local provider challenges**

41. A local provider challenge would let TSPs with existing facilities in an area present a competing offer, avoiding stranded investment. The majority correctly acknowledges the Broadband Fund application process's administrative burden and duplication. The same challenge is present in many other broadband funding programs referenced in

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<sup>16</sup> *Telecommunications Act*, section 7.

Telecom Notice of Consultation 2023-89. Smaller providers already investing and serving in a community—even below target speeds—therefore fail to chase funding.

42. Introducing a local provider challenge within the Broadband Fund would enable these providers to engage effectively. Other funding programs could choose to align with the Commission’s local provider challenge framework. For unaligned funding programs, TSPs could still file a local provider challenge in response to an announced overbuild subsidy. A Commission finding that an overbuild had been mandated would be more straightforward for other funders to take into account than mere claims might be.

### **Delay challenges**

43. A delay challenge would address situations where a TSP receives broadband funding but fails to meet milestones. Until award disqualification criteria are actually met, the funding award effectively acts as a placeholder, deterring other proponents from the location even as its connectivity remains unaddressed. This outcome is seldom intentional, arising instead from a mix of unforeseen factors. But the consequence—lack of broadband facilities—remains unsatisfactory.
44. For the Broadband Fund and aligned funding programs, a delay challenge would let a proponent petition to take over the subsidy by showing it stood ready, willing, and able to proceed. For unaligned programs, as with local provider challenges, it would be largely informational. In either scenario, the potential for such challenges would incentivize awarded proponents to allocate greater resources to mitigating the unforeseen factors that contribute to delays.

### **Commission leadership**

45. The Broadband Challenges program I have outlined here is a proposal I would have launched as a follow-on proceeding to consider complex and persistent issues in broadband deployment raised in this proceeding. It is one that would see the Commission take leadership in mitigating the consequences of uncoordinated actions that, though rational in isolation, collectively yield negative outcomes.
46. Establishing frameworks that align incentives, prevent the most wasteful duplication, and ensure efficient use of public resources directed towards large-scale infrastructure investment is warranted when it is evident that the “markets” for such public investment will not self-correct. Canadians rightly expect the Commission to foster an environment that not only drives connectivity but also protects the public interest. Doing so in ways that are information- rather than command-driven is, in my view, consistent with that expectation.