State of West Virginia

Recovery Plan

State and Local Fiscal Recovery Funds

2023 Report

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Executive Summary

On May 14, 2021, the State of West Virginia received its first tranche of Coronavirus State and Local Fiscal Recovery (CSLFRF) funding from the United States Department of Treasury in the amount of 677 million dollars. The second tranche of funding, totaling 677 million dollars was received on May 16, 2022. This stimulus funding followed the receipt in 2020 and early 2021 of federal stimulus funding appropriated under the Coronavirus Aid, Relief, and Economic Security (CARES) Act and the Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act. Specifically, the CARES Act provided the state with 1.25 billion dollars of funding from the Coronavirus Relief Fund, also distributed by the United States Department of Treasury. These direct and flexible funds have been provided in addition to direct supplemental funding programs provided to state agencies directly by the federal government to supplement and secure ongoing federal programs administered in West Virginia.

These funds have been critical to the state's public health and economic response to the COVID-19 Pandemic. Coronavirus Relief funding allowed West Virginia to make the necessary investments in its recovery from this crisis. Now, the state is enabled to consider in an even more thoughtful, strategic, and collaborative manner, how CSLFRF funding should be utilized in the coming years to solidify and strengthen West Virginia's overall recovery from the pandemic. The state has purchased a Stimulus Funding Inventory Tool software package from Deloitte to assist the state in identifying the best source of funds for requests and projects and to be a funding planning tool to assist in decision-making.

As a result of passage of HB 2014 by the West Virginia Legislature, which limited the Governor's ability to unilaterally deploy federal stimulus funding more than 150 million dollars, the state has taken a deliberate and careful course of action. Upon receipt of CSLFRF funds, the Office of the Governor began to engage legislative leadership and membership to come up with an appropriations strategy and overall plan of action regarding CSLFRF. This necessarily includes each legislative member, as well as the governor, engaging with their constituents to determine their districts' individual wants and needs.

To date, this process has resulted in the passage of several appropriations bills which make available CSLFRF funds for use in West Virginia. So far projects include: 1. The West Virginia Broadband Investment Plan (created by West Virginia House Bill HB339 and West Virginia Senate Bill SB3041, 2021 Third Special Legislative Session; and 2. West Virginia State Government Operations/Revenue Replacement (West Virginia Senate Bills SB1002 and SB1005, 2022 First Special Session; West Virginia Senate Bill SB722, 2022 Regular Legislative Session; and West Virginia House Bill HB2883, 2023 Regular Legislative Session) and 3. West Virginia Economic Enhancement grants (created by West Virginia House Bills HB4566, 2022 Regular Legislative Session and HB217, 2022 Second Special Legislative Session and further expanded by HB2883, 2023 Regular Legislative Session).

Uses of Funds

The State of West Virginia has thus far focused use of Coronavirus State and Local Fiscal Recovery Funds on Water, Sewer and Broadband Infrastructure and Revenue Replacement.

This has been undertaken through the creation of two specific programs. First, the West Virginia Broadband Investment Plan, which aims to expand access to broadband internet to rural and underserved residents throughout the State of West Virginia. Second, the West Virginia Economic Enhancement Grant Funds, administered by the West Virginia Water Development Authority, which seeks to improve West Virginia's water, sewer, and stormwater infrastructure across the state through grants to repair, replace and expand existing water infrastructure. Often these funds will be used to advance highly funded projects when bid overruns cause project fund shortfalls for local governments and public service districts across the state as a result of increased costs for labor and materials.

Finally, the state has utilized a portion of Coronavirus State and Local Fiscal Recovery Funds for State Government Operations through an analysis of state government services and expenses, to determine eligibility under the Coronavirus State and Local Fiscal Recovery Fund. State Government Operations funded by SLFRF revenue replacement include:

- Enhancing public safety activities conducted by the West Virginia Division of Corrections and Rehabilitation and the West Virginia State Police. Namely, Public Safety State Government Operations revenue replacement provided funding for Division of Corrections and State Police personnel expenses. The Division of Corrections and the State Police are fundamental cornerstones of West Virginia's public safety infrastructure. These services, and the public employees who provide them, are essential to West Virginia to keep citizens safe and to respond to the Covid-19 pandemic.
- Supporting the West Virginia Department of Health and Human Resources in delivering critical services for public health purposes. Public Health State Government Operations revenue replacement were provided to the Department of Health and Human Resources in the form of personnel expenses, as well as office expenses, professional services, computer services, travel, supplies, training and development, equipment, and contractual services among other agency expenses. The Department of Health and Human Resources receives one of the largest portions of state government revenue which enables the department to administer and maintain critical state and federal governmental services to the citizens of West Virginia
- Investing in projects and activities to assist in enhancing the overall public health and safety of citizens of West Virginia through the West Virginia Department of Environmental Protection's Reclamation of Abandoned and Dilapidated Property Program Fund. Revenue replacement funding for State Government Operations was appropriated to the West Virginia Department of Environmental Protection's Reclamation of Abandoned and Dilapidated Properties Program to assist county commissions and municipalities in the state in their efforts to remediate abandoned and dilapidated structures as set forth in state code §22-15A-30 of the A. James Manchin Rehabilitation Environmental Action Plan (REAP). SLFRF revenue replacement funds for State Government Operations will be used for the purpose of asbestos testing and removal, demolition of properties and landfill cost.

- Improving the lives of lower socio-economic populations in West Virginia by funding a program through Marshall University to make recommendations on how to best support and improve conditions for these citizens.
- Reinvesting in growth and development to bring stronger communities, greater job opportunities and brighter futures to citizens of West Virginia.

The State of West Virginia continues to use other federal funding made available by the American Rescue Plan Act of 2021, creating programs such as the Mountaineer Rental Assistance Program, the West Virginia Homeowners Rescue Program and other federal COVID-19 relief programs. Agencies continue to administer formula and competitive grant programs along with programs newly created by federal stimulus investments. Also, the Infrastructure Investments and Jobs Act has brought West Virginia the largest federal investment in hard infrastructure in decades. State agencies such as the West Virginia Department of Transportation among others are working to administer these funds on behalf of the people of West Virginia to build a brighter future for families, businesses, and the great people of West Virginia.

Promoting equitable outcomes

The State of West Virginia considers the promotion of equitable outcomes an integral part of our deliberative process. Considerations are made in consultation with members of the legislature and their constituents in how the promotion of equitable outcomes fits within the appropriations process.

West Virginia Broadband Investment Plan

The Office of Broadband has promoted equitable outcomes in its distribution of SLFRF funds by incorporating scoring criteria for applicants that prioritizes projects based on whether they meet certain factors. Included in such factors are the affordability of the project, with points awarded for more affordable service offerings as well as points for awardees offering discounted service tiers to low-income customers.

Additionally, as part of its applicant scoring criteria, the Office weighs community impact factors, prioritizing applications, or projects in areas of low or moderate income, high unemployment, high poverty, or economic distress. Included in the Office's evaluation of a project's community impact factors are whether projects support a plan to improve digital literacy in affected communities, particularly in populations that have experienced inequities in access to work, education, and health care or health information that resulted from, was made apparent, or was exacerbated by the COVID-19 public health emergency.

Other community impact factors for which projects earn scoring priority are: whether the project would provide service that supports major economic development initiatives identified by regional planning or development councils or economic development authorities; whether the project supports or implements a recent broadband planning initiative within a county or region; whether the project is coordinated with or builds upon other nearby projects that will provide greater regional benefit; whether the project has strategic partnerships involved in the proposed project, for example, electric utilities, universities, and federal, state, or local agencies; and

whether the project addresses targeted premises in a region of the state with high need but relatively few funded projects.

Water Development Authority Economic Enhancement Grant Fund

The West Virginia Water Development Authority (WDA) is committed to promoting equitable outcomes in the distribution of SLFRF funds. Funding water, sewer and stormwater projects plays an essential role for the health, economic welfare and environment of the people living in our State. With respect to safer drinking water and wastewater disposal, our State has unserved areas and underserved areas that need help. With population declines and shifts over the last decade and the rural nature of certain areas of our state, it has become increasingly difficult for some water and sewer systems to afford necessary upgrades and repairs as well as an extension of service to new customers. The State through its Infrastructure and Jobs Development Council (IJDC), reviews all water and sewer projects funded through State agencies (optional for federally funded projects) for technical feasibility and funding recommendations. Projects are reviewed for funding sources and financing scenarios, the practical and financial impact on customers and the cost-effectiveness of all the alternatives. In addition, the current status of the treatment facilities, the distribution and collection systems and any environmental orders are corrected. Before any project is reviewed, the applicant has properly secured its engineer, administrator, accountant, and legal counsel. Before the project is bid, it is required to have certain requirements (all permits obtained, current cost estimates undated pre-bid schedules, easements and land acquired, Public Service Commission memo (if required) and certain other documents). Until the SLFRF funds became available, projects that could not move forward because they were not affordable because of lack grants will now be able to move forward. The WDA will give priority to projects that have bid overruns due to the increased cost of materials and labor where all the other funding in place and the projects can be built immediately. This priority will also apply for projects that would anticipate bid overruns/increased cost estimates and need to have funding in place before they can bid. Projects that if it were not for additional grant funds, could not get done. Priority will be given to projects where the customers have low median-household-income and high rates.

Community Engagement

The State of West Virginia considers the promotion of community engagement to be an integral part of our deliberative process. Members of the legislature are the closest members of our government to the people. Members engage with their constituents from all backgrounds on a consistent basis. Members representing districts in which minority and historically disadvantaged people make up significant portions of the constituencies are uniquely positioned to listen to their wants and needs and bring those voices back to the full legislature and its leadership to be considered throughout the appropriations process.

Additionally, the Herbert Henderson Office of Minority Affairs (HHOMA), a state agency committed to serving and assisting all underserved citizens across West Virginia and developing innovative ways to address issues affecting minority populations through conversation, education, leadership, and collaboration, launched a State-wide Listening Tour in August 2021 to hear community needs and how the State's ARPA allocation could help.

This tour involves in-person visits to counties around the State, with each stop having a morning session to engage local leaders (including State senators and delegates, county commissioners, mayors, city managers, city council, development authority and Chamber of Commerce) followed by public forums in the evening where community members receive information and share their ideas and concerns.

Topics of discussion at all sessions included COVID-19 pandemic challenges, greatest needs in the community(ies), potential impact of funding, sustainability, and pooling of resources. After each morning and evening session, the attendees were invited to complete an intake form to document their suggestions.

Based on feedback received, HHOMA documents estimated cost of the priority, location of the project, and spending category which assist in translating the results of the Listening Tour into actionable possibilities for consideration by the Governor and Legislature.

West Virginia Broadband Investment Plan

During 2021, in preparation of launching the broadband infrastructure programs under ARPA, the Office of Broadband implemented an opportunity for ISPs, local governments, and the public to provide information to help improve the accuracy of maps.

This initiative sought to target available funding to unserved addresses and avoid duplication of previously funded projects to the extent practical. However, existing location information on the availability of broadband information from federal sources has well-known limitations. These limitations impact the accuracy and granularity of determinations about which locations do and do not currently have access to broadband service.

An aspect of this initiative to improve the maps called on public comment and community partners of local governments that collected surveys and data from the county or region. Furthermore, the Office of Broadband in coordination with Broadband Enhancement Council launched its own survey that integrated Ookla® Speedtest® results on broadband.wv.gov. This included marketing efforts led by the Office of Marketing and Communications of the West Virginia Department of Commerce. For individuals with a lack of service, a phone number was provided through radio advertisements, newspaper advertisements, and flyers sent by mail.

The survey focused on both broadband availability and equity. With a significant collection of speed test and survey data, areas in need of infrastructure investment were identified. However, in conjunction, affordability rates compared to socio-economic criteria were also assessed to better understand the need for affordable connectivity.

To prepare potential applicants for ARPA broadband programs, the Office conducted significant community engagement efforts, most notably through a series of webinars both in the preparation and in the implementation of its various broadband grant programs over the course of the last year. The following summaries of these webinars contain each webinar's title, date of presentation, targeted audience, number of attendees, and a listing of the topics covered in each session. Links to the recordings of some of these presentations as well as copies of the presentation slides for each may be found at broadband.wv.gov.

Webinars for the 2022 rounds of funding:

Webinar title: West Virginia ARPA Investment Plan
Date: July 21, 2021, 9:30 AM EST
Target Audience: All interested parties, applicants, stakeholders, private and public potential broadband grant applicants
Number of Attendees: 77

Topics Covered: Office of Broadband Planning for ARPA

Webinar title: "Investing West Virginia's Funding under the American Rescue Plan Act to Expand and Improve Broadband Services".
Date: September 8, 2021, 9:30 AM EST
Target Audience: All potential broadband grant applicants, both private and public entities
Number of Attendees: 153
Topics Covered:
- Introduction of the Office of Broadband's proposed programs to stakeholders and potential applicants/subrecipients.
- Overview of the Office's proposed programs relating to line extensions of existing fiber and cable networks, new networks or major expansions of existing networks, and incentive program for internet service providers and local governments and organizations
- Amounts of funding available
- Eligibility requirements

Webinar title: "GigReady Incentive Program Overview".
Date: October 27, 2021, 9:30 AM EST
Target Audience: Local/Regional public entities (county/municipal governments) and affiliated economic and rural development councils
Number of Attendees: 193
Topics Covered:
- Eligible entities for the incentive program
- Technical assistance availability
- Required speeds
- Timelines
- Affordability eligibility criteria
- Grant-eligible expenditures
- Priority projects
- Post-award reporting and monitoring
- Targeted areas
- Application process for potential subrecipients in the Office's grant application portal

Webinar title: "Line Extension Advancement and Development Program Overview".
Date: November 3, 2021, 9:30 AM EST
Target Audience: Internet Service Providers
Number of Attendees: 219

Topics Covered:

- Key program guidance and documents, rules, procedures, compliance guidelines
- Target area maps
- Office of Broadband applicant grant portal guidance
- Eligibility and project size requirements
- Timelines
- Project review
- Application deadlines
- Key requirements and preferences for implementation funding
- Eligible expenditures (activities and costs)
- Project match requirements
- Scoring of applications
- Project prioritization based on factors such as community impact, affordability, cost efficiency
- Post-award reporting and monitoring

Webinar title: "Major Broadband Project Strategies Program Overview".
Date: December 1, 2021, 9:30 AM EST
Audience: Private for-profit or non-profit corporations, partnerships, municipalities, counties, economic development corporations, regional planning and development councils, regional consortia of local governments
Number of Attendees: 127
Topics Covered:
- Program Overview
- Program purpose
- Project Size/purpose comparison to other Office of Broadband ARPA-related programs
- Program Timelines/application deadline
- Eligibility criteria, key requirements
- Grant eligible project expenditures
- Eligible service areas
- Matching funds requirements/calculations
- Additional service areas
- Project prioritization (Technical (readiness), financial (cost-efficiency), community impact factors
- Post-award reporting and monitoring
- Application process through Office's portal, completion of program budget workbooks

The foundation for the GigReady Incentive Program ("Program") is the focus on community engagement. The Program is designed to encourage the collaborative partnerships needed for successful broadband development. This program provides an opportunity for local governments and organizations to dedicate funds available through ARPA or other local funding, to a broadband development initiative in partnership with the agencies and offices listed above.

The GigReady program assists participants in two distinct phases. In phase one, the program provides technical assistance to help communities scope projects, select private partners and vendors, and complete other necessary steps in the broadband development process. In phase

two, upon completion of the technical assistance phase, participants may then be eligible for implementation funding through the GigReady program or other funding sources. Participants who have qualifying, shovel ready projects that do not need technical assistance can apply to proceed directly to phase two by submitting a complete application, including all information listed as "optional" in the application.

The Office provided technical assistance to the applicants for the GigReady program. Applicants included local and regional public entities such as county and municipal governments or affiliated economic and rural development councils.

The goal of this technical assistance is to provide applicants with guidance on the processes of:

1. Identification and agreement of unserved addresses within an applicant's specific geography;
2. Creation of a high-level design and cost estimate;
3. Conducting a business case analysis; and
4. Solicitation of private partners and vendors.

As part of this technical assistance, the Office emphasized the key phases, objectives, deliverables, and decision points that these applicants must consider as they prepare applications to this grant program.

In the 2023 rounds of funding, the Office launched the application cycle for LEAD, GigReady, and MBPS again. However, MBPS focused on community participation by basing its requirements around GigReady applicants. The second round of the GigReady program is designed for projects that have received technical assistance through the GigReady program or for applicants that applied in the first round. The GigReady2 program assists participants who have qualifying, shovel ready projects and which have a partnership agreement with a private ISP.

Eligible Applicants in the second round of MBPS must be an ISP partnering with a community that applied to the GigReady program. Applicants must propose a project that was the subject of technical assistance provided, following an application by that community to the GigReady program. MBPS grants are available to private ISPs which have a partnership agreement with a community.

Webinars for the 2023 rounds of funding:

> **Webinar title:** "GigReady2 Implementation Program Overview".
> **Date:** May 10, 2023, 9:30 AM EST
> **Target Audience:** Local/Regional public entities (county/municipal governments) and affiliated economic and rural development councils, Internet Service Providers.
> **Number of Attendees:** 20
> **Topics Covered:**
> - Eligible entities for the program
> - Required speeds
> - Timelines
> - Affordability eligibility criteria
> - Grant-eligible expenditures
> - Priority projects

- Post-award reporting and monitoring
- Targeted areas
- Application process for potential subrecipients in the Office's grant application portal

Webinar title: "Line Extension Advancement and Development (LEAD) Round 2 Program Overview".
Date: February 17, 2022, 9:30 AM EST
Target Audience: Internet Service Providers
Number of Attendees: 48

Topics Covered:
- Key program guidance and documents, rules, procedures, compliance guidelines
- Program adjustments from previous rounds
- Target area maps
- Office of Broadband applicant grant portal guidance
- Eligibility and project size requirements
- Timelines
- Project review
- Application deadlines
- Key requirements and preferences for implementation funding
- Eligible expenditures (activities and costs)
- Project match requirements
- Scoring of applications
- Project prioritization based on factors such as community impact, affordability, cost efficiency
- Post-award reporting and monitoring

Webinar title: "Major Broadband Project Strategies (MBPS) – Round 2 Funding Program Overview".
Date: March 8, 2023, 9:30 AM EST
Audience: Private for-profit or non-profit corporations, partnerships, municipalities, counties, economic development corporations, regional planning and development councils, regional consortia of local governments, internet service providers.
Number of Attendees: 42
Topics Covered:
- Program Overview
- Program adjustments from previous rounds
- Program purpose
- Project Size/purpose comparison to other Office of Broadband ARPA-related programs
- Program Timelines/application deadline
- Eligibility criteria, key requirements
- Grant eligible project expenditures
- Eligible service areas
- Matching funds requirements/calculations
- Additional service areas
- Project prioritization (Technical (readiness), financial (cost-efficiency),

community impact factors
- Post-award reporting and monitoring
- Application process through Office's portal, completion of program budget workbooks

Throughout the research and collaboration phase of gathering information on digital equity, the Office implemented various strategies that weighed on community engagement. The Office actively solicited input from stakeholders, citizens, and state government leaders to define the state's vision to ensure that all West Virginians have the resources they need to participate in the digital world and achieve the economic benefits of digital equity.

Concurrently, three goals and six objectives were derived from a comprehensive needs assessment to guide the state towards realizing that vision. These three goals are the following:

1. Realize Affordable Connectivity

   1.1 Increase enrollment in the Affordable Connectivity Program (ACP), contingent on the continued funding for the program
   1.2 Complete broadband deployment as a part of the BEAD Five-Year Action Plan to increase the number of available internet service providers, increase the pool of their customer sizes, and increase competition

2. Secure Device Access and Affordability

   2.1 Create a program to provide device distribution, lending, and recycling
   2.2 Ensure citizens receive technical assistance for their newly acquired devices

3. Elevate Digital Skills and Accessibility to Public Service and Economic Opportunity

   3.1 Make digital literacy training in cybersecurity, privacy, telehealth, and more, available to all West Virginians, including all covered populations
   3.2 Ensure websites and online services hosted by state agencies are accessible for all West Virginians

Digital equity must be constantly developed, reinforced, assessed, and incorporated into multiple facets of society. To aid execution of these goals, the Office will work with stakeholders across West Virginia who possess similar goals and plans.

West Virginia already has many programs that address gaps in digital equity. The Office performed an asset inventory of these with respect to the eight covered populations

1. Aging Individuals
2. Racial and Ethnic Minorities
3. Rural Residents
4. Incarcerated Individuals
5. Veterans
6. Individuals with Disabilities
7. Individuals with Language Barriers
8. All Covered Populations

The Office created a Core Planning Team and a Digital Equity Steering Committee to coordinate its digital equity planning process. The Core Planning Team gathered community insights through listening sessions and an ongoing statewide survey. Initial results point to common issues across target populations in West Virginia such as high-speed internet affordability, access to low-cost internet-enabled devices, availability of technical support, and digital literacy skills. These insights provided guidance for the goals outlined above. The Office partnered with the State's 11 Regional Planning and Development Councils (RPDCs) to conduct listening sessions in each of West Virginia's 55 counties.

The State of West Virginia believes that bridging the digital divide is a collaborative effort between partners in the public and private sectors. As such, the Office has sought to engage with stakeholders throughout every step of the process, benefiting from their knowledge, input, and resources. This includes stakeholders at the federal, state, and local level. As the Office will continue partnering with these entities whenever possible.

West Virginia's Regional Planning and Development Councils, nonprofit organizations, and key stakeholders provide an essential connection to each area of the State. Working together, the planning teams will ensure that all West Virginians are represented. The Office of Broadband values and continues to seek further collaboration. These partnerships are briefly described below:

1. Federal Partnerships: West Virginia has worked closely with NTIA and its Federal Program Officer throughout the DE planning process to ensure compliance with all federal requirements.

2. West Virginia Broadband Enhancement Council: The West Virginia Broadband Enhancement Council represents constituencies throughout West Virginia and acts in an advisory capacity to the WVDED. In addition, the monthly public meetings of the Council provide a venue for regular updates on the DE planning process as well as an opportunity for public engagement.

3. West Virginia Public Institutions: WVDED has solidified partnerships with key state agencies, including but not limited to, the Office of the Governor, West Virginia Higher Education Policy Commission, West Virginia Department of Transportation, West Virginia Department of Education, Marshall University, West Virginia University (WVU), and many more. This partnership ensures alignment of priorities, collaboration, and resource sharing.

4. Private Sector: Discussion of broadband access and digital equity would not be complete without consultation with Internet Service Providers. WVDED has established working relationships with broadband providers through its administration of other state and federal grant programs. The WVDED has established participation in the Affordable Connectivity Program (ACP) as a requirement for funding awards. In addition, these private sector partners participate in the West Virginia Broadband Workforce Council to ensure industry insights in the state's plans.

5. Nonprofits: Throughout the development of the Digital Equity Plan, WVDED engaged with nonprofits such as AARP, Generation West Virginia, the RPDCs, a variety of community institutions, and more. These organizations understand the needs of their constituents and members, providing valuable insight to WVDED.

Water Development Authority Economic Enhancement Grant Fund

The WDA continues to meet with all the federal and state funding agencies providing funding for water, sewer and stormwater, the WV Rural Water Association, the Contractors Association of West Virginia, and the Regional Planning and Development Councils, to discuss and find funding solutions for unserved and underserved areas, aging and dilapidated systems, the rising costs of materials/labor and the impact on project costs. The WDA also continues discussions with the professionals advising the local governments (the engineers, the lawyers and the accountants). The Regional Planning and Development Councils provide administrative services to public service districts and municipalities who own most of the public systems in West Virginia.

In addition, at the monthly IJDC meetings, grant funding issues are routinely discussed. These meetings are open to the public and are live streamed.

WDA encourages all local public entities to meet one-on-one to discuss its water and sewer funding issues and how the projects can be funded to provide affordable service.

In the last year, WDA staff has presented funding available and how to access it for water, sewer and stormwater projects at conferences and meetings. The WDA staff will continue to meet and participate in meetings in the coming year.

West Virginia Municipal League Annual Conference

   Workshop Presentation: Thursday, August 4, 2022

   Webcast Presentation: Tuesday, August 23, 2022

   Annual Conference: August 2023 Staff will attend and be available for participants.

West Virginia Rural Water Association Annual Technical Conference

   Training Session Funding Agency Roundtable: Monday, August 15, 2022,

   Annual Conference: August 2023 Staff will attend and be available for participants.

 Contractors Association of West Virginia

   Participates in quarterly Joint Utilities Committee Meetings

   Published informational article in the Construction News magazine.

West Virginia Association of Regional Councils

   September 8, 2022, Presentation

   September 1, 2023, Presentation

 Presentations to Committees of the WV State Legislature

    Select Committee on Infrastructure on July 25, 2022, September 12, 2022, and December 5, 2022

     House Technology and Infrastructure Committee on January 19, 2023

Senate Finance Committee on February 3, 2023

Statewide Radio Interview April 13, 2023

Labor Practices

The State of West Virginia, through our Broadband Investment Plan and Economic Enhancement Grant Fund, will be working to support strong economic recovery, strong employment opportunities for workers by helping ensure West Virginians become and remain employed here in WV. As a result, Coronavirus State and Local Fiscal Recovery Funds will continue to make an economic impact in our state far beyond the immediate infrastructure improvements funded by these programs as these federal relief dollars remain in West Virginia communities.

West Virginia Broadband Investment Plan

The Office of Broadband has incorporated the following requirements as part of its grant agreements with providers to promote strong labor practices. Each grant agreement with subrecipients and grantees notes the Treasury's general encouragement that projects incorporate strong labor standards, including labor agreements and local hire provisions that offer wages at or above the prevailing rate and include local hire provisions. The grant agreements further state that while Federal Davis-Bacon Act prevailing wage requirements do not apply to projects funded solely by ARPA funds, if such funds are used on a construction project in conjunction with funds from another federal program that does require enforcement of the Davis-Bacon Act, that grantees may be subject to those requirements.

To ensure that grantees meet Treasury's labor reporting requirements, the Office of Broadband has included labor reporting requirements provisions in its grant agreements with subrecipients as applicable to ARPA-funded projects over certain levels of expected total cost. Grantees are required to report on whether the project prioritizes local hires and whether the project has a community benefit agreement, with a description of any such agreement.

In addition, grantees may provide a certification that, for the project, all laborers and mechanics employed by contractors and subcontractors in the performance of the project are paid wages at rates not less than those prevailing, as determined by the U.S. Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the "Davis-Bacon Act"), for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the civil subdivision of the State in which the work is to be performed.

If the grantee does not provide the above prevailing wage certification, the grantee must provide a project employment and local impact report detailing the number of employees of contractors and sub-contractors working on the project; the number of employees on the project hired directly and hired through a third party; the wages and benefits of workers on the project by classification; and whether those wages are at rates less than those prevailing. (As determined by US Secretary of Labor in accordance with subchapter IV of chapter 31 of Title 40, United States Code ("Davis-Bacon Act")). The grant agreement also notes that grantees must maintain sufficient records to substantiate this information upon request.

Further regarding labor reporting in its grant agreements with subrecipients, the Office of Broadband states that grantees may provide a certification that their project includes a project labor agreement, meaning a pre-hire collective bargaining agreement consistent with section 8(f) of the National Labor Relations Act (29 U.S.C. 158(f)).

If the grantee does not provide such a project labor agreement certification, the Office requires that the grantee provide a project workforce continuity plan, detailing how the recipient will ensure the project has ready access to a sufficient supply of appropriately skilled and unskilled labor to ensure high-quality construction throughout the life of the project, including a description of any required professional certifications and/or in-house training; how the grantee will minimize risks of labor disputes and disruptions that would jeopardize timeliness and cost-effectiveness of the project; how the grantee will provide a safe and healthy workplace that avoids delays and costs associated with workplace illnesses, injuries, and fatalities, including descriptions of safety training, certification, and/or licensure requirements for all relevant workers (e.g. OSHA 10, OSHA 30); whether workers on the project will receive wages and benefits that will secure an appropriately skilled workforce in the context of the local or regional labor market; and whether the project has completed a project labor agreement.

Water Development Authority Economic Enhancement Grant Fund

For projects over $10 million (based on expected total cost):

a. A recipient may provide a certification that, for the relevant project, all laborers and mechanics employed by contractors and subcontractors in the performance of such project are paid wages at rates not less than those prevailing, as determined by the U.S. Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the "Davis-Bacon Act"), for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the civil subdivision of the State.

b. A recipient may provide a certification that a project includes a project labor agreement, meaning a pre-hire collective bargaining agreement consistent with section 8(f) of the National Labor Relations Act (29 U.S.C. 158(f)). If the recipient does not provide such certification, the recipient must provide a project workforce continuity plan, detailing:

- How the recipient will ensure the project has ready access to a sufficient supply of appropriately skilled and unskilled labor to ensure high-quality construction throughout the life of the project, including a description of any required professional certifications and/or in-house training;

- How the recipient will minimize risks of labor disputes and disruptions that would jeopardize timeliness and cost-effectiveness of the project;

- How the recipient will provide a safe and healthy workplace that avoids delays and costs associated with workplace illnesses, injuries, and fatalities, including descriptions of safety training, certification, and/or licensure requirements for all relevant workers (e.g., OSHA 10, OSHA 30);

- Whether workers on the project will receive wages and benefits that will secure an appropriately skilled workforce in the context of the local or regional labor market; and

- Whether the project has completed a project labor agreement.

c. Whether the project prioritizes local hires.

d. Whether the project has a Community Benefit Agreement, with a description of any such agreement.

Use of Evidence

The SLFRF projects currently deployed by the State of West Virginia do not provide for evidence-based interventions, though the state continues to be cognizant of this aspect of the SLFRF for relevant project categories and will consider the ability to include such metrics as new programs are developed to support the citizens of West Virginia, especially those most affected by the COVID public health emergency.

Performance Report

West Virginia Broadband Investment Plan

The Office of Broadband has ensured that recipients of SLFRF funding will achieve the objectives of the program by requiring, as part of recipients' grant agreement with the Office, that the Office will evaluate achievement and compliance with the performance measures contained in grantee's approved project plan as presented in the recipient's application for funding with the Office of Broadband. To accomplish this, the grant agreement establishes the Office's ability to conduct compliance reviews, including on-site reviews, as needed, and reserves the Office's right to review records, conduct construction inspections, review construction progress, and review financial records. The grant agreement further establishes remedies of the Office in the event of non-compliance by grantees, including requiring additional project monitoring, requiring recipients to obtain technical/management assistance, and reducing program funds. The grant agreement further establishes a construction timeline by which projects must be completed and ready to serve customers.

Additionally, as captured in the Office's grant agreements with recipients, grantees are required to comply with all applicable reporting and record retention requirements under federal law, state law, programmatic regulations, as well as public policy and administrative requirements, including but not limited to quarterly project and expenditure reports. Exhibits attached to the Office's grant agreement with subrecipients contain information related to the required information to be included in quarterly project and expenditure reports as well as information on other generally applicable federal laws. Prior to receiving final reimbursement payments, recipients are required to submit as-built network documentation to the Office in a manner and format as prescribed by the Office.

In addition to the reporting requirements described above, the Office of Broadband articulates in its grant agreements with recipients that the Office shall continuously monitor projects through

mechanisms such as conducting reviews of audits, financial and performance reports, and conducting onsite monitoring visits, among other monitoring activities. Furthermore, the grant agreements require grantees to fully cooperate and assist the Office with the Office's monitoring responsibilities as well as provide any technical assistance, reports, records, documentation, and any Office requests for information. The grant agreement provides and requires that should the Office uncover any deficiencies in the grantee's project or program, that after notification, the grantee shall take immediate corrective action to rectify any such deficiencies.

The way the office shall measure such performance is through requiring quarterly reporting from grantees. Awardees will be required to complete quarterly progress reports through project completion. Progress reports will require information on:
- Project expenditures
- Number of communities served
- Number of jobs created

As part of the required information in these reports, the Office gathers information from grantees such as:

- Projected construction start-date (month/year)
- Projected initiation of operations date (month/year)
- Actual construction start-date (month/year)
- Actual initiation of operations date (month/year)
- Project location
- Speeds/pricing tiers to be offered
- Technology to be deployed
- Miles of fiber
- Cost per mile
- Cost per passing
- Number of households projected to have increased access to broadband meeting the minimum speed standards in areas that previously lacked access to service of at least 25 Mbps download and 3 Mbps upload.
- Number of households with access to minimum speed standard of reliable 100 Mbps symmetrical upload and download.
- Number of households with access to minimum speed standard of reliable 100 Mbps download and 20 Mbps upload.
- Number of institutions and businesses projected to have increased access to broadband meeting the minimum speed standards in areas that previously lacked access to service of at least 25 Mbps download and 3 Mbps upload, in each of the following categories: business, small business, elementary school, secondary school, higher education institution, library, healthcare facility, and public safety organization.
- The number of each type of institution with access to the minimum speed standard of reliable 100 Mbps symmetrical upload and download.
- The number of each type of institution with access to the minimum speed standard of reliable 100 Mbps download and 20 Mbps upload.

Water Development Authority Economic Enhancement Grant Fund

Before any water or sewer project is approved for funding, the project is evaluated for technical feasibility by the IJDC. Water projects are reviewed by the West Virginia Bureau of Public Health staff and sewer projects are reviewed by the West Virginia Department of Environmental Protection staff. All projects will improve the public health of citizens served, improve the environment, and have a positive economic impact. Projects are required to have all necessary permits and meet certain regulations. Projects are inspected during construction. The Project engineer is required to sign off on all invoices that the work has been completed before payment is made. The contractors must provide performance and payment bonds.

WDA staff will review all invoices and match them to the overall Project Financial Summary (line by line and by contract and source of funding) before payment is made.

For water projects that are adding new customers, the grantee must have 80 percent signed user agreements before the project funding is available.

The following information will be required quarterly:

1)   Project Status

Not Started: _____

Completed less than 50 percent: _____

Completed 50 percent or more: _____

Completed: _____

Completion Date: _____

2)   Number of new customers added: _____

3)   Total number of customers served: _____

4)   Number of jobs created: _____

6)   Median Household Income of service area: _____

7)   Lowest Quintile Income of service area: _____

WDA staff will track this information for reporting purposes.

PROJECT INVENTORY

Project WV-CSLFRF-2022-01: WV Broadband Investment Plan
Funding amount: $90,000,000
Project Expenditure Category: 5.19, Broadband: 'Last Mile' Projects

Project Overview

- West Virginia Broadband Investment Plan: Developed by the state Office of Broadband and Broadband Council in concert with leading national broadband experts, the initiative comprises three award programs, each of which will allocate funds through a competitive application process: (a) Line Extension Advancement and Development (LEAD): The LEAD program will award competitive grants to ISPs to expand existing fiber and cable networks. Applications will be accepted in multiple rounds from November 2021 through January 2022, with funding decisions made on a rolling basis through early 2022. (b) GigReady Initiative: Local governments in West Virginia have been allocated more than $500 million from the ARPA Local Fiscal Recovery Fund, and many of them intend to invest that money in local broadband expansion. The GigReady Initiative will provide matching state funds for local governments that develop projects to pool their broadband investments. Applications will be submitted beginning November 2021 and funding decisions will be made on a rolling basis through early 2022. (c) Major Broadband Project Strategies (MBPS): The MBPS program will focus on large-scale multicounty projects that require additional resources to achieve rapid implementation. Applications will be accepted, and funding decisions made in multiple rounds from early 2022 through fall 2022.

  To date, 18 Broadband projects totaling $34.2 million have been initiated with the intent of extended last mile internet service to over 11,000 addresses across the State.

Project WV-CSLFRF-2022-02: State Government Operations
Funding amount: $332,586,107
Project Expenditure Category: 6.1, Provision of Government Services

Project Overview

- The West Virginia State Government Operations/Revenue Replacement project authorized by West Virginia Senate Bills SB1002 and SB1005, First Special Session 2022; and West Virginia Senate Bill SB722, Regular Legislative Session 2022, made available $332,586,107 to partially replace lost revenue as calculated using the U.S. Department of Treasury's Revenue Loss calculation formula as provided on the April 30, 2022, SLFRF Quarterly Expenditure Report. The state calculated revenue loss of $738,235,338.27 for Calendar Year 2020 and $349,793,987.09 for Calendar Year 2021, totaling $1,088,029,325.36 total Revenue loss.
- This revenue replacement funding was treated as the lost revenue that it was intended to replace and was allocated for government services by the West Virginia Legislature

during the First Special Session of 2022. The Governor's Office, in consultation with the Legislature and outside accounting and legal counsel worked to identify government operations within the state of West Virginia that would be eligible as SLFRF stand-alone eligible expenditures as an extra precaution in how the state allocated SLFRF funding for revenue replacement.

- State Government Operations funded by SLFRF revenue replacement funding includes public safety through funding provided to the West Virginia Division of Corrections and Rehabilitation and the West Virginia State Police. Additionally, funding was provided for public health purposes through funding to the West Virginia Department of Health and Human Resources. Revenue replacement funding for State Government Operations was provided for the West Virginia Department of Environmental Protection Reclamation of Abandoned and Dilapidated Property Program Fund and finally Revenue Replacement funding was provided to invest in projects and activities to assist in enhancing the overall public health and safety of citizens of West Virginia.
- Nearly $10 million distributed to 26 counties across the State to remove and repair dilapidated structures considered health and safety hazards within West Virginia communities.

West Virginia Economic Enhancement Grant Fund

The West Virginia Economic Enhancement Grant Fund, administered by the West Virginia Water Development Authority, seeks to improve West Virginia's water, sewer, and stormwater infrastructure through grants for the upgrades and expansion of existing systems. These funds will help the State address unserved and underserved areas of the State and address issues of bid overruns due to the increased costs for labor/materials.

In addition to water/sewer/stormwater infrastructure, other economic development programs may be approved to become projects under this fund in the future with recommendation from the West Virginia Secretary of Commerce, the West Virginia Secretary of Economic Development and/or the West Virginia Secretary of Tourism.

Projects approved by this fund as of approval of this Recovery Plan are listed in the Project Inventory which is continued below.

Project EEGF-2: West Virginia Economic Enhancement Grant Fund – City of Richwood
Funding amount: $1,854,176
Project Expenditure Category: 5.18 Water and Sewer: Other

Project Overview
- This project is for Hinkle Mountain/Little Laurel water extension to provide service for 118 new customers and water treatment plant upgrades.

Project EEGF-3: West Virginia Economic Enhancement Grant Fund – City of Ripley
Funding amount: $3,433,758
Project Expenditure Category: 5.18 Water and Sewer: Other

Project Overview

- Construction of new Ripley SBR WWTP to treat existing Ripley flows plus Evans flows via new transmission line and closure of Ripley and Evans lagoons.

Project EEGF-4: West Virginia Economic Enhancement Grant Fund – Parkersburg Sanitary Board
Funding amount: $1,804,000
Project Expenditure Category: 5.18 Water and Sewer: Other

Project Overview

- The project includes Rehabilitation of Primary Clarifier Nos 1 and 2 modification of primary sludge lines addition of dedicated scum lines and rehabilitation of two existing primary clarifiers; the installation of a new scum pump new drain pump as well as necessary piping within the existing primary pump building; the modification of the existing chemical storage building to include removal of existing containment installation of an exterior overhead coiling door installation of an exterior insulated panel door new chemical feed pumps new double-walled tanks as well as new piping and appurtenances; polyurea lining of secondary clarifier concrete troughs; and the installation of a rapid mixer to the existing chlorine contact tank.

Project EEGF-6: West Virginia Economic Enhancement Grant Fund – Lake Floyd PSD
Funding amount: $500,000
Project Expenditure Category: 5.18 Water and Sewer: Other

Project Overview

- The project consists of upgrades to four lift stations which includes the telemetry control panels and new plumbing Pump station number one will require larger pumps to redirect the existing flows to the existing Sun Valley system Install a new 4" force main from the existing lift station 1 to the Sun Valley system The decommissioning and demolishing of the existing wastewater treatment plant At substantial completion redirecting the flows by tying into the Sun Valley PSD at the Ten Mile Creek pump station.

Project EEGF-7: West Virginia Economic Enhancement Grant Fund – Hughes River Water Board
Funding amount: $650,000
Project Expenditure Category: 5.18 Water and Sewer: Other

Project Overview

- Water storage tank and water treatment plan improvements.

Project EEGF-8: West Virginia Economic Enhancement Grant Fund – Town of Durbin
Funding amount: $1,185,570
Project Expenditure Category: 5.18 Water and Sewer: Other

Project Overview
- Broken sanitary & storm sewer mains have resulted in raw sewage leaking into the ground & lying in ditches, creating a health hazard for residents. Project will replace broken sanitary & storm sewer mains, as well as replacement of the disinfection system at the WWTP.

Project EEGF-9: West Virginia Economic Enhancement Grant Fund – Pea Ridge PSD
Funding amount: $383,348
Project Expenditure Category: 5.18 Water and Sewer: Other

Project Overview
- This project will include the construction of a gravity collection system to extend sanitary sewer service to approximately 714 residential and 45 commercial customers along Little 7 Mile Road, through the Kyle Lane Industrial Park Area, to Cox Landing. The project also includes upgrades at the PSD's A Plant to increase treatment capacity required for the additional wastewater flows created by the increased customer base.

Project EEGF-10: West Virginia Economic Enhancement Grant Fund – Berkeley County PSWD
Funding amount: $5,000,000
Project Expenditure Category: 5.18 Water and Sewer: Other

Project Overview
- Improve the ability to flow water from the source to areas in need through redundant and dependable water mains. Presently, the existing water mains have limited capacity and the public health and safety is compromised. In addition, economic growth in the industrial zone is restricted due to a lack of available water which the proposed water mains will mitigate to a certain degree.

Project EEGF-15: West Virginia Economic Enhancement Grant Fund – Town of Ellenboro
Funding amount: $563,427
Project Expenditure Category: 5.18 Water and Sewer: Other

Project Overview
- Wastewater treatment plant and collection system improvements serving 158 existing households in the Town of Ellenboro, WV.

Project EEGF-16: **West Virginia Economic Enhancement Grant Fund – Adrian PSD**
Funding amount: **$2,356,849**
Project Expenditure Category: **5.18 Water and Sewer: Other**

Project Overview
- This project consists of the installation of approximately 162,000 LF of 10", 8", 6", 4" and 2" waterlines; two new water storage tanks; three new booster pump stations; upgrades to three existing booster pump stations; and three new pressure reducing stations. This project will enable the PSD to extend potable water service to approximately 131 new customers in southern Upshur County and southwestern Randolph County, including the Town of Pickens.

Project EEGF-21: **West Virginia Economic Enhancement Grant Fund – Mason County PSD**
Funding amount: **$1,380,000**
Project Expenditure Category: **5.18 Water and Sewer: Other**

Project Overview
- The project will consist of a new booster station, a new water storage tank, and approximately 2 miles of water line to connect the existing J-2-Y-35 distribution system to the Mason County Public Service District water distribution system.

Project EEGF-25: **West Virginia Economic Enhancement Grant Fund – Wilderness PSD**
Funding amount: **$675,022**
Project Expenditure Category: **5.18 Water and Sewer: Other**

Project Overview
- Upgrading old water lines along Rt 41 between WTP and Mt Nebo, replacing old undersized line in Mt Lookout, and replacing all meters.

Project EEGF-26: **West Virginia Economic Enhancement Grant Fund – Putnam County Commission**
Funding amount: **$765,000**
Project Expenditure Category: **5.18 Water and Sewer: Other**

Project Overview
- To provide potable water to an observed area of Jim Ridge in Putnam County.

Project EEGF-58: **West Virginia Economic Enhancement Grant Fund – Hardy County PSD**
Funding amount: **$321,000**

Project Expenditure Category: 5.18 Water and Sewer: Other

Project Overview
- Additional water storage tank on the US 220 North water system in the Old Fields area.

Project EEGF-70: West Virginia Economic Enhancement Grant Fund – City of Benwood
Funding amount: $353,514
Project Expenditure Category: 5.18 Water and Sewer: Other

Project Overview
- The City of Benwood proposes to continue sewer separation in the South Benwood area by installing new sanitary sewers and converting the existing combined sewers into a storm drainage system. Project will serve 55 residential customers and remove a minimum of two combined sewer overflows (CSOs) from collection system.

Project EEGF-83: West Virginia Economic Enhancement Grant Fund – Buffalo Creek PSD
Funding amount: $815,000
Project Expenditure Category: 5.18 Water and Sewer: Other

Project Overview
- This project will serve approximately 103 residential and commercial customers in the Taplin and Earling areas. It consists of the construction of approximately 10,290 feet of 8-inch and smaller diameter gravity sewer pipe, 16,380 feet of 6-inch and smaller diameter force main, three major pumping stations, four grinder pumping stations, manholes, cleanouts, customer service lines and other related appurtenances. Treatment will be provided by the District's existing treatment plant.