

CHAPTER 22  
BROADBAND GRANTS PROGRAM

**129—22.1(8B) Definitions.** The definitions in Iowa Code section 8B.1 as amended by 2020 Iowa Acts, Senate File 2400, and rule 129—20.1(8B,427) shall apply to this chapter. In addition, for purposes of this chapter, the following definitions shall apply:

“*Grantee*” means a communications service provider awarded grant funds by the office pursuant to and in accordance with Iowa Code section 8B.11 and these rules.

“*Project*” means an installation of broadband infrastructure by a communications service provider that facilitates broadband service at or above the download and upload speeds specified in Iowa Code section 8B.11(5) “*a*” or “*b*” as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable, in one or more targeted service areas.

[ARC 4098C, IAB 10/24/18, effective 11/28/18; ARC 4606C, IAB 8/14/19, effective 9/18/19; ARC 5173C, IAB 9/9/20, effective 10/14/20]

**129—22.2(8B) Purpose and scope.** This chapter applies to the broadband grants program established by Iowa Code section 8B.11 and administered by the office. As authorized by Iowa Code section 8B.11(8), this chapter interprets relevant provisions of Iowa Code sections 8B.1 and 8B.11 as amended by 2020 Iowa Acts, Senate File 2400, and establishes program process, management, and measurement rules designed to ensure the effective and efficient administration and oversight of the program, the key objective of which is to reduce or eliminate unserved and underserved areas in the state, leveraging federal funds and public and private partnerships where possible, by awarding grants to communications service providers that reduce or eliminate targeted service areas by installing broadband infrastructure that facilitates broadband service in targeted service areas at or above the download and upload speeds specified in Iowa Code section 8B.11(5) “*a*” or “*b*” as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable, and in accordance with Iowa Code section 8B.11 and this chapter.

[ARC 4098C, IAB 10/24/18, effective 11/28/18; ARC 4606C, IAB 8/14/19, effective 9/18/19; ARC 5173C, IAB 9/9/20, effective 10/14/20]

**129—22.3(8B) Notice accepting grant funds.**

**22.3(1)** The office shall provide notice to communications service providers when grant funds become available for distribution by the office by posting a “Notice of Funding Availability” (NOFA) online at [iowagrants.gov](http://iowagrants.gov) and [ocio.iowa.gov/broadband](http://ocio.iowa.gov/broadband).

**22.3(2)** Such NOFA shall:

- a. Generally describe the application process.
- b. State the date, time, and manner by which applications for such grant funds must be submitted to the office in order to be eligible for consideration by the office for an award of grant funds.
- c. State the total amount of grant funds available for distribution under the applicable NOFA and provide an estimate of the date by which the office anticipates it will issue award(s).
- d. Describe the factors the office will consider in determining whether, to which communications service providers, and in what amount(s) to award grant funds.
- e. Set forth any measurement, technical, scoring, or other similar standards, formulas, or criteria the office will utilize in applying any factors considered by the office in determining whether, to which communications service providers, and in what amount(s) to award grant funds.
- f. Identify allowable and not disallowed expenditures which may be included in an applicant’s total project costs and set forth what constitutes sufficient and appropriate documentation for purposes of substantiating subsequent requests for reimbursement for allowable and not disallowed expenditures.
- g. State any other terms, conditions, requirements, or processes applicable to communications service providers submitting applications for grant funds, including but not limited to any grant agreement the office may require a grantee to enter into as a condition of receiving grant funds pursuant to subrule 22.6(1).

[ARC 4098C, IAB 10/24/18, effective 11/28/18]

**129—22.4(8B) Applications for grant funds.**

**22.4(1) Application process.** Following the issuance of a NOFA by the office, communications service providers may apply to the office for grant funds for the installation of broadband infrastructure that facilitates broadband service in targeted service areas at or above the download and upload speeds specified in Iowa Code section 8B.11(5)“a” or “b” as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable. Applications shall be made and submitted in accordance with the terms of these rules and the NOFA.

**22.4(2) Contents of application.** In addition to any other questions or requirements established by the NOFA, an application shall, at a minimum, include:

- a. The communications service provider’s legal and business name(s) and address(es);
- b. The name, address, telephone number, and email address of the person authorized by the communications service provider to respond to inquiries regarding the application;
- c. The broadband block number(s) as provided on the statewide map referenced in rule 129—20.4(8B,427) for the targeted service area(s) forming the basis of the application/project (i.e., the targeted service area(s) in which the proposed installation of broadband infrastructure will facilitate broadband service at or above the download and upload speeds specified in Iowa Code section 8B.11(5)“a” or “b” as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable);
- d. Attestation that the broadband infrastructure installed will facilitate broadband service at or above the download and upload speeds specified in Iowa Code section 8B.11(5)“a” or “b” as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable;
- e. Unless a specific cost allocation methodology is identified or required by the office as set forth in the NOFA, the specific methods or formulas the communications service provider will utilize in allocating the costs of and for broadband infrastructure for which reimbursement may be sought in proportion to such infrastructure’s actual facilitation of broadband service at or above the download and upload speeds specified in Iowa Code section 8B.11(5)“a” or “b” as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable, in the targeted service areas forming the basis of the project;
- f. An anticipated project completion date, which shall not exceed five years from the date the NOFA is issued. An applicant’s anticipated project completion date shall be used to determine whether a grantee’s failure to complete a project in a timely manner warrants a finding of noncompliance for purposes of subparagraph 22.6(4)“b”(2).

**22.4(3) Deadlines.** The office will only consider applications received on or before the applicable deadline as stated in the NOFA, unless the office, in its sole discretion, establishes a different deadline for the submission of applications. The office may establish a different deadline for all applicants, but will not change the deadline for or at the request of any individual applicant.

**22.4(4) Confidentiality of contents of applications.** The office’s release of public records is governed by 129—Chapter 2 and Iowa Code chapter 22. Applicants or other persons or parties submitting information to the office are encouraged to familiarize themselves with 129—Chapter 2 and Iowa Code chapter 22 before submitting applications or other information to the office. The office will copy and produce public records upon request as required to comply with Iowa Code chapter 22 and will treat all information submitted by applicants or other persons or parties as public, nonconfidential records unless an applicant or other person or party requests that specific parts of the evidence or information submitted be treated as confidential at the time of the submission to the office.

a. In addition to any other administrative requirements established by the NOFA, an applicant or other person or party requesting confidential treatment of portions of an application or other information submitted to the office must:

- (1) Fully complete and submit to the office Form 22 as provided by the office.
- (2) Identify the request in the NOFA, or if other information is submitted to the office, identify the request in the transmittal email or cover letter for the written correspondence.
- (3) Conspicuously mark the outside of any submission as containing confidential information.
- (4) Mark each page upon which confidential evidence or information appears.
- (5) Submit a public copy from which claimed confidential evidence and information has been excised. Confidential information must be excised in such a way as to allow the public to determine

the general nature of the information removed and to retain as much of the otherwise public evidence and information as possible.

*b.* Form 22 will not be considered fully complete unless, for each request for confidential treatment, the applicant or other person or party:

(1) Enumerates the specific grounds in Iowa Code chapter 22 or other applicable law that support treatment of the specific information as confidential.

(2) Justifies why the specific information should be maintained in confidence.

(3) Explains why disclosure of the specific information would not be in the best interest of the public.

(4) Sets forth the name, address, telephone number, and email address of the individual authorized by the applicant or other person or party submitting such information to respond to inquiries from the office concerning the confidential status of such information.

*c.* Failure to request that information be treated as confidential as specified herein shall relieve the office and state personnel from any responsibility for maintaining the information in confidence. Applicants or other persons or parties may not request confidential treatment with respect to information specifically identified by the office in the NOFA as being subject to public disclosure. Blanket requests to maintain an entire application or all information otherwise submitted to the office as confidential will be categorically rejected.

**22.4(5)** *Limited exception for broadband infrastructure installed outside of targeted service areas.* Rescinded IAB 8/14/19, effective 9/18/19.

[ARC 4098C, IAB 10/24/18, effective 11/28/18; ARC 4606C, IAB 8/14/19, effective 9/18/19; ARC 5173C, IAB 9/9/20, effective 10/14/20]

## **129—22.5(8B) Application review process and award of grant funds.**

### **22.5(1)** *Period for public comment and validation process.*

*a.* Following the expiration of the deadline for the receipt of applications stated in the NOFA, the office will open a period for public comment as it relates to such applications. Any member of the public will be permitted to submit comments regarding applications received by the office through the means specified in the NOFA.

*b.* As required by Iowa Code section 8B.11(3), the period for public comment will include the opportunity for the public to submit factual information as part of a validation process to address claims that a targeted service area forming the basis of an application received by the office is currently served with broadband service at or above the download and upload speeds specified in Iowa Code section 8B.11(5) “*a*” or “*b*” as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable. Examples of such factual information the office would consider particularly probative of current service include:

(1) Signed attestations submitted to the office under penalty of perjury on forms provided by the office that such targeted service areas are currently served with broadband service at or above the download and upload speeds specified in Iowa Code section 8B.11(5) “*a*” or “*b*” as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable.

(2) Bills or invoices provided to or received by customers in such targeted service areas which identify current broadband service at or above the download and upload speeds specified in Iowa Code section 8B.11(5) “*a*” or “*b*” as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable.

To the extent such factual information is credible and verifiable, the office may consider such factual information in considering the relative need factor set forth in Iowa Code section 8B.11(4) “*a*” and paragraph 22.5(3) “*a*” in determining whether, to which projects, and in what amount(s) to award grant funds. In addition, to the extent such factual information is credible and verifiable, such factual information may result in the disqualification of a project where the factual information demonstrates that a material portion of the proposed project is currently served with broadband service at or above the download and upload speeds specified in Iowa Code section 8B.11(5) “*a*” or “*b*” as enacted by 2020 Iowa Acts, Senate File 2400. Further, to the extent such factual information is credible and verifiable, the office may incorporate such factual information into its next renewed determination of whether a communications service provider offers or facilitates broadband service at or above the download or

upload speeds specified in the definition of targeted service area and thereby subsequent iteration of the statewide map, as determined and updated in accordance with Iowa Code section 8B.10(1) as amended by 2020 Iowa Acts, Senate File 2400, and rules 129—20.3(8B,427) and 129—20.4(8B,427).

**22.5(2) Review committee.** Following the expiration of the deadline for the receipt of applications stated in the NOFA, the office will supply all applications received by the deadline and otherwise warranting review in accordance with the terms, conditions, and requirements of the NOFA, these rules, and Iowa Code chapter 8B to a review committee established by the office comprised of representatives selected by the office from schools, communities, agriculture, industry, and other areas. The review committee will review the applications and provide input/make recommendations to the office regarding whether, to which projects, and in what amount(s) to award grant funds, in accordance with the terms, conditions, and requirements of the NOFA, these rules, and Iowa Code chapter 8B.

**22.5(3) Office final decision.** Following the office's receipt of the review committee's input or recommendations and the closure of the period for public comment, the office will review all applications received by the deadline and otherwise warranting review in accordance with the terms, conditions, and requirements of the NOFA, these rules, and Iowa Code chapter 8B; the input/recommendations made by the review committee; and any public comment received, all in accordance with the terms, conditions, and requirements of the NOFA, these rules, and Iowa Code chapter 8B, and make a final agency decision regarding whether, to which projects, and in what amount(s) to award grant funds for the installation of broadband infrastructure that facilitates broadband service in targeted service areas at or above the download and upload speeds specified in Iowa Code section 8B.11(5) "a" or "b" as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable.

*a.* In so doing, the office will take into consideration the following factors, in accordance with and in the manner specified by the terms, conditions, and requirements of the NOFA, affording the greatest weight to the factors in subparagraphs 22.5(3) "a"(1), 22.5(3) "a"(2), and 22.5(3) "a"(3):

(1) The relative need for broadband infrastructure in the area and the existing broadband service speeds, including whether the project serves a rural area(s). Existing broadband service speeds may be determined by reference to the statewide map referenced in rule 129—20.4(8B,427), although the office may also take into consideration factual information received through the validation process pursuant to and in accordance with Iowa Code section 8B.11(3) as amended by 2019 Iowa Acts, House File 772, and paragraph 22.5(1) "b."

(2) The applicant's total proposed budget for the project, including all of the following:

1. The amount or percentage of local or federal matching funds, if any, and any funding obligations shared between public and private entities.

2. The percentage of funding provided directly from the applicant, including whether the applicant requested from the office an amount less than the maximum amount the office could award pursuant to Iowa Code section 8B.11(5) as amended by 2020 Iowa Acts, Senate File 2400, and, if so, the percentage of the project cost that the applicant is requesting.

(3) The relative download and upload speeds of proposed projects for all the applicants.

(4) The specific product attributes resulting from the proposed project, including technologies that provide higher qualities of service, such as service levels, latency, and other service attributes as determined by the office.

(5) The percentage of broadband units in the targeted service area(s) forming the basis of the project that will be provided access to broadband service at or above the download and upload speeds specified in Iowa Code section 8B.11(5) "a" or "b" as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable, as a result of the project. The number of broadband units in a targeted service area shall be determined by reference to the statewide map referenced in rule 129—20.4(8B,427). Considering this factor is the means by which the office ensures underserved areas within targeted service areas are, to the extent possible, reduced or eliminated.

(6) The geographic diversity of the project areas of all applicants.

(7) The economic impact of the project to the area.

(8) Any other factors deemed relevant by the office as stated in the NOFA.

*b.* In determining whether, to which projects, and in what amount(s) to award grant funds, the office will not do any of the following:

(1) Base its decision on the office's prior knowledge of any applicant except for information obtained by the office during the application process or period for public comment;

(2) Make an award that exceeds 35 percent of any communications service provider's total estimated allowable project costs for a proposed installation of broadband infrastructure; or

(3) Award grant funds in a manner that violates or is otherwise inconsistent with the limitations or requirements of Iowa Code section 8B.11(5) as amended by 2020 Iowa Acts, Senate File 2400.

**22.5(4)** *Notice to applicants of decision and right to appeal.* The office shall notify each communications service provider awarded a grant by the office of the office's decision(s) in accordance with the terms and conditions of the NOFA. The office will also post such decision(s) online at [iowagrants.gov](http://iowagrants.gov) and [ocio.iowa.gov/broadband](http://ocio.iowa.gov/broadband). Unsuccessful applicants are solely responsible for reviewing such websites to determine their award status. Such agency decision(s) shall become final unless, within ten days of such email transmission or posting, an applicant which was adversely affected by a decision of the office files a request for a contested case proceeding pursuant to 129—Chapter 6. Failure to challenge the office's decision under this rule by filing a request for a contested case within the ten-day period shall waive any claims an applicant may have related to the office's administration of the process and otherwise be deemed a failure to exhaust administrative remedies.

[ARC 4098C, IAB 10/24/18, effective 11/28/18; ARC 4606C, IAB 8/14/19, effective 9/18/19; ARC 5173C, IAB 9/9/20, effective 10/14/20]

#### **129—22.6(8B) Administration of award.**

**22.6(1)** *Grant agreement required.* The office may require a grantee to enter into a grant agreement with the office in accordance with the terms, conditions, and requirements of the NOFA. Such grant agreement may include, but not be limited to, the total amount of the grant funds awarded to the grantee; a description of the project to be completed by the grantee and specifications related thereto; a description of allowable expenditures; conditions related to the disbursement of grant funds; default and termination procedures; performance, certification, and verification requirements/criteria necessary to confirm project success/completion; and repayment requirements in the event the grantee does not fulfill its obligations under the agreement, these rules, or Iowa Code chapter 8B. In addition to any terms, conditions, or requirements specifically set forth in such agreement, any and all requirements established by Iowa Code chapter 8B, these rules, other applicable law, rule, or regulation, or the NOFA shall be deemed incorporated by reference into such grant agreement as if fully set forth therein.

**22.6(2)** *Mapping data required.* Upon project completion, a grantee must supply the office with geographic information system (GIS) data in a form mutually acceptable to both the office and grantee demonstrating specifically where broadband infrastructure for which grant funds have been utilized, in whole or in part, has been installed, regardless of whether such infrastructure actually serves any customers in targeted service area(s) forming a basis of the application at the time such mapping data is supplied to the office. Such GIS data must enable the office to determine which specific broadband units within each targeted service area forming the basis of the project have access to broadband service at or above the download and upload speeds specified in Iowa Code section 8B.11(5) "a" or "b" as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable, as a result of the project.

**22.6(3)** *Reimbursements, record keeping/audits, performance/certification, and repayment.* In the absence of more specific provisions in an agreement executed between a grantee and the office in accordance with these rules establishing conflicting or inconsistent terms and conditions, the following terms and conditions shall apply by default to any award of grant funds made by the office under Iowa Code section 8B.11 and these rules:

*a. Reimbursement.*

(1) General. A grantee shall only be reimbursed by the office for:

1. Allowable and not disallowed expenditures actually and previously incurred by the grantee. What constitutes allowable or disallowable expenditures shall be further specified in the NOFA or grant agreement;

2. Expenditures for broadband infrastructure solely to the extent such broadband infrastructure facilitates broadband service at or above the download and upload speeds specified in Iowa Code section 8B.11(5) "a" or "b" as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable, within targeted service areas forming the basis of the project; and

3. Expenditures for which the grantee is able to supply sufficient and appropriate documentation. What constitutes sufficient or appropriate documentation shall be further specified in the NOFA or grant agreement.

(2) Timing. Requests for reimbursement may be submitted to the office in accordance with the terms and conditions in the NOFA or grant agreement.

*b. Performance/certification.* After the completion of a project utilizing, in whole or in part, grant funds, a grantee must:

(1) Certify to the office that the project was completed as proposed in the original application, including but not limited to that the final installation facilitates broadband service at or above the download and upload speeds specified in Iowa Code section 8B.11(5) "a" or "b" as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable, in each of the applicable targeted service areas identified in the original application, and identify the total number of broadband units actually receiving broadband service in each of the targeted service areas identified in the original application as a result of the project.

(2) Attest that any claimed, allowable expenditures are true and accurate, were directly related to the installation of broadband infrastructure that facilitates broadband service at or above the download and upload speeds specified in Iowa Code section 8B.11(5) "a" or "b" as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable, in eligible targeted service areas forming the basis of the project, and were properly allocated in accordance with the terms, conditions, and requirements of the NOFA or grant agreement.

(3) Supply the office with updated GIS data in accordance with subrule 22.6(2).

*c. Field testing.* The office may, in its discretion, conduct field tests, on one or multiple occasions, for compliance with the requirements of Iowa Code sections 8B.1 and 8B.11, these rules, and any grant agreement entered into between a grantee and the office pursuant to subrule 22.6(1) for up to five years after broadband service is certified as complete in accordance with paragraph 22.6(3) "b." The office may exercise this right both before and after reimbursing a grantee for any claimed, allowable expenditures, but if the office elects to do so before reimbursing a grantee for any claimed, allowable expenditures, it will do so within a reasonable time, not to exceed one year, after broadband service is certified as complete in accordance with paragraph 22.6(3) "b." Such field tests may include but not be limited to:

(1) Speed tests anywhere between a grantee's central office and the demarcation at any customer's location in a targeted service area or broadband block in which the project was to be deployed;

(2) In the case of wireless installations, from any location in a targeted service area or broadband block in which the project was to be deployed; or

(3) In the case where a grantee does not have a customer in a targeted service area being served by the installation, certification obtained by the grantee and supplied to the office from an independent third party who is a properly licensed engineer that the installation facilitates broadband service at or above the download and upload speeds specified in Iowa Code sections 8B.11(5) "a" or "b" as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable, in applicable targeted service areas identified in the original application. The costs of such certification shall be borne by the grantee.

*d. Disbursement/repayments.*

(1) A grantee shall not be entitled to the applicable portion of any grant funds or shall be obligated to repay the office the applicable portion of any grant funds previously distributed by the office to the grantee if the office determines that:

1. Claimed expenditures or a prior reimbursement, in whole or in part, was comprised of expenditures that were not allowable or were disallowed, were improperly or incorrectly allocated, or were not supported by sufficient and appropriate documentation;

2. Claimed expenditures or the total amount previously reimbursed by the office exceeds 35 percent of the grantee's estimated or final total allowable project costs, whichever is less.

(2) A grantee shall not be entitled to any grant funds or shall be obligated to repay the office the entire amount of any grant funds previously distributed by the office to the grantee if the office determines that:

1. Claimed expenditures or a prior reimbursement, in whole or in part, was used for the installation of broadband infrastructure that was not in or does not facilitate broadband service at or above the download and upload speeds specified in Iowa Code section 8B.11(5)“a” or “b” as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable, in a targeted service area identified in the original application;

2. A grantee fails to complete the project as proposed in the original application; or

3. Any representation or warranty made by a grantee in an application for grant funds, a grant agreement entered into between a grantee and the office pursuant to subrule 22.6(1), or in any other representation or statement made by the grantee to the office proves untrue in any material respect as of the date of the issuance or making thereof.

*e. Notice of default.* If the office determines a grantee is not entitled to or is otherwise required to repay the office in accordance with paragraph 22.6(3)“d,” the office may issue the grantee a “Notice of Default,” which shall afford the grantee 30 days to cure the default. Whether a grantee has sufficiently cured the default shall be determined in the sole discretion of the office. If a grantee fails to cure the default within 30 days, the office may issue an order requiring the grantee to reimburse the office for the amount specified in the “Notice of Default.”

**22.6(4) Remedies for noncompliance.** In addition to issuing a “Notice of Default” and subsequent order requiring the grantee to reimburse the office for failing to cure the default pursuant to paragraph 22.6(3)“e” and any other remedies available to the office pursuant to a grant agreement entered into between a grantee and the office pursuant to subrule 22.6(1), the office may, for cause, find that a grantee is not in compliance with the requirements of Iowa Code section 8B.11, these rules, or a grant agreement entered into by the office and a grantee pursuant to subrule 22.6(1).

*a.* At the office’s sole discretion, remedies for noncompliance may include, but are not limited to, the following:

(1) Issuing a warning letter stating that further failure to comply with program requirements within a stated period of time will result in a more serious action.

(2) Conditioning a future grant on compliance with program requirements within a stated period of time.

(3) Disallowing future reimbursements.

(4) Requiring that some or all previously issued grant funds be reimbursed to the office.

*b.* Reasons for a finding of noncompliance include, but are not limited to, one or more of the following:

(1) A violation of any of the terms or conditions of a grant agreement entered into between the office and a grantee pursuant to subrule 22.6(1);

(2) A grantee’s failure to complete a project in a timely manner;

(3) A grantee’s failure to comply with any applicable state laws, rules, or regulations;

(4) Claimed expenditures or a prior reimbursement, in whole or in part, was comprised of expenditures that were not allowable or were disallowed, were improperly or incorrectly allocated, or were not supported by sufficient and appropriate documentation;

(5) Claimed expenditures or a prior reimbursement, in whole or in part, was used for the installation of broadband infrastructure that does not facilitate broadband service at or above the download and upload speeds specified in Iowa Code section 8B.11(5)“a” or “b” as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable, in a targeted service area identified in the original application;

(6) A grantee fails to complete the project as proposed in the original application;

(7) The total claimed expenditures or the amount previously reimbursed by the office exceeds 35 percent of the grantee’s estimated or final total allowable project costs, whichever is less;

(8) Any representation or warranty made by a grantee in an application for grant funds, an agreement entered into between a grantee and the office pursuant to subrule 22.6(1), or in any other

representation or statement made by the grantee to the office proves untrue in any material respect as of the date of the issuance or making thereof.

**22.6(5) Office's decision and right to appeal.**

*a.* Any decision of the office entitled “proposed decision,” “final decision,” or other like caption as relating to any issues described in subparagraphs 22.6(5) “a”(1) through (5) below shall become final unless, within 30 days of the transmission of such decision by the office by email to the email address of the individual identified in paragraph 22.4(2) “b” or to the email address of a person otherwise identified by the grantee in writing prior to the issuance of such decision as the person authorized by the grantee to respond to inquiries regarding the administration of the grant, a grantee which is adversely affected by the decision files a request for a contested case proceeding pursuant to 129—Chapter 6.

- (1) The interpretation, construction, or application of any terms or conditions or resolution of a dispute under a grant agreement entered into between the office and a grantee or under these rules;
- (2) Whether or in what amount a grantee is entitled to reimbursement pursuant to a grant agreement entered into between the office and a grantee, or under these rules;
- (3) Whether or in what amount a grantee must repay the office pursuant to a grant agreement entered into between the office and a grantee or under these rules;
- (4) The imposition of any remedies for noncompliance in accordance with subrule 22.6(4); or
- (5) Any other decision of the office that relates to the administration of a grant awarded pursuant to Iowa Code section 8B.11, these rules, or a grant agreement entered into between the office and a grantee.

*b.* Failure to challenge the office’s decision under this rule by filing a request for a contested case within the 30-day period shall waive any claims an applicant may have related to the administration of a grant award and otherwise be deemed a failure to exhaust administrative remedies.

[ARC 4098C, IAB 10/24/18, effective 11/28/18; ARC 4606C, IAB 8/14/19, effective 9/18/19; ARC 5173C, IAB 9/9/20, effective 10/14/20]

**129—22.7(8B) Reallocation of grant funds.** Subject to applicable law, including but not limited to Iowa Code section 8B.11(2) “c,” if grant funds that the office had previously committed to specific grantees are not ultimately issued to a grantee (e.g., because applicable expenditures are not allowed or are disallowed, applicable expenditures were improperly or incorrectly allocated, or a grantee fails to provide sufficient or appropriate documentation to support a claim for reimbursement) or are otherwise repaid to the office pursuant to a grant agreement entered into between the office and a grantee or these rules, the office may award the grant funds to other previous grantees or open additional rounds for applications. If the office awards additional grant funds to other grantees, such grantees shall submit documentation establishing how such grant funds will be expended and may, to the extent applicable, be required to execute contract amendments with the office providing for the expenditure of the additional grant funds and will otherwise be subject to Iowa Code section 8B.11 and these rules.

[ARC 4098C, IAB 10/24/18, effective 11/28/18]

**129—22.8(8B,427) Targeted service areas subject to challenge.** If at the time a grantee is awarded grant funds the office’s determination of whether a particular broadband block forming the basis of the grantee’s application, in whole or in part, is a targeted service area currently subject to challenge pursuant to the appeal and contested case procedures set forth in 129—Chapter 20, or the office’s administration of the award process is subject to challenge pursuant to subrule 22.5(4), including any subsequent judicial review or appeal therefrom as outlined in Iowa Code sections 17A.19 and 17A.20, the office may proceed to enter into a grant agreement with the grantee pursuant to subrule 22.6(1). Notwithstanding the foregoing or any contract executed between the parties to the contrary, the aspect(s) of the office’s award(s) that is subject to such challenge at the time of such execution shall be valid and enforceable only to the extent the office’s original determination or award process, as applicable, is ultimately upheld at the end of the entire appeals and contested case process once final, including judicial review and any subsequent appeal. If a broadband block is ultimately determined to not constitute a targeted service area, or a portion of an award is later deemed invalid, in whole or in part: the grantee shall not be entitled to any grant funds or reimbursement to the extent of any such noneligibility or invalidity; the office may require the grantee to amend the grant agreement to

reflect such result; and the grantee will be required to reimburse the office for any corresponding funds previously distributed by the office.

[ARC 4606C, IAB 8/14/19, effective 9/18/19; ARC 5173C, IAB 9/9/20, effective 10/14/20]

These rules are intended to implement Iowa Code sections 8B.1, 8B.10(1), and 8B.11 as amended by 2019 Iowa Acts, House File 772.

[Filed ARC 4098C (Notice ARC 3728C, IAB 4/11/18), IAB 10/24/18, effective 11/28/18]

[Filed ARC 4606C (Notice ARC 4505C, IAB 6/19/19), IAB 8/14/19, effective 9/18/19]

[Filed ARC 5173C (Notice ARC 5110C, IAB 7/29/20), IAB 9/9/20, effective 10/14/20]