

**NTIA Notice of Funding Opportunities (NOFO)
for the Broadband Equity, Access, and Deployment Program (BEAD)
May 13, 2022**

Background:

The BEAD Program provides \$42.5 billion in funding to lay critical groundwork for widespread access, affordability, equity, and adoption of broadband, create good-paying jobs, grow economic opportunities, including for local workers, provide increased access to healthcare services, enrich educational experiences of students, close long-standing equity gaps, and improve overall quality of life. (7)

- Complete Letters of Intent are due on **July 18, 2022**.
- After submitting a Letter of Intent, the Point of Contact for each Eligible Entity may request Initial Planning Funds through the application portal. The portal will provide additional information about submission requirements for funding, including but not limited to standard forms and a budget narrative. All supplemental information is due on **August 15, 2022**.

I. Program Description

A. Overview of the BEAD Program

- The BEAD Program prioritizes deploying broadband to unserved locations (those without any broadband service at all or with broadband service offering speeds below 25/3 Mbps), underserved locations (those without broadband service offering speeds of 100/20 Mbps), and eligible community anchor institutions, collectively known as “last mile broadband deployment projects.”

B. Definitions

- **Underserved.** An “underserved location” is one that the Broadband DATA Maps show as lacking access to Reliable Broadband Service with speeds less than 100/20 Mbps and latency under 100 milliseconds. (16)
- **Unserved.** An “unserved location” is one that the Broadband DATA Maps show as having no access to broadband service or that lack access to Reliable Broadband Service with speeds less than 25/3 Mbps and latency under 100 milliseconds. (17)
- **Reliable Broadband Service.** This means broadband service that the Broadband DATA Maps show is accessible to a location via: (i) fiber-optic technology; (ii) Cable Modem/ Hybrid fiber-coaxial technology; (iii) digital subscriber line (DSL) technology; or (iv) terrestrial fixed wireless technology utilizing entirely licensed spectrum or using a hybrid of licensed and unlicensed spectrum. (15)
- **Priority Broadband Project.** A project designed to (1) “provide broadband service that meets speed, latency, reliability, consistency in quality of service, and related criteria as the Assistant Secretary shall determine” and (2) “ensure that the network built by the project can easily scale speeds over time to . . . meet the evolving connectivity needs of households and businesses” and “support the deployment of 5G, successor wireless technologies, and other

advanced services.” NTIA has determined that “Priority Broadband Projects” are those that use end-to-end fiber-optic architecture. (14)

II. Federal Award Information

- Period of Performance. 4 years after receiving the subgrant from the Eligible Entity. (17)
- Award Amount. Minimum of \$100,000,000 for States and \$25,000,000 for Territories. (18)

III. Eligibility Information

- Eligible Entities. Eligible Entities authorized to apply for grants under the BEAD Program are any State of the United States, the District of Columbia, Puerto Rico, American Samoa, Guam, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands. In cases of application failure, an Eligible Entity’s political subdivision, or a consortium of such subdivisions, may seek to act in the place of the Eligible Entity. (19)
- Matching. Except in certain circumstances such as in “high-cost areas,” each Eligible Entity must provide, require its subgrantee to provide, or provide in concert with its subgrantee, matching funds of not less than 25 percent of project costs. Funds from other Federal programs generally may not be used as matching funds. However, matching funds may come from a federal regional commission or authority and from funds that were provided to an Eligible Entity or a subgrantee for the purpose of deploying broadband service under the Families First Coronavirus Response Act (Public Law 116-127; 134 Stat. 178); the CARES Act (Public Law 116-136; 134 Stat. 281), the Consolidated Appropriations Act, 2021 (Public Law 116-260; 134 Stat. 1182); or the American Rescue Plan Act of 2021 (Public Law 117-2; 135 Stat. 4), to the extent permitted by those laws. (21)
- Match Waivers. Waivers may be granted in special circumstances where it is determined that the waiver is necessary “to advance objectives that are critical to the Program’s success.” (22)

V. Program Structure

- Program Sequencing. The BEAD Program consists of nine steps: (1) letter of intent; (2) request for initial planning funds; (3) five-year action plan; (4) program fund allocation and notice of available amounts; (5) initial proposal; (6) challenge process; (7) subgrantee selection process; (8) 20 percent funding release; (9) final proposal and release of remaining funds. (23)
- Subgrantee Selection Process. Each Eligible Entity must establish a fair, open, and competitive process for selecting subgrantees. However, NTIA does not mandate a specific approach. Rather, when selecting subgrantees, each Eligible Entity must abide by the following principles:
 - An “Unserviced Service Project” or “Underserved Service Project” can be as small as a single unserved or underserved location, respectively. This principle will help ensure that isolated unserved and underserved locations that cannot be aggregated in groups that are 80 percent or more unserved or underserved are addressed by the BEAD Program. (36)

- An “Unserved Service Project” or “Underserved Service Project” may include Middle Mile Infrastructure in or through any area required to reach interconnection points or otherwise to ensure the technical feasibility and financial sustainability of a project providing service to an unserved location, underserved location, or eligible Community Anchor Institutions (“CAIs”). (36)
- An Eligible Entity may not treat as “unserved” or “underserved” any location that is already subject to an enforceable federal, state, or local commitment to deploy qualifying broadband as of the date that the challenge process included in the NOFO is concluded.
- An Eligible Entity must establish a competitive process designed to maximize the public benefits achieved through the subgrant process by increasing subgrantee-provided matchand reducing costs to consumers. The type of competitive process selected is at the discretion of the Eligible Entity, subject to the Assistant Secretary’s approval in reviewing the Eligible Entity’s Initial Proposal and to the criteria and other requirements set forth in the NOFO. (37)
- The Eligible Entity may seek proposals to serve unserved locations, underserved locations, and CAIs collectively or separately, so long as the Eligible Entity awards funding in a manner that prioritizes Unserved Service Projects and once it certifies that it will ensure coverage of all unserved locations within the Eligible Entity, prioritizes Underserved Service Projects. (37)
- The Eligible Entity may not exclude, as a class, cooperatives, nonprofit organizations, public-private partnerships, private companies, public or private utilities, public utility districts, or local governments from eligibility as a subgrantee. (37)
- The Eligible Entity may solicit proposals from prospective subgrantees at the geographic level of its choosing—for example, on a per-location basis, per-census block basis, per-town, per-county or another geographic unit. An Eligible Entity may alternatively solicit proposals for project areas it defines or ask prospective subgrantees to define their own proposed project areas. If the Eligible Entity allows prospective subgrantees to define proposed project areas, it must develop a mechanism for de-conflicting overlapping proposals (for example, by de-scoping some locations from a provider’s proposed projectarea) to allow for like-to-like comparison of competing proposals. Whatever process is selected, the Eligible Entity must ensure it has a plan for serving all unserved and (whereit has sufficient funding) underserved locations. (38)
- Each Eligible Entity must require that each proposal from a prospective subgrantee identify, for each location to be served in the proposal, the amount of BEAD funding the prospective subgrantee is seeking to serve that location. (38)
- If, after soliciting proposals, the Eligible Entity has received no proposals to serve a location or group of locations that are unserved, underserved, or a combination unservedand underserved, the Eligible Entity may engage with existing providers and/or other prospective subgrantees to find providers willing to expand their existing or proposed service areas. (38)
- If an Eligible Entity’s Final Proposal includes plans to deploy to any locations on Tribal Lands, the Eligible Entity must submit proof of the Tribal Government’s consent to such deployment. (38)

- An Eligible Entity may decline to select a proposal that requires a BEAD subsidy that exceeds the Extremely High Cost Per Location Threshold for any location to be served in the proposal if use of an alternative Reliable Broadband Service technology meeting the BEAD Program’s technical requirements would be less expensive. Subject to the overarching requirement to run a fair, open, and competitive process, the Eligible Entity has discretion to design a selection process that allows it to engage with a prospective subgrantee to revise the proposal to ensure that no location requires a subsidy that exceeds the Extremely High Cost Per Location Threshold. If no Reliable Broadband Service technology meeting the BEAD Program’s technical requirements would be deployable for a subsidy of less than the Extremely High Cost Per Location Threshold at a given location, an Eligible Entity is authorized to select a proposal involving a less costly technology for that location, even if that technology does not meet the definition of Reliable Broadband Service but otherwise satisfies the Program’s technical requirements.

In this instance, Eligible Entities are directed to seek out the most robust, affordable, and scalable technologies achievable under the circumstances particular to that location. (38)

- Eligible Use of Funding for Last-Mile Broadband Deployment. Funding may be used for:
 1. Construction, improvement, and/or acquisition of facilities and telecommunications equipment required to provide qualifying broadband service, including infrastructure for backhaul, middle- and last-mile networks, and multi-tenant buildings.
 2. Long-term leases (for terms greater than one year) of facilities required to provide qualifying broadband service, including infeasible right-of-use (IRU) agreements.
 3. Deployment of internet and Wi-Fi infrastructure within an eligible multi-family residential building.
 4. Engineering design, permitting, and work related to environmental, historical and cultural reviews.
 5. Personnel costs, including salaries and fringe benefits for staff and consultants providing services directly connected to the implementation of the BEAD Program (such as project managers, program directors, and subject matter experts).
 6. Network software upgrades, including, but not limited to, cybersecurity solutions.
 7. Training for cybersecurity professionals who will be working on BEAD-funded networks.
 8. Workforce development, including registered apprenticeships and pre-apprenticeships, and community college and/or vocational training for broadband-related occupations to support deployment, maintenance, and upgrades. (39)
- Non-Deployment Uses. Where an Eligible Entity that can demonstrate it has a plan for bringing affordable, high-speed broadband service to all unserved and underserved locations within its jurisdiction may also allocate funding to non-deployment activities including:

1. User training with respect to cybersecurity, privacy, and other digital safety matters.
 2. Remote learning or telehealth services/facilities.
 3. Digital literacy/upskilling (from beginner-level to advanced).
 4. Computer science, coding and cybersecurity education programs.
 5. Implementation of Eligible Entity digital equity plans (to supplement, but not to duplicate or supplant, Planning Grant funds received by the Eligible Entity in connection with the DigitalEquity Act of 2021).
 6. Broadband sign-up assistance and programs that provide technology support.
 7. Multi-lingual outreach to support adoption and digital literacy.
 8. Prisoner education to promote pre-release digital literacy, job skills, online job-acquisition skills, etc.
 9. Digital navigators.
 10. Direct subsidies for use toward broadband subscription, where the Eligible Entity shows the subsidies will improve affordability for the end user population (and to supplement, but not to duplicate or supplant, the subsidies provided by the Affordable Connectivity Program).
 11. Costs associated with stakeholder engagement, including travel, capacity-building, or contract support.
 12. Other allowable costs necessary to carrying out programmatic activities of an award, not to include ineligible costs pursuant to the NOFO. (40)
- Prioritization and Scoring in Selecting Last-Mile Broadband Deployments Projects. While Eligible Entities chose their own means of competitively selecting subgrantees for last-mile broadband deployment projects, their selection process must incorporate the following principles:
 1. Funding must be awarded in a manner that ensures the deployment of service to all unserved locations within an Entity's jurisdiction, with Priority Broadband Projects receiving priority over other last-mile broadband deployment projects. (41)
 2. For selecting among competing Priority Broadband Projects for the same location, Entities must give the greatest weight to the following criteria:
 - a. Primary Criteria:
 - i. Minimal BEAD Program Outlay. The total BEAD funding that will be required to complete the project. (43)

- ii. **Affordability.** The prospective subgrantee's commitment to provide the most affordable total price to the customer for 1 Gbps/1 Gbps service in the project area. (43)
 - iii. **Fair Labor Practices.** Eligible Entities must give priority to projects based on a prospective subgrantee's demonstrated record of and plans to be in compliance with Federal labor and employment laws. (43)
- b. **Secondary Criteria:**
- i. **Speed to Deployment.** Eligible Entities must give secondary criterion prioritization weight to a prospective subgrantee's binding commitment to provide service by a date earlier than the four-year performance period. (43)
 - ii. **Additional Prioritization Factors:** Eligible Entities may develop additional secondary criteria to be given weight, such as equitable workforce development and job quality, open access wholesale last-mile service, and local and tribal coordination. (44)
3. Where an Eligible Entity did not receive a proposal to deploy a Priority Broadband Project but received multiple proposals that satisfy all other subgrantee requirements, the same criterion for weighing Priority Broadband Projects listed above apply except the affordability criteria is for 100/20 Mbps service and the Eligible Entity must weigh the speeds, latency, and other technical capabilities of the proposed other technologies. Eligible Entities should afford additional weight to applications proposing to use technologies that exhibit greater ease of scalability with lower future investment and whose capital assets have longer useable lives over those proposing technologies with higher costs to upgrade and shorter capital asset cycles. (44-45)

VI. Subgrantee Obligations for Deploying Network Projects

- **Speed and Latency.** Funded networks must deliver Reliable Broadband Service with speeds no less than 100/20 Mbps. In addition, 95 percent of latency measurements must fall below 100 ms round trip time. Where this cannot be done with fiber, NTIA may expand the latency threshold for specific Funded Networks at the request of an Eligible Entity. In order to demonstrate continued compliance with these standards, subgrantees must perform speed and latency tests from the customer premises of an active subscriber to a remote test server at an end-point consistent with the requirements for a Commission-designated Internet Exchange Point. (64-65)
- **Network Outages.** Each Funded Network's outages should not exceed, on average, 48 hours over any 365-day period except in the case of natural disasters or other force majeure occurrence. (65)
- **Deployment Deadlines and Benchmarks.** Eligible Entities shall ensure that each subgrantee deploys its Funded Networks and begins providing broadband service to each customer that desires broadband service not later than four years after the date on which the subgrantee receives the subgrant. Eligible Entities shall establish interim buildout milestones, enforceable as conditions of the subgrant, sufficient to ensure that subgrantees are making reasonable progress toward meeting the four-year deployment deadline. (65)

- Conduit Access Points. Any Funded Network deployment project that involves laying fiber-optic cables or conduit underground or along a roadway must include interspersed conduit access points at regular and short intervals for interconnection by unaffiliated entities. Where a project proposes to lay conduit, Eligible Entities shall require prospective subgrantees to propose to deploy a reasonable amount of excess conduit capacity and to propose a conduit access point interval as part of the grant application process and shall consider the adequacy of the prospective subgrantee's proposed excess conduit capacity and access points when evaluating the application. (66)
- Affordability and Low-Cost Plans. Each subgrantee must offer at least one low-cost broadband service option. Additionally, subgrantees are required to participate in the Affordable Connectivity Program or any successor program, and Eligible Subscribers that are eligible for a broadband service subsidy can apply the subsidy to the proposed service option. (66-68)
- No Data Caps. Subgrantees must certify through the semiannual reporting requirements described in the NOFO that the plans offered over Funded Networks do not contain data usage caps for subscribers. (68)
- Access to Service. Operators of Funded Networks shall provide access to broadband service to each customer served by the project that desires broadband service on terms and conditions that are reasonable and non-discriminatory. (68)
- Public Notice and Awareness. Subgrantees must carry out public awareness campaigns in their service areas that are designed to highlight the value and benefits of broadband service in order to increase the adoption of broadband service by consumers. Each subgrantee must also provide public notice, online and through other means, that a Funded Network has been deployed. (68)
- Interconnection Requirements. Any subgrantee receiving funds to deploy Middle Mile Infrastructure in connection with an Unserved Service Project or an Underserved Service Project shall permit other broadband service providers to interconnect with its funded Middle Mile Infrastructure network facilities on a just, reasonable, and non-discriminatory basis. (69)
- Wholesale Access. If at any time a subgrantee is no longer able to provide broadband service to the end user locations covered by the subgrant on a retail basis, the subgrantee will be required to sell the network capacity at a reasonable, wholesale rate on a non-discriminatory basis to one or more other broadband service providers or public-sector entities or sell the network in its entirety to a new provider who commits to providing services under the terms of the BEAD Program. (69)
- Cybersecurity. A prospective subgrantee must attest that: (1) it has a cybersecurity risk management plan in place; (2) the plan reflects the latest version of the National Institute of Standards and Technology (NIST) Framework for Improving Critical Infrastructure Cybersecurity (currently Version 1.1) and the standards and controls set forth in Executive Order 14028 and specifies the security and privacy controls being implemented; (3) the plan will be reevaluated and updated on a periodic basis and as events warrant; and (4) the plan will be submitted to the Eligible Entity prior to the allocation of funds. If the subgrantee makes any substantive changes to the plan, a new version will be submitted to the Eligible Entity

within 30 days. The Eligible Entity must provide a subgrantee's plan to NTIA upon NTIA's request. (70)

- Supply Chain Risk Management ("SCRM"). A prospective subgrantee must attest that: (1) it has a SCRM plan in place; (2) the plan is based upon the key practices discussed in the NIST publication NISTIR 8276, Key Practices in Cyber Supply Chain Risk Management: Observations from Industry and related SCRM guidance from NIST, including NIST 800-161, Cybersecurity Supply Chain Risk Management Practices for Systems and Organizations and specifies the supply chain risk management controls being implemented; (3) the plan will be reevaluated and updated on a periodic basis and as events warrant; and (4) the plan will be submitted to the Eligible Entity prior to the allocation of funds. If the subgrantee makes any substantive changes to the plan, a new version will be submitted to the Eligible Entity within 30 days. The Eligible Entity must provide a subgrantee's plan to NTIA upon NTIA's request. (71)

VII. Subgrantee Qualifications

- A subgrantee must:
 - Be capable of carrying out activities funded by the subgrant in a competent manner in compliance with all applicable federal, Eligible Entity, and local laws;
 - Have the financial and managerial capacity to meet the commitments of the subgrantee under the subgrant, the requirements of the Program and such other requirements as have been prescribed by the Assistant Secretary or the Eligible Entity; and
 - Have the technical and operational capability to provide the services promised in the subgrant in the manner contemplated by the subgrant award. (71-72)

VIII. Application Review Information

- Domestic Preference for Procurements (Buy American). The Build America, Buy America Act requires that all of the iron, steel, manufactured products (including but not limited to fiber-optic communications facilities), and construction materials used in the project or other eligible activities are produced in the United States unless a waiver is granted. The Secretary will seek to minimize waivers, and any waivers will be limited in duration and scope. Under the Build America, Buy America Act and the Buy America Guidance issued by the Office of Management and Budget on April 18, 2022, the Secretary of Commerce (Secretary) may waive the application of this preference when:
 - applying the domestic content procurement preference would be inconsistent with the public interest;
 - types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or
 - the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project or other eligible activities by more than 25 percent. (87)

Additionally, the Infrastructure Act expressly prohibits subgrantees from using BEAD funding to purchase or support fiber optic cable and optical transmission equipment manufactured in the People's Republic of China unless a waiver of this requirement is received from the Assistant Secretary. Waivers of the ban on Chinese-made fiber will be based on a demonstration from the Eligible Entity that application of this prohibition would unreasonably increase the cost of or delay the project or other eligible activities. (88)

[Omitted Section V. Application and Submission Information, Section VII. Federal Award Administration Information, and Section VIII. Federal Awarding Agency Contacts]