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**GLENN HEGAR  
TEXAS COMPTROLLER OF PUBLIC ACCOUNTS**

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**Notice of Funds Availability  
and  
Request for Applications (RFA No. BDO-NOFA-003)  
for the  
TEXAS BROADBAND POLE REPLACEMENT  
PROGRAM**

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## I. Summary

1. **Type of Solicitation:** Notice of Funding Availability (NOFA)
2. **Issuing Office:** Texas Comptroller of Public Accounts (CPA)  
Texas Broadband Development Office  
Room 610, Attn: RFA No. BDO-NOFA-003  
111 E. 17<sup>th</sup> Street  
Austin, Texas 78774
3. **Additional Requirements/Qualifications:** N/A
4. **Responses to NOFA:** Open Application
5. **Deadline for Applications:** **September 10, 2024; 5:00 p.m., Central Time (CT)**
6. **CPA Contact Person for this NOFA:** Jesse Troublefield  
Email with delivery receipt requested to: [bdo.polesnofa@cpa.texas.gov](mailto:bdo.polesnofa@cpa.texas.gov)
7. **Applications Submitted by Email:** Required; See Section IV, Part A
8. **Applications Submitted by Fax:** Not Accepted
9. **NOFA Addenda:** Notices of changes to items directly impacting the original NOFA or solicitation process will be posted on the *Electronic State Business Daily* (ESBD) located at: <http://www.txsmartbuy.com/esbd>. CPA will post any amendment to this solicitation on the ESBD as a NOFA Addendum. It is the responsibility of an interested party to check the ESBD for updates to this NOFA before submitting an Application. Each Applicant is solely responsible for verifying CPA's receipt of its questions, if applicable, and its Application by the deadlines specified in this NOFA.
10. **Questions and Answers:** Questions regarding this NOFA must be in writing and must be submitted to the CPA Contact Person specified in Part 8, no later than **August 9, 2024; 2:00 p.m. CT. Telephone inquiries will not be accepted.** Questions may be submitted by email to the email address specified in Part 8. CPA intends to post answers to the questions received on the ESBD on **August 16, 2024, or as soon thereafter as practical.**
11. **Applicant Presentations:** N/A
12. **Evaluation of Applications:** See Section VI.
13. **Contact with CPA Staff:** Upon issuance of this NOFA, employees and representatives of CPA, other than the CPA Contact Person identified in Part 6, will not discuss the contents of this NOFA with any Applicant or its representatives. **Failure of an Applicant or any of its representatives to observe this restriction may result in disqualification of any related Application.**

## **II. Specifications**

### **A. Introduction**

The Texas Comptroller of Public Accounts (CPA), an agency of the State of Texas, issues this Notice of Funds Availability and Request for Applications (NOFA) to solicit Applications from qualified applicants for the Texas Broadband Pole Replacement Program as described in this Section II.

CPA anticipates making Grant Awards to one or more Successful Applicants. CPA reserves the right not to award a Grant for the performance of all or part of the Services.

### **B. Background**

The Texas Legislature created the Broadband Development Office (“BDO”) as an office within the Texas Comptroller of Public Accounts (“CPA”) to award grant funds for the purpose of expanding access to and the adoption of broadband services in designated areas throughout the State of Texas. The Texas Broadband Pole Replacement Program (“program”) was created by the 88<sup>th</sup> Legislature to speed the deployment of broadband to individuals in rural areas by reimbursing a portion of eligible pole replacement costs incurred by eligible entities. Through the BDO, the Texas Legislature has allocated \$75 million to reimburse eligible applicants for a portion of eligible pole replacement costs.

The purpose of this Notice of Funding Availability (NOFA) is to open applications for the reimbursement of the actual and reasonable costs paid or incurred by a party to remove and replace poles in unserved, rural areas after August 31, 2021. The BDO intends this NOFA to only cover already completed pole replacements and will release a second Notice of Funds Availability in the event additional funds are available.

### **C. Available Funding**

This NOFA covers the release of state funds allocated by the Legislature from the Broadband Infrastructure Fund totaling \$75 million.

The office has established the following minimum and maximum grant awards available for each successful project Application.

Minimum: \$200,000  
Maximum: \$5,000,000

Match Requirement: Reimbursement awards are limited to the lesser of 50 percent of the eligible pole replacement costs paid or incurred by the applicant or \$5,000 per pole plus reasonable administrative costs incurred in completing an application . Therefore, applicants may be required to provide documentation the actual costs incurred or paid for removing and replacing an existing pole.

Preferential treatment will be given to applications in which the applicant requests less than the maximum amount to which they would be eligible to be reimbursed under the program.

### **D. Applicant Eligibility**

The BDO encourages all eligible participants to apply for reimbursement of eligible pole replacement costs incurred by an applicant after August 31, 2021. Eligible Participants are pole owners or providers of qualifying broadband service who have paid or incurred the costs of removing and replacing an existing pole in an eligible area for the purpose of accommodating the attachment of an Eligible Broadband Facility.

### **E. Project Eligibility**

**1. Area Eligibility.** Reimbursement for eligible pole replacement costs is limited to poles located in an Unserved Area. Applications for eligible pole reimbursement costs are limited to poles located in a single county. Applicants must submit separate applications for each county in which they have eligible pole replacement costs. Please note that applicants may need to submit more than one application for a county if they are seeking reimbursement for eligible pole replacement costs in a county that exceeds the maximum award amount as outlined below.

For example: Applicant A has incurred pole replacement costs in three different counties. For one of the three counties, Applicant A incurred pole replacement costs that would entitle the applicant to more than the maximum award amount if they were given a reimbursement award. Applicant A must submit a total of four (4) applications because each application may only cover a single county and the applicant must submit two applications for the pole replacements in one county because the reimbursement request for that county will exceed the maximum amount of an award.

NOTE: Applicants may not request reimbursement for the same poles in separate applications. Applications which request reimbursement for eligible pole replacement costs related to the same pole in more than one application are not eligible for award.

- 2. Maximum Award Amount.** The office has established a maximum grant award of \$5,000,000 per application. Applicants seeking reimbursement for eligible pole replacement costs greater than the maximum award amount must submit separate applications for reimbursement requests greater than the maximum award amount.

For example: Applicant A has incurred pole replacement costs in a single county but wants to request reimbursement of more than \$5,000,000 for the poles replaced in that county. Applicant A may split the reimbursement request such that each application is below the maximum award amount.

NOTE: Applicants may not request reimbursement for the same poles in separate applications. Applications which request reimbursement for eligible pole replacement costs related to the same pole in more than one application are not eligible for award.

- 3. Eligibility Period.** Requests for reimbursement for eligible pole replacement costs under this NOFA will be limited to costs incurred on or after 8/31/2021 and before the date of issuance of this NOFA (“Eligibility Period”). Prior to award, applicants may be required to provide documentation establishing that costs for already completed pole replacements were incurred during the Eligibility Period.
- 4. Eligible Pole Replacement Costs.** Eligible applicants who paid or incurred the costs of removing and replacing an existing pole in an eligible area may apply for a reimbursement award for each pole that was removed and replaced. The amount eligible to be reimbursed for each pole is limited to the lesser of 50 percent of the eligible pole replacement costs paid or incurred by the applicant or \$5,000.

Eligible pole replacement costs must have been paid or incurred between August 31, 2021 (Effective Date), and July 29, 2024 (the date of issuance of this NOFA).

Eligible pole replacement costs include the actual and reasonable costs paid or incurred by the applicant for the removal and disposal of the existing pole, purchase and installation of a replacement pole, and the transfer of any existing facilities to the new pole. The term includes costs paid or incurred by the applicant responsible for the costs of a pole replacement to reimburse the party that performs the pole replacement. The term does not include costs that the applicant initially incurs but which have been or will be reimbursed to the applicant by another party ultimately responsible for the costs.

- 5. Administrative Costs.** In addition to the amount reimbursed for eligible pole replacement costs, applicants may request reimbursement for the documented and reasonable administrative expenses incurred by the applicant in preparing and submitting the reimbursement application, including expenses charged by a pole owner to assist the applicant in completing the application.

The amount reimbursed for administrative costs may not exceed five percent of the eligible pole replacement costs in the application.

Applicants must submit documentation to substantiate the amount being requested for administrative costs. CPA may disallow or reduce the amount awarded for administrative costs if the office determines the costs are not substantiated or are unreasonable.

- 6. Provision of Qualifying Broadband.** Applicants will be required to demonstrate that the pole(s) being replaced will be used for the attachment of an Eligible Broadband Facility and provide information regarding the deployment of broadband infrastructure and technology facilitated by the pole reimbursements.

### III. General Information

#### A. Authority

This NOFA is issued pursuant to the authority in Chapters 403 and 490I of the Texas Government Code. Funding for this program is provided by state funds appropriated by the State Legislature.

#### B. Capitalized Terms

Capitalized terms in this NOFA have the meanings defined under Section VIII Definitions section of this NOFA or, to the extent applicable, as outlined in 34 TAC §16.1.

#### C. Confidentiality

All information received by CPA or the BDO related to grant program applications and/or grant compliance and monitoring becomes the property of the State of Texas and, as such, is subject to public disclosure under the Texas Public Information Act (PIA), Texas Government Code, Chapter 552. Section 552.1101, Texas Government Code, provides an exception to disclosure for information submitted by an applicant in response to a request for bid, Application, or qualification. Applicants who submit information they believe to be confidential or proprietary must clearly identify the information or documents they believe is protected under the Public Information Act. If the BDO receives a request for information that is clearly marked as protected or confidential, we will refer the request to the Office of the Attorney General for a decision. Applicants who submit protected information should be prepared to argue against release to the Attorney General. Applicants with concerns regarding the release of information under Chapter 552 should seek the advice of legal counsel.

#### E. Disposition of Applications/Public Records

All Applications and the contents associated therewith shall become the property of CPA. CPA is subject to provisions of the Texas Public Information Act (formerly the Texas Open Records Act) and Attorney General Opinions issued under the statute. Applicants or other persons or parties submitting information to CPA are encouraged to familiarize themselves with these provisions before submitting Applications or other information to CPA.

#### F. Schedule of Events

The BDO reserves the right, in its sole discretion, to modify this schedule of events.

7/29/2024	NOFA Issued
7/29/2024	First day to submit questions regarding NOFA/Application
8/09/2024	Deadline for submitting questions regarding NOFA/Application
8/16/2024	Publication of clarification responses
9/03/2024	First day to submit applications in Online Portal
9/10/2024	Last day to submit applications in Online Portal
11/01/2024	Anticipated issuance of notice of awards
12/01/2024	Last day to execute Grant agreement*

\* Unless extended pursuant to Section VI, Part C

#### G. Requests for Clarification

Applicants may submit written questions regarding this NOFA via e-mail to [bdo.polesnofa@cpa.texas.gov](mailto:bdo.polesnofa@cpa.texas.gov) no later than 2:00 p.m. CT by the deadline set forth in the Schedule of Events. On or about the date set forth in the Schedule of Events, the BDO expects to electronically post answers to the written questions on its public website. The BDO will not respond to inquiries regarding the evaluation status of an application submission or the pendency of grant awards beyond publicly disclosed information.

## H. Amendments

CPA reserves the right to amend this NOFA through written amendment(s). Applicants are advised to check the ESB and the BDO public websites for possible amendments to this NOFA. In the event this NOFA is amended after the closing of the application window, the BDO will contact each Applicant's primary contact, as designated in each respective Application.

## IV. Application Submission Requirements

### A. Application Process

Applicants must access the BDO's Grant Portal to register and apply for funding.

### B. Application Contest.

Applicants should be prepared to provide all information required by the applicant grant portal that identifies the applicant and provides detailed information regarding the poles for which the applicant is seeking reimbursement. At a minimum, applicants will be expected to provide the following minimum information for each pole for which they are seeking reimbursement:

1. **Applicant Information.** Applicant entity and contact information. Applicants who do not have a Texas Identification Number must complete and submit Appendix F – Application for Texas Identification Number.
2. **Pole Information.** Information sufficient to establish the number, total replacement cost, and location of pole replacements and the identity of any pole owners or retail broadband service providers responsible for the attachment of eligible broadband facilities. See Appendix B – Texas Pole Replacement Application Spreadsheet.
3. **Pole Owner and Service Provider Information.** Entity and contact information regarding pole owners and/or service providers for all poles included in the application. See Appendix C – Pole Owner/Service Provider Contact List.
4. **Completion Information.** Documentation sufficient to establish that the pole replacements have been completed;
5. **Reimbursement Amount Requested.** Amount of reimbursement requested and any information required to justify the amount of the request;
6. **Administrative Costs Requested.** Amount requested for documented and reasonable administrative costs to complete the application and any information to justify the amount of the request;
7. **Payment Information.** See Appendix D – Direct Deposit Authorization Form (required) and Appendix E – ACH Payment Confirmation Form (if applicable).
8. **Additional Information.** Other information the comptroller considers necessary for final review, award, and payment of program reimbursements; and
9. **Notarized Statement.** In addition, applicants will be required to provide a notarized statement from an officer or agent of the applicant that the contents of the application are true and accurate and that the applicant accepts the requirements of Texas Government Code, Sec. 403.553(j)-(l), as a condition of receiving an award of program reimbursement. See Appendix G – Texas Broadband Pole Replacement Program Affidavit.

## V. Applicable Laws

Applicants and grant recipients will be required to comply with all applicable state and federal rules and laws, including Texas Government Code, Chapter 403.551 et seq., and the rules adopted by the Comptroller located at 34 TAC § 16.1 et seq.

## VI. Grant Application Review Procedures

### A. Application Review; Ranking of Applications

The BDO will evaluate all applications for completeness and to ensure that they meet the requirements included in the Notice of Funds Availability and the application requirements. If the BDO receives requests for reimbursement that exceed the available amount of funding, applications will be rank ordered based on a sliding point scale using the following metrics:

<u><i>Evaluation Category</i></u>	<u><i>Explanation</i></u>	<u><i>Points</i></u>
Rurality	Applications will be prioritized based on the rurality of the county in which the poles for which applicant is seeking reimbursement for eligible pole replacement costs are located. Rurality will be determined using a sliding scaled based on county population as measured by the 2020 Census as provided below:	
	<b><u>Population</u></b>	
	<50,000	100
	50,001 – 100,000	98
	100,001 – 150,000	96
	150,001 – 200,000	94
	200,001 – 250,000	92
	250,001 – 300,000	90
	300,001+	0
Minimal Per Pole Outlay	<p>Reimbursement awards are limited to the lesser of 50 percent of the eligible pole replacement costs paid or incurred by the applicant or \$5,000 per pole. However, preferential treatment will be given to applications in which the applicant requests less than the per pole maximum that is eligible to be reimbursed under the program.</p> <p>Applications will be awarded points based on the percentage by which the average per pole amount being requested by an applicant is lower than the maximum allowed, with a minimum discount of 10 percent and a maximum discount of fifty percent. The number of points will be calculated by multiplying the percentage of the discount X 100, with a cap of 50 points.</p> <p>For example: An application with an average cost per pole of \$2,500 or less would receive maximum points for this category (50 points). An application with an average cost per pole between \$2,500 and \$4,500 would receive the number of points calculated by multiplying the percentage of the discount by 100, with a cap of 50 points. An application with an average cost per pole of \$4,500 or more per pole would receive no points for this category.</p>	10-50

### B. Award Determinations

All award decisions shall be made at the sole discretion of the office and are not appealable or subject to protest or challenge.

Projects may be selected for award based on rank-order of score, but the BDO reserves the right to deviate from the list of ranked applications in making award decisions taking into account factors including, but not limited to, the total amount of funding available for award and whether the BDO has received requests for funding that exceed the amount of funding available; the number of projects that can be successfully awarded funds; and, geographic distribution of available funding.



### C. Notice of Award

Following the selection process, the BDO will issue notices of award to Successful Applicants. Applicants who have been awarded funds under the program must finalize and execute the Grant Agreement within 30 days after the date of award. The office may extend the deadline to fully execute the grant agreement upon the written request of a grant recipient for good cause shown. If the Grant Agreement is not signed by the grant recipient and received by the office by the later of the 30th day after the award or the extended deadline date, the office may, but is not required to, rescind the award.

## VII. Grant Agreement and Compliance

Successful Applicants will be required to enter into a Grant Agreement with CPA in a form that is substantially similar to the sample Grant Agreement as set forth in Appendix A. CPA reserves the right to amend the terms in the required Grant Agreement without amending this Notice of Funds Availability. By entering into a Grant Agreement, the Grantee agrees to be bound by all terms and conditions identified in the Grant Agreement, this NOFA (including subsequent amendments), and all applicable federal, state, and local laws, rules, regulations, codes, ordinances, policies, orders or any other legal requirements or limitations.

## VIII. Definitions

As used in this Notice of Funds Availability the below terms have the following meaning:

1. “Applicant”— A person that has submitted an application for a reimbursement under this NOFA.
2. “Award Date” — The date for which the grant is effective.
3. “BDO” or “Office” — The Broadband Development Office created under Texas Government Code, §490I.0102.
4. “Broadband service” — Internet service that delivers transmission speeds capable of providing a minimum download or upload threshold speed that are the greater of a download speed of 100 Mbps or faster; and an upload speed of 20Mbps or faster as established under Texas Government Code, §490I.0101
5. “CPA” — The Texas Comptroller of Public Accounts.
6. “Eligible Pole Replacement Costs” – has the meaning outlined in Sec. 403.552(a)(2), Texas Government Code.
7. “Eligible Broadband Facility” – has the meaning outlined in Sec. 403.552(a)(1), Texas Government Code.
8. “ESBD” — Electronic State Business Daily Search
9. “Gbps” — Gigabits per second
10. “Grant” — a formal, written agreement between CPA and Successful Applicant
11. “Grant Agreement” - The collection of the following documents: (1) the formal, signed grant agreement; (2) this NOFA; and (3) Successful Applicant’s Application.
12. “Grant funds” — Grants, low-interest loans, and other financial incentives awarded to Applicants by the office for the purpose of reimbursing applicants for eligible pole replacement costs for poles located in Unserved Areas.
13. “Grantee” or “Grant recipient” — An Applicant who has been awarded grant funds under this NOFA and has subsequently entered into a grant agreement with the office.
14. “Mbps” — Megabits per second.
15. “NOFA”— This notice of funding of availability
16. “Pole” – has the meaning outlined in Sec. 403.552(a)(5), Texas Government Code.
17. “Pole owner” – means a person who owns or controls a pole.
18. “Unserved Area” — Has the meaning outlined in Sec. 403.552(a)(4), Texas Government Code.

**IX. Execution of Application**

1. By signature hereon, Applicant represents and warrants that the provisions in this Execution of Application apply to Applicant and all of Applicant’s principals, officers, directors, shareholders, partners, owners, agents, employees, subcontractors, independent contractors, and any other representatives who may provide Services under, who have a financial interest in, or otherwise are interested in this NOFA or any Contract.
2. By signature hereon, Applicant represents and warrants that it has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant in connection with the submitted Application.
3. By signature hereon, Applicant represents and warrants that all statements and information prepared and submitted in response to this NOFA are current, complete, and accurate.
4. By signature hereon, Applicant represents and warrants that the individual signing this document and the documents made part of this NOFA and Application is authorized to sign such documents on behalf of the Applicant and to bind the Applicant under any contract that may result from the submission of the Application.
5. By signature hereon Applicant certifies that neither Applicant nor any person or entity represented by Applicant has received compensation from CPA to participate in the preparation of specifications or solicitation on which this NOFA or a Contract is based. In addition, Applicant certifies that the individual or business entity named in this Application or Contract is not ineligible to receive the specified contract and acknowledges that the Contract may be terminated and payment withheld if this certification is inaccurate.
6. By signature hereon, Applicant certifies that the offering entity and its principals are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state, or local governmental entity. Entities ineligible for federal procurement are listed at <http://www.sam.gov>.
7. By signature hereon, Applicant represents and warrants that it has read and agrees to all terms, conditions, and required certifications of this NOFA and the Sample Grant Agreement, attached hereto as Appendix A.

**An authorized representative on behalf of Applicant must complete and sign the following:**

<b>Signature of Authorized Representative</b>	<b>Date Signed</b>	
<b>Printed Name &amp; Title of Authorized Representative</b>	<b>Phone Number</b>	
<b>Entity Name (“Applicant”)</b>	<b>Fax Number</b>	<b>E-mail Address</b>
<b>Federal Employer Identification Number</b>	<b>Unique Entity ID</b>	
<b>Physical Street Address</b>	<b>City, State, Zip Code</b>	
<b>Mailing Address, if different</b>	<b>City, State, Zip Code</b>	

**X. Conflict of Interest/Disclosure Statement**

A. Disclosures. Provide the requested information in the space provided; indicate “N/A” as appropriate.

1. Applicant must disclose any proposed personnel who are current or recent former employees of CPA or the State of Texas.

\_\_\_\_\_  
\_\_\_\_\_

2. Applicant must disclose the following:

a. any existing or potential conflicts of interest or possible issues that might create appearances of impropriety relative to Applicant’s and its proposed subcontractors’ submission of an Application, possible selection as Successful Applicant, or its performance of the contract.

\_\_\_\_\_  
\_\_\_\_\_

b. all past and present contractual, business, financial or personal relationships between Applicant and CPA and between Applicant’s proposed subcontractors, if any, and CPA.

\_\_\_\_\_  
\_\_\_\_\_

For each item, Applicant must also provide a detailed explanation of why Applicant does or does not believe such item poses a conflict of interest, potential conflict of interest, or appearance of impropriety issue relative to Applicant’s submission of an Application, possible selection as the Successful Applicant, or its performance of the contract.

B. Defined Terms. For purposes of the disclosure statements required by this solicitation, the terms below are defined as follows:

- “past” is defined as within the two (2) calendar years prior to the deadline for submission of Applications in response to this solicitation.
- “CPA” is defined as the statewide elected official who heads the agency, as well as the agency’s employees or recent former employees.
- “recent former employees” are defined as those CPA employees who have terminated agency employment within the two (2) calendar years prior to the deadline for submission of Applications in response to this solicitation.
- “personal relationship” is defined as a current or past connection other than a clearly contractual, business, financial or similar relationship and includes family relationships or other connections outside simply providing a response to this solicitation. For this purpose, “family relationship” means a relationship within the third degree of consanguinity or second degree of affinity; see Chapter 573 of the Texas Government Code, which defines these degrees of consanguinity and affinity. Connections other than such family relationships fall within this definition and must be disclosed if:
  - (a) a reasonable person could expect the connection to diminish Applicant’s independence of judgment or effectiveness in the performance of the Applicant’s responsibilities to CPA or the State of Texas under the contract;
  - (b) a reasonable person could expect the connection, within the overall context of Applicant’s submission of an Application, possible selection as Successful Applicant or its performance of the contract, to create an issue for the agency’s consideration relative to a potential appearance of impropriety or conflict of interest; or
  - (c) the relationship is with a CPA or other State of Texas employee with authority to make decisions or recommendations on state contracting or procurement or this solicitation. For purposes of this provision, those persons with authority to make decisions or recommendations are those persons who fall within the definition of “purchasing personnel” in Section 2262.004(a)(2) of the Texas Government Code.

C. Continuing Duty to Disclose. If circumstances change or additional information is obtained subsequent to submission of the Application, Successful Applicant’s duty to disclose under these provisions continues under the term of the contract and does not end with submission of an Application or receipt of contract award.

D. Disclosures under these provisions are information that will be evaluated by CPA; however, all information provided will not necessarily lead to a restriction or disqualification. Issues will be considered on a case-by-case basis in the best interests of the State of Texas. If Applicant is in doubt about whether information should be disclosed, Applicant should consult with its legal counsel. Failure to disclose any required information under these provisions may be cause for Application disqualification or termination of the contract resulting from this solicitation. CPA reserves the right, in its sole discretion, to determine if an issue should result in Application disqualification or termination of the contract.

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Printed Name & Title of Authorized Representative

\_\_\_\_\_  
Entity Name (“Applicant”)

- Appendix A: Texas Broadband Pole Replacement Program Sample Grant Agreement
- Appendix B: Texas Pole Replacement Application Spreadsheet
- Appendix C: Pole Owner/Service Provider Contact List
- Appendix D: Direct Deposit Authorization Form
- Appendix E: ACH Payment Destination Confirmation Form
- Appendix F: Application for Texas Identification Number
- Appendix G: Texas Broadband Pole Replacement Program Affidavit