

October 9, 2019

To: ALL Executive Branch Agencies Engaged in Resource Sharing
From: Secretary of Department of Information Technology
Subject: DoIT RSA Rural and Unserved Broadband Fee Waiver
Short Title: RSA-PGM-2019-03

1. Purpose. The Department of Information Technology (DoIT), working in cooperation and coordination with the Governor's Office of Rural Broadband, to support the Governor's rural broadband initiative, provides this programmatic guidance on processing Resource Sharing Agreement (RSA) proposals where the RSA applicant requests a waiver of fees applicable under DoIT's RSA Standard Pricing Schedule for broadband infrastructure installation in a rural and unserved area of Maryland. To ensure consistency in policy and purpose across State programs affecting the rural broadband initiative, broadband telecommunications providers that receive, or are otherwise qualified to receive, grant funding or loans through the Governor's Office of Rural Broadband may receive a waiver of fees applied under DoIT's RSA Standard Pricing Schedule.

2. Policy. DoIT will offer a monetary fee waiver option to RSAs with for-profit companies that provide last-mile broadband service to areas that are both rural and unserved as delineated within this program guidance.

3. Definitions. For the purpose of maintaining uniformity throughout the State RSA Program, DoIT has adopted the following definitions.

a. "Last mile" means the local internet connection that physically reaches into the end user's home, business, or premises.

b. "Rural Area" means any area, as confirmed by the latest decennial census of the Bureau of the Census, which is not located within: 1. A city, town, or incorporated area that has a population of greater than 20,000 inhabitants; or 2. an urbanized area contiguous and adjacent to a city or town that has a population of greater than 50,000 inhabitants. For purposes of the definition of rural area, an urbanized area means a densely populated territory as defined in the latest decennial census of the U.S. Census Bureau.

c. "Unserved Area" means an area in which broadband service may be available but no facilities-based broadband service providers offer minimum connectivity speeds of 25 Mbps download and 3 Mbps upload.

4. Applicability.

a. The fee waiver is only applicable to last mile broadband telecommunications projects in both rural and unserved areas of Maryland where the broadband telecommunications provider will:

1. Own and operate the broadband infrastructure covered by the RSA;

2. Provide minimum connectivity speeds of 25 Mbps download and 3 Mbps upload to all subscribers in the proposed project area; and

3. Provide broadband services for the entire life of the initial RSA term of ten years.

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b. To ensure consistency with the Governor's Office of Rural Broadband programs, applicants must provide an estimate of the overall number of unserved households that may receive service from the new project in their fee waiver application.

c. The fee waiver applies to monetary fees charged under DoIT's RSA Standard Pricing Schedule.

d. Agency and DoIT reserve the right to request empty conduit or fiber strands along each proposed project area as part of the RSA.

5. Process. For the purpose of maintaining uniformity throughout the State RSA Program, the following business process should be used when processing any request for an RSA fee waiver.

a. All applicants requesting an RSA fee waiver must complete and submit a DoIT RSA Proposal Application including Supplement #1 signed by an authorized representative of the RSA applicant, along with the Executive Summary, Concept Plan, and Supporting Maps which illustrate and describe the proposed project/network in full detail.

b. The agency must submit the complete proposal application, including all supporting documentation to DoIT for review and determination of whether the requested fee waiver will be approved.

c. DoIT will coordinate with the Governor's Office of Rural Broadband, in determining whether the applicant's proposed project is within a rural and unserved area of Maryland and would meet threshold requirements for rural broadband grant funding.

d. DoIT will notify the agency of its decision on the requested fee waiver.

e. The agency will notify the RSA applicant whether the requested fee waiver was approved.

f. If the RSA applicant, agency, and DoIT agree to proceed with the RSA, the established RSA business processes will be followed. If the total pre-waiver value of the RSA equals or exceeds \$100,000, it must be advertised on eMaryland Marketplace and presented to the Legislative Policy Committee (LPC) and to the Board of Public Works (BPW) for final review and approval, regardless of fee waiver.

1. The resulting RSA will resemble the standard RSA in all appearances but must include a clause identifying the approval of the RSA Fee Waiver.

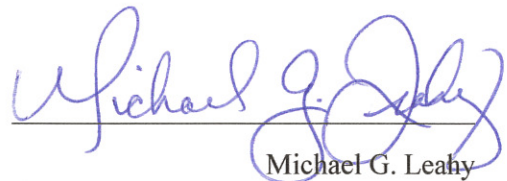
2. The resulting RSA must be set at an initial term of ten (10) years.

6. RSA Terms. An approved RSA Rural and Unserved Broadband Fee Waiver applies only to the initial ten-year term of the RSA. To obtain a fee waiver for any renewal or extension period, the RSA applicant must submit another fee waiver application in year nine of the initial ten-year term. If the State maintains the RSA Fee Waiver Program at that time, DoIT will consult with the Governor's Office of Rural Broadband, and determine whether an additional fee waiver period or discount should be granted.

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- a. Any extension years or renewal terms written into the RSA must clearly state that unless an additional fee waiver is granted, a fee based on DoIT's standards rates may apply.
- b. The resulting RSA must include a clause which grants the State the ability to periodically request a status report which documents compliance with the applicability requirements set forth in section 4(a), above.
- c. If, at any time during the fee waiver term, the requested status report demonstrates that the Company is no longer meeting the requirements set forth in section 4(a), then;
 1. The Company will be provided notice of the failure to meet waiver requirements and given 30 days in which to respond and ensure compliance to DoIT's satisfaction.
 2. If after the notice period, the Company remains non-compliant with the waiver requirements, the Rural and Unserved Broadband Fee Waiver may be rescinded and the Company may be charged prospectively in accordance with DoIT's RSA Standard Pricing Schedule.
 3. If a Company thereafter fails to make any required annualized RSA Fee payments, it may be considered in Default of the governing RSA
7. Updates. Updates to this Program Guidance Memorandum (PGM) will be published as necessary.

Approved:



Michael G. Leahy
Secretary

Department of Information Technology