
MEMORANDUM

TO: NEW NY BROADBAND PROGRAM APPLICANTS
FROM: NYS BROADBAND PROGRAM OFFICE
SUBJECT: APPLICATION DEPOSIT AND APPLICATION FEE
DATE: MARCH 4, 2016

Per the New NY Broadband Program (the Program) Request for Proposal Guidelines (the RFP Guidelines),¹ each applicant must provide a \$100,000 Application Deposit and a \$250 Application Fee for their application to be considered complete. Instructions for the payment of those fees are described here.

I. APPLICATION DEPOSIT

As discussed in Section IV H of the RFP Guidelines, applications to the Program represent binding commitments to carry out the proposed projects, and applicants shall be required to provide a deposit in the amount of \$100,000.00 (the Application Deposit) to ensure that the applicant enters into a Grant Disbursement Agreement (GDA) and the Security Agreement (Security Agreement), in substantially similar form as Attachment A, with Empire State Development (ESD) to complete their proposed project. The Application Deposit must take the form of a Letter of Credit (LOC), issued in substantially the same form as set forth in Attachment B to this memorandum, and must be received by ESD no later than 4:30 PM on April 15, 2016.

If an applicant is not selected for participation in the Program, ESD will return the applicant's LOC within 30 days of notifying the applicant in writing that their application has been declined.

If an applicant is selected for a grant award through the Program, the applicant will have 180 days, upon written notification of their award, to enter into a GDA and Security Agreement with ESD for the selected broadband project. Should the applicant fail to do so, unless granted an extension in writing by ESD, the Application Deposit will be nonrefundable, and ESD will be entitled to draw upon the full amount of the LOC.

Please note that only one Application Deposit will be required per applicant, irrespective of the number of applications filed. However, should an applicant filing more than one application refuse to enter into a GDA and Security Agreement with ESD for any one or more of their applications, the Application Deposit shall be nonrefundable. Applicants filing more than one application to the Program should provide, along with their LOC, a complete list of all applications filed by the applicant.

Additionally, to the extent a group of entities jointly submit one or more applications, the Program will only require one Application Deposit on behalf of that entire group (*i.e.*, the Program will not require each entity in the group to submit a Deposit). Where a group of entities jointly submits more than one application, only one Application Deposit will be required on behalf of that group for all applications filed. However, multiple Application Deposits will still be required where the composition of two groups of applicants differs in any respect (*i.e.*, if an entity participates in joint

¹ The RFP Guidelines are available on the NYS Broadband Program Office's website - <http://nysbroadband.ny.gov/node/376>, and may be amended from time to time. For clarity, references to the RFP Guidelines herein will refer to the current version.

applications involving different partners, each application will be viewed as having been filed by a different applicant and will require the submission of multiple Application Deposits).

Upon an applicant's execution of a GDA(s) and Security Agreement(s) with ESD for the selected project(s), ESD will return the applicant's Application Deposit within 30 days.

Additionally, all fees associated with obtaining the LOC, draws thereunder, or the LOC's termination will be the responsibility of the Applicant, and not ESD.

II. APPLICATION FEE

The applicant is also required to provide an Application Fee (referred to in Section X of the RFP Guidelines), which shall be submitted in the form of bank check or certified check, payable to ESD, in the amount of \$250. This fee is nonrefundable, regardless of whether the applicant is selected as a funding recipient.

Applicants must file one Application Fee per application. Applicants filing more than one application will be required to submit one Fee per application.

The applicant should submit their Application Deposit and Application Fees by mail to:

Empire State Development
Attn: Controller Department
35th Floor
633 Third Avenue
New York, NY 10017

If the applicant fails to submit an Application Deposit and all required Application Fees by 4:30pm on April 15, 2016, any related applications submitted by the applicant will be considered incomplete and will not be eligible for program funding.

Attachment A

See Attached.

Attachment B

See Attached.