

GOVERNMENT CODE

TITLE 4. EXECUTIVE BRANCH

SUBTITLE F. COMMERCE AND INDUSTRIAL DEVELOPMENT

CHAPTER 490I. BROADBAND DEVELOPMENT OFFICE

Sec. 490I.0101. THRESHOLD SPEED FOR BROADBAND SERVICE.

(a) For purposes of this chapter, subject to Subsection (b), "broadband service" means Internet service with the capability of providing a:

(1) speed of not less than 25 megabits per second for a download;

(2) speed of not less than three megabits per second for an upload; and

(3) network round-trip latency of less than or equal to 100 milliseconds based on the 95th percentile of speed measurements.

(b) If the Federal Communications Commission adopts standards for advanced telecommunications capability under 47 U.S.C. Section 1302 that are different than those specified by Subsection (a), the comptroller by rule may require Internet service to be capable of matching the federal standards in order to qualify under this chapter as "broadband service."

(c) Repealed by Acts 2023, 88th Leg., R.S., Ch. 352 (S.B. [1238](#)), Sec. 7(1), eff. June 2, 2023.

Added by Acts 2021, 87th Leg., R.S., Ch. 625 (H.B. [5](#)), Sec. 5, eff. June 15, 2021.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 352 (S.B. [1238](#)), Sec. 1, eff. June 2, 2023.

Acts 2023, 88th Leg., R.S., Ch. 352 (S.B. [1238](#)), Sec. 7(1), eff. June 2, 2023.

Sec. 490I.0102. OFFICE. (a) The broadband development office is an office within the comptroller's office.

(b) The comptroller may employ additional employees necessary for the discharge of the duties of the broadband development office.

(c) The broadband development office:

(1) is under the direction and control of the comptroller;

(2) shall promote the policies enumerated in this chapter; and

(3) may perform any action authorized by state or federal law.

Added by Acts 2021, 87th Leg., R.S., Ch. 625 (H.B. 5), Sec. 5, eff. June 15, 2021.

Sec. 490I.0103. POWERS AND DUTIES. (a) The broadband development office shall:

(1) serve as a resource for information regarding broadband service and digital connectivity in this state;

(2) engage in outreach to communities regarding the expansion, adoption, affordability, and use of broadband service and the programs administered by the office; and

(3) serve as an information clearinghouse in relation to:

(A) federal programs providing assistance to local entities with respect to broadband service; and

(B) addressing barriers to digital connectivity.

(b) The office has the powers necessary to carry out the duties of the office under this chapter, including the power to enter into contracts and other necessary instruments.

(c) This chapter does not grant the comptroller authority to regulate broadband services or broadband service providers or, except as required of an applicant or recipient under Section [490I.0106](#), to require broadband service providers to submit information to the comptroller.

(d) For the purpose of carrying out a duty or power of the office under this chapter, the office may:

(1) advertise in any available media; and

(2) promote the office's programs and functions.

Added by Acts 2021, 87th Leg., R.S., Ch. 625 (H.B. 5), Sec. 5, eff. June 15, 2021.

Sec. 490I.0104. PARTICIPATION IN PROCEEDINGS OF FEDERAL COMMUNICATIONS COMMISSION. (a) The broadband development office may monitor, participate in, and provide input in proceedings of the Federal Communications Commission related to the geographic availability and deployment of broadband service in this state to ensure that:

(1) the information available to the commission reflects the current status of geographic availability and deployment of broadband service in this state; and

(2) this state is best positioned to benefit from broadband service deployment programs administered by federal agencies.

(b) The office may participate in a process established by the Federal Communications Commission allowing governmental entities to challenge the accuracy of the commission's information regarding the geographic availability and deployment of broadband service.

(c) The office shall establish procedures and a data collection process in accordance with rules established by the Federal Communications Commission that will enable the office to participate in the process described by Subsection (b).

Added by Acts 2021, 87th Leg., R.S., Ch. 625 (H.B. 5), Sec. 5, eff. June 15, 2021.

Sec. 490I.0105. BROADBAND DEVELOPMENT MAP. (a) The broadband development office shall create, update annually, and publish on the comptroller's Internet website a map classifying each broadband serviceable location in this state as:

(1) an unserved location if the location does not have access to reliable broadband service capable of providing the speeds described by Section [490I.0101\(a\)](#);

(2) an underserved location if the location is not an unserved location but does not have access to reliable broadband service with the capability of providing:

(A) a speed of not less than 100 megabits per second for a download;

(B) a speed of not less than 20 megabits per

second for an upload; and

(C) a network round-trip latency of less than or equal to 100 milliseconds based on the 95th percentile of speed measurements; or

(3) a served location if the location is neither an unserved nor an underserved location.

(b) The comptroller by rule may establish new threshold speeds for a location to qualify as an underserved location if the comptroller has required Internet service to be capable of matching federal standards to qualify as broadband service under Section [490I.0101\(b\)](#).

(c) After creation of the initial map described in Subsection (a), the office may evaluate the usefulness of the standards for unserved and underserved locations outlined in Subsection (a) and, if appropriate, make a recommendation to the legislature to revise the standards.

(d) The map required by Subsection (a) must organize broadband serviceable locations into designated areas and display for each area:

(1) the number of broadband service providers that serve the area;

(2) an indication of whether the area has access to Internet service that is not broadband service, regardless of the technology used to provide the service;

(3) each public school campus with an indication of whether the public school campus has access to broadband service; and

(4) the number and percentage of unserved, underserved, and served locations within the area.

(e) The office must create, update, and publish the map in a manner consistent with the most current mapping methodology adopted by the Federal Communications Commission.

(f) Except as provided by Subsection (g), the office shall use the best available data, including information available from the Federal Communications Commission, to create or update the map.

(g) If information from the Federal Communications Commission is not available or not sufficient for the office to

create or update the map, the office may request the necessary information from a political subdivision or broadband service provider, and the subdivision or provider may report the information to the office. The office may not require a subdivision or provider to report information in a format different from the format required by the most current mapping methodology adopted by the Federal Communications Commission.

(h) Information a broadband service provider reports to the office under Subsection (g) and information provided by the Federal Communications Commission, if not publicly available, is confidential and not subject to disclosure under Chapter 552.

(i) The office may contract with a private consultant or other appropriate person who is not associated or affiliated with a commercial broadband provider, including a local governmental entity, to provide technical or administrative assistance to the office for the purpose of creating or updating the map.

(j) The office may release information reported under Subsection (g) to a contractor providing services under Subsection (i). The contractor shall:

(1) keep the information confidential; and

(2) return the information to the office on the earliest of the following dates:

(A) the date the contract expires;

(B) the date the contract is terminated; or

(C) the date the mapping project for which the contractor is providing services is complete.

(k) A person who contracts under Subsection (i) may not provide services in this state to a broadband provider before the second anniversary of the last day the contract is in effect.

(l) The office shall establish criteria for determining whether a broadband serviceable location should be reclassified as an unserved or underserved location. The criteria must include an evaluation of Internet speed test and reliability data.

(m) Repealed by Acts 2023, 88th Leg., R.S., Ch. 352 (S.B. 1238), Sec. 7(2), eff. June 2, 2023.

(n) A broadband service provider or political subdivision may petition the office to reclassify a broadband serviceable

location. The office shall provide notice of each accepted petition to each affected broadband service provider and political subdivision by posting notice of the petition on the comptroller's Internet website.

(o) Not later than the 45th day after the date that the office posts notice under Subsection (n), each affected broadband service provider or political subdivision may provide information to the office showing whether the broadband serviceable location should or should not be reclassified.

(p) Not later than the 75th day after the date that the office posts the notice under Subsection (n), the office shall determine whether to reclassify the broadband serviceable location on the map and update the map as necessary. A determination made by the office under this subsection is not a contested case for purposes of Chapter 2001.

(q) The office is not required to create, update, or publish a map under this section if the Federal Communications Commission produces a map that:

(1) enables the office to identify eligible and ineligible areas, as described by Subsection (a); and

(2) meets the requirements of Subsection (d).

Added by Acts 2021, 87th Leg., R.S., Ch. 625 (H.B. 5), Sec. 5, eff. June 15, 2021.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 352 (S.B. 1238), Sec. 2, eff. June 2, 2023.

Acts 2023, 88th Leg., R.S., Ch. 352 (S.B. 1238), Sec. 7(2), eff. June 2, 2023.

Sec. 490I.01051. MAP OF LOCATIONS RECEIVING BROADBAND AND CERTAIN TELECOMMUNICATIONS SERVICES; REPORT. (a) The Public Utility Commission of Texas shall create, update annually, and publish on the commission's Internet website a map that shows locations in this state that are:

(1) receiving reliable broadband service at speeds of not less than 100 megabits per second for a download and not less than 20 megabits per second for an upload;

(2) served by an eligible telecommunications provider under Section 56.023, Utilities Code, that receives support for that purpose under a plan of the state universal service fund established under Section 56.021, Utilities Code; and

(3) described by both Subdivisions (1) and (2).

(b) The comptroller shall assist the Public Utility Commission of Texas in creating and updating the map described by Subsection (a).

(c) Not later than December 1 of each year, the Public Utility Commission of Texas shall submit a report to the governor, the lieutenant governor, the speaker of the house of representatives, and the legislature that shows the locations described by Subsection (a)(3).

Added by Acts 2023, 88th Leg., R.S., Ch. 964 (S.B. 2119), Sec. 1, eff. September 1, 2023.

Sec. 490I.0106. BROADBAND DEVELOPMENT PROGRAM. (a) The broadband development office shall establish a program to award grants, low-interest loans, and other financial incentives to applicants for the purpose of expanding access to and adoption of broadband service.

(a-1) The office may award grants, low-interest loans, and other financial incentives to applicants for eligible broadband infrastructure projects designed to provide qualifying broadband service to unserved and underserved locations. For the purposes of this subsection, an eligible broadband infrastructure project includes a project in which not less than 80 percent of the broadband serviceable locations to be served by the project are unserved and underserved locations.

(a-2) The office may award grants, low-interest loans, and other financial incentives to applicants for middle-mile broadband infrastructure projects.

(a-3) The office may award grants, low-interest loans, and other financial incentives to applicants for projects not involving the deployment of broadband infrastructure that expand the accessibility, affordability, or adoption of broadband service, including education, training, community outreach, remote learning

or telehealth facilities, equipment purchases, or any other use permitted by the applicable funding source.

(b) The office shall establish eligibility and award criteria for making awards under this chapter for each applicable notice of funds availability. The comptroller by rule may prescribe the manner in which the office shall provide notice to applicants of the applicable criteria. In establishing eligibility and award criteria, the office shall:

(1) take into consideration grants and other financial incentives awarded by the federal government for the deployment of broadband service;

(2) prioritize the applications of applicants that will expand access to and adoption of broadband service in designated areas in which the highest percentage of broadband serviceable locations are unserved or underserved locations;

(3) prioritize the applications of applicants that will expand access to broadband service in public and private primary and secondary schools and institutions of higher education;

(4) give preference to an applicant that provided the information requested by the office under Section [490I.0105](#) or [490I.01061](#); and

(5) take into consideration whether an applicant has forfeited federal funding for defaulting on a project to deploy qualifying broadband service.

(c) Notwithstanding Subsection (b)(2), the office may establish criteria that take into account a cost benefit analysis for awarding money to the areas described by that subdivision.

(d) The office may not:

(1) except as provided by Section [490I.01062](#), favor a particular broadband technology in awarding grants, loans, or other financial incentives;

(2) award a grant, loan, or other financial incentive to a noncommercial provider of broadband service for a broadband serviceable location if an eligible commercial provider of broadband service has submitted an application for the same location;

(3) take into consideration distributions from the



state universal service fund established under Section 56.021, Utilities Code, when deciding to award grants, loans, or other financial incentives; or

(4) except as provided by Section 490I.01061, award a grant, loan, or other financial incentive for deployment of last-mile broadband service for a location that is subject to a federal commitment to deploy qualifying broadband service on the date the application is submitted or during the application process.

(e) The office shall:

(1) post on the comptroller's Internet website information about the application process and the receipt of awards and shall update that information as necessary; and

(2) post on the comptroller's Internet website for at least 30 days information from each accepted application, including the applicant's name, the area targeted for expanded broadband service access or adoption by the application, and any other information the office considers relevant or necessary.

(f) During the 30-day posting period described by Subsection (e) for an application, the office shall accept from any interested party, other than a broadband service provider that does not report information requested by the office under Section 490I.0105 or 490I.01061, a written protest of the application relating to whether the applicant or project is eligible for an award or should not receive an award based on the criteria prescribed by the office.

(g) Notwithstanding any deadline for submitting an application, if the office upholds a protest submitted under Subsection (f) on the grounds that one or more of the broadband serviceable locations are not eligible to receive funding under this chapter, the applicant may resubmit the application without the challenged locations not later than 30 days after the date that the office upheld the protest.

(h) The office shall establish and publish criteria for award recipients. The criteria must include requirements that grants, loans, and other financial incentives awarded through the program for the deployment of broadband infrastructure may be used

only for capital expenses, purchase or lease of property, and other expenses, including backhaul and transport, that will facilitate the provision or adoption of broadband service.

(i) An award granted under this section does not affect the eligibility of a telecommunications provider to receive support from the state universal service fund under Section 56.021, Utilities Code.

Added by Acts 2021, 87th Leg., R.S., Ch. 625 (H.B. 5), Sec. 5, eff. June 15, 2021.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 352 (S.B. 1238), Sec. 3, eff. June 2, 2023.

Sec. 490I.01061. EXISTING FEDERAL FUNDING; REPORTING REQUIREMENTS. (a) The broadband development office may award a grant, loan, or other financial incentive for deployment of last-mile broadband service for a location that is subject to a federal commitment to deploy qualifying broadband service if:

(1) federal funding is forfeited or the recipient of the federal funding is disqualified from receiving the funding; and

(2) the location otherwise may receive funding under the program.

(b) An applicant for an award under this chapter that has been awarded federal funding directly and has entered into an enforceable commitment to deploy broadband services in a location shall provide to the office information the office may require regarding:

(1) the existing enforceable commitment; and

(2) the proposed deployment of broadband.

Added by Acts 2023, 88th Leg., R.S., Ch. 352 (S.B. 1238), Sec. 4, eff. June 2, 2023.

Sec. 490I.01062. FIBER OPTIC PREFERENCE. (a) The broadband development office shall prioritize broadband infrastructure projects that connect each end-user location using end-to-end fiber optic facilities that meet speed, latency, reliability, consistency, scalability, and related criteria as the

office shall determine for each applicable notice of funds availability.

(b) The office may consider an application for a broadband infrastructure project that does not employ end-to-end fiber optic facilities if the use of an alternative technology:

- (1) is proposed for a high cost area;
- (2) may be deployed at a lower cost; or
- (3) meets the criteria established by the office under

Subsection (a).

Added by Acts 2023, 88th Leg., R.S., Ch. 352 (S.B. [1238](#)), Sec. 4, eff. June 2, 2023.

Sec. 490I.0107. STATE BROADBAND PLAN. (a) The broadband development office shall prepare, update, and publish on the comptroller's Internet website a state broadband plan that establishes long-term goals for greater access to and adoption, affordability, and use of broadband service in this state.

(b) In developing the state broadband plan, the office shall:

(1) to the extent possible, collaborate with state agencies, political subdivisions, broadband industry stakeholders and representatives, and community organizations that focus on broadband services and technology access;

(2) favor policies that are technology-neutral and protect all members of the public;

(3) explore state and regional approaches to broadband development; and

(4) examine broadband service needs related to:

(A) public safety, including the needs of state agencies involved in the administration of criminal justice, as that term is defined by Article [66.001](#), Code of Criminal Procedure;

(B) public education and state and local education agencies, including any agency involved in the electronic administration of an assessment instrument required under Section [39.023](#), Education Code; and

(C) public health, including the needs of state agencies involved in the administration of public health

initiatives such as the Health and Human Services Commission and the Department of State Health Services.

Added by Acts 2021, 87th Leg., R.S., Ch. 625 (H.B. 5), Sec. 5, eff. June 15, 2021.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 352 (S.B. 1238), Sec. 5, eff. June 2, 2023.

Sec. 490I.0108. BROADBAND DEVELOPMENT ACCOUNT. (a) The broadband development account is an account in the general revenue fund.

(b) The account consists of:

(1) appropriations of money to the account by the legislature;

(2) gifts, donations, and grants, including federal grants; and

(3) interest earned on the investment of the money in the account.

(c) The comptroller shall deposit to the credit of the account federal money received by the state for the purpose of broadband development, to the extent permitted by federal law.

(d) Money in the account may be appropriated only to the broadband development office for purposes of:

(1) creating or updating the map described by Section 490I.0105;

(2) administering the broadband development program under Section 490I.0106;

(3) creating or updating the state broadband plan under Section 490I.0107; or

(4) engaging in outreach to communities regarding the expansion, adoption, affordability, and use of broadband service and the programs administered by the office and equipment.

(e) The account is exempt from the application of Sections 403.095, 403.0956, and 404.071.

Added by Acts 2021, 87th Leg., R.S., Ch. 625 (H.B. 5), Sec. 5, eff. June 15, 2021.

Sec. 490I.0109. RULEMAKING. The comptroller may adopt rules as necessary to implement this chapter.

Added by Acts 2021, 87th Leg., R.S., Ch. 625 (H.B. 5), Sec. 5, eff. June 15, 2021.

Sec. 490I.0110. BOARD OF ADVISORS. (a) In this section:

(1) "Rural area" means a county with a population of less than 100,000 that is not adjacent to a county with a population of more than 350,000.

(2) "Urban area" means a county with a population of more than one million.

(b) The broadband development office board of advisors is composed of 10 members, appointed as follows:

(1) two members appointed by the governor, including:

(A) one member to represent the Texas Economic Development and Tourism Office; and

(B) one member of the public with experience in telecommunications or broadband service;

(2) three members appointed by the lieutenant governor, including:

(A) one member who resides in an urban area;

(B) one member to represent the public primary and secondary education community; and

(C) one member who resides in a county that:

(i) is adjacent to an international border;

(ii) is located not more than 150 miles from the Gulf of Mexico; and

(iii) has a population of more than 60,000;

(3) three members appointed by the speaker of the house of representatives, including:

(A) one member who resides in a rural area;

(B) one member to represent the health and telemedicine industry; and

(C) one member to represent the public higher education community;

(4) the comptroller or the comptroller's designee; and

(5) one nonvoting member appointed by the broadband

development office to represent the office.

(c) The comptroller or the comptroller's designee serves as the presiding officer of the board of advisors.

(d) Members of the board of advisors serve at the pleasure of the appointing authority for staggered two-year terms, with the terms of the members described by Subsections (b)(1) and (2) expiring February 1 of each odd-numbered year and the terms of the members described by Subsections (b)(3), (4), and (5) expiring February 1 of each even-numbered year. A member may serve more than one term.

(e) Not later than the 30th day after the date a member's term expires, the appropriate appointing authority shall appoint a replacement in the same manner as the original appointment.

(f) If a vacancy occurs on the board of advisors, the appropriate appointing authority shall appoint a successor in the same manner as the original appointment to serve for the remainder of the unexpired term. The appropriate appointing authority shall appoint the successor not later than the 30th day after the date the vacancy occurs.

(g) The board of advisors shall provide guidance to the broadband development office regarding the expansion, adoption, affordability, and use of broadband service and the programs administered by the office.

(h) The board of advisors shall meet at least semiannually with representatives from the broadband development office for the purpose of advising the work of the office in implementing the provisions of this chapter.

(i) A person who is professionally affiliated with a person serving as a member of the board of advisors is not eligible for funding from the broadband development program under Section [490I.0106](#) if the member is involved in decisions regarding the award of grants, loans, or other financial incentives under that section.

(j) The board of advisors may consult with stakeholders with technical expertise in the area of broadband and telecommunication technology.

(k) Meetings of the board of advisors are subject to Chapter

551.

Added by Acts 2021, 87th Leg., R.S., Ch. 625 (H.B. 5), Sec. 5, eff.  
June 15, 2021.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 352 (S.B. 1238), Sec. 6, eff.  
June 2, 2023.