

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking Regarding  
Revisions to the California Advanced  
Services Fund.

Rulemaking 20-08-021

**COMMENTS OF THE PUBLIC ADVOCATES OFFICE  
ON THE STAFF PROPOSAL ON STATE-FEDERAL BROADBAND  
INFRASTRUCTURE FUNDS LEVERAGING**

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**I. INTRODUCTION**

Pursuant to Rule 6.2 of the California Public Utilities Commission’s (Commission) Rules of Practice and Procedure, the Public Advocates Office at the California Public Utilities Commission (Cal Advocates) submits these comments on the Staff Proposal on State-Federal Broadband Infrastructure Funds Leveraging (Staff Proposal).

The California Advanced Services Fund (CASF) has previously leveraged federal funds for broadband deployment in the state. California Public Utilities (P.U.) Code section 914.7(a)(13) requires the CASF to report on “efforts to leverage non-California Advanced Services Fund moneys.” As of April 2017, CASF invested an estimated \$40 million in CASF funds to “leverage almost \$155 million in federal matching funds from the American Recovery and Reinvestment Act of 2009 (ARRA) for broadband deployment in the State.”<sup>1</sup> Leveraging federal funds for broadband deployment in California helps achieve California’s broadband deployment goal of providing broadband access to at least 98 percent of California households in each consortia region. Cal Advocates supports the Staff Proposal which would leverage federal funds from the Rural Digital Opportunity Fund (RDOF) through a kicker fund program<sup>2</sup> (kicker fund) to help achieve broadband deployment in the

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<sup>1</sup> CASF Annual Report, January 2016 – December 2016 (Issued April 2017), pg. 31.

<sup>2</sup> As defined in Staff Proposal, p. 8: “[incentives] to support California service providers who are pursuing the Federal Communications Commission (FCC) Rural Digital Opportunity Fund (RDOF) dollars by 1)

(continued on next page)

state. The Staff Proposal must be consistent with CASF’s statutory goal of serving 98% of households within each multi-county consortia region by 2022.<sup>3</sup> To this end, Cal Advocates recommends that the Commission:

- Set aside a specific amount of CASF funds to leverage RDOF funding and retain approximately \$203.6 million (69 percent) of CASF funding to support areas that are not RDOF-eligible;
- Clarify that CASF kicker funds are not double funding costs covered by RDOF funding but instead are matching funds to help cover the costs of a broadband deployment project;
- Require entities that seek to obtain CASF kicker funds to apply to the Commission through the CASF process;
- Extend current CASF customer protections to kicker fund awardees to support low-income households. For example, awardees should be required to offer a low-cost broadband plan for low-income households;
- Require kicker fund awardees to build out their projects in no more than two years;
- Open an additional CASF application window for providers to apply for CASF funds to build infrastructure in census blocks adjacent to RDOF Phase I awarded projects;
- Require kicker fund awardees to comply with CASF reporting requirements; and
- For CASF projects that overlap with RDOF-eligible areas, postpone CASF May 4th awards until after RDOF Phase I awards are allocated.

## II. DISCUSSION

### A. The Commission should leverage federal funds for broadband deployment in California.<sup>4</sup>

The CASF Infrastructure grant account has so far awarded \$270,733,063 of the \$565 million authorized by the Legislature, meaning less than \$295 million can be awarded to

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providing additional California broadband grant funds to RDOF winning bidders; and 2) assisting providers with financing and in meeting Letter of Credit requirements.”

<sup>3</sup> Public Utilities Code section 281(b)(1)(A).

<sup>4</sup> This section answers the following question outlined in the Staff Proposal; 3(a) Will this proposal work to incentivize additional RDOF bids or deployment than would otherwise occur in the California?

future CASF Infrastructure grant applicants.<sup>5</sup> The Communications Division (CD) received 54 CASF Infrastructure grant applications for over \$500 million on May 4, 2020, which is far more than the amount available in the fund.<sup>6</sup> According to the Staff Proposal, even if all 54 CASF applications were awarded, the program would not meet its statutory goal.<sup>7</sup> **Error! Reference source not found.** shows that as many as 383,609 households in California remained unserved as of December 31, 2018.<sup>8</sup> The number of households expected to be served by all 54 May 4, 2020 CASF applications was 21,160 before the projects were reduced in scope, which amounts to 5.5 percent of all unserved households.<sup>9</sup> According to **Error! Reference source not found.**, roughly 3 percent<sup>10</sup> of (383,609) households statewide remain unserved meaning that to meet the statutory goals of the CASF program roughly one third of the remaining unserved households must be served.<sup>11</sup> **Error! Reference source not found.** shows both wireline and fixed wireless broadband deployment, the levels of deployment for wireline technology are lower than shown in the table.

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<sup>5</sup> 2019 CASF Annual Report, p. 4.

<sup>6</sup> Staff Proposal, p. 9.

<sup>7</sup> Staff Proposal, p. 9.

<sup>8</sup> CASF 2019 Annual Report p. 13.

<sup>9</sup> Blum, Steve. "2020 California Advanced Services Fund Broadband Infrastructure Grant Applications." Tellus Venture Associates. <https://www.tellusventure.com/library/2020-grants/2020-projects/>.

<sup>10</sup> 383,609 unserved households out of 13,085,036 total households in California is a little under 3 percent of all households.

<sup>11</sup> This is a general estimate and as is obvious in Table 1 some consortia require more deployment than others.

| Consortium  | All Households (CA DOF 1/1/2019) | Served Households (Speeds are at least 6 Mbps down AND 1 Mbps up) |                   | Unserved Households with Slow Service (Speeds less than 6 Mbps down OR 1 Mbps up) |               | Unserved Households with No Service (Speeds less than 200 Kbps in both directions, or no service <sup>2</sup> ) |              |
|---|----------------------------------|---|-------------------|---|---------------|---|--------------|
|   |                                  | Number  | Percent           | Number  | Percent       | Number  | Percent      |
|   |                                  | <b>California</b>   | <b>13,085,036</b> | <b>12,701,427</b>   | <b>97.1 %</b> | <b>54,345</b>   | <b>0.4 %</b> |
| Bay Area (no consortium: SF, San Mateo and Santa Clara) | 1,272,433                        | 1,252,156   | 98.4 %            | 704   | 0.1 %         | 19,573  | 1.5 %        |
| Broadband Consortium of the Pacific Coast               | 532,365                          | 518,186   | 97.3 %            | 1,622   | 0.3 %         | 12,557  | 2.4 %        |
| Central Coast Broadband Consortium                      | 241,971                          | 233,286   | 96.4 %            | 650   | 0.3 %         | 8,035   | 3.3 %        |
| Central Sierra Connect Consortium                       | 64,341                           | 57,577  | 89.5 %            | 2,334   | 3.6 %         | 4,430   | 6.9 %        |
| Connected Capital Area BB Consortium                    | 658,329                          | 641,172   | 97.4 %            | 4,071   | 0.6 %         | 13,086  | 2.0 %        |
| East Bay Broadband Consortium                           | 1,110,863                        | 1,090,458   | 98.2 %            | 931   | 0.1 %         | 19,474  | 1.8 %        |
| Eastern Sierra Connect Regional Broadband Consortium    | 48,548                           | 43,835  | 90.3 %            | 299   | 0.6 %         | 4,414   | 9.1 %        |
| Gold Country BB Consortium                              | 263,468                          | 248,838   | 94.4 %            | 4,006   | 1.5 %         | 10,624  | 4.0 %        |
| • Tahoe Basin Project <sup>1</sup>                      | 18,678                           | 17,994  | 96.3 %            | 314   | 1.7 %         | 370   | 2.0 %        |
| Inyo / Mono Broadband Consortium                        | 13,867                           | 11,386  | 82.1 %            | 37  | 0.3 %         | 2,444   | 17.6 %       |
| Inland Empire Regional BB Consortium                    | 1,362,729                        | 1,321,032   | 96.9 %            | 1,872   | 0.1 %         | 39,825  | 2.9 %        |
| Los Angeles County Regional Broadband Consortium        | 3,350,389                        | 3,314,087   | 98.9 %            | 1,384   | 0.0 %         | 34,918  | 1.0 %        |
| North Bay / North Coast Broadband Consortium            | 375,615                          | 358,731   | 95.5 %            | 2,151   | 0.6 %         | 14,733  | 3.9 %        |
| Northeast California Connect Consortium                 | 219,457                          | 195,380   | 89.0 %            | 5,365   | 2.4 %         | 18,712  | 8.5 %        |
| Orange County (no consortium)                           | 1,046,676                        | 1,000,821   | 95.6 %            | 7,532   | 0.7 %         | 38,323  | 3.7 %        |
| Redwood Coast Connect Consortium                        | 74,123                           | 66,953  | 90.3 %            | 719   | 1.0 %         | 6,451   | 8.7 %        |
| San Joaquin Valley Regional Broadband Consortium        | 1,221,145                        | 1,170,332   | 95.8 %            | 14,927  | 1.2 %         | 35,886  | 2.9 %        |
| Southern Border Broadband Consortium                    | 1,185,284                        | 1,143,027   | 96.4 %            | 2,932   | 0.2 %         | 39,325  | 3.3 %        |
| Upstate California Connect Consortium                   | 43,433                           | 34,170  | 78.7 %            | 2,809   | 6.5 %         | 6,454   | 14.9 %       |

Sources:  
Broadband deployment data collected from Internet Service Providers and validated by the California Public Utilities Commission. The CPUC defines "broadband service" as Internet connectivity with download / upload speeds of at least 200 Kbps in one direction.  
Household data is based on the California Department of Finance, January 1, 2019 estimate.

<sup>1</sup>Dial-up only service is included in the "No Service" category.  
<sup>2</sup>A project of the Gold Country BB Consortium. Not included in the California total. T-17550.  
<sup>3</sup>Under Resolution T-17550 - ESCRBC maintains a three-county region even though responsibility for broadband development in Inyo and Mono counties is currently being managed by a sub-regional consortium, the Inyo Mono Broadband Consortium.

The Staff Proposal’s aim to use CASF funds to make California telecommunications providers’ RDOF bids more competitive may bring in additional federal funding and extend broadband networks in the state. Cal Advocates supports using CASF broadband infrastructure grant funds to leverage more federal funding, with necessary modifications as detailed below.

**B. The Commission should cap the kicker fund account and retain funding to support areas that are not RDOF-eligible.<sup>12</sup>**

The Commission should set aside a specific amount of CASF funds to leverage RDOF funding but retain sufficient CASF funding to support areas that are not RDOF-

<sup>12</sup> This section answers the following question outlined in the Staff Proposal; 3(b) Should different criteria for CASF-RDOF leveraging be considered?

eligible. CD estimates that California could receive between \$1.6 billion<sup>13</sup> and \$2.5 billion<sup>14</sup> in RDOF Phase I funding. If the kicker fund is established to grant support to RDOF projects at 10 percent to 20 percent per project, supporting between \$1.6 billion and \$2.5 billion in RDOF projects could result in between \$160 million and \$500 million in requested CASF funding.<sup>15</sup> Because there is less than \$295 million in uncommitted funding remaining in the CASF Infrastructure account, the Commission should cap the kicker fund account. Without a cap, communities that are outside RDOF-eligible areas but lack broadband access will not have access to either RDOF or CASF funding. The Commission cannot and should not leave behind communities that lack broadband access.<sup>16</sup>

The Commission should retain approximately \$203.6 million (69 percent) of CASF funding to support areas that are not RDOF-eligible. RDOF-eligible areas do not completely overlap with CASF-eligible areas.<sup>17</sup> Many CASF-eligible census blocks are not eligible for RDOF funding and vice versa. While there is some overlap in CASF and RDOF eligible areas, it is clear from the data in the RDOF eligibility and CASF eligibility maps that not all CASF eligible areas are covered by RDOF. Cal Advocates compared the number of households statewide that are both CASF and RDOF eligible. Table 1 shows that, while there is some overlap in households that are both CASF-eligible RDOF-eligible, nearly 70 percent of CASF-eligible households are not eligible for RDOF.<sup>18</sup>

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<sup>13</sup> Communications Division. Re: Federal Communications Commission’s Rural Digital Opportunity Fund Options for CASF Infrastructure Applicants. June 5 2020.  
[https://www.cpuc.ca.gov/uploadedFiles/CPUC\\_Public\\_Website/Content/Utilities\\_and\\_Industries/Communications\\_-\\_Telecommunications\\_and\\_Broadband/Service\\_Provider\\_Information/California\\_Advanced\\_Services\\_Fund\\_\(CASF\)\\_Program/Letter%20RDOF.pdf](https://www.cpuc.ca.gov/uploadedFiles/CPUC_Public_Website/Content/Utilities_and_Industries/Communications_-_Telecommunications_and_Broadband/Service_Provider_Information/California_Advanced_Services_Fund_(CASF)_Program/Letter%20RDOF.pdf).

<sup>14</sup> Communications Division. Connecting California.  
<https://storymaps.arcgis.com/stories/7e3b5506af8e4fa385e6c9b4173fb27d>.

<sup>15</sup> 10% of \$1.6 billion is \$160 million. 20% of \$2.5 billion is \$500 million.

<sup>16</sup> The Staff Proposal does not explicitly acknowledge this, although it does request “comment on suggests [sic] the following factors to prioritize funding if requests exceed available funding.

<sup>17</sup> See “California RDOF Eligibility Map.” <https://www.broadbandmap.ca.gov/federal/funding/>.

<sup>18</sup> Table 2 used CD’s 2018 estimate of households by census block in California. It compared these household estimates to RDOF eligible census blocks from the FCC to determine the number of RDOF eligible households. It also compared these household estimates to CD’s list of CASF eligible census blocks.

Table 1 shows that even if all RDOF-eligible households in California were served, over 250,000 CASF-eligible households would remain unserved. The estimate of RDOF-eligible households includes census blocks that are only partially eligible for funding, so the true number of RDOF-eligible households is likely lower than shown in Table 1. The number of households eligible for both CASF and RDOF is likely smaller as well. Thus, while Table 1 shows that 69.4 percent of CASF-eligible households are not RDOF-eligible, this number is likely an underestimate.

**Table 1: RDOF and CASF Household Eligibility**

|                          | Household Estimates | Percent of CASF HHs |
|--------------------------|---------------------|---------------------|
| RDOF Eligible Households | 223,850             |                     |
| CASF Eligible Households | 364,757             |                     |
| Both RDOF and CASF Elig. | 111,542             | 30.6%               |
| CASF but not RDOF Elig.  | 253,215             | 69.4%               |

By retaining no less than 69 percent of the uncommitted CASF Infrastructure account funding, the Commission will be able to continue to grant CASF infrastructure awards to areas that are not eligible for or do not receive RDOF funding. Retaining uncommitted funds in the CASF Infrastructure account also ensures that the Commission has additional funds to leverage RDOF funded infrastructure to deploy broadband to CASF-eligible census blocks adjacent to RDOF funded projects (described in more detail in section D).

**C. The Commission should clarify kicker fund use and application process.<sup>19</sup>**

The Commission should clarify that the kicker funds will not double fund costs that RDOF will cover. CASF kicker funds should be used to help make telecommunications providers' RDOF bids more competitive, not to provide duplicative funding. The

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<sup>19</sup> This section answers the following question outlined in the Staff Proposal; 3(b) Should different criteria for CASF-RDOF leveraging be considered?

Commission should ensure that applicants for CASF kicker funds use the kicker funds program to make their bids more competitive.

The Commission also should require entities that seek to obtain CASF kicker funds to apply to the Commission through the CASF process rather than guaranteeing kicker funds if providers' projects meet level one or two criteria<sup>20</sup> as outlined in the Staff Proposal.

**D. The Commission should extend current CASF customer protections to kicker fund awardees and support low-income households.<sup>21</sup>**

The Staff Proposal should require providers that are awarded kicker funds to adhere to CASF customer protection requirements. RDOF does not have the same incentives that CASF broadband infrastructure grant offers, specifically incentivizing providers to offer low-cost broadband plans for low-income households.<sup>22</sup> The Commission should also ensure that low-income households benefit from broadband infrastructure deployment.

The Commission should require RDOF projects receiving kicker funds to offer discounted low-income broadband plans. The CASF Broadband Infrastructure Grant Account Revised Application Requirements and guidelines state that “projects with low-income households that offer service to low-income customers at less than \$15/month shall be eligible for an additional 10 percent funding.”<sup>23</sup> The Commission should require projects

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<sup>20</sup> Level one criteria include; (1) provision of gigabit-capable network infrastructure that includes either of the below open access infrastructure: a. last-mile; or b. middle-mile<sup>25</sup>; and (2) service providers which receive kicker funds should use the Commission’s Tribal Consultation Policy as guidance for meaningful engagement and discussion regarding service on tribal lands; and (3a) an RDOF winner that accepts kicker funds to build in a census block must meet the RDOF buildout commitment in the census block or return the kicker funds with an additional amount consistent with the RDOF non-compliance framework including support recovery of up to 1.75 times the amount awarded; or (3b) An RDOF winner that accepts kicker funds must build to all locations in the awarded project area in the first four years instead of the first six years. Level two criteria include; (1) including the offer of Indefeasible Rights of Use for California Tribes located near (within 10-40 miles) the last mile or middle mile routes; and/or (2) Designation as a Carrier of Last Resort (COLR) in RDOF bid areas (or an Application to provide COLR service, and subsequently being designated to such status).

<sup>21</sup> This section answers the following questions outlined in the Staff Proposal; 3(b) Should different criteria for CASF-RDOF leveraging be considered?, 5(a) Should other prioritization or prioritization factors be considered?

<sup>22</sup> D. 18-12-018 Appendix 1, p. 5.

<sup>23</sup> D. 18-12-018 Appendix 1, p. 5.

that receive kicker funds to provide broadband to low-income households for no more than \$15 a month.

Similarly, the Commission requires that telecommunication providers applying for CASF funding make a pricing commitment and waive installation/connection charges for new subscribers.<sup>24</sup> The Commission should require that RDOF projects that receive kicker funds to waive installation charges for a minimum of two years following completion.

These recommended customer protections are not exhaustive. The Commission should ensure that the projects supported by CASF funding benefit all Californians, including low-income households.<sup>25</sup>

**E. The Commission should require kicker fund awardees to build out in two years.<sup>26</sup>**

RDOF rules require build-out in six years and the Staff Proposal provides the option for telecommunication providers to reduce that time to four years when receiving kicker funds.<sup>27</sup> The CASF build out requirement is two years. If CASF funding is granted, the project should be completed in two years. RDOF was drafted prior to COVID restrictions and the urgency for connectivity was not considered. The Commission should retain CASF's two-year rule in order to bring broadband to households who do not have adequate broadband services in order to access and participate in education, healthcare, basic services, and employment who would otherwise have to wait an additional two- to four-years for broadband access. Retaining the two-year build out requirement will also bring the Commission closer to meeting CASF's statutory goal.

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<sup>24</sup> Id. p. 19.

<sup>25</sup> D. 18-12-018, D. 19-02-008, Appendix 1 and PUC § 281.

<sup>26</sup> This section answers the following question outlined in the Staff Proposal; 3(c) Should the criteria be modified to better support faster deployment?

<sup>27</sup> Staff Proposal on State-Federal Broadband Infrastructure Funds Leveraging Rulemaking 20-08-021, page 16.

**F. The Commission should open an additional window to allow providers to apply for CASF funds to build infrastructure in census blocks adjacent to RDOF projects.<sup>28</sup>**

Cal Advocates supports the Staff Proposal to fund infrastructure in CASF-eligible census blocks adjacent to areas that are funded in RDOF Phase I, if it furthers the CASF's goal of bringing broadband to 98 percent of households in each consortia region by 2022.<sup>29</sup> This additional funding should be subject to CASF criteria, including the 2-year build out timeline instead of the RDOF 6-year timeline.

No changes to the CASF process are necessary as the current processes allow the Commission to select projects that provide the greatest benefit to Californians. When selecting CASF projects to be funded, the Commission should give greater weight to last-mile projects that have access to RDOF-funded middle-mile grants. Most of the current May 4, 2020 CASF Broadband Infrastructure Grant program applications include a middle-mile component that makes up most of the costs. Placing greater weight on last mile projects will leverage RDOF funding to increase the number of households that have access to broadband at lower cost to the CASF account and will make more funding available for other projects. The Commission should evaluate the success of this process to then determine whether this process should be adopted for RDOF Phase II.

**G. The Commission should retain reporting requirements for CASF-funded projects.<sup>30</sup>**

If kicker funds are offered in RDOF Phase I and in the RDOF-adjacent census block projects, the Commission should require providers to meet CASF Infrastructure grant reporting standards. This will allow the Commission to ensure projects are not being double funded and to better understand how these funds are allocated and then used by providers. CASF infrastructure grant reporting requirements are found in the CASF Broadband

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<sup>28</sup> This section answers the following questions outlined in the Staff Proposal; 7.3(d) Should the proposed process and opportunity to apply for CASF-only census blocks be adopted?, 7.3 (e) Should information, items, or criteria be added to the staff review process?

<sup>29</sup> Public Utilities Code section 281(b)(1)(A).

<sup>30</sup> This section answers the following question outlined in the Staff Proposal; 8(a) Should other or different reporting be required?

Infrastructure Grant Account Revised Application Requirements, on pages 27-29. The Commission should adopt these reporting requirements for kicker fund applicants.<sup>31</sup>

**H. For CASF projects that overlap with RDOF funding, the Commission should postpone CASF May 4th awards until after RDOF Phase I awards are allocated.<sup>32</sup>**

The Commission should not delay CASF May 4th awards except for CASF projects that overlap with RDOF-eligible areas. Overlapping project awards should be postponed until after RDOF projects have been awarded. Postponing CASF awards will allow the Commission to use existing CASF funds to complement, rather than replace, potential federal funding for broadband infrastructure build out in California. Additionally, postponing may allow for more CASF funding to go towards projects that would not otherwise be awarded because of limited CASF funds.

### **III. CONCLUSION**

Cal Advocates supports the Staff Proposal to leverage federal funds to further broadband deployment in the state. Cal Advocates recommends that the following modifications be made to the proposal;

- The Commission should set aside a specific amount of CASF funds to leverage RDOF funding but retain approximately \$203.6 million (69 percent) of CASF funding to support areas that are not RDOF-eligible;
- The Staff Proposal should clarify that CASF kicker funds are not double funding costs covered by RDOF funding but instead are matching funds to help cover the costs of a broadband deployment project;

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<sup>31</sup> Cal Advocates supports altering these requirements within reason. For example, RDOF does not require the identification of “projected subscribers” in each census block, so kicker fund applicants would not have to report “projected subscribers versus actual subscribers, as of the date of the completion report” as required on D. 18-12-018 Appendix 1, p. 29.

<sup>32</sup> This section answers the following questions outlined in the Staff Proposal; 5.1(a) Should a different approach to May 4 CASF Applications be considered?, and 5.1 (c) Should other factors or approaches be considered in evaluating May 4 CASF Applications with RDOF blocks where the CASF Applicant is not awarded RDOF support?, 6(a) Is the timing outlined in Section 6 appropriate? Why or why not? If not, please suggest an alternative schedule and explain why it is preferable, 7.1(a) Should a different or modified process be considered? If so, how and why?, 7.2 (b) Should a different or modified process be considered? If so, how and why?

- The Commission should require entities that seek to obtain CASF kicker funds to apply to the Commission through the CASF process;
- The Commission should extend current CASF customer protections to kicker fund awardees in order to support low-income households. For example, offer a low-cost broadband plan for low-income households;
- The Commission should require kicker fund awardees to build out in two years;
- The Commission should open an additional CASF application window for providers to apply for CASF funds to build infrastructure in census blocks adjacent to RDOF Phase I awarded projects;
- The Commission should require kicker fund awardees to comply with CASF reporting requirements; and
- For CASF projects that overlap with RDOF-eligible areas, the Commission should postpone CASF May 4th awards until after RDOF Phase I awards are allocated.

Respectfully submitted,

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