



**REQUEST FOR PROPOSALS**  
**RFP#: RFP-2508**  
**For: Broadband Infrastructure Projects**

The Rhode Island Commerce Corporation (“Corporation”) seeks proposals to receive funding to design and build broadband infrastructure projects (“Projects”) in Project Areas (“PAs”). The Projects must be completed consistent with the National Telecommunications and Information Administration’s (“NTIA”) Broadband Equity, Access, and Deployment (“BEAD”) Program’s guidance and Notice of Funding Opportunity and Rhode Island’s NTIA-approved Initial Proposal Volumes 1 and 2 (“IP”). Proposers should familiarize themselves with these documents (see Important Links and Guides section below).

This document constitutes a Request for Proposal (“RFP”), in a competitive format, from qualified Internet Service Providers (“ISPs”). This request is an offer by the Corporation to underwrite, in accordance with the terms and conditions of this RFP, the services proposed by the successful firm(s), by subgrant.

The respondents (“Proposers”) to this RFP shall provide a proposal, in accordance with the terms and conditions set forth herein, to provide all of the services to the Corporation as described in the Scope of Work.

## **I. Definitions**

The terms below, as used throughout this RFP, have the meanings prescribed to them as follows:

- “Alternative Technology” means any broadband access technology that doesn’t qualify as reliable broadband service but meets the BEAD program’s minimum technical requirements (speed of at least 100 Mbps for downloads and 20 Mbps for uploads, latency of 100 milliseconds or less round-trip time). Examples of Alternative Technologies include Unlicensed fixed wireless (ULFW) and Low-earth orbit (LEO) satellite service.
- “BEAD NOFO” means NTIA’s BEAD Notice of Funding Opportunity, available [here](#) and which supersedes the FATC (defined below).
- “Broadband Serviceable Location” (BSL) means a business or residential location in the United States at which fixed broadband Internet access service is, or can be, installed.
- “ConnectRI” means the program established by the Corporation to allocate and monitor federal broadband funds.
- “Crucial Project Area Units” (CPAUs) mean Proposer-specified PAUs that are necessary to the Proposer’s PA, due to the PAU’s position in the build plan, the economics of the PA, the proximity to pre-existing network assets, or other economic or operational

factors.

- “Eligible Subgrantees” means the entities set forth in Section IV.A of this RFP.
- “Eligible Entity” means the Rhode Island Commerce Corporation.
- “Eligible Locations” means applicable BSLs as identified in *Exhibit B*.
- “End-to-end Fiber” means a network of telecommunications infrastructure that delivers broadband connectivity using optical fiber cables (and related active and passive equipment) exclusively for the entire communication pathway, from the originating point (headend or central office) to the BSL, without intermediate conversions to other transmission mediums like copper, coaxial cable, or wireless technologies.
- “Environmental and Historic Preservation” (“EHP”) means the Federal Emergency Management Agency’s review process for ensuring the protection and enhancement of environmental, historic, and cultural resources, as required by Federal environmental and historic preservation laws and Executive Orders.
- “Extremely High-Cost Per Location Threshold” (“EHCPLT”) means a BEAD subsidy cost per location to be utilized during the subgrantee selection process and over which an Eligible Entity may decline to select a Priority Broadband Project if use of an Other Last-Mile Broadband Deployment Project meeting the BEAD Program’s technical requirements would be less expensive.
- Federal Award Terms and Conditions (“FATC”) means the BEAD Program’s Federal Award Terms and Conditions, attached as *Exhibit C*.
- “Gbps” means gigabits-per-second.
- “IIJA” means the Infrastructure Investments and Jobs Act
- “IP” means the Rhode Island BEAD Initial Proposal, volumes 1 and 2 (IPV1 & IPV2).
- “Mbps” means megabits-per-second.
- Multiple Dwelling Unit (“MDU”) means a building or complex containing multiple, separate housing units, such as apartments, condominiums, duplexes, or triplexes, all on the same parcel of land.
- “Other Last-Mile Broadband Deployment Projects” means those projects that use technologies other than end-to-end fiber-optic architecture, per the BEAD NOFO, pg. 44
- “Priority Broadband Project” means those projects that use end-to-end fiber-optic architecture, per the BEAD NOFO, pg. 42
- “Projects” means broadband infrastructure projects that are eligible under BEAD.
- “PAs” means Project Areas that are comprised of one or more PAUs (and the BSLs contained therein) that a particular Proposer plans to serve.
- “Project Area Units” (“PAUs”) are contiguous, indivisible geographic units defined by the Corporation and comprise the Unserved and Underserved BSLs in that geographic area.
- “Selected Proposers” are interchangeably called “Subgrantees” herein.
- “Reliable Broadband Service” means broadband service that is accessible to a location via: i) fiber-optic technology (BDC technology code 50), ii) cable modem/hybrid fiber-coaxial (HFC) technology (technology code 40), iii) terrestrial fixed wireless technology utilizing entirely licensed spectrum (includes spectrum licensed by rule), or iv) terrestrial fixed wireless technology using a hybrid of licensed and unlicensed spectrum (technology codes 71 and 72).
- “State” means the State of Rhode Island.

- “Subaward Agreement” is the agreement between the Corporation and selected Proposer(s) to complete the Projects under the BEAD Program.
- “Uniform Guidance” means the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 C.F.R. Part 200), inclusive of the procurement requirements applicable to subrecipients of federal grants, available [here](#).
- “Unserved” means a BSL that lacks access to 25/3Mbps according to the BEAD Program.
- “Underserved” means a BSL that lacks access to 100/20Mbps according to the BEAD Program.

## **II. Important Links and Guides (Subgrantee Information Packet)**

The BEAD Program is governed by State and federal rules, statutes, and regulations. All Projects must be managed in accordance with all applicable rules, including but not limited to the U.S NTIA BEAD Program guidance. The Corporation recommends reviewing these websites and documents before beginning a Proposal, as well as prior to submission as federal and/or state program guidance may be updated.

- [Rhode Island Initial Proposal Volume I](#)
- [Rhode Island Initial Proposal Volume 2](#)
- [Infrastructure Investment and Jobs Act](#)
- [NTIA Broadband Equity Access and Deployment Program](#)
- [NTIA BEAD Notice of Funding Opportunity](#)
- [BEAD Resource Index](#)
- [BEAD Subgrantee Qualifications Evaluation Guide](#)
- [Subgrantee Selection Primer: A Guide for Eligible Entities](#)
- [BEAD Selecting Technology Policy Notice](#)
- [Tailoring the Application of the Uniform Guidance to the BEAD Program | BroadbandUSA](#)
- [NTIA Workforce Planning Guide](#)
- [NIST Framework for Improving Critical Infrastructure Cybersecurity](#)
- [BABA Act requirements](#)
- [BABA Final Waiver](#)
- [EPA.gov I BABA Approved Waivers](#)
- [Commerce.gov I BABA Waivers, FAQs, and Related Information](#)
- [BABA Compliance and Self Certification](#)
- [NEPA | National Environmental Policy Act](#)
- [National Historic Preservation Act | Advisory Council on Historic Preservation](#)
- [Guidance on NTIA National Environmental Policy Act Compliance](#)
- [Environmental & Historical Preservation Fact Sheet](#)
- [State of Rhode Island General Laws](#)
- [SupplyRI](#)
- [Rhode Island Department of Labor and Training: Find and Train Employees](#)
- [Rhode Island Department of Labor and Training: Comprehensive Support Service Directory](#)
- [MBE/WBE Directory](#)

- [US Department of Labor: Labor Surplus Area](#)
- [Resilient Rhody Climate Resilience Action Strategy](#)
- [Rhode Island State Hazard Mitigation Plan](#)
- [NTIA BEAD Program Frequently Asked Questions](#)
- Workforce Innovation and Opportunity Act ([WIOA](#))
  - The Corporation encourages subgrantees to participate in WIOA-funded initiatives.

Proposers are required to respond to, and incorporate into their responses, the requirements of the latest version of relevant federal guidance and documents. The Corporation cannot confirm that the linked versions above remain the most up-to-date after RFP publication.

### **III. Funding Requirements**

This project is being supported, in whole or in part, by federal award number 44-20-B072, awarded to the State by NTIA. Additionally, NTIA issued the BEAD NOFO to describe the requirements under which it will award grants for the BEAD Program, authorized by the IIJA, Division F, Title I, Section 60102, Public Law 117-58, 135 Stat. 429 (November 15, 2021) (Infrastructure Act or Act) also known as the Bipartisan Infrastructure Law.

All proposals must be eligible uses under the IIJA, the BEAD NOFO, and Rhode Island's IP.

Proposers must comply with the FATC and the Uniform Guidance, among other requirements.

Proposers shall be responsible for any and all federal requirements or obligations in connection with the use of funding for any proposal, including, but not limited to, the dissemination of Form 1099s and reporting of funding usage and/or distribution in accordance with BEAD requirements as well as requirements imposed by the State and/or the Corporation. Proposers who are selected for funding are required to have an active registration with the System of Award Management (SAM or [SAM.gov](#)) (<https://www.sam.gov>) and a UEI number.

### **IV. Eligible Subgrantees, Eligible Costs and Ineligible Costs.**

#### **A. Eligible Subgrantees**

Eligible subgrantees include private entities, local governments, co-operatives, multiparty entities comprised of a combination of public entity members or private entity members including collaborative public private partnerships; all as set forth below.

The following types of entities may apply for BEAD grants:

- Private companies (e.g., corporations, limited liability companies, general partnerships, limited partnerships, etc.)
- Local governmental entities (e.g., municipalities or municipal light plants that offer broadband service)
- Tribal Governments
- Nonprofit Organizations
- Co-operatives, electric co-operatives, and public or private utilities
- Public utility districts
- Partnership Proposals: Proposer(s) can be partnerships between private entities, public

entities, or public private partnerships. Partnerships should be clearly described in the Proposer's Project narrative and include detailed roles and responsibilities of each partner.

- Other entities that develop and/or operate broadband networks and can demonstrate the experience, capacity, and financial resources and stability to satisfy the grant obligations.

## **B. Eligible Costs**

Subgrantees may only use federal award funds and any non-federal cost share committed to an award to pay for allowable costs under the BEAD Program. Allowable costs are determined in accordance with the cost principles identified in 2 C.F.R. Part 200, including Subpart E of such regulations for States and nonprofit organizations, and in 48 C.F.R. Part 31 for commercial organizations (the government has established a set of principles for determining eligible or allowable costs; allowable costs are determined in accordance with the cost principles applicable to the entity incurring the costs (for example, the allowability of costs incurred by State, Territorial, local, or federally) as well as in the grant program's authorizing legislation. In addition, costs must be reasonable, necessary, allocable, and allowable for the proposed Project or other eligible activity and conform to generally accepted accounting principles. Funds committed to an award may only be used to cover allowable costs incurred during the period of performance and for allowable closeout costs incurred during the grant closeout process.

The Corporation may reimburse all eligible costs incurred after the execution of a Subaward Agreement up to the maximum project cost described therein. The selected Proposer(s) will be responsible for any cost-over-runs for any Project. Costs must be directly related to the upfront investment associated with installing and/or upgrading existing broadband facilities in the proposed PAs on a one-time, capital improvement basis.

Eligible Costs include, but are not limited to:

- Make ready
- Design and engineering
- Permitting and regulatory compliance, including environmental, historical, and cultural reviews, building, and electrical
- Network equipment, fiber/cabling, facilities and materials
- Construction and installation
- Qualifying Long Drop, Non-Standard Customer Installation costs; Proposers may request funding to cover the cost of a "non-standard" customer installation that requires the customer to contribute to the upfront, non-recurring cost of the installation. The customer installation is defined as the broadband infrastructure service (aerial or conduit) running from a backbone or lateral fiber optic cable to an Unserved or Underserved BSL in a proposed PA.
- Incidental Overbuild costs: Subgrantee must demonstrate that the proposed overbuild portions of the Project are the most cost-effective and necessary approach to reaching Unserved or Underserved BSls. Incidental overbuild costs cannot exceed 10% of the total project cost.
- Qualifying MDU costs
- Leases for terms longer than one year of facilities required to provide eligible broadband service, including Indefeasible Rights-of-Use agreements and capital leases
- Personnel costs including salaries and fringe benefits for staff required for carrying out the

#### Project

- Costs associated with monitoring and reporting requirements in compliance with the State and NTIA reporting requirements, including award closeout costs
- Administrative costs<sup>1</sup>

### C. Ineligible Costs

Ineligible costs include those costs that are unallowable under the applicable federal cost principles. Please note that costs ineligible for the BEAD Program may not be paid for with matching funds committed to an award. If a Subgrantee is found to have used grant or matching funds on a prohibited cost, the Corporation may take remedial action, including but not limited to deobligation or claw back of funding. In addition, grant funds awarded to an Eligible Subgrantee under the BEAD Program shall be used to supplement, and not supplant, the amounts that the Eligible Subgrantee would otherwise make available for the purposes for which the grant funds may be used.

Ineligible costs include, but are not limited to:

- Acquisition of spectrum licenses
- Operating expenses (including salaries of staff operating the capital Project once completed)
- Short-term operation leases
- Payment of interest or principal on outstanding debt instruments
- Fees associated with the issuance of new debt
- Satisfaction of any obligation arising under or pursuant to a settlement agreement, judgement, consent decree, or judicially confirmed debt restructuring plan in a judicial, administrative, or regulatory proceeding.
- Support or opposition of collective bargaining
- BEAD Program grant application preparation costs
- Expenses incurred prior to the execution of the funding agreement.
- Facilities that are needed to deliver last-mile broadband service to Eligible Locations and incidentally pass ineligible locations are reimbursable, but expenditures solely to benefit ineligible locations are not reimbursable.
- Customer drops, installations and equipment at ineligible locations are not eligible for reimbursement.
- Costs that appear excessive and/or without justification and costs not considered eligible will not be reimbursed.

### V. Project Overview

The NTIA BEAD Program provides \$42.45 billion to expand high-speed internet access across the U.S. and territories. The Corporation has been designated as the administering agency of the BEAD Program in accordance with NTIA's NOFO for BEAD and is responsible for the delivery, reporting, and compliance related to the \$108.7 million allocated through this program. The BEAD Program will be used to achieve the State's goal for broadband access:

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<sup>1</sup> “Administrative Expenses” or “Administrative Costs” mean the costs incurred by a subgrantee related to the administration of its BEAD award, the provision of technical assistance to potential subcontractors, and compliance with grant administration and audit requirements.

*'Leveraging a best-in-class, resilient, sustainable and scalable broadband infrastructure to propel the State's 21<sup>st</sup> century economic, education, healthcare, civic, and social engagement, as well as quality of life, by ensuring all Rhode Islanders have access to affordable, accessible, high-speed internet in their homes, at their places of employment, and at public facilities by December 31, 2027.'*

BEAD Program funding allocated through this RFP will support expansion of broadband access to Unserved and Underserved locations by providing subgrants for last-mile Projects to PAs, which are not currently served by a reliable wireline connection that delivers at least 100 Mbps of download speed and 20 Mbps of upload speed and latency equal to or less than 100 milliseconds.

## **VI. Scope of Work**

This RFP will prioritize the award of Priority Broadband Projects for Unserved and Underserved locations. The Corporation is also requesting proposals for Other Last-Mile Broadband Deployment Projects and uses of Alternative Technologies through this RFP; the Corporation may decide to withhold evaluation of such proposals until after the Priority Broadband Projects are evaluated.

Following the IP-approved criteria, the Corporation has designed 14 PAUs, which are contiguous, indivisible geographic units of Unserved and Underserved BSLs. The PAUs are identified in Appendix B.

Based on the PAUs, Proposers will identify PAs, which are a contiguous set of PAUs, or a proximate set of PAUs, that the Proposer plans to serve together using related infrastructure and operations. Proposers must include plans to build to 100% of the identified Unserved or Underserved BSLs in each PAU within their PA. Within the PA, Proposers may specify CPAUs that are necessary to the Proposer's PA due to the PAUs position in the build plan, the economics of the PA, the proximity to pre-existing network assets or other economic or operational factors. It is anticipated that Proposers will build first to CPAUs within a designed PA and then, to the other PAUs within the PA. PAUs not designated as CPAUs will be considered severable from the PA. Proposers may not designate more than one-fourth of a PA's PAUs as CPAUs; CPAUs must be contiguous and indivisible.

A Proposer may propose one or more PAs but the selected Proposer(s) must serve all BSLs within each PA for which they are selected. The Project must be designed to deliver, upon project completion, service that reliably meets or exceeds download speeds of 100Mbps, upload speeds of 20 Mbps, and latency of less than 100 Milliseconds. The deployment must be completed and services must be available within four (4) years of grant award.

Proposals may be for one or more of the PAs, and each such Proposal must be submitted separately. The Corporation expects that Proposer(s) may need to sub-contract with specialized organizations for technical components of the services consistent with the BEAD NOFO. Proposers must indicate in their proposal if they are proposing to use subcontracted services.

A minimum of 25% matching funds is required for deployment projects, which means applicants must contribute at least a quarter of the project cost from their own sources. Proposers must dedicate this match to the Project and it cannot be used for other program activities. *Note: different matching requirements may be applied for EHCPLT areas (Section VIII).*

## **VII. RFP Schedule**

The Corporation estimates the following schedule related to the RFP:

<b>Milestone</b>	<b>Date</b>
RFP Posted to the Corporation and State of Rhode Island Division of Purchasing website	March 31, 2025
Pre-Bid Webinar	April 7, 2025
Final Day for Proposers to submit questions or comments	April 14, 2025
Answers to questions and other addenda posted to the Corporation and State of Rhode Island Division of Purchasing website, as applicable	April 21, 2025
Proposal submittal deadline	May 9, 2025
Corporation selection and announcement of preferred Proposer(s)	June 23, 2025

The Corporation reserves the right to modify or amend this timeline as it deems, in its sole discretion, convenient or necessary.

## **VIII. EHCPLT**

The EHCPLT will be determined by the Corporation after reviewing Proposals from this RFP and will prioritize fiber deployment while ensuring BEAD funds are used as efficiently as possible to achieve the State's broadband objectives. The Corporation will assess the available BEAD allocation to determine if fiber deployment alone can cover all unserved and underserved locations. If fiber is not cost-effective as determined by implementation of the EHCPLT, the Corporation will first consider Other Last-Mile Broadband Deployment Projects, followed by an Alternative Technology solution, but priority will be given to end-to-end fiber projects. Nothing in this *Section VIII* shall be deemed to relieve an applicant from satisfying all BEAD Program Requirements. The framework for implementation of the EHCPLT shall be subject to the criteria as outlined in the Evaluation Process (*Section IX*).

To establish the EHCPLT, the Corporation will estimate the cost to serve, on an incremental basis, the unserved and underserved locations not awarded after evaluation of proposals submitted through this RFP. The Corporation will perform a thorough optimization assessment and analysis to guarantee the EHCPLT will be set at the maximum possible value to ensure the objectives of (1) universal high-speed broadband service, (2) deploying as much fiber as possible, and (3) using the BEAD funding efficiently.

The Corporation will use NTIA's Eligible Entity Planning Tool or other route-based cost optimization planning tool to determine the cost per location to pass the remaining premises with priority broadband. This analysis will help determine how many of the remaining locations can be covered at a reasonable cost by priority broadband technologies and the funding needed to serve

locations above the EHCPLT with Other Last-Mile Broadband Deployment Projects or Alternative Technologies (e.g., fixed wireless or low Earth orbit (LEO) satellite).

If all proposed Priority Broadband Projects have grant costs per location that are higher than the EHCPLT, and another application offers a proposal for the same PAU with lower grant costs that is not end to end fiber, and thus categorized as an Other Last-Mile Deployment Project, the Corporation will inform the Priority Broadband Project Proposers that their grants are too costly.

- Other Last-Mile Broadband Deployment Projects or Alternative Technology solutions must, at a minimum, be capable of providing service of 100/20 Mbps and latency less than or equal to 100 milliseconds at a lower cost.
- Other Last-Mile Broadband Deployment Projects or Alternative Technology applicants will be required to provide contingency plans to demonstrate that excess capacity will be available and new customers in BEAD areas will not be denied service because the network is fully utilized by existing customers.

To ensure effective program implementation, the Corporation will explore technologies like satellite internet access and unlicensed fixed wireless and consider guidance from NTIA, best practices, and successful deployments in other states and jurisdictions.

## **IX. Evaluation Process**

The Corporation will review the submitted Proposals pursuant to the evaluation procedures and criteria set forth below. The selection and award of the most advantageous Proposal(s) will be based upon Proposal scores determined in accordance with the evaluation procedures and criteria stated in the RFP, and by a selection committee formed of Corporation employees. The selection committee may seek input and advice from consultants or other industry experts as needed in its sole discretion.

The Corporation will first evaluate Proposals to determine whether they are responsive based on the Minimum Requirements described in this RFP (*Section X*). The Corporation will also confirm the Proposers commitment to adherence to the Low-Cost Broadband Service Option Requirement (*Section XII*). All responsive Proposals will be evaluated in the manner described in Proposal Scoring Criteria section of this RFP, and the Selection Committee will assign an overall ranking to each Proposal based on each Proposal's overall score. The Corporation will not select any Proposer that the Corporation determines has submitted a non-responsive Proposal.

Proposers are highly encouraged to follow the format of the RFP when crafting Proposals as well as ensure all required information within the Proposal is print-friendly to better facilitate Proposal reviews.

The Corporation reserves the right to not make an award. Any and all awards are subject to the continuation of federal funding availability. As applicable, the Corporation expects the selected Proposer(s) to be able to work with the Corporation's other contracted broadband consultants and vendors.

## **A. Deconfliction Process**

The Corporation will grant complete PAs to selected Proposers as often as possible; in theory, the efficiencies of having network equipment across contiguous PAUs will result in cost savings, thereby improving a Proposer's score (Section XIII). Recognizing Proposers may have proposed overlapping PAs, the Corporation plans to adhere to the following deconflicting process:

1. The Corporation will first evaluate proposals for each PAU individually. The Corporation will preliminarily award these PAUs based on the Scoring Approach.
2. The Corporation will next consider the following factors to finalize its selection of awards by balancing its desire to minimize costs and ensure universal coverage:
  - a. The designation of PAUs as CPAUs:
    - i. Proposers will not be awarded PAUs that are not designated as CPAUs in PAs where the Proposer did not win the CPAU(s)
    - ii. Proposers not awarded CPAUs within a PA will have the option to withdraw their proposal for that PA or submit a revised proposal for that PA without the lost CPAUs. Proposers that submit a revised proposal may do so only once.
  - b. The strength of the proposal for the PA as a whole, and when comparing PAs from two or more Proposers, the Corporation will make its best effort to make a like-for-like comparison between proposed PAs (e.g., comparing costs per location passed/connected, selecting a subset of PAUs within a PA for comparison)
  - c. The award of non-competitive PAUs (i.e., any PAU for which there is only one proposal).

## **B. Request for Clarification and Additional Information**

To facilitate the examination and scoring of Proposals, the Corporation may, at any time during the Proposal evaluation, issue one or more requests for clarification to one or more Proposers, seeking additional information or clarification from a Proposer. Proposers shall respond to any such request by such time as is specified by the Corporation in such request. The scope, length and topics to be addressed in requests for clarification shall be prescribed by, and subject to the absolute discretion of the Corporation. Upon receipt of any requested additional information or clarification, the applicable Proposal or Proposals may be re-evaluated by the Corporation to consider such additional information or clarification. Any additional information or clarification submitted by a Proposer pursuant to a request for clarification shall become a part of the Proposer's Proposal.

## **C. Subaward Agreement Negotiation**

The selected Proposer(s) will enter into a fixed amount subaward with the Corporation. Upon the selection of a Successful Proposer(s) but prior to finalizing a Subaward Agreement, the Corporation may proceed with certain negotiations in an attempt to finalize a Subaward Agreement with the Successful Proposer(s). Any modifications or clarifications agreed to with the Successful Proposer(s) during Subaward Agreement negotiations, shall also be incorporated into the final Subaward Agreement. If an Agreement cannot be successfully negotiated within a reasonable period of time, negotiations will be terminated, and negotiations with the next highest-ranking Proposer may commence. The process may continue until a Subaward Agreement is signed.

At the conclusion of the RFP process, the Corporation will identify any remaining PAUs with eligible Unserved and/or Underserved locations. The Corporation may negotiate directly with Proposers that participated in the RFP process to build out to these remaining PAUs. Such negotiations may provide Proposers with inducements, which may include things like permission to use non-priority technologies and/or reducing/relaxing some requirements.

## **X. Minimum Requirements and Proposal Responsiveness Review**

Prior to scoring Proposals, the Corporation will undertake an initial review to determine whether the minimum requirements identified in table below are met. These requirements describe the minimum qualifications or representations/certifications that must be included in a Proposal for it to be complete and therefore eligible to be evaluated.

The following summarizes the Corporation's gating criteria

	<b>Gating Criteria</b>	<b>Submittal Requirements</b>
1	<b>Financial Capability</b>	Qualifications for Financial Obligations
		Letter of Credit
		Audited Financial Statements
		Required Business Plans and Financial Analysis
2	<b>Managerial Capability</b>	Resumes for Key Personnel
		Readiness to Manage Proposed Projects
3	<b>Technical Capability</b>	Implementation and Credentialled Workforce
		Project Management Plan
4	<b>Compliance Evaluation</b>	Compliance with federal, state and local Laws
		Worker-led Health and Safety Committees
5	<b>Operational Capability</b>	Operational Qualifications
		Number of Years of Operation
		Compliance with FCC from 477, Rules/Regulations
		Operating and Financial Reports for Electric Transmission of Distribution Services
		Operational Capabilities of New Entrants
6	<b>Ownership</b>	Supporting Ownership Information
7	<b>Public Funding</b>	Disclosure of Existing and Future Publicly Funded Projects
		Detailed Information for Existing and Future Publicly Funded Projects
8	<b>Workforce Credential Plan</b>	Detail about the Proposers' policies and procedures around ensuring the workforce is credentialled, including whether workforces are unionized or not, subcontracted or directly employed, or trained while on the job.
9	<b>Minority Inclusion</b>	Recruitment Plan for MBEs, WBEs and Labor Surplus Firms
		Climate change mitigation plan and

<b>10</b>	<b>Climate Change</b>	commitment to maintenance and upkeep of network for its useful life (10 years or as otherwise defined by forthcoming NTIA guidance)
<b>11</b>	<b>Cybersecurity and Supply Chain</b>	Cybersecurity risk management plan and supply chain risk management plan
<b>12</b>	<b>Certification of Compliance with NTIA Regulations</b>	Certification that the Proposers will adhere to all requirements of the BEAD NOFO and other applicable published NTIA regulations (e.g., the forthcoming “Tailoring the Uniform Guidance to the BEAD Program”).

## **1. Financial Capability**

### ***1a. Required Qualifications for Financial Obligations***

Financial Capability will be evaluated from the financial data submitted by Proposers in the RFP process. The Corporation will review typical financial health indicators such as audited financial statements, including debt to equity/leverage, liquidity ratios, average revenues in the past three years, and profit levels in the past three years. For mitigating project completion risks, the ability of the subgrantee to pay liquidated damages in the event of implementation delays will also be assessed.

Proposers must certify that they:

- Are qualified to meet the financial obligations associated with their Project;
- Will have available funds for all Project costs that exceed the amount of their award;
- Will comply with all BEAD Program requirements, including service milestones;
- Have availability of funds over the complete implementation period.

### ***1b. Letter of Credit***

Proposers shall submit a letter from an eligible bank (see 47 C.F.R. § 54.804(c)(2)) in which the bank commits to issuing an irrevocable standby letter of credit to the Proposer. The letter must include the dollar amount of the letter of credit and the issuing bank’s agreement to adhere to the Corporation’s model letter of credit terms and conditions. Before executing any subgrantee agreements, each Proposer shall obtain an irrevocable standby letter of credit, which the Corporation deems acceptable, and amounts to no less than 25 percent of the subaward amount. An opinion letter from its legal counsel must be included with the letter of credit stating, subject only to customary assumptions, limitations and qualifications, that in a proceeding under Title 11 of the United States Code, 11 U.S.C. § 101 et seq. (the “Bankruptcy Code”), the bankruptcy court would not treat the letter of credit or proceeds of the letter of credit as property of the subgrantee’s bankruptcy estate under Section 541 of the Bankruptcy Code.

### ***Letter of Credit Waiver***

The Corporation will adopt the NTIA’s BEAD Letter of Credit Waiver

<https://broadbandusa.ntia.gov/funding-programs/policies-waivers/BEAD-Letter-of-Credit-Waiver>. The Corporation will:

- ***Allow Credit Unions to Issue Letter of Credit.*** The NOFO requires subgrantees to obtain a letter of credit from a U.S. bank with a safety rating issued by Weiss of B-

or better. The waiver permits Proposers to fulfill the letter of credit requirement (or any alternative permitted under the waiver) utilizing any United States credit union that is insured by the National Credit Union Administration and that has a credit union safety rating issued by Weiss of B- or better.

- ***Allow Use of Performance Bonds.*** The waiver permits a Proposer to provide a performance bond equal to 100% of the BEAD subaward amount in lieu of a letter of credit, provided that the bond is issued by a company holding a certificate of authority as an acceptable surety on federal bonds as identified in the Department of Treasury Circular 570. The Rhode Island Little Miller Act, under Rhode Island General Laws 37-12, regulates payment and performance bonds for state-level public works and construction works.
- ***Allow to Reduce the Obligation Upon Completion of Milestones.*** The waiver allows the Corporation to reduce the amount of the letter of credit obligation below 25% over time or reduce the amount of the performance bond below 100% over time, upon a Proposer fulfilling deployment milestones specified by the Corporation.
- ***Allow for an Alternative Initial Letter of Credit or Performance Bond Percentage.*** The NOFO requires that the initial amount of the letter of credit be 25% of the subaward (or the initial amount of the performance bond be 100% of the subaward under the option described above). The waiver allows the initial amount of the letter of credit or performance bond to be 10% of the subaward amount during the entire period of performance when the Corporation issues funding on a reimbursable basis consistent with Section IV.C.1.b of the NOFO and reimbursement is for periods of no more than six months each.

#### ***1c. Audited Financial Statements***

Proposers are required to provide financial statements from the prior year that are audited by an independent certified public accountant. If the Proposer has not been audited during the ordinary course of business, in lieu of submitting audited financial statements, it must submit unaudited financial statements from the prior year and certify that it will provide financial statements from the prior fiscal year that are audited by an independent certified public accountant prior to disbursal of the grant amount. The Corporation will not approve or disburse any grant for the deployment or upgrading of network facilities unless it is determined that the documents submitted demonstrate the Proposer's financial capability with respect to the proposed project.

Note that Alternative Technologies are not subject to these rules per the NTIA's Alternative Technologies Public Notice. The NTIA will be provided financials of Low-Earth Orbit service providers and will produce a letter to Eligible Entities affirming providers' financial capacity.

#### ***1d. Required Business Plans and Financial Analysis***

Proposers are required to submit business plans and related pro forma or cash flow analyses that substantiate the financial sustainability of the proposed project. The financial analysis should include at least five years of operating cost and cash flow projections post targeted completion of the project.

The business plans should include, but are not limited to the following:

- Executive Summary

- Project Description
- Revenues (revenue sources, projected customer numbers, penetration defined as subscribers divided by number of premises passed, and average revenues per user)
- Proposed BEAD Program Outlay
- Capital Costs
- Operating and Maintenance Costs (with detailed breakdown and assumptions)
- Implementation Schedule
- Financial Analysis Justifying Proposed User Rates
- Technical and Operational Plan
- Risk Assessments
- Free cash flows
- Balance Sheet Projections

## **2. Managerial Capability**

### ***2a. Resumes for Key Personnel***

Proposers are required to provide resumes of key personnel to represent various areas, such as design and construction management, financing, marketing, operations, maintenance, and general management. The Corporation will evaluate experience based on the relevance to their proposed roles in future projects.

Criteria for evaluating personnel include, but are not limited to:

- Total years of relevant experience and track record
- Number of years of experience with the subgrantee
- Experience with several projects similar in scope to that of the Project and details of such Projects
- Existing capacity to undertake the Project
- Staffing plans and organizational charts to evaluate proposed capability

### ***2b. Readiness to Manage Proposed Project Requirements***

Proposers must provide a narrative describing their readiness to manage their proposed project and ongoing services to be provided.

This narrative should include, but is not limited to:

- ***Proof of experience and track record.*** Proposers must provide a key personnel narrative that describes relevant qualifications of key management personnel proposed to support this project. Proposers are required to submit detailed resumes along with a narrative explanation of the given role and responsibilities. Proposers should include the following:
  - Proof of experience undertaking projects of similar size and scope in general, and specifically in Rhode Island and / or the selected PAs being bid
  - Qualifications of key personnel in successfully managing engineering, design, construction, operations and maintenance of similar projects with proof of quality of services delivered to end users using reference checks
  - Experience and capacity in recruiting and training engineering, design and construction labor

- Experience including the presence of personnel, processes, and systems to respond to network performance impairments or outages
- **Proof of existing capacity.** Proposers must describe their ability and experience to manage a broadband services network; and proof that they have the capacity to complete the project given its other projects and existing workload. Proposers will be asked to include recent and upcoming organizational changes and relevant organizational policies.

### 3. Technical Capability

#### 3a. Technical Qualifications for Implementation and Credentialed Workforce

Proposers must submit a narrative outlining how its experience translates into value in the context of the Project and PA(s) being bid. The Proposer must detail the proposed structure of its team and the role of each key entity (both prime contractors and key subcontractors) including joint venture partners and consultants. The Proposer's qualifications should provide details of similarly sized projects completed in the last five to 10 years. Proposers must include projects completed for the Corporation, the State of Rhode Island, any local government agency of Rhode Island, any projects completed for other public sector or private sector owners, and any projects implemented in other Unserved and Underserved areas of the country.

Proposers who are current broadband providers must submit details on the products and services, operations, total subscriber count, type of services (business/residential), local presence in the region and other markets served including demonstrating any similar agreements with municipalities, electric utilities or other public-private partnerships.

Proposers must submit details on the required technical staff, including information on training and credentials, for all the project phases (e.g. design, construction, and operations). Proposers must certify to their technical qualifications to complete and operate the Project, their capacity to fulfill funded activities in a competent manner, and their commitment to using an appropriately skilled and credentialed workforce.

Proposers must submit the following:

- Documentation of current licensing with governing bodies to operate in Rhode Island;
- Attestation of current Rhode Island licensing for any engineers who certify network design, diagrams, project costs, etc.; and
- Demonstration of experience designing and delivering projects of similar size, complexity, and timeline.

#### 3b. Project Management Plan

Proposers must submit a Project Management Plan that includes, but is not limited to the following:

- *Project network design:*
  - High level network architecture and design;
  - Technology specifications that indicate expected uptime/availability and download/upload speeds & latency for end users;
  - Preliminary network route map (both as PDF and spatial data e.g., Shapefile or KMZ/KML), which details an approach to deploy fiber optic infrastructure to all locations within the PA, including the number of fiber/route miles, and the existing

- network assets leveraged; and
- Description of any non-network resources and/or assets contributed to Project.
- *Project Delivery Schedule* showing complete build-out and initiation of service, all certified by a professional engineer (PE), within four (4) years of the date on which the Proposer receives the subgrant. The schedule will detail various cost components, such as design, engineering, procurement, mobilization, civil works, structural, mechanical, electrical works, testing, and commissioning.
  - Build-out timeline including key milestones for Project preparation and implementation (key milestones shall include, but are not limited to network design and engineering, aerial or buried rights of way licensing and permitting, construction and providing service to subscribers);
  - Narrative detailing schedule risk factors, Proposer's plan to manage these risk factors, and Proposer's approach for managing any time overruns and/or delays due to unforeseen factors; and
  - Narrative detailing key procurement (materials and equipment) and labor risks that may delay Project completion, and Proposer's plan to manage these risks.
- *Project costs:* Proposers must provide a project budget that includes:
  - Total Project costs, including
    - Engineering and design
    - Environmental and construction permitting
    - Other pre-construction costs, including right of way, leases, easements, and similar costs to develop infrastructure, and equipment, shelter, land, site preparation and site restoration costs;
    - Construction costs, including materials (e.g., fiber, poles, hardware, conduit, splitters), labor and construction management; for materials, provide totals costs, unit costs, and number of units required.
    - Testing, commissioning
    - Customer connection costs (e.g. customer premise equipment drops)
  - Total cost per passing;
  - Total Federal Grant Request, Total Cash Matching Funds, Total In-Kind Matching Funds, Total Matching Funds (Cash and In-Kind) and Total Matching Funds as a percentage of Total Project Costs.

*Proposers are required to spend at least 50 percent of the Matching Funds prior to any distribution of BEAD funds, which will be done on a reimbursable basis per deployment progress milestones achieved by the selected Proposer.*

- *Operations and maintenance plan:* Proposers are required to describe how the technology system is to be safely operated daily. The plan will contain a comprehensive description of the technology system's resources, daily routine operational and maintenance procedures.
- *Procurement management:* Proposers are required to identify key procurement items (materials, equipment, or labor) that are on the critical path and may delay the project implementation.
- *Risk management:* Proposers will be required to identify all potential risks to their projects and how they intend to mitigate these risks.
- *Project health, safety, security, and environmental management:* In accordance with the laws, subgrantees are required to comment on the health, safety, security, and

environmental management practices in their PA. *Proposers must follow the specific EHP compliance requirements in Section XI.*

## **4. Compliance Evaluation**

### ***4a. Compliance with Federal, State, and Local Laws***

Proposers must submit a detailed history of compliance with all applicable federal, state, and local laws for previous broadband projects funded by federal and state programs, including disclosure of any default on any federal or state obligation associated with grants for broadband deployment. Proposers must also provide evidence of current compliance policies and procedures for applicable federal, state, and local laws. *Proposers must follow the specific BABA and EHP compliance requirements in Section XI.*

Proposers must comply with applicable laws, which include, but are not limited to:

- Potential environmental impacts, as required by the National Environmental Policy Act (NEPA) and the National Historic Preservation Act for compliance with applicable environmental and national historical preservation requirements.
- Usage of fiber-optic communications facilities, equipment and construction materials used in the project as per the Build America, Buy America Act (BABA).
- Restrictions on buying equipment from a specified country.
- Worker safety as per Occupational Safety and Health Administration (OSHA) regulations and/or other applicable safety regulations.
- Minimum wage, overtime, and non-discrimination as per Department of Labor and/or other applicable labor regulations, including Davis-Bacon and Service Contract Act requirements, where applicable
- Construction contract/subcontract specific legislation including anti-indemnity statutes, prompt payment acts, lien statutes and retainage statutes.
- Local licensing and permitting requirements.
- Contracting with Minority Businesses Enterprises (MBEs) and Women's Business Enterprises (WBEs).
- Applicable Procurement rules and regulations.

### ***4b. Worker-Led Health and Safety Committees***

Proposers must provide evidence of policies and procedures that allow for the formation of worker-led health and safety committees that management will meet upon reasonable request, which should comply with best practices outlined in the *NTIA Internet For All: Workforce Planning Guide*. Proposers must certify on-going compliance of this requirement in in quarterly fiscal and progress reports throughout the project. Proposers must submit documentation on any workplace safety violations resulting in a citation in the past three years. Proposers must also provide access to workplace safety manuals that govern the Proposer's work and work environment during all stages of a project, namely engineering, design, permitting, environmental review, construction/splicing, testing, provisioning, and ongoing support of the broadband infrastructure.

## **5. Operational Capability**

### ***5a. Operational Qualifications***

Proposers shall certify that they possess the operational capability to operate and complete the project. Proposers must provide operational details, including, but not limited to:

- Years providing internet service;
- Types of internet service provided;
- Current subscribers, including households, businesses, and community anchor institutions;
- Description of previous experience in operating and managing a utility-based infrastructure network including details of households and population served;
- Description of industry experience with broadband and telecommunications infrastructure operation and management;
- Experience of working with municipal agencies to develop affordable pricing or packages for key community stakeholders and populations;
- Details of key business entities/partners/subcontractors used in operating and management of the network;
- Completed federally funded deployment projects, including their sources of funding and timeframes for completion (or non-completion);
- Penalties paid by the Proposer, any subsidiary or affiliate of the Proposer or the holding company of the Proposer relative to deployment projects;
- The number of times Proposer has ever been a defendant in the State of Rhode Island for a criminal proceeding or civil litigation related to the deployment or operation of a broadband infrastructure; and
- Whether a Proposer has ever defaulted on a federal or state obligation to deploy broadband infrastructure and if so, to provide details.

#### ***5b. Number of Years in Operation***

Proposers must submit a certificate that attests to providing a voice, broadband and/or electric transmission or distribution service for at least two (2) consecutive years prior to the date of their proposal submission, or that it is a wholly owned subsidiary of such an entity. This certificate must attest to and specify the number of years that the Proposer or its parent company has been operating. Proposers must also provide documentation that evidences the total years of operational experience. In the case of public-private partnerships, only one entity needs to provide this certification.

Proposers with less than two years of operation can demonstrate operational capability based on the guidelines enumerated below in *Section X.5(e)* “Required Operational Capabilities of New Entrants.”

#### ***5c. Compliance with FCC Form 477, Rules/Regulations***

Proposers that have provided voice and/or broadband service are required to certify via a timely filing of Commission Form 477 and the Broadband DATA Act submission, if applicable during this timeframe. Proposers are also required to certify that it has complied with the Commission’s rules and regulations. Proposers must submit an explanation related to pending or completed enforcement action, civil litigation, or other matter in which they failed to comply or were alleged to have failed to comply with the Commission’s rules and regulations.

#### ***5d. Operating and Financial Reports for Electric Transmission of Distribution Services***

Proposers that have only operated an electric transmission or distribution service are required to submit qualified operating and/or financial reports for the last three (3) years they have filed with the relevant financial institution for the relevant time period. In addition, Proposers must submit certification that the submission is a true and accurate copy of the reports provided to the relevant financial institution.

#### ***5e. Operational Capabilities of New Entrants***

For new entrants to the broadband market, Proposers shall provide sufficient evidence to demonstrate that the newly formed entity has sufficient operational capabilities that it has developed or obtained through internal or external resources. This evidence may include, but not be limited to:

- Resumes from key personnel who will be part of the new entity;
- Project descriptions and narratives from contractors, subcontractors or other partners with relevant operational experience who will be part of the new entity;
- Experience of operating non-broadband networks and infrastructure;
- Capabilities transferable from non-broadband networks to broadband networks; and
- Any other comparable data or evidence

### **6. Ownership**

#### ***6a. Supporting Ownership Information***

Proposers will be required to submit the relevant ownership information listed below as required by 47 C.F.R. § 1.2112(a)(1)-(7):

- List the real party or parties in interest in the Proposer or proposal, including a complete disclosure of the identity and relationship of those persons or entities directly or indirectly owning or controlling (or both) the Proposer;
- List the name, address, and citizenship of any party holding 10 percent or more of stock in the Proposer, whether voting or nonvoting, common or preferred, including the specific amount of the interest or percentage held;
- List, in the case of a limited partnership, the name, address and citizenship of each limited partner whose interest in the Proposer is 10 percent or greater (as calculated according to the percentage of equity paid in or the percentage of distribution of profits and losses);
- List, in the case of a general partnership, the name, address and citizenship of each partner, and the share or interest participation in the partnership;
- List, in the case of a limited liability company, the name, address, and citizenship of each of its members whose interest in the Proposer is 10 percent or greater;
- List all parties holding indirect ownership interests in the Proposer as determined by successive multiplication of the ownership percentages for each link in the vertical ownership chain, that equals 10 percent or more of the Proposer, except that if the ownership percentage for an interest in any link in the chain exceeds 50 percent or represents actual control, it shall be treated and reported as if it were a 100 percent interest; and
- List any FCC-regulated entity or Proposer for an FCC license, in which the Proposer or any of the parties identified in paragraphs (1) through (5) above, owns 10 percent or more of stock, whether voting or nonvoting, common or preferred. This list must include a description of each such entity's principal business and a description of each such entity's

relationship to the Proposer (e.g. Company A owns 10 percent of Company B (the Proposer) and 10 percent of Company C, then Companies A and C must be listed on Company B's proposal, where C is an FCC licensee and/or license Proposer).

## **7. Public Funding**

### ***7a. Disclosure of Existing and Future Publicly Funded Projects***

Proposers are required to disclose, for itself and for its affiliates any proposal they have submitted or plan to submit, and every broadband deployment project they are undertaking or have committed to undertake at the time of the proposal using public funds. Public funds include, but are not limited to funds provided under:

- Families First Coronavirus Response Act (Public Law 116- 127; 134 Stat. 178);
- CARES Act (Public Law 116-136; 134 Stat. 281);
- Consolidated Appropriations Act, 2021 (Public Law 116-260; 134 Stat. 1182);
- American Rescue Plan of 2021 (Public Law 117-2; 135 Stat. 4);
- Federal Universal Service Fund high-cost program (e.g., RDOF, CAF); and/or
- State or local universal service or broadband deployment funding program.

### ***7b. Detailed Information for Existing and Future Publicly Funded Projects***

Proposers must provide a list of publicly funded projects both under development as well as contemplated in the next three (3) years. For each of these projects, the Proposer shall disclose:

- The speed and latency of the broadband service to be provided (as measured and/or reported under the applicable rules);
- The geographic area to be covered;
- The number of Unserved and Underserved locations committed to serve (or, if the commitment is to serve a percentage of locations within the specified geographic area, the relevant percentage);
- The amount, types, and conditions associated with each public funding to be used;
- The cost of service to the consumer;
- The matching commitment, if any, provided and to be provided by the Proposer or its affiliates;
- The ownership structure of the network;
- The support provided by the public agency in the project implementation; and
- The project partners, including Contractors, Suppliers, Consultants, and others.

## **8. Workforce Credential Plan**

### ***8a. Ensuring an Appropriately Skilled and Credentialed Workforce***

Proposers are required to submit a Workforce Credential Plan to ensure that the Project workforce will be appropriately skilled and credentialed (including by the Proposer and each of its contractors and subcontractors). The Workforce Credential Plan will include documenting and certifying the following:

(i) The ways in which the Proposer will ensure the use of an appropriately skilled workforce, e.g., through Registered Apprenticeships or other joint labor management training programs that serve all workers;

- Proposers must certify they will require their contractors and subcontractors to provide apprenticeships and pre-apprenticeships through a Registered Apprenticeship, joint labor

management partnership, or other high-quality, on-the-job training opportunity as a part of the Equitable Workforce Development and Job Quality scoring criterion, these measures may be included in the Workforce Credential Plan.

(ii) The steps that will be taken to ensure that all members of the project workforce will have appropriate credentials, e.g., appropriate and relevant preexisting occupational training, certification, and licensure;

- Proposers must submit a narrative describing their procedures for ensuring workforce credentials.
- Proposers should discuss policies around providing trainings, certification or licensure to their workforce. Proposers should discuss which trainings are required, whether they perform the training in-house or outsource to third-parties, and whether they provide additional trainings or apprenticeships beyond what is required.
- Proposers should discuss procurement procedures for contractors or subcontractors with proof of credentials, how those credentials are verified, and whether ongoing training or certifications will be required for contractors or subcontractors.
- Proposers should include information about the procedures to ensure that licenses and certifications are up-to-date.

(iii) Whether the workforce is unionized

- If the workforce is unionized, Proposers should include which unions they will be working with and for which roles.
- Proposers should include the credentials, training programs, apprenticeships, or other opportunities provided by the union to its members.

(iv) Whether the workforce will be directly employed or whether work will be performed by a subcontracted workforce;

- Proposers must elaborate on hiring and training policies for directly employed and contracted workforces, respectively. For example, the Proposer may train, certify and/or license directly employed workers but would not provide those resources to subcontractors, who will be hired with those credentials.
- Proposers must certify that all workers, whether they are directly employed or contracted, will have the necessary credentials to undertake BEAD project work.

(v) The entities that the Proposer plans to contract and subcontract with in carrying out the proposed work.

- Proposers must provide the names of contractors and subcontractors, the work those companies will perform, the number of contracted or subcontracted employees by job title, and the relevant credentials required to perform that work.
- Proposers must certify that those contracted or subcontracted companies will have the necessary credentials.

(vi) If the project workforce or any subgrantee, contractor, or subcontractor is not unionized, the subgrantee will also need to provide with respect to the non-unionized workforce:

- The job titles and size of the workforce (FTE positions, including for contractors and subcontractors) required to carry out the proposed work over the course of the project and the entity that will employ each portion of the workforce;
- For each job title required to carry out the proposed work (including contractors and subcontractors), a description of:
  - Safety training, certification, and/or licensure requirements (e.g., OSHA 10, OSHA 30, confined space, traffic control, or other training as relevant depending

- on title and work), including whether there is a robust inhouse training program with established requirements tied to certifications, titles; and
- Information on the professional certifications and/or in-house training in place to ensure that deployment is done at a standard consistent with the BEAD Program's goals and in compliance with federal and state laws.

## **9. Minority Inclusion**

### ***9a. Recruitment Plan for MBEs, WBEs and Labor Surplus Firms***

Proposers shall submit plans to maximize inclusion of MBEs, WBEs and Labor Surplus firms that aligns with the policies enforced by the Rhode Island Equal Opportunity Office and leverages the SupplyRI database in identifying subcontractors. In alignment with Title 37, Chapter 14.1, and Title 37, Chapter 2.2 of the Rhode Island General Laws, Proposers are eligible for up to 6 points for participation of ISBE firms in the Proposer's Project (*Section XIII, Criterion S-3*).

## **10. Climate Change**

### ***10a. Climate Change Mitigation Plan***

Proposers must address the climate and weather risks in PAs for which they apply. Proposers must submit ongoing maintenance and climate change mitigation plans as part of their proposal. For the Corporation to accept a Proposer's climate change mitigation plan, a Proposer must:

- Demonstrate consideration for all climate risks articulated within IPV2 and for any other climate risks identified by the Proposer. This includes, but is not limited to:
  - Flood zone
  - Distance to shoreline
  - High winds and tropical storm risk
  - Universal risks: rising air temperatures, thunderstorms and winter storms
- Detail risk mitigation approaches in the design and deployment of its network; Examples of appropriate mitigation plans, include, but are not limited to:
  - Discussion of buried vs. aerial deployments
  - Consideration of the expected risks of flooding, winter and tropical storms, rising sea levels, and all other climate risks noted herein within build plans, including the expected project costs and BEAD outlay. –
  - Budgeting for back-up generators or other sources of alternative power to ensure redundancy in electrical systems.
- Detail long-term maintenance plans, which account for current and future hazards; and
- Commit to maintain its networks for 10 years (or as otherwise outlined in NTIA guidance) regardless of climate hazards.

## **11. Cybersecurity and Supply Chain**

### ***11a. Cybersecurity Plan***

Proposers are required to attest that:

- The Proposer has a cybersecurity risk management plan (the plan) in place that is either: (a) operational, if the Proposer is providing service prior to the award of the grant; or (b) ready to be operationalized upon providing service, if the Proposer is not yet providing service prior to the grant award;

- 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;
- The plan will be reevaluated and updated on a periodic basis and as events warrant; and
- The plan will be submitted to the Corporation 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.

### ***11b. Supply Chain Risk Management (SCRM)***

Proposers are required to attest that:

- The Proposer has a SCRM plan in place that is either: (a) operational, if the Proposer is already providing service at the time of the grant; or (b) ready to be operationalized, if the Proposer is not yet providing service at the time of grant award;
- 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;
- The plan will be reevaluated and updated on a periodic basis and as events warrant; and
- The plan will be submitted to the Corporation prior to the allocation of funds. If the subgrantee makes any substantive changes to the plan, a new version will be submitted to the Corporation within 30 days.

### **12. Certification of Compliance with NTIA Regulations**

Proposers must certify that it will adhere to all requirements of the BEAD NOFO and other applicable published NTIA regulations.

### **XI. EHP and Build America, Buy America Act (BABA) Compliance Requirements**

The Corporation is committed to ensuring that all potential Proposers understand that all projects to deploy network facilities must be compliant with EHP and BABA Requirements outlined in the BEAD NOFO. Subgrantees must adhere to the requirements of BABA and any results of NTIA proposed waiver, the National Environmental Policy Act (NEPA) (42 U.S.C. § 4321 et seq.) and National Historic Preservation Act (NHPA) (54 U.S.C. § 300101 et seq.).

#### **A. Build America, Buy America Requirements**

Proposers must provide a detailed plan for compliance with BABA requirements, in alignment with the BEAD NOFO requirements and Final BABA guidance issued by the Office of Management and Budget:

Proposers' plans must include, but are not limited to, its approach to:

- Self-certification and compliance reporting in compliance with NTIA requirements
- Ensuring that all 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.

- Compliance with definitions included in Section 70912 of the Build America, Buy America Act (BABA), which provides that a manufactured product is considered produced in the United States if the manufactured product was manufactured in the United States and the cost of the components of the manufactured product that are mined, produced or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation
- Ensuring that funds are not used to purchase or support any covered communications equipment or service, as defined in Section 9 of the Secure and Trusted Communications Networks Act of 2019 (47 U.S.C. § 1608).
- Ensuring funding is not used 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.

*The Proposer will be required to adhere to any updated BABA guidance that is released by NTIA.*

#### ***Prior BABA Challenges and/or Noncompliance***

Proposers are required to certify whether their organization has any previous challenges or noncompliance with BABA requirements. If the answer is yes, the Proposer must provide a detailed narrative and documentation regarding any challenges or noncompliance with BABA requirements and the organization's plan to remain compliant with BABA requirements. The information provided by the Proposer, including prior BABA compliance history, will be used during threshold review to determine if the Proposer has the capacity and capability to comply with BABA requirements.

Proposers must provide details related to challenges or noncompliance including:

- Instances of noncompliance (nature of noncompliance, affected materials, extent and duration of non-compliance)
- Challenges encountered (Supply chain issues, technical constraints)
- Corrective measures put in place (including future compliance assurance)

Additional BABA resources can be found in the important links section of this document.

#### **B. Environmental and Historic Preservation Requirements**

Proposers must provide their approach to compliance with National Environmental Policy Act (“NEPA”) and the National Historical Preservation Act (“NHPA”). This approach must comply with the guidance provided by NTIA in the EHP and NEPA resources and the BEAD NOFO.

Proposers must provide a detailed narrative that includes, but is not limited to:

- Description of how they will comply with applicable environmental and national historical preservation requirements.
- Ability to obtain all necessary federal level, Rhode Island level, and local governmental permits and approvals necessary for the proposed work to be conducted based on the timeline for implementation for PAs.

- project design that minimizes the potential for adverse impacts on the environment.
- Demonstration of the readiness of their broadband team to analyze potential environmental impacts, which includes:
  - Designating specific individuals to be specifically responsible for EHP activities and to outline their responsibilities with regard to EHP and NEPA review.
  - Identifies subcontractors that may be engaged to support potential environmental assessments
  - Certifying that if at any time during the project they do not have the capacity or expertise in-house, additional staff or contractor support will be hired with the needed capacity and expertise to manage EHP activities.
  - Outlines coordination that will take place with other federal, state and local agencies that may have a role in EHP requirements

### ***Prior EHP Challenges and/or non-compliance***

Proposers are required to certify whether their organization has any previous challenges or noncompliance with EHP requirements. If the answer is yes, the Proposer must provide a detailed narrative and documentation regarding any challenges or noncompliance with EHP requirements and the organization's plan to remain compliant with EHP requirements. The information provided by the Proposer, including prior EHP compliance history, will be used during threshold review to determine if the Proposer has the capacity and capability to comply with EHP requirements.

Proposers must provide details related to challenges or noncompliance including:

- Instances of noncompliance (nature of noncompliance, affected materials, extent and duration of non-compliance)
- Challenges encountered (Supply chain issues, technical constraints)
- Corrective measures put in place (including future compliance assurance)

For additional details, refer to the National Environmental Policy Act (NEPA) (42 U.S.C. § 4321 et seq.) and the National Historic Preservation Act (NHPA) (54 U.S.C. § 300101 et seq.)

### ***EHP Certifications***

Subgrantees must obtain all necessary federal, Eligible Entity, and local governmental permits and approvals necessary for the proposed work to be conducted and will need to identify feasible measures to reduce or avoid any identified adverse environmental impacts of their proposed Projects or other eligible activities. The failure to do so may be grounds for not making an award.

Applicants will be required to:

- Certify that their organization understands that NEPA/NHPA analysis will be required for every Project funded through the BEAD Program and agrees to provide sufficient information to allow for NEPA/NHPA analysis such as a detailed Project description, including applicable supporting documentation.
- Certify that their organization understands that they are responsible for identifying and obtaining applicable federal, state and local permits (such as easements) required to complete any BEAD Projects

- Certify that their organization will cooperate with NTIA in identifying feasible measures to reduce or avoid any identified adverse environmental impacts of their proposed Project(s) or other eligible activities.

## **XII. Low-Cost Broadband Service Option Requirement**

Since the Affordable Connectivity Program (ACP) has been discontinued, Proposers will be required to develop and administer their own Low-Cost Broadband Service Plans, as described in the BEAD NOFO Section IV.C.2.c.i. Proposers are required to offer the low-cost broadband service option to households located in areas in which the percentage of individuals with a household income that is at or below 150 percent of the poverty line applicable to a family of the size involved is higher than the state percentage of such individuals. Proposers are required to have the low-cost broadband service option to be available to eligible recipients for the useful life of the network, as outlined in the NTIA guidance.

Proposers must adhere to the following:

- A total cost of \$30/month or less must be offered to eligible end users, which is inclusive of all taxes, fees, and charges, with no additional non-recurring costs or fees to the consumer such as installation costs or consumer premise equipment (CPE), with the exception of annual inflation increases based on the annual Personal Consumption Expenditures (PCE) Price Index for services excluding energy and housing, as published by U.S. Commerce Bureau of Economic Analysis
- Allows the end user to apply any state or federal connectivity subsidy to the service price;
- Provides the greater of (a) typical download speeds of at least 100 Mbps and typical upload speeds of at least 20 Mbps, or the fastest speeds the infrastructure is capable of if less than 100 Mbps/20 Mbps or (b) the performance benchmark for fixed terrestrial broadband service established by the Federal Communications Commission pursuant to Section 706(b) of the Communications Act of 1934, as amended;
- Provides typical latency measurements of no more than 100 milliseconds;
- Is not subject to data caps, surcharges, or usage-based throttling, and is subject only to the same acceptable use policies to which subscribers to all other broadband internet access service plans offered to home subscribers by the participating subgrantee must adhere;
- In the event the internet service provider later offers a low-cost plan with higher speeds downstream and/or upstream, permits Eligible Subscribers that are subscribed to a low-cost broadband service option to upgrade to the new low-cost offering at any time and at no additional cost.

## **XIII. Proposal Scoring Criteria**

After the Corporation has established that a Proposal meets the minimum requirements and can be considered responsive, the Corporation will evaluate and rank Proposals using the Scoring Criteria summarized below:

### **Priority Broadband Projects:**

#	Primary Criteria (Required by NTIA)	Points	Weighing Criteria
P1	Affordability	35	
P2	Minimal BEAD Program Outlay	30	

P3	Fair Labor Practices	15	75%
	<b>Subtotal</b>	80	
<b>Secondary Criteria</b>			
S1	Local and Tribal Coordination	7	25%
S2	Equitable Workforce Development and Job Quality	6	
S3	ISBE Participation <sup>2</sup>	6	
S4	Community Impact	4	
S5	Open Access	2	
S6	Speed to Deployment (required by NTIA)	1	
	<b>Subtotal</b>	26	
	<b>Total</b>	106	100%

### Other Last-Mile Projects

#	Primary Criteria (Required by NTIA)	Points	Weighing Criteria
P1	Affordability	35	75%
P2	Minimal BEAD Program Outlay	30	
P3	Fair Labor Practices	15	
	<b>Subtotal</b>	80	
<b>Secondary Criteria</b>			
S1	Local and Tribal Coordination	7	
S2	Equitable Workforce Development and Job Quality	6	25%
S3	ISBE Participation	6	
S4	Speed of Network and Other Capabilities (required by NTIA)	4	
S5	Open Access	2	
S6	Speed to Deployment (required by NTIA)	1	
	<b>Subtotal</b>	1	
	<b>Total</b>		<b>100%</b>

#### Criterion #P1 – Affordability (35 Points)

For both Priority Broadband Projects and Other Last-Mile Broadband Proposers will earn points by showing a commitment to provide the most affordable total price to the customer for 1/1 Gbps service (or, pending NTIA approval, substantially similar service such as 940/880 Mbps) or 100/20 Mbps service, respectively for the proposed PA(s).

#### Submittal Requirements:

<sup>2</sup> “ISBE”, as defined by Rhode Island laws, means a small business enterprise that is owned and controlled by one or more individuals who are women or minorities as defined by R.I. Gen. Laws § 37-14.1-3 or a small business enterprise that is owned and controlled by one or more individuals with disabilities as defined by R.I. Gen. Laws § 37-2.2-2. To be recognized under these Regulations as an ISBE, the business must be certified as either: a. an MBE by the ODEO; b. a WBE by the ODEO; or c. a Disability Business Enterprise by the Governor’s Commission on Disabilities (see Section 2.6.7 of 220-RICR-80-10-2, Regulations Governing Participation by Small Business Enterprises in State Purchase of Goods and Services and in Public Works Projects).

1. Certify binding commitment to a non-promotional price, as specified by the Proposer, for the useful life of the network asset, as outlined in NTIA guidance (i.e. the federal interest period, which is 10 years after the year in which the subgrant for a project has been closed out).
2. Proposers are permitted to include annual inflation adjustments based on the annual Personal Consumption Expenditures (PCE) Price Index for services excluding energy and housing, as published by U.S. Commerce Bureau of Economic Analysis;
3. Proposers must commit to offering the same rates to households that receive broadband subsidy or participate in an affordable broadband program and households that do not receive a broadband subsidy or participate in an affordable broadband program;
4. The service costs must be inclusive of all taxes, fees, and charges, with no additional non-recurring costs or fees to the consumer (i.e., no installation or equipment costs);
5. The service must provide typical latency measurements of no more than 100 milliseconds; and
6. The service may not be subject to data caps, surcharges, or usage-based throttling, and is subject only to the same acceptable use policies to which subscribers to all other broadband internet access service plans offered to home subscribers by the participating subgrantee must adhere.

**Evaluation and Scoring:** The Corporation will review for reasonableness all the revenue and cost components of the business plan and cash flow projections, required as a Minimum Requirement. If the Corporation is not satisfied with the Proposer's submittals, it may assign a score of zero points to this evaluation criterion or request one-time clarification from Proposers in case of lack of sufficient detail. If the clarifications provided are not sufficient, the Corporation may assign a score of zero points for Affordability.

The Corporation will assign points for affordability based on the following approach:

***Priority Projects:***

<b>Description</b>	<b>Awarded Points</b>
Proposer with the Lowest Monthly subscription price for 1/1 Gbps service (download/upload)	35
Proposer(s) with monthly subscription costs greater than or equal to twice the lowest proposal for 1/1 Gbps service (download/upload)	0
All other Proposers are awarded points proportionally to the proposal with the lowest monthly subscription costs. For example, a proposal with monthly costs X% higher than the lowest cost proposal will earn points based on following formula: Awarded Points = (1-X%) x 35	Formula-based

***Other Last-Mile Projects:***

<b>Description</b>	<b>Awarded Points</b>
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Proposer with the Lowest Monthly subscription price for 100/20 Mbps service (download/upload)	35
Proposer(s) with monthly subscription costs greater than or equal to twice the lowest proposal for 100/20 Mbps service (download/upload)	0
All other Proposers are awarded points proportionally to the proposal with the lowest monthly subscription costs. For example, a proposal with monthly costs X% higher than the lowest cost proposal will earn points based on following formula: Awarded Points = (1-X%) x 35	Formula-based

### **Criterion #P2 – Minimal BEAD Program Outlay (30 points)**

For both Priority Broadband Projects and Other Last-Mile Broadband Projects, Proposers will be able to earn points in this section based on the absolute lowest dollar value of BEAD funding that will be required to complete the project in each PAU, accounting for both total projected cost and the prospective Proposer's proposed match. ***The Proposed match, absent a waiver, must cover no less than 25 percent of the project's total cost.***

#### **Submittal Requirements:**

1. Submit, for each PAU, the total projected cost to connect all locations (Unserved BSLS and Underserved BSL) within the PAU, the proposed match, and the dollar amount of the BEAD funding requested, computed as the difference between the previous two items;
2. Submit, for each PAU, the total projected cost to connect only Unserved and Underserved locations within the PAU, the proposed match, and the dollar amount of the BEAD funding requested, computed as the difference between the previous two items;
3. In all cases for each PAU, the match, absent of a waiver, must cover no less than 25 percent of the project cost; and
4. A narrative description of the Proposer's approach to the deployment of broadband, including elements such as use of existing infrastructure, access to poles, conduits, easements, or right of ways, existing or planned relationships with contractors and trade partners, and its approach to network design, scalability, and resiliency.

**Project Cost Considerations:** When developing cost estimates and requests for BEAD Outlays for both Priority Broadband Projects and Other Last-Mile Broadband Projects, Proposers must take into consideration the following:

- Proposers are required to spend at least 50 percent of the matching funds prior to any distribution of BEAD funds, which will be done on a reimbursable basis per deployment progress milestones achieved by the selected Proposer.
- If given an award, Proposers will be required to build the network all the way to the customer's premises (upon service activation); for example, there will be no additional funding for long driveways. Proposers will be responsible for the cost of all drops and customer premise telecommunications equipment as a condition of receiving funding and will not be allowed to charge residents of locations subsidized by BEAD funding for drops or customer premise equipment;
- Costs submitted as part of this criteria are binding and the Corporation will not award any

additional funds for unexpected costs.

*Note: The selected Proposer(s) will enter into a fixed amount subaward with the Corporation. The Corporation will reimburse the Subrecipient for eligible costs that are incurred using agreed upon milestones, unit cost, or full payment upon completion, as provided in the fixed amount subaward. It is anticipated that the Subrecipient will file reports with the Corporation when milestones are met and approved by the Corporation. The Subrecipient will be responsible for any cost over-runs.*

**Evaluation and Scoring:** The Corporation will review the projected cost to complete each PAU in conjunction with the business plan and related proforma or cash flow analysis, as well as a narrative, which must detail the project's quality, design, and scalability. This review will be done for reasonableness using available benchmarks. If the Corporation is not satisfied with the Proposer's submittals, it may assign a score of zero points to this evaluation criterion or request one-time clarifications from Proposers in case of lack of sufficient detail. If the clarifications provided are not sufficient, the Corporation may assign a score of zero points to Minimal BEAD Program Outlay.

The Corporation will assign points based on the following approach:

***Priority and Other Last-Mile Projects:***

<b>Description</b>	<b>Awarded Points</b>
Proposer(s) with lowest BEAD Outlay	30
Proposers with BEAD Outlays greater than or equal to twice the lowest proposal	0
All other Proposers are awarded points proportionally to the proposal with the lowest BEAD Outlays. For example, a proposal with outlays X% higher than the lowest proposal will earn points based on following formula: Awarded Points = (1- X%) x 30	Formula-based

**Criterion #P3 – Fair Labor Practices (15 points)**

For both Priority Broadband Projects and Other Last-Mile Broadband Projects, Proposers will be able to earn points in this section by having a demonstrated record of and plans to be in compliance with federal labor and employment laws. New entrants are permitted to make specific, forward-looking commitments to strong labor and employment standards and protections.

**Submittal Requirements:**

1. Submit documentation to prove past compliance with federal labor and employment laws:
  - a. A certification from an Officer/Director-level employee (or equivalent) of the Proposer, as well as its contractors and subcontractors, evidencing consistent past compliance with federal labor and employment laws for the preceding three years.
  - b. A narrative description of the Proposer's historical use of contracting and subcontracting arrangements, including staffing plans.

- c. At least one example of each contractor and subcontractor's compliance with federal labor and employment laws in the context of broadband deployment or a similar project in the last three years.

2. A written disclosure from the Proposer of any instances in which it or its contractors or subcontractors have been found to have violated laws such as the Occupational Safety and Health Act, the Fair Labor Standards Act, or any other applicable labor and employment laws for the preceding three years;
3. New entrants without a record of labor and employment law compliance will be required to make specific, forward-looking commitments to strong labor and employment standards and protections with respect to BEAD-funded projects;
4. Submit a plan for ensuring compliance with federal labor and employment laws in the delivery of deployment from Proposers, including its contractors and subcontractors. This plan should include:
  - a. Information on applicable wage scales and wage and overtime payment practices for each class of employees expected to be involved directly in the physical construction of the broadband network, and
  - b. Information on how the Proposer will ensure the implementation of workplace safety protocols, including but not limited to the use of safety committees that are authorized to raise health and safety concerns in connection with the delivery of deployment projects. These protocols should comply with the Occupational Safety and Health Act and the Fair Labor Standards Act.

**Evaluation and Scoring:** The Corporation will assign points based on the following approach:

***Priority and Other Last-Mile Projects***

<b>Description</b>	<b>Maximum Points</b>
<p>For <b>existing ISPs</b>, the Corporation will evaluate past compliance with federal labor and employment laws, as evidenced by:</p> <ul style="list-style-type: none"> <li>• Certification from an officer of consistent past compliance for the past three years (<b>2 points</b>),</li> <li>• A narrative of historical contracting and subcontracting arrangements (<b>2 points</b>), and</li> <li>• At least one example of each contractor and subcontractor's compliance with federal labor and employment laws (<b>2 points</b>)</li> </ul>	6
<p>For <b>new entrant service providers</b> without a record of labor and employment law compliance of at least three-years, the Corporation will evaluate:</p> <ul style="list-style-type: none"> <li>• A certification of specific, forward-looking commitments to comply with federal labor and employment laws; such commitments must apply to the entirety of the project's workforce, including contractors and subcontractors (<b>3 points</b>),</li> </ul>	

<ul style="list-style-type: none"> <li>• A certification from the new entrant's contractors and subcontractors of consistent past compliance with federal labor and employment laws for the past three years (<b>1 points</b>), and</li> <li>• For each contractor and subcontractor, at least one example of compliance with federal labor and employment laws (<b>2 points</b>)</li> </ul>	
Disclosure of no violations of applicable labor and employment laws in the preceding three years for the prospective Proposer and its contractor(s) and/or subcontractor(s)	3
Evaluation of plan for ensuring performance with federal labor and employment laws that includes: <ul style="list-style-type: none"> <li>• Applicable wages scales (<b>2 points</b>)</li> <li>• Wage and overtime payment practices for each class of employee involved in the network construction and ensure compliance in its own labor and employment practices (<b>2 points</b>)</li> <li>• How the Proposer will ensure implementation of workplace safety protocols that comply with OSHA and the Fair Labor Standards Act (<b>2 points</b>)</li> </ul>	6

#### **Criterion #S1 – Local and Tribal Coordination (7 points)**

For both Priority Broadband Projects and Other Last-Mile Broadband Projects, Proposers will be able to earn points by demonstrating a proven ability to form substantive public-private collaborative partnerships with nonprofits, community organizations, local governments and/or tribal governments, as well as proof of support from nonprofits, community organizations, local governments and/or tribal governments in the proposed PA. Areas of collaboration for public-private partnerships may include planning and delivery of broadband infrastructure, financing deployment of broadband infrastructure, maintenance and operations of broadband infrastructure, knowledge transfer, development of technical or managerial skills, and/or improvements to the community.

#### **Submittal Requirements:**

1. Submit narrative describing Proposer's experience forming substantive public-private partnerships with nonprofits, community organizations, local governments and/or tribal governments, and at least one example of a recent partnership;
2. Submit letters of support from nonprofits, community organizations, local governments and/or tribal governments with organizations in the proposed PA; and
3. Submit a narrative outlining the partnership plan and how the Proposer will keep the partnering nonprofits, community organizations, local governments and/or tribal governments engaged and involved in this project.

**Evaluation and Scoring:** The Corporation will assign points based on the following approach:

#### ***Priority and Last-Mile Projects***

<b>Description</b>	<b>Maximum Points</b>
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Evaluation of narrative that describes (1) ability to form public-private partnerships, with at least one example of a recent partnership, and (2) partnership and stakeholder engagement plan.	2
Evaluation of letters of support for this project from nonprofits, community organization, local governments and/or tribal governments.	5

### **Criterion #S2: Equitable Workforce Development and Job Quality (6 points)**

For both Priority Broadband Projects and Other Last-Mile Broadband Projects, Proposers will be able to earn points by demonstrating and proving their commitment to advancing equitable workforce development and job quality objectives.

#### **Submittal Requirements:**

1. Certify that they will require their contractors and subcontractors to provide apprenticeships and pre-apprenticeships tied to a Registered Apprenticeship program, joint labor management partnerships, and other high-quality, on-the-job training opportunities, which may include minimum requirements of contractor or subcontractor job hours to be performed by apprentices; and ensuring that such programs lead to employment with wages at rates not less than the rates prevailing on projects and other eligible activities of a similar character in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code.
2. Submit narrative supporting Proposer's commitment to offering quality jobs. Proposers will be scored based in part on the extent to which they will deliver on the quality jobs standard.
  - a. A "quality job" is defined as a job that exceeds the local prevailing wage for an industry in the region, includes basic benefits (e.g., paid leave, health insurance, retirement/savings plan), and/or is unionized, and helps the employee develop the skills and experiences necessary to advance along a career path. "Prevailing wage" is defined by the Department of Labor as "the average wage paid to similarly employed workers in a specific occupation in the area of intended employment." See Economic Development Administration, ARPA Good Jobs Challenge NOFO, EDAHDQ-ARPGJ-2021-2006964, at n. 1, available at <https://www.grants.gov/web/grants/viewopportunity.html?oppId=334720>
3. Submit documentation supporting Proposers' commitment to prioritize hiring local workers. This documentation should include hiring plans highlighting how the Proposer will recruit and ensure access to historically underrepresented populations facing labor market barriers. (Underrepresented populations include communities of color, women, and other groups such as persons with disabilities, LGBTQI+ people, disconnected youth, individuals in recovery, individuals with past criminal records, including justice-impacted and reentry participants, serving trainees participating in the SNAP, TANF, and WIC, and veterans and military spouses.)

**Evaluation and Scoring:** The Corporation will assign points based on the following approach:

#### ***Priority and Other Last-Mile Projects:***

Description	Maximum Points
Certification that Proposer will require contractors and subcontractors to provide Registered Apprenticeships and pre-apprenticeships tied to a Registered Apprenticeship, joint labor management partnership or other high-quality, on-the-job training opportunities.	2
Evaluation of narrative supporting a commitment to offering quality jobs, defined as one which “exceeds the local prevailing wage, includes basic benefits (e.g., paid leave, health insurance, retirement/savings plan), and/or is unionized, and helps the employee develop the skills and experiences necessary to advance along a career path.	2
Evaluation of narrative detailing approach to prioritize local hiring, as evidenced by documentation such as hiring plans to recruit local workers as well as support career access for historically underrepresented populations.	2

### **Criterion S3 – ISBE Participation (6 points)**

This scoring element is required by Title 37, Chapter 14.1, and Title 37, Chapter 2.2 of the Rhode Island General Laws. For both Priority Broadband Projects and Other Last-Mile Broadband Projects, Proposers will be able to earn points by committing to the participation of firms owned and controlled by minorities (MBEs), women (WBEs), and small disadvantaged businesses owned and controlled by persons with disabilities (Disability Business Enterprises a/k/a “DisBE”) (collectively, MBEs, WBEs, and DisBEs are referred to herein as ISBEs) in the performance of deployment activities associated to the BEAD Program.

#### **Submittal Requirements:**

1. Proposers are required to complete, sign and submit these forms with their overall proposal. Please complete separate forms for each MBE, WBE and/or Disability Business Enterprise subcontractor/supplier to be utilized on the solicitation. See Appendix A for information and the MBE, WBE, and/or Disability Business Enterprise Participation Plan form(s).

**Evaluation and Scoring:** The Corporation will assign points based on the ISBE Participation Rate, which has the following calculation:

- *ISBE Participation Rate for Non-ISBE Vendors.* The ISBE participation rate for non-ISBE vendors shall be expressed as a percentage and shall be calculated by dividing the amount of non-ISBE vendor’s total contract price that will be subcontracted to ISBEs by the non-ISBE vendor’s total contract price. For example, if the non-ISBE’s total contract price is \$100,000.00 and it subcontracts a total of \$12,000.00 to ISBEs, the non-ISBE’s ISBE participation rate would be 12%.
- *ISBE Participation Rate for ISBE Vendors.* The ISBE participation rate for ISBE vendors shall be expressed as a percentage and shall be calculated by dividing the amount of the ISBE vendor’s total contract price that will be subcontracted to ISBEs and the amount that will be self-performed by the ISBE vendor by the ISBE vendor’s total contract price.

For example, if the ISBE vendor's total contract price is \$100,000.00 and it subcontracts a total of \$12,000.00 to ISBEs and will perform a total of \$8,000.00 of the work itself, the ISBE vendor's ISBE participation rate would be 20%.

***Priority and Other Last-Mile Projects:***

<b>Description</b>	<b>Maximum Points</b>
The Proposer with the highest ISBE participation rate shall receive the maximum ISBE participation points.	6
All other Proposers shall receive ISBE participation points by applying the following formula: [Proposer's ISBE participation rate] / [Highest ISBE participation rate] x 6 points. For example, if Proposer A has the highest ISBE participation rate at 20% and Proposer B's ISBE participation rate is 12%, Proposer A will receive the maximum 6 points and Proposer B will receive 3.6 points (= 12% / 20% x 6).	Formula-Based
Proposers that fail to submit a proposed ISBE Participation Rate or any requested substantiating documentation in a timely manner shall receive zero (0) ISBE participation points	0

***NOTE: CRITERION S4 IS DIFFERENT FOR PRIORITY PROJECTS AND OTHER LAST-MILE PROJECTS.***

**Criterion S4 Priority Projects – Community Impact**

For Priority Broadband Projects, Community Impact refers to the additional benefits or services that Proposers will offer to communities, in the form of incremental non-subsidized locations passed in the PAU by end-to-end fiber optic technology. The Corporation is evaluating this criterion as it seeks to incentivize subgrantees to use their networks to serve as many Rhode Islanders as possible and BEAD-subsidized networks are likely to be proximate to locations that are not eligible for funding. Subgrantees will not be eligible to use BEAD-funding to pass or connect to these additional locations, and incremental spending to pass or connect these locations will not count to the subgrantees' match of at least 25% of eligible BEAD expenses. Proposers with the commitment to serve the most incremental locations in the PAU with end-to-end fiber will earn maximum points.

**Submittal Requirements:**

1. A list and count of additional locations in the PAU that are not BEAD-eligible that the Proposer intends to serve prior to 2028 (Proposers may not include locations it already serves or locations it intends to upgrade or overbuild),
2. A network build plan or other evidence that clearly demonstrates that these additional locations will not be subsidized by Rhode Island's BEAD funds (such plans or evidence may consider use of planned assets, including the BEAD funded network),
3. A deployment cost analysis and business plan that prove that these additional locations will be economically viable (such analysis may consider use of planned assets, including as the BEAD-funded network),

4. A narrative walk-through describing the incremental build plans and analyses in items 1-3, and
5. Certification that if granted the PAU, the Proposer will serve those locations at no additional cost to the State of Rhode Island

**Evaluation and Scoring:** The Corporation will assign points based on the following approach:

**Priority Projects**

Description	Maximum Points
Proposer(s) with the most incremental end-to-end fiber premises built in the PAU at no incremental cost to the State.	4
Proposer(s) with no incremental end-to-end fiber premises built in the PAU.	0
All other Proposers are awarded points proportionally to the proposal with the highest incremental premises built. For example, a proposal with X incremental premises will earn points based on following formula: Awarded Points = X / [Number of Incremental Premises in Highest Proposal] x 4	Formula-based

**Criterion S4 Other Last Mile Projects – Speed of Network and Other Capabilities (4 Points)**

For Other Last-Mile Broadband Projects, Proposers will be able to earn points by proposing to deploy projects that use broadband technologies that are scalable, affordable, and with longer useful life of the capital asset useful life, for each PAU.

**Submittal Requirements:** For Other Last-Mile Broadband Projects, Proposers are required to submit a description of the technology proposed for deployment in the PAU, the expected download and upload speeds and latency for each eligible location within the PAU, and evidence of the expected speeds and latency for each location (e.g., technical modeling, anticipated network design or architecture, or detailed technical narrative).

**Evaluation and Scoring:** The Corporation will review for reasonableness all submittals. If the Corporation is not satisfied with the Proposer's submittals, it may assign a score of zero points to this evaluation criterion, or request one-time clarifications from Proposers in case of lack of sufficient detail. If the clarifications provided are not sufficient, the Corporation may assign a score of zero points for Speed of Network and Other Capabilities.

If the Corporation is satisfied with the submittals, the Corporation will assign points based on the following approach:

Description	Maximum Points
Hybrid fiber-coaxial using a DOCSIS 3.1 standard or higher	4
Fixed wireless using licensed spectrum	3
Low Earth Orbit (LEO) satellite	1

### Criterion S5: Open Access (2 points)

Proposers will earn points for their commitment to the provision of wholesale open access to last-mile broadband service providers for the life of the network, on fair, equal, and neutral terms to all retail providers.

**Submittal Requirements:** Proposers must submit a narrative describing their plans for open-access of their network. This narrative must include:

1. A statement that either reflects the Proposer's binding commitment to offer open-access or the Proposer's intent not to offer open-access; and a timeline for open-access, if planned, and
2. If the Proposer commits to offering open-access:
  - A timeline for open-access,
  - Proposed wholesale rates and other terms of service,
  - A narrative detailing the Proposer's relationship with likely retail service providers, and
  - A business plan and related pro forma or cash flow analysis to substantiate the economic viability of an open-access network.

**Evaluation and Scoring:** The Corporation will review for reasonableness all submittals. If the Corporation is not satisfied with the Proposer's submittals, it may assign a score of zero points to this evaluation criterion, or request one-time clarifications from Proposers in case of lack of sufficient detail. If the clarifications provided are not sufficient, the Corporation may assign a score of zero points for Open Access.

If the Corporation is satisfied with the submittals, the Corporation will assign points based on the following approach:

Description	Maximum Points
Commitment and availability of immediate open access of the Proposer's network.	2
Commitment to open access within five years.	1
No plans for open access of the Proposer's network at any time in the future.	0

### Criterion #S6 – Speed to Deployment (1 Point)

For both Priority Broadband Projects and Other Last-Mile Broadband Projects, Proposers will be able to earn points by demonstrating their commitment to provide service for all eligible locations in each Project Unit Area as expeditiously as possible, following the date the subgrantee is formally contracted with the Corporation.

**Submittal Requirements:** As part of the Project Management Plan (*RFP Section X.3.b*), Proposers are required to submit:

1. a project schedule that details activities such as design & engineering, procurement, mobilization, civil works, structural, mechanical, electrical works, or testing and commissioning.

**Evaluation and Scoring:** The Corporation will assign points based on the following approach:

***Priority and Other Last-Mile Projects***

<b>Description</b>	<b>Maximum Points</b>
Service is provided to all eligible locations in the PAU in less than 25 months after BEAD agreement is executed.	1
Service is provided to all eligible location in the PAU in 25 months or more and less than 37 months after BEAD agreement is executed.	.5
Service is provided to all eligible locations in the PAU in 37 months or more after BEAD agreement is executed.	0

## **XIV. Monitoring & Reporting**

The Corporation will engage in the monitoring of subgrantee activities to ensure subawards are used for authorized purposes, in compliance with federal statutes, regulations, and the terms and conditions of the subaward. The Corporation intends to employ a robust subgrantee monitoring program that will consist of risk assessments, quarterly subgrantee reporting, random sampling of subgrantee files, corrective action policies and post-contracting support to ensure subgrantees can meet all required BEAD compliance reporting and activities.

### **A. Monitoring Practices**

The Corporation intends to engage in the following monitoring activities for subgrantees activities including, but not limited to:

- Coordination with subgrantees through individual discussions, group or team meetings, events or trainings.
- Reviewing financial and programmatic reports including invoices and progress and outcome reports in alignment with contractual obligations.
- Conducting an annual Subgrantee Assessment, verifying that every subgrantee is audited as required by 2 CFR Part 200, Subpart F.
- Conducting follow-up to ensure that the subgrantee takes timely and appropriate action on all deficiencies pertaining to the federal award through audits, on-site reviews, and other means.
- Issuing management decisions for audit findings pertaining to the federal award that have not been sufficiently addressed in a timely or acceptable manner and consider imposing specific subaward conditions upon a subgrantee, if appropriate, based on risk failure to comply as described in 2 CFR 200 Parts 339 to 343.

Other potential monitoring tools per 2 CFR 200 Part 331(e) that the Corporation may utilize include:

- Providing training and technical assistance
- Performing on-site reviews of program operations

- Developing Remediation and Improvement Plans on the basis of internal, federal, and state audits

Additionally, based upon the on-going monitoring that will be conducted, the Corporation will perform subaward reviews which at a minimum include a discussion with the Program Manager regarding subgrantee performance, status, and inquiry on whether the subgrantee has met the thresholds requiring an audit under the current 2 CFR Part 200, Subpart F. If an audit is required, the Corporation will ensure the subgrantee submits the report, report package or the documents required by federal regulations and/or recipient's requirements and follow up on any findings or issues identified in the audit to ensure they have been satisfactorily addressed. If any additional findings are identified by the Corporation review, the Corporation will implement appropriate requirements to ensure the contractual obligations, and all requirements are met. To the extent any issues persist, escalation to the legal and program teams may be necessary.

## **B. Reporting Mandates**

Subgrantees will be mandated to submit reports on the Project status and performance in accordance with the NTIA's Semi-Annual Reporting (SAR) Guidance.<sup>3</sup> Additionally, subgrantees are required to engage in a financial review alongside the Corporation on either a 3-month, 6- month, or annual basis, with the cadence determined based on the results of a risk assessment. The Corporation reserves the right to increase the frequency of the reporting and financial review and conduct an on-site review if any issues or concerns are identified.

Subgrantees will also be required to comply with the reporting requirements as outlined in the BEAD NOFO and other guidance as may be issued by NTIA from time to time. These regular reports must be submitted at least on a semiannual basis for the duration of the subgrant.

Subgrantees will be required to submit project-related information necessary to comply with the BEAD reporting requirements, which includes but is not limited to:

- Include a list of addresses or location identifications (including the Broadband Serviceable Location Fabric established under 47 U.S.C. 642(b)(1)(B)) that constitute the service locations that will be served by the broadband infrastructure to be constructed and the status of each Project;
- Identify new locations served within each PA at the relevant reporting intervals, and service taken (if applicable);
- Identify whether each address or location is residential or commercial;
- Describe the types of facilities that have been constructed and installed;
- Describe the peak and off-peak actual speeds of the broadband service being offered;
- Describe the maximum advertised speed of the broadband service being offered;
- Describe the non-promotional prices, including any associated fees, charged for different tiers of broadband service being offered;
- List all interconnection agreements that were requested, and their current status; Report the number and size of contracts and subcontracts awarded by the subgrantee

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<sup>3</sup> AR Guidance from NTIA as of March 31, 2025 is available here:  
[https://broadbandusa.ntia.doc.gov/sites/default/files/2024-12/BEAD\\_Anticipated\\_SAR\\_Reportin...](https://broadbandusa.ntia.doc.gov/sites/default/files/2024-12/BEAD_Anticipated_SAR_Reportin...) Requirements\_Guidance\_v1.3.pdf

disaggregated by recipients of each such contract or subcontracts that are MBEs or WBEs;

- Include any other data that would be required to comply with the data and mapping collection standards of the Commission under Section 1.7004 of title 47, Code of Federal Regulations, or any successor regulation, for broadband infrastructure Projects;
- Include an SF-425, Federal Financial Report and meet the requirements described in the Department of Commerce Financial Assistance Standard Terms and Conditions (dated November 12, 2020), Section A.01 for Financial Reports.

Please note that all reports submitted to the Corporation are considered public records, which are subject to the Access to Public Records Act of the Rhode Island General Laws.

### **Instructions and Notifications to Proposers**

1. Potential Proposers are advised to review all sections of this RFP carefully and to follow instructions completely, as failure to make a complete submission as described elsewhere herein may result in rejection of the proposal.
2. Alternative approaches and/or methodologies to accomplish the desired or intended results of this procurement are solicited. However, proposals that depart from or materially alter the terms, requirements, or scope of work defined by this RFP will be rejected as being non-responsive.
3. All costs associated with developing or submitting a proposal in response to this RFP, or to provide oral or written clarification of its content, shall be borne by the Proposer. The Corporation assumes no responsibility for such costs.
4. Proposals are considered to be irrevocable for a period of not less than 120 days following the date set for submission of proposals.
5. All pricing submitted will be considered to be firm and fixed unless otherwise indicated herein.
6. Proposals that are submitted late, misdirected or sent to the wrong email address will not be accepted.
7. All proposals should identify the proposed team of professionals, including those employed by subcontractors, if any, along with respective areas of expertise and relevant credentials. Proposer should also provide a delineation of the portion of the scope of work for which each of these professionals will be responsible.
8. All proposals should include the Proposer's FEIN or Social Security number as evidenced by a W9, downloadable from <https://www.irs.gov/pub/irs-pdf/fw9.pdf>.
9. All proposals should include a completed RFP Response Certification Cover Form, included in this document and available here: <https://commerceri.com/wp-content/uploads/2022/08/RFP-RESPONSE-CERTIFICATION-COVER-FORM.pdf>.

10. The purchase of services under an award made pursuant to this RFP will be contingent on the availability of funds and made at the discretion of the Corporation.
11. Awarding this RFP is based on the Evaluation Criteria set forth in this RFP. Vendors are advised, however, that all materials and ideas submitted as part of this proposal and during the performance of any award shall be the property of and owned by the Corporation, which may use any such materials and ideas.
12. Interested parties are instructed to peruse the Corporation's website ([www.commerceri.com](http://www.commerceri.com)) on a regular basis, as additional information relating to this solicitation may be released in the form of an addendum to this RFP. Addenda will also be posted to the Rhode Island State Division of Purchases' website at [www.ridop.ri.gov](http://www.ridop.ri.gov).
13. Equal Employment Opportunity (R.I. Gen. Laws § 28-5.1-1, et seq.) – § 28-5.1-1 Declaration of policy – (a) Equal opportunity and affirmative action toward its achievement is the policy of all units of Rhode Island state government, including all public and quasi-public agencies, commissions, boards and authorities, and in the classified, unclassified, and non-classified services of state employment. This policy applies to all areas where State dollars are spent, in employment, public services, grants and financial assistance, and in state licensing and regulation.
14. In accordance with Title 7, Chapter 1.2 of the General Laws of Rhode Island, no corporation organized under the laws of another state or country shall have the right to transact business in Rhode Island until it shall have procured a Certificate of Authority to do so from the Rhode Island Secretary of State (401-222-3040). This is a requirement only of the successful bidder.
15. The Proposer should be aware of the State's Minority Business Enterprise (MBE) requirements, which address the State's goal of fifteen percent (15%) participation by MBE's in all procurements, including a minimum of 7.5% participation by minority business enterprises owned and controlled by a minority owner, as defined in § 37-14.1-3, and a minimum of 7.5% participation by minority business enterprises owned and controlled by a woman. For further information, visit the website [www.mbe.ri.gov](http://www.mbe.ri.gov).
16. The Corporation reserves the right to award to one or more Proposers.
17. Respondents are requested to clearly mark any information in their proposal they deem confidential. Applicants should familiarize themselves with the Access to Public Records Act.

**Proposal Requirements** In order to be considered responsive, proposals must at a minimum contain all listed in the minimum requirements and submittal requirements above as well as the person who will be the primary point of contact with the Rhode Island Commerce Corporation. Proposers should submit all materials in the order listed in the RFP.

## **Proposal Submission**

Responses to this RFP must be received as follows: one (1) electronic (PDF) version must be provided by email to [RFP@commerceri.com](mailto:RFP@commerceri.com) by **11:59 pm on May 9, 2025**.

Submissions that are late, misdirected or sent to the wrong email address will not be accepted.

**Note: To ensure transparency, no phone calls pertaining to this RFP will be accepted.**

Questions, interpretations, or clarifications concerning this RFP should be directed by e-mail to [RFP@commerceri.com](mailto:RFP@commerceri.com) no later than 11:59 pm on April 14, 2025. Responses to questions, interpretations, or clarifications concerning this RFP will be posted online via addendum at [www.commerceri.com](http://www.commerceri.com) and [www.ridop.ri.gov](http://www.ridop.ri.gov) on April 21, 2025 to ensure equal awareness of important facts and details.

*The Rhode Island Commerce Corporation reserves the right to terminate this solicitation prior to entering into any agreement with any qualified firm pursuant to this Request for Proposal, and by responding hereto, no firms are vested with any rights in any way whatsoever.*

*Rhode Island Commerce Corporation reserves the right to reject any or all proposals for not complying with the terms of this RFP.*

APPENDIX A  
**PROPOSER ISBE RESPONSIBILITIES AND MBE, WBE, AND/OR DISABILITY  
BUSINESS ENTERPRISE PARTICIPATION FORM**

**A. Proposer's ISBE Responsibilities (from 150-RICR-90-10-1.7.E)**

1. Proposal of ISBE Participation Rate. Unless otherwise indicated in the RFP, a Proposer must submit its proposed ISBE Participation Rate in a sealed envelope or via sealed electronic submission at the time it submits its proposed total contract price. The Proposer shall be responsible for completing and submitting all standard forms adopted pursuant to 105-RICR-90-10-1.9 and submitting all substantiating documentation as reasonably requested by either the Using Agency's MBE/WBE Coordinator, Division, ODEO, or Governor's Commission on Disabilities including but not limited to the names and contact information of all proposed subcontractors and the dollar amounts that correspond with each proposed subcontract.
2. Failure to Submit ISBE Participation Rate. Any Proposer that fails to submit a proposed ISBE Participation Rate or any requested substantiating documentation in a timely manner shall receive zero (0) ISBE participation points.
3. Execution of Proposed ISBE Participation Rate. Proposers shall be evaluated and scored based on the amounts and rates submitted in their proposals. If awarded the contract, Proposers shall be required to achieve their proposed ISBE Participation Rates. During the life of the contract, the Proposer shall be responsible for submitting all substantiating documentation as reasonably requested by the Using Agency's MBE/WBE Coordinator, Division, ODEO, or Governor's Commission on Disabilities including but not limited to copies of purchase orders, subcontracts, and cancelled checks.
4. Change Orders. If during the life of the contract, a change order is issued by the Division, the Proposer shall notify the ODEO of the change as soon as reasonably possible. Proposers are required to achieve their proposed ISBE Participation Rates on any change order amounts.
5. Notice of Change to Proposed ISBE Participation Rate. If during the life of the contract, the Proposer becomes aware that it will be unable to achieve its proposed ISBE Participation Rate, it must notify the Division and ODEO as soon as reasonably possible. The Division, in consultation with ODEO and Governor's Commission on Disabilities, and the Proposer may agree to a modified ISBE Participation Rate provided that the change in circumstances was beyond the control of the Proposer or the direct result of an unanticipated reduction in the overall total project cost.

**B. MBE, WBE, AND/OR Disability Business Enterprise Participation Plan Form:**

Attached is the MBE, WBE, and/or Disability Business Enterprise Participation Plan form. Bidders are required to complete, sign and submit with their overall proposal. Please complete separate forms for each MBE, WBE and/or Disability Business Enterprise subcontractor/supplier to be utilized on the solicitation.

## **MBE, WBE, and/or DISABILITY BUSINESS ENTERPRISE PARTICIPATION PLAN**

Bidder's Name:

Bidder's Address:

Point of Contact:

Telephone:

Email:

Solicitation No.:

Project Name:

This form is intended to capture commitments between the prime contractor/vendor and MBE/WBE and/or Disability Business Enterprise subcontractors and suppliers, including a description of the work to be performed and the percentage of the work as submitted to the prime contractor/vendor. Please note that all MBE/WBE subcontractors/suppliers must be certified by the Office of Diversity, Equity and Opportunity MBE Compliance Office and all Disability Business Enterprises must be certified by the Governor's Commission on Disabilities at time of bid, and that MBE/WBE and Disability Business Enterprise subcontractors must self-perform 100% of the work or subcontract to another RI certified MBE in order to receive participation credit. Vendors may count 60% of expenditures for materials and supplies obtained from an MBE certified as a regular dealer/supplier, and 100% of such expenditures obtained from an MBE certified as a manufacturer. This form must be completed in its entirety and submitted at time of bid. **Please complete separate forms for each MBE/WBE or Disability Business Enterprise subcontractor/supplier to be utilized on the solicitation.**

Name of Subcontractor/Supplier:			
Type of RI Certification:	<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Disability Business Enterprise		
Address:			
Point of Contact:			
Telephone:			
Email:			
Detailed Description of Work To Be Performed by Subcontractor or Materials to be Supplied by Supplier:			
Total Contract Value (\$):	Subcontract Value (\$):	ISBE Participation Rate (%):	
Anticipated Date of Performance:			

I certify under penalty of perjury that the forgoing statements are true and correct.

Prime Contractor/Vendor Signature	Title	Date

Subcontractor/Supplier Signature	Title	Date

## Appendix B

### **List of PAUs w/Eligible Locations**

[https://commerceri.com/wp-content/uploads/2025/03/Project\\_Area\\_List-03.10.2025\\_final.xlsx](https://commerceri.com/wp-content/uploads/2025/03/Project_Area_List-03.10.2025_final.xlsx)

**Appendix C**  
**Federal Awards Terms and Conditions**

**GENERAL TERMS AND CONDITIONS**  
**for the**  
**NTIA BROADBAND EQUITY, ACCESS & DEPLOYMENT PROGRAM (BEAD)**  
**PROGRAM FUNDS**

**April 2024**

## Table of Contents

1.	Award Compliance Requirements, Prioritization and Terminology .....	4
2.	Management Conference .....	4
3.	Grantee, Subgrantee, and Contractor Compliance with Applicable Requirements.....	4
4.	Contracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms .....	4
5.	Prevention of Waste, Fraud, and Abuse.....	4
6.	Protection of Whistleblowers.....	5
7.	Signage and Public Acknowledgements.....	5
8.	Eminent Domain .....	6
9.	Construction Contract Security Bond .....	6
10.	Inspection and Testing of Materials.....	6
11.	Energy Efficiency .....	7
12.	Requirements During Construction .....	7
13.	Environmental and Historic Preservation (EHP) Review.....	7
14.	Tribal Employment Rights Ordinances .....	11
15.	Scheduling Inspection for Final Acceptance .....	11
16.	Domestic Preference for Procurements (Build America, Buy America).....	11
17.	Prohibition on Use for Covered Communications Equipment or Services .....	11
18.	Challenge Process .....	11
19.	Subgrantee Selection Process .....	12
20.	Order of Award Priority .....	12
21.	Consider All Provider Types .....	12
22.	Prohibition on the Supplantation of Funds .....	12
23.	Ensure Subgrantee Accountability.....	12
24.	Local Coordination .....	13
25.	Fair Labor and Highly Skilled Workforce .....	13
26.	Civil Rights and Nondiscrimination Law Compliance.....	13
27.	Climate Resilience .....	14
28.	Network Capabilities .....	14

29. Deployment Deadlines and Benchmarks .....	14
30. Conduit Access Points .....	14
31. Affordability and Low-Cost Plans .....	14
32. Consumer Protections .....	15
33. Access to Service .....	15
34. Public Notice .....	15
35. Interconnection Requirements and Wholesale Access .....	15
36. Cybersecurity and Supply Chain Risk Management .....	16
37. Prohibition on Profit and Fees .....	16
38. Prohibition on Use of Grant Funds to Support or Oppose Collective Bargaining .....	17
39. Grantee Integrity and Performance Matters .....	17
40. Audit Requirements .....	17
41. Federal Funding Accountability and Transparency Act of 2006 .....	17
42. Protected and Proprietary Information .....	17
43. Subgrantee Reporting .....	18
44. Programmatic Waiver of the Letter of Credit .....	18
45. Tribal Consent to Deploy on Tribal Land .....	18
46. Broadband Infrastructure Projects and the Major Purpose Test .....	18
47. Encumbrances .....	19
48. Recordation of the Federal Interest in BEAD-Funded Property .....	19
49. Federal Interest Period .....	21
50. Program Income .....	21
51. Uniform Guidance Exceptions, Adjustments, and Clarifications Applicable to Fixed Amount Subgrants For Which the Major Purpose of the Subgrant is a Broadband Infrastructure Project(s) .....	21

## **1. Award Compliance Requirements, Prioritization and Terminology**

Grantees must comply with all requirements contained in 47 U.S.C. § 1702, the BEAD NOFO, the Department of Commerce Standard Terms and Conditions, the General Terms and Conditions for the BEAD Program, and the Specific Award Conditions applicable to each individual award. In any case where language among two or more authorities appears inconsistent, the relevant authorities should be read and interpreted in a manner which emphasizes consistency and harmonization across all relevant authorities. Where harmonization is impossible, Grantees should prioritize following the language contained in these authorities in the following order (from highest to lowest priority): 47 U.S.C. § 1702; the award’s Specific Award Conditions; the General Terms and Conditions for the BEAD Program; the BEAD NOFO; the Department of Commerce Standard Terms and Conditions.

The definitions in the BEAD NOFO shall apply to capitalized terms not otherwise defined herein. Additionally, as used herein, the terms “Grantee” and “Subgrantee” refer to the recipient or subrecipient of a grant as appropriate and as aligned with the Uniform Guidance (*i.e.*, 2 CFR Part 200) and the BEAD NOFO. The Grantee assumes ultimate responsibility for compliance with the requirements of this award.

## **2. Management Conference**

After the award start date or the inclusion of an amendment for additional funds, NTIA may contact the Grantee to arrange a management conference. The purpose of the management conference is to explain to the Grantee its responsibilities for administration of the award, including its responsibilities with respect to the Terms and Conditions of the award and applicable Federal requirements.

## **3. Grantee, Subgrantee, and Contractor Compliance with Applicable Requirements**

The Grantee shall comply, and must require each Subgrantee or contractor, including lower tier Subgrantees or subcontractors, to comply with all applicable Federal, state, and local laws and regulations, and all applicable terms and conditions of this award. The Grantee and its Subgrantees are responsible for ensuring that all contracts, including those necessary for design and construction of facilities, are implemented in compliance with the Terms and Conditions of this Award. *See also* NOFO Section IX.G.4.

## **4. Contracting with Small and Minority Businesses, Women’s Business Enterprises, and Labor Surplus Area Firms**

The Grantee and its Subgrantees must take all necessary affirmative steps (as described in 2 CFR 200.321 and NOFO Section VII.D.7) to assure that minority businesses, women’s business enterprises, and labor surplus area firms are used when possible.

## **5. Prevention of Waste, Fraud, and Abuse**

Consistent with the principles in 2 CFR part 200, at any time(s) during the grant period of performance, NTIA may direct a member or members of the Grantee’s key personnel to take a Government-provided training on preventing waste, fraud and abuse. Key personnel include those responsible for managing the Grantee’s finances and overseeing any contractors, sub-contractors or Subgrantees (for financial matters and/or general oversight related to the grant). NTIA will provide instructions on when and how to take

such training(s), and costs incurred by a Grantee relative to the training (e.g., staff time) are eligible for reimbursement pursuant to the NTIA award.

Further, Grantees must monitor award activities for common fraud schemes, including but not limited to:

- false claims for materials and labor;
- bribes related to the acquisition of materials and labor;
- product substitution;
- mismarking or mislabeling on products and materials; and
- time and materials overcharging.

Should a Grantee detect any fraud schemes or any other suspicious activity, the Grantee must contact its assigned NTIA Federal Program Officer and the Department of Commerce, Office of Inspector General Hotline, as indicated at <https://www.oig.doc.gov/Pages/Contact-Us.aspx>, as soon as possible.

Additionally, in accordance with 2 CFR 200.113, an applicant or Grantee must disclose, in a timely manner, in writing to the Federal awarding agency or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Grantees are required to report certain civil, criminal, or administrative proceedings to SAM.gov. Failure to make required disclosures can result in any of the remedies described in 2 CFR 200.339. (See also 2 CFR Part 180, 31 USC 3321, and 41 USC 2313.)

## **6. Protection of Whistleblowers**

The Department of Commerce Financial Assistance Standard Terms and Conditions are incorporated into every NTIA grant award. Section F.05 of these Terms and Conditions states that each award is subject to the whistleblower protections afforded by 41 USC 4712 (Enhancement of contractor protection from reprisal for disclosure of certain information).

Generally, this law provides that an employee or contractor (including subcontractors and personal services contractors) of a Grantee, Subgrantee, contractor, subcontractor or personal services contractor may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or body information that the employee reasonably believes is evidence of gross mismanagement of a Federal award, subgrant, or a contract under a Federal award or subgrant, a gross waste of Federal funds, an abuse of authority relating to a Federal award or subgrant or contract under a Federal award or subgrant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a Federal award, subgrant, or contract under a Federal award or subgrant.

Grantees and contractors under Federal awards and subgrants must inform their employees in writing of the rights and remedies provided under 41 USC 4712, in the predominant native language of the workforce.

A person that believes they have been the subject of retaliation for protected whistleblowing can contact the Department of Commerce, Office of Inspector General Hotline, as indicated at <https://www.oig.doc.gov/Pages/Hotline.aspx>, or the U.S. Office of Special Counsel, toll free at 1-800-872-9855.

## **7. Signage and Public Acknowledgements**

The Grantee is encouraged to post signage and to include public acknowledgements in published and other collateral materials (e.g. press releases, marketing materials, webpages, plaques) satisfactory to

NTIA and NIST that identifies grant funded activities and indicates that those activities are “funded by the Infrastructure Investment and Jobs Act.” The Grantee employing signage is encouraged to use the Official Investing in America emblem in accordance with the guidelines and design specifications found in the Building A Better America Brand Guide found here: <https://www.whitehouse.gov/wp-content/uploads/2022/08/Building-A-Better-America-Brand-Guide.pdf>. Costs associated with signage and public acknowledgements must be reasonable and limited. Signs or public acknowledgements should not be produced, displayed, or published if doing so results in unreasonable cost, expense, or Grantee burden. The Grantee should use best effort to use recycled or recovered materials when procuring signs.

## **8. Eminent Domain**

In accordance with Executive Order 13406, “*Protecting the Property Rights of the American People*” (June 28, 2006), the Grantee agrees:

- Not to use any power of eminent domain available to the Grantee (including the commencement of eminent domain proceedings) for use in connection with the grant for the purpose of advancing the economic interests of private parties;
- Not to accept title to land, easements, or other interest in land acquired by the use of any power of eminent domain for use in connection with the grant for the purpose of advancing the economic interests of private parties; and
- Any use of the power of eminent domain to acquire land, easements, or interests in land, whether by the Grantee or any other entity that has the power of eminent domain, in connection with the grant requires prior written consent from NTIA. Any use of eminent domain without prior written consent of NTIA constitutes an unauthorized activity and/or use of funds under the award, and subjects the Grantee to appropriate enforcement action by the Grants Officer, including but not limited to the disallowance of award costs and the termination of an award.

## **9. Construction Contract Security Bond**

Pursuant to 2 CFR 200.326, for construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold (currently \$250,000), the Grantee may submit its bonding policy and requirements to the Grants Officer for a determination of whether the Federal interest is adequately protected. If such a determination has not been made, the minimum bonding requirements of 2 CFR 200.326 (Bonding requirements) shall apply. Separately, the Grantee may elect to place additional bonding requirements on its Subgrantees consistent with the programmatic letter of credit waiver discussed in Term 44 below.

## **10. Inspection and Testing of Materials**

The Grantee or Subgrantee, as applicable, shall ensure that all materials and equipment used in the completion of the work shall be subject to adequate inspection and testing in accordance with accepted standards. Materials of construction, particularly those upon which the strength and durability of any structure may depend, shall be subject to inspection and testing to establish conformance with specifications and suitability for intended uses. The Grantee or Subgrantee shall ensure that documentation of same is cataloged and retained.

## **11. Energy Efficiency**

The Grantee shall apply, where feasible, design principles for the purpose of reducing pollution and energy costs and optimizing lifecycle costs associated with the construction.

## **12. Requirements During Construction**

During construction, the Grantee or Subgrantee, as applicable, is responsible for:

- Ensuring that it meets all deadlines in approved plans and specifications;
- Monitoring the progress of grant funded activities;
- Reporting progress;
- Providing for required construction permits and adequate construction inspection;
- Promptly paying costs incurred for grant funded activities;
- Monitoring contractors' compliance with Federal, State, and local requirements; and
- Constructing and maintaining in good condition throughout the construction period a sign or signs, at the site of grant funded activities in a conspicuous place indicating that the Federal Government is participating in the activities.

## **13. Environmental and Historic Preservation (EHP) Review**

The Grantee must comply with the requirements of all applicable Federal, state, and local environmental laws, regulations, and standards and must ensure that Subgrantees comply with all such requirements as well.

### **A. EHP Pre-Implementation and Funding Conditions**

The Grantee must not initiate or allow a Subgrantee to initiate any grant funded implementation activities—except for the limited permissible activities identified in Section 13.E below—and must not disburse any BEAD funds to a Subgrantee prior to the following:

- The completion of any review required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321, *et seq.*) (NEPA), and issuance by NTIA and the Grantee, as required, of a Categorical Exclusion (Cat Ex) determination, Record of Environmental Consideration (REC), Finding of No Significant Impact (FONSI), or Record of Decision (ROD) (hereinafter “decision documents”) that meets the requirements of NEPA;
- The completion of reviews required under Section 106 of the National Historic Preservation Act of 1966 (54 U.S.C. 300101, *et seq.*) (NHPA), including any consultations required by Federal law, to include consultations with the State Historic Preservation Office (SHPO), and Federally recognized Native American tribes;
- The completion of consultations with the U.S. Fish and Wildlife Service (USFWS) or the National Marine Fisheries Service (NMFS), as applicable, under Section 7 of the Endangered Species Act (16 U.S.C. 1531, *et seq.*), and/or consultations with the U.S. Army Corps of Engineers (USACE) under Section 404 of the Clean Water Act (33 U.S.C. 1251, *et seq.*), as applicable; and
- Demonstration of compliance with all other applicable Federal, state, and local environmental laws and regulations.

## **B. Grantee Compliance with NEPA as Joint Lead Agency**

NEPA Compliance: To ensure the timely completion of environmental review for all BEAD-funded activities subject to NEPA review, the Grantee must:

- Serve as a “joint lead agency” in its capacity as the State (or Territory) agency administering the BEAD program in accordance with 42 U.S.C. 4336a(a)(1)(B) and carry out the duties described in 42 U.S.C. 4336a(a)(2);
- Complete an evaluation of the sufficiency, applicability and accuracy of the analysis in the relevant First Responder Network Authority (FirstNet) Regional Programmatic Environmental Impact Statement (PEIS) chapter as it applies to anticipated implementation activities for the Grantee’s State or Territory;
- Include in all awards to Subgrantees conditions stating that:
  1. the Subgrantee will not commence implementation and funds will not be disbursed until any necessary environmental review is complete and NTIA has approved any necessary decision document, except for the limited permissible activities identified in Section 13.E below;
  2. the Subgrantee must timely prepare any required NEPA documents and obtain any required permits, and must adhere to any applicable statutory deadlines as described in 42 U.S.C. 4336a(g); and
  3. the Subgrantee must provide a milestone schedule identifying specific deadlines and describing how the Subgrantee proposes to meet these timing requirements including, as required, the completion of consultations, the completion of NEPA and Section 106 reviews, and the submission of Environmental Assessments (EAs) or Environmental Impact Statements (EISs).
- For grant funded activities carried out by Subgrantees, certify the sufficiency of all Subgrantee NEPA documentation, either by preparing such documentation or by supervising Subgrantees’ preparation of draft documents, independently reviewing those drafts, and verifying that draft documents meet the requirements of NEPA prior to transmittal to NTIA;
- For grant funded activities carried out by the Grantee, complete all analyses required to prepare all NEPA documentation, draft all NEPA documents, and ensure that such documents meet the requirements of NEPA prior to transmittal to NTIA; and
- Submit all NEPA documentation—including any supporting environmental documentation required or requested by NTIA—to NTIA for review.

## **C. Grantee Compliance with NHPA Section 106**

NHPA Compliance: To ensure the timely completion of historic preservation review for all BEAD-funded activities, the Grantee must:

- At the earliest possible time, provide the NTIA-assigned Environmental Program Officer

sufficient information to initiate Tribal notification via the FCC’s Tower Construction Notification System (TCNS) when required for grant funded activities;

- Provide notified Tribes with information regarding grant funded activities via their preferred communication means, as identified in TCNS;
- Apply the Advisory on Historic Preservation (AHP) Program Comment to Avoid Duplicative Reviews for Wireless Communications Facilities or any other applicable program comment or program alternative developed to address the Section 106 review of communications facilities;
- Adhere to, and ensure that all Subgrantees adhere to, the provisions of the NTIA memorandum to SHPOs, Tribal Historic Preservation Officers (THPOs), and Internet for All (IFA) grant recipients authorizing IFA grant recipients to initiate Section 106 consultation for NTIA funded projects;
- Notify NTIA of any Tribal request for government-to-government consultation or any identification that a grant funded activity may impact a historic property or a property of religious or cultural significance to a Tribe; and
- Provide all consulting parties with the statutorily required time to respond to its determination of a grant funded activity’s effect on historic properties.

#### **D. NTIA EHP Guidance**

Further Guidance: NTIA will issue further implementation guidance regarding the Grantee’s and Subgrantee’s responsibilities under this Section. That guidance will include instructions on the following topics, among others:

- How the Grantee should evaluate the sufficiency, applicability and accuracy of the relevant FirstNet PEIS section;
- How the Grantee should evaluate what level of environmental review is appropriate and determine what type of NEPA document is required for a grant funded activity to proceed;
- NTIA’s criteria for determining whether each type of NEPA document meets the requirements of NEPA;
- How the Grantee and/or Subgrantee should format NEPA documents;
- How the Grantee should submit NEPA documents and any other required environmental documentation to NTIA;
- How the Grantee will work with cooperating agencies;
- How to develop an appropriate milestone schedule and NEPA timeline for meeting NEPA’s timing requirements; and
- NTIA’s process for notifying the Grantee that a NEPA document meets the requirements of NEPA.

#### **E. Limited Permissible Pre-Implementation Activities**

The Grantee must ensure that implementation (site preparation, demolition, construction, ground disturbance, fixed installation, or any other implementation activities) does not begin prior to the completion of all EHP requirements as outlined in this Section. The Grantee must comply with all conditions placed on the grant funded activities as the result of NEPA or NHPA consultation or processes

under other applicable laws—*e.g.*, mitigation requirements, best management practices, or other measures necessary to reduce environmental impacts—and ensure that Subgrantees comply with such conditions as well. The Grantee must also provide any information requested by NTIA to ensure both initial and ongoing compliance with all requirements described above.

The Grantee may undertake or allow limited permissible activities under NEPA to proceed using award funds prior to the completion of the EHP review process, including the following:

- Pre-construction planning, including collecting information necessary to complete environmental reviews;
- Applications for environmental permits;
- Studies including, but not limited to, Environmental Assessments (EA), wetland delineations, biological assessments, archaeological surveys, and other environmental reviews and analyses;
- Administrative costs;
- Pre-award application costs;
- Activities supporting consultations required under the NHPA, the Endangered Species Act, and the Clean Water Act; and/or
- Limited, preliminary procurement, including the purchase or lease of equipment, or entering into binding contracts to do so; the purchase of applicable or conditional insurance; and/or funds used to secure land or building leases (including right-of-way easements).

Grantees or Subgrantees that undertake unauthorized project activities in contravention of this Section proceed at their own risk and may face de-obligation of funding.

The Grantee shall notify NTIA within 24 hours upon receipt of any Section 106 notices of foreclosure; notices requesting continuing or supplemental consultation received from the SHPO, THPO, or other consulting party or the USFWS or NMFS; or notices of noncompliance received from consulting authorities or regulatory agencies.

Any change to the approved scope of grant funded activities proposed after the completion of environmental and historic preservation review that has the potential for altering the nature or extent of environmental or historic preservation impacts must be brought to the attention of NTIA and will be re-evaluated for compliance with applicable requirements.

**Archaeological Resources:** Burial sites, human remains, and funerary objects are subject to the requirements of all applicable Federal, Tribal, state, and local laws and protocols, such as the Native American Graves Protection and Repatriation Act (NAGPRA), in addition to Section 106 of the NHPA. Grantees must notify NTIA of inadvertent discoveries and potential impacts to these resources and identify and follow all applicable laws or protocols. Grantees should have an archaeologist who meets the Secretary of the Interior's Professional Qualification Standards monitor ground disturbance for grant funded activities proposed in the vicinity of National Register eligible archaeological sites and suspected or known burials. If any potential archeological resources or buried human remains are discovered during construction, the Grantee must immediately stop work in that area, secure that area, and keep information about the discovery confidential, except to notify NTIA and the interested SHPO, THPO, and potentially affected Tribes. Such construction activities may then only continue with the written approval of NTIA.

#### **14. Tribal Employment Rights Ordinances**

NTIA recognizes Tribal Employment Rights Ordinances (TEROs), which may provide for preferences in contracting and employment, in connection with its financial assistance awards. Tribal ordinances requiring preference in contracting, hiring, and firing and the payment of a TERO fee are allowable provisions under Federal awards and NTIA requires their incorporation when applicable into BEAD Program subgrants to Native American/Alaska Native/Native Hawaiian entities. The payment of the TERO fee, which supports the tribal employment rights office to administer the preferences, should generally be allowable as an expense that is “necessary and reasonable for proper and efficient performance and administration” of an award, as provided under 2 CFR 200.403.

#### **15. Scheduling Inspection for Final Acceptance**

The Grantee will schedule a final inspection for each broadband infrastructure project and other construction activities when all construction has been completed, the architect/engineer has conducted its own final inspection, and any deficiencies have been corrected. Representatives of the Grantee, the architect/engineer, and the Subgrantee and/or contractor(s) will attend the Grantee’s final inspection for each project. NTIA must be given reasonable advance notice of each final inspection so that a representative of NTIA may participate.

#### **16. Domestic Preference for Procurements (Build America, Buy America)**

Congress passed the Build America, Buy America Act (BABA) on November 15, 2021 as part of the Infrastructure Investment and Jobs Act, Pub. L. 117-58, 135 Stat. 429, 70901-70927. BABA established domestic content procurement preference requirements for Federal financial assistance projects for infrastructure, including the BEAD Program, consistent with Section 70912(2) of the Infrastructure Act. The Grantee shall comply with BABA consistent with applicable legal authorities, such as the Infrastructure Act, Executive Order 14005, 2 CFR Part 184, OMB Memo M-24-02, and any applicable waivers issued by the Department of Commerce. All waivers applicable to BEAD will be posted on the Build America, Buy America page maintained by the Department of Commerce Office of Acquisition Management at <https://www.commerce.gov/oam/build-america-buy-america>.

#### **17. Prohibition on Use for Covered Communications Equipment or Services**

A Grantee or Subgrantee (including contractors and subcontractors of Subgrantees) may not use BEAD grant funds (including non-Federal cost share) to purchase or support any communications equipment or service covered by either the Secure and Trusted Communications Networks Act of 2019 (47 USC 1608) or 2 CFR 200.216 (Prohibition on certain telecommunications and video surveillance services or equipment).

#### **18. Challenge Process**

Consistent with 47 U.S.C. § 1702(h)(2), a Grantee shall conduct the challenge process, as described in the approved Initial Proposal, subject to any amendments agreed upon by NTIA and the Grantee, before allocating grant funds received from BEAD for the deployment of broadband networks to Subgrantees. After resolving each challenge and at least 60 days before allocating grant funds for network deployment, a Grantee must provide public notice of the final classification of each unserved location, underserved location, or eligible community anchor institution within the jurisdiction of the Grantee. A Grantee must also notify NTIA of any modifications to the Initial Proposal that are necessitated by successful challenges to its initial determinations. Pursuant to the discretionary authority granted to the Assistant Secretary in the Infrastructure Act, NTIA may reverse the determination of a Grantee with respect to the eligibility of a particular location or community anchor institution. *See also* NOFO IV.B.6.

## **19. Subgrantee Selection Process**

Consistent with 47 U.S.C. § 1702(e)(3)(A)(i)(IV), a Grantee must establish fair, open, and competitive processes for selecting Subgrantees. A Grantee must make its Subgrantee selection process as described in the approved Initial Proposal, subject to any amendments agreed upon by NTIA and the Grantee. *See* NOFO Section IV.B.7 for full requirements.

## **20. Order of Award Priority**

Consistent with 47 U.S.C. § 1702(h)(1)(A)(i), Grantees shall award funding for broadband infrastructure projects in a manner that: (I) prioritizes unserved service projects; (II) after certifying to the Assistant Secretary that the Grantee will ensure coverage of broadband service to all unserved locations within the jurisdiction of the Grantee, prioritizes underserved service projects; and (III) after prioritizing underserved service projects, provides funding to connect eligible community anchor institutions. *See also* NOFO Section IV.B.7.a.ii.5.

## **21. Consider All Provider Types**

Consistent with 47 U.S.C. § 1702(h)(1)(A)(iii), a Grantee may not exclude cooperatives, nonprofit organizations, public-private partnerships, private companies, public or private utilities, public utility districts, or local governments (“potential providers”) from eligibility for broadband network deployment grant funds. In determining whether to approve a Grantee’s Final Proposal, NTIA will consider whether the Grantee has, after the enactment of the Infrastructure Act, adopted new laws, regulations, policies, procedures or any other form of rule or restriction that, in the determination of NTIA, seeks to exclude or has the effect of excluding any potential providers from eligibility for its subgrant competition. NTIA further strongly encourages Grantees to waive all such laws predating the enactment of the Infrastructure Act that may either preclude certain public sector providers from participation in the subgrant competition or may impose specific requirements on public sector entities, such as limitations on the sources of financing, the required imputation of costs not actually incurred by the public sector entity, or restrictions on the service a public sector entity can offer. If a Grantee does not waive such laws, the Grantee must disclose in its Final Proposal each unsuccessful application affected by such laws and describe how those laws impacted the decision to deny the application. *See* NOFO Section IV.C.1.a.

## **22. Prohibition on the Supplantation of Funds**

Consistent with 47 U.S.C. § 1702(l), grant funds awarded to the Grantee under this program shall be used to supplement, and not supplant, the amounts of Federal or non-Federal funds that the Grantee would otherwise make available for the purposes for which the grant funds may be used. *See also* NOFO V.H.2.

## **23. Ensure Subgrantee Accountability**

Consistent with 47 U.S.C. § 1702(e)(4)(A)(i)(III), in addition to demonstrating how it expects to satisfy the Subgrantee monitoring and management requirements identified in 2 C.F.R. Part 200 Subpart D, each Grantee must include sufficient accountability procedures within its program to ensure Subgrantee compliance with all applicable Program requirements. The Grantee must, at a minimum, include in any subgrant agreement reasonable provisions allowing for recovery of funds in the event of a Subgrantee’s noncompliance with the BEAD Program’s requirements, including but not limited to failure to deploy network infrastructure in accordance with mandated deadlines. The Grantee must, at a minimum, employ

the following practices: (1) distribution of funding to Subgrantees for, at a minimum, all broadband infrastructure projects on a reimbursable basis (which would allow the Grantee to withhold funds if the Subgrantee fails to take the actions the funds are meant to subsidize); (2) the inclusion of clawback provisions (i.e., provisions allowing recoupment of funds previously disbursed) in agreements between the Grantee and any Subgrantee; (3) timely Subgrantee reporting mandates; and (4) robust Subgrantee monitoring practices. NTIA will pursue clawback of funds directly from Grantee that fail to ensure Subgrantee accountability to the fullest extent of the law. *See also* NOFO IV.C.1.b.

#### **24. Local Coordination**

Consistent with 47 U.S.C. § 1702(e)(3)(A)(ii), the Grantee must develop a comprehensive local coordination approach that will begin in the development of the Five-Year Action Plan and continue at each stage of the BEAD Program through the awarding of all subgrant funding. The Grantee is required to coordinate with political subdivisions, Tribal Governments, local and community-based organizations, and unions and worker organizations within its territory to ensure full representation and inclusion of unserved, underserved, and underrepresented communities throughout the planning and deployment processes. The Grantee must document its local coordination and outreach activities by providing a detailed description of their efforts to engage local governments, community groups, union and worker organizations, Tribal Governments, and underrepresented populations in its Five-Year Action Plan, Initial Proposal, and Final Proposal, relative to each stage in the BEAD Program process. The Grantee is strongly encouraged to integrate its local coordination efforts with any outreach and coordination efforts it is required to undertake pursuant to the Digital Equity Act. *See* Section V of this NOFO for additional information concerning application materials. *See also* NOFO IV.C.1.c., including for additional detail on local coordination as it relates to i) geographic coverage; ii) diverse stakeholder groups; iii) awareness, outreach, and participation mechanisms; iv) transparency; v) underrepresented engagement; vi) equitable and nondiscriminatory distribution of funds; v) fair labor practices and highly skilled workforce; vi) advancing equitable workforce development and job quality objectives; and vii) other considerations.

#### **25. Fair Labor and Highly Skilled Workforce**

Consistent with 47 U.S.C. § 1702(h)(1)(A)(iv)(IV), Grantees must give priority to broadband infrastructure projects based on (among other things) a demonstrated record of and plans to be in compliance with Federal labor and employment laws. Grantees are required to give preferential weight to projects based on the strength of the showing in their application on this factor. *See also* NOFO IV.C.1.e.

#### **26. Civil Rights and Nondiscrimination Law Compliance**

Consistent with 47 U.S.C. § 1702(g)(2)(C), the Grantee must distribute funds in an equitable and nondiscriminatory manner. *See also* NOFO IV.C.1.d.

Consistent with 47 U.S.C. § 1702(g)(2)(C)(ii), prior to distributing any BEAD funding to a Subgrantee, a Grantee must require the Subgrantee to agree, by contract or other binding commitment, to abide by the non-discrimination requirements set forth in the legal authorities listed in the NOFO, to the extent applicable, and to acknowledge that failure to do so may result in cancellation of any subgrant and/or recoupment of funds already disbursed. *See also* NOFO IV.C.1.g.

## **27. Climate Resilience**

In establishing their Initial Proposals and Final Proposals, Grantees must demonstrate that they have sufficiently accounted for current and future weather- and climate-related risks to new broadband infrastructure projects. Grantees should make use of available tools and resources, like those available from the National Oceanic and Atmospheric Administration (NOAA) and other Federal agencies, as well as Grantee-level resources and centers of expertise, in drawing up their Initial and Final Proposals pursuant to the BEAD Program. *See also* NOFO IV.C.1.h.

## **28. Network Capabilities**

Pursuant to 47 U.S.C. § 1702(g)(1)(A), which directs the Assistant Secretary to establish quality-of-service standards to which each Subgrantee must comply, each Grantee shall ensure that every Funded Network meets the criteria related to speed and latency and network outages outline in the NOFO IV.C.2.a. The Grantee shall ensure that any subgrant agreement for a Funded Network permits the Subgrantee to use the subgrant to deploy broadband 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 broadband service to an unserved location, underserved location, or eligible community anchor institution.

## **29. Deployment Deadlines and Benchmarks**

Pursuant to 47 U.S.C. § 1702(h)(4)(C), the Grantee 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 for the applicable network. The Grantee shall establish interim buildup milestones, enforceable as conditions of the subgrant, sufficient to ensure that Subgrantees are making reasonable progress toward meeting the four-year deployment deadline. The Grantee may, following consultation with the NTIA and with the approval of the Assistant Secretary, extend the deadlines under this subparagraph if the Grantee reasonably determines that (i) the Subgrantee has a specific plan for use of the grant funds, with broadband infrastructure project completion expected by a specific date not more than one year after the four-year deadline; (ii) the construction project is underway; or (iii) extenuating circumstances require an extension of time to allow the project to be completed. *See* NOFO IV.C.2.b.i.

## **30. Conduit Access Points**

Pursuant to 47 U.S.C. § 1702(h)(4)(D), 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, the Grantee 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. *See* NOFO IV.C.2.b.ii.

## **31. Affordability and Low-Cost Plans**

Pursuant to 47 U.S.C. § 1702(h)(4)(B), each Subgrantee receiving BEAD funding to deploy network infrastructure must offer at least one low-cost broadband service option. Pursuant to Section 1702(h)(5)(C), NTIA or the Grantee may take corrective action, including recoupment of funds from the

Subgrantee, for noncompliance with the statutory low-cost plan requirement. The Grantee will include in its Initial and Final Proposals a description of its low-cost plan requirements and middle-class affordability plan to ensure that all consumers have access to affordable high-speed internet. The Grantee will be required to ensure that services offered over Funded Networks allow subscribers in the service area to utilize the Affordable Connectivity Program, or any successor program, and that Subgrantees continue to offer the low-cost broadband service option to eligible subscribers, during the Federal Interest Period. *See NOFO IV.C.2.c.i.*

### **32. Consumer Protections**

The Grantee shall ensure that each prospective Subgrantee does not impose data usage caps on any plans offered over a Funded Network or impose unjust or unreasonable network management practices. Providers may apply otherwise-applicable acceptable use policies to Funded Networks. Subgrantees shall certify through the semiannual reporting requirements described in the NOFO.VII.E that the plans offered over Funded Networks do not contain data usage caps for subscribers. *See NOFO IV.C.2.c.ii.*

### **33. Access to Service**

Pursuant to 47 U.S.C. § 1702(g)(2)(C)(ii), 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. *See NOFO IV.C.2.c.iii.*

### **34. Public Notice**

Pursuant to 47 U.S.C. § 1702(h)(4)(G), the Grantee shall require Subgrantees to 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, including information about low-cost broadband service options for eligible subscribers. The Grantee shall require that once a Funded Network has been deployed, each Subgrantee shall provide public notice, online and through other means, of that fact to individuals residing in the locations to which broadband service has been provided and share the public notice with the Grantee that awarded the subgrant. The Grantee shall require each prospective Subgrantee seeking to deploy or upgrade network facilities to explain in its application how it intends to notify relevant populations of the new or newly upgraded offerings available in each area. *See NOFO IV.C.2.c.iv.*

### **35. Interconnection Requirements and Wholesale Access**

Consistent with 47 U.S.C. § 1702(h)(4)(E), the Grantee awarding funds for construction of Middle Mile Infrastructure shall require the Subgrantee, via contract or other binding mandate, to allow such interconnection at any technically feasible point on the Middle Mile Infrastructure network (without exceeding current or reasonably anticipated capacity limitations). The Grantee shall require that if a Subgrantee, at any time, is no longer able to provide broadband service to the end user locations covered by the subgrant at any time on a retail basis remedial action be taken to ensure continuity of service. In consultation with NTIA, the Grantee shall require the Subgrantee to sell the network capacity at a reasonable, wholesale rate on a nondiscriminatory 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. The Grantee may pursue either remedial action so long as such action results in continued retail service to end users in the grant area. *See NOFO IV.C.2.c.v.*

### **36. Cybersecurity and Supply Chain Risk Management**

Pursuant to 47 U.S.C. § 1702(g)(1)(B), a Subgrantee, in carrying out activities using amounts received from a Grantee, shall comply with prudent cybersecurity and supply chain risk management practices, as specified by the Assistant Secretary, in consultation with the Director of the National Institute of Standards and Technology and the Federal Communications Commission. Prior to allocating any funds to a Subgrantee, the Grantee shall, at a minimum, require a prospective Subgrantee to attest that:

- The prospective Subgrantee has a cybersecurity risk management plan (the plan) in place that is either:
  - operational, if the prospective Subgrantee is providing service prior to the award of the grant; or
  - ready to be operationalized upon providing service, if the prospective Subgrantee is not yet providing service prior to the grant award;
- The plan reflects the latest version of the 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;
- The plan will be reevaluated and updated on a periodic basis and as events warrant; and
- The plan will be submitted to the Grantee prior to the allocation of funds. If the Subgrantee makes any substantive changes to the plan, a new version will be submitted to the Grantee within 30 days. The Grantee must provide a Subgrantee's plan to NTIA upon NTIA's request.

With respect to supply chain risk management (SCRM), prior to allocating any funds to a Subgrantee, the Grantee shall, at a minimum, require a prospective Subgrantee to attest that:

- The prospective Subgrantee has a SCRM plan in place that is either:
  - operational, if the prospective Subgrantee is already providing service at the time of the grant; or
  - ready to be operationalized, if the prospective Subgrantee is not yet providing service at the time of grant award;
- 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;
- The plan will be reevaluated and updated on a periodic basis and as events warrant; and
- The plan will be submitted to the Grantee prior to the allocation of funds. If the Subgrantee makes any substantive changes to the plan, a new version will be submitted to the Grantee within 30 days. The Grantee must provide a Subgrantee's plan to NTIA upon NTIA's request.

The Grantee also must ensure that, to the extent a BEAD Subgrantee relies in whole or in part on network facilities owned or operated by a third party (e.g., purchases wholesale carriage on such facilities), obtain the above attestations from its network provider with respect to both cybersecurity and supply chain risk management practices. *See* NOFO IV.C.2.c.vi.

### **37. Prohibition on Profit and Fees**

A profit, fee, or other incremental charge above actual cost incurred by a Grantee or Subgrantee is not an allowable cost under this Program. *See* NOFO V.H.2.b.

## **38. Prohibition on Use of Grant Funds to Support or Oppose Collective Bargaining**

A Grantee or a Subgrantee may not use grant funds, whether directly or indirectly, to support or oppose collective bargaining. *See* NOFO V.H.2.c.

## **39. Grantee Integrity and Performance Matters**

In accordance with Section 872 of Public Law 110-417, as amended, *see* 41 USC 2313, if the total value of a Grantee's currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of an award, then the Grantee shall be subject to the requirements specified in Appendix XII to 2 CFR Part 200, for maintaining the currency of information reported to SAM that is made available in the Federal Awardee Performance and Integrity Information System (FAPIIS) about certain civil, criminal, or administrative proceedings involving the Grantee. *See also* NOFO VII.F.

## **40. Audit Requirements**

2 CFR Part 200, Subpart F, adopted by the Department of Commerce through 2 CFR 1327.101, requires any non-Federal entity that expends Federal awards of \$750,000 or more in the Grantee's fiscal year to conduct a single or program-specific audit in accordance with the requirements set out in the Subpart. Additionally, unless otherwise specified in the terms and conditions of the award, entities that are not subject to Subpart F of 2 CFR Part 200 (e.g., commercial entities) that expend \$750,000 or more in grant funds during their fiscal year must submit to the Grants Officer either: (i) a financial related audit of each DOC grant or subgrant in accordance with Generally Accepted Government Auditing Standards; or (ii) a program-specific audit for each grant or subgrant in accordance with the requirements contained in 2 CFR § 200.507. Grantees and its Subgrantees are reminded that NTIA, the Department of Commerce Office of Inspector General, or another authorized Federal agency may conduct an audit of an award at any time. *See also* NOFO V.G.

## **41. Federal Funding Accountability and Transparency Act of 2006**

In accordance with 2 CFR Part 170, the Grantees are required to comply with reporting requirements under the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. No. 109-282). In general, all Grantees are responsible for reporting subgrants of \$30,000 or more. In addition, Grantees that meet certain criteria are responsible for reporting executive compensation. Applicants must ensure they have the necessary processes and systems in place to comply with the reporting requirements should they receive funding. *See also* NOFO VII.H.

## **42. Protected and Proprietary Information**

The Grantee and Subgrantees are expected to support Program reviews and evaluations by submitting required financial and performance information and data in an accurate and timely manner, and by cooperation with the Department of Commerce and external program evaluators. In accordance with 2 CFR 200.303(e), Grantees and Subgrantees are reminded that they must take reasonable measures to safeguard protected personally identifiable information and other confidential or sensitive personal or business information created or obtained in connection with a Department of Commerce financial assistance award. *See also* NOFO IX.B.

#### **43. Subgrantee Reporting**

Pursuant to 47 U.S.C. § 1702(j)(2)(A), the Subgrantee shall submit to the Grantee a report, at least semiannually, for the duration of the subgrant to track the effectiveness of the use of funds provided. Subgrantees must certify that the information in the report is accurate. Each report shall describe each type of broadband infrastructure project and/or other eligible activities carried out using the subgrant and the duration of the subgrant. Grantees may add additional reporting requirements or increase the frequency of reporting with the approval of the Assistant Secretary and must make all Subgrantee reports available to NTIA upon request. *See also* NOFO VII.E.2.

#### **44. Programmatic Waiver of the Letter of Credit**

Per NOFO Section IV.D.2.a.ii, the Grantee shall establish a model letter of credit (LOC) substantially similar to the model letter of credit established by the Federal Communications Commission in connection with the Rural Digital Opportunity Fund (RDOF). The LOC requirement is waived to the extent described in the Letter of Credit Notice of Programmatic Waiver, [BEAD Letter of Credit Waiver Notice \(ntia.gov\)](https://www.ntia.gov/).

#### **45. Tribal Consent to Deploy on Tribal Land**

Consistent with NOFO section IV.B.7.a.ii.10 and IV.B.9.b.15, the Grantee may not issue a subgrant to deploy broadband to Unserved Service Projects or Underserved Service Projects that include any locations on Tribal Lands without receiving a Resolution of Consent from each Tribal Government, from the Tribal Council or other governing body, upon whose Tribal Lands the infrastructure will be deployed.

#### **46. Broadband Infrastructure Projects and the Major Purpose Test**

As used in this document, broadband infrastructure “project” carries the same meaning as the term project is used in Section IV.B.7.a.ii. of the NOFO. For the sake of clarity, broadband infrastructure projects include:

- last-mile broadband deployment projects, as that term is used in Section IV.B.7.a.ii. of the NOFO, with the exception that projects for which the major purpose is training or workforce development are not considered broadband infrastructure projects for the purposes of the exceptions addressed in Term 51 below;
- projects to deploy Middle Mile Infrastructure, as that term is defined in Section I.A.(o) of the NOFO; and
- projects to deploy internet and Wi-Fi infrastructure within a multi-family residential building.

The “major purpose” of a subgrant is a broadband infrastructure project(s) if more than 50% of the estimated total costs (e.g., labor, permitting expenses, equipment, etc.) under the subgrant are necessitated by the broadband infrastructure project(s) activities of the subgrant. Grantees are responsible for initially determining whether the major purpose of a subgrant is a broadband infrastructure project. Grantees shall identify in their Final Proposals those subgrants whose “major purpose” is a broadband infrastructure project and keep NTIA apprised of any changes to such determinations. NTIA retains the authority to review subgrant agreements and revise determinations regarding the major purpose of a subgrant.

#### **47. Encumbrances**

Subject to the exception below, Grantees and Subgrantees must not encumber property without prior disclosure to and approval from NTIA and NIST. Grantees and Subgrantees may not enter into any encumbrances that interfere with the construction, intended use, operation, or maintenance of grant funded property during Federal Interest Period set forth in Term 48.

The following exception applies to subgrants whose major purpose is a broadband infrastructure project. Subgrantees may encumber real property and equipment acquired or improved under such subgrants only after provision of notice to NTIA and to the Grants Officer, and subject to a requirement that the DOC receives either a first priority security interest (preferred) or a shared first priority security interest in the real property and equipment such that, if the real property and equipment were foreclosed upon and liquidated, the DOC would be entitled to receive, on a pari-passu basis with other first position creditors, the portion of the current fair market value of the property that is equal to the DOC's percentage of contribution to the project costs. For example, if the DOC had contributed 50% of the project costs, the DOC would receive, on a pari-passu basis, 50% of the current fair market value of the property when liquidated. NTIA will address the notice requirement for encumbrances in future guidance.

#### **48. Recordation of the Federal Interest in BEAD-Funded Property**

- A. Useful Life and Compliance with 2 CFR 200.311, 200.313. For the purposes of this award, the useful life of the real property or equipment acquired or improved using BEAD funds shall coincide with the Federal Interest Period as defined in Term 49 below. During the useful life of the BEAD-funded property, the Grantee must adhere to the requirements contained in the terms and conditions of the award, including adherence to the use, management, and disposition requirements set forth in 2 CFR 200.311 or 200.313, as applicable. NTIA will provide additional information concerning the review and approval process for transactions involving BEAD-funded real property and equipment in subsequent guidance.
- B. To document the Federal interest in BEAD-funded real property, the Grantee or Subgrantee must prepare and properly record a "Covenant of Purpose, Use and Ownership" (Covenant). The Covenant differs from a traditional mortgage lien in that it does not establish a traditional creditor relationship requiring the periodic repayment of principal and interest to NTIA. Rather, pursuant to the Covenant, the Grantee or Subgrantee acknowledges that it holds title to the BEAD-funded property in trust for the public purposes of the BEAD financial assistance award and agrees, among other commitments, that it will repay the Federal interest if it disposes of or alienates an interest in the BEAD-funded property, or uses it in a manner inconsistent with the public purposes of the BEAD award, during the useful life of the BEAD-funded property. The Covenant must be properly recorded in the real property records in the jurisdiction in which the real property is located in order to provide public record notice to interested parties that there are certain restrictions on the use and disposition of the BEAD-funded property during its useful life and that NTIA retains an undivided equitable reversionary interest in the BEAD-funded property during the Federal Interest Period. NTIA will provide a suggested sample form to use for the Covenant to record notice of the Federal interest in real property.
- C. UCC-1 Filing & Attorney's Certification. Pursuant to 2 C.F.R. § 200.316, after acquiring all or any portion of the equipment under this award, the Grantee or Subgrantee shall properly file a UCC-1 with the appropriate State office where the equipment will be located in accordance with the State's Uniform Commercial Code (UCC). This security interest shall be executed in advance

of any sale or lease and not later than closeout of the grant or subgrant, as applicable. The UCC filing(s) must include the below or substantively similar language providing public notice of the Federal interest in the equipment acquired with BEAD funding. Also, a clear and accurate inventory of the subject equipment must be attached to and filed with the UCC-1.

The UCC filing must include the below or substantively similar language:

*The Equipment set forth at Attachment A hereto was acquired with funding under a financial assistance award (Award Number) issued by the National Institute of Standards and Technology, U.S. Department of Commerce. As such, the U.S. Department of Commerce retains an undivided equitable reversionary interest (Federal interest) in the Equipment for [insert number] years after the end of the year in which the award is closed out in accordance with 2 CFR 200.344.*

In addition, within 15 calendar days following the required UCC filing(s), the Grantee shall provide the Grants Officer with complete and certified copies of the filed UCC forms and attachments for the equipment acquired with NTIA BEAD funding including all subgrants, along with a certification from legal counsel, licensed by the State within which the filings were made (Attorney's Certification), that the UCC filing was properly executed and filed in accordance with applicable state law. The Attorney's Certification must include the below or substantively similar language:

NIST Award Number: XX-XX-XXXX

Pursuant to 28 USC 1746, I hereby certify as follows:

I am legal counsel at \_\_\_\_\_.

I am licensed to practice law in the State of \_\_\_\_\_ having been a license holder of said state and in good standing since \_\_\_\_\_.

Attached hereto is a certified copy of UCC-1 form(s) reflecting that this document was filed in the \_\_\_\_\_ on \_\_\_\_\_, 202<sup>x</sup>, bearing the following filing information [insert filing data, e.g., instrument number, etc.) and consists of \_\_\_\_\_ recorded pages as certified by the Secretary of State of \_\_\_\_\_.

I certify that this UCC-1 form(s) has/have been validly executed and properly recorded as noted above.

I certify under the penalty of perjury that the foregoing is true and correct.

Executed on this \_\_\_\_\_ day of \_\_\_\_\_.

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(Attorney name and title)  
(Address and phone number)

In addition, during the estimated useful life of the [type of equipment, e.g. robotic equipment], the Grantee or Subgrantee is hereby authorized and directed by the Grants Officer to timely file any necessary UCC-3 continuation statements (or other filings) for the subject equipment consistent with the requirements set forth in this specific award condition. Copies of all filed UCC continuation statements, together with an Attorney's Certification, must be submitted to the Grants Officer within 15 calendar days following each such filing. The UCC filing(s) and the accompanying Attorney's Certification(s) must be acceptable in form and in substance to NTIA and the National Institute of Standards and Technology (NIST) Grants Officer.

## **49. Federal Interest Period**

- a. BEAD-Funded Broadband Infrastructure Projects: The Federal interest in all real property or equipment acquired or improved as part of a subgrant for which the major purpose is a broadband infrastructure project will continue for ten years after the year in which that subgrant has been closed out in accordance with 2 CFR 200.344. For example, for all subgrants closed out in 2027, regardless of the month, the Federal interest will last until December 31, 2037. The Federal interest described herein applies to BEAD subgrants for which the major purpose of the subgrant, as defined in Term 46, is a broadband infrastructure project(s).
- b. The Grants Officer, in consultation with the Program Office, shall determine the Federal Interest Period for real property or equipment that will be acquired or improved using BEAD funds and not captured in provision (a) of this Term. NTIA will issue further implementation guidance regarding the Federal Interest Period for these BEAD assets.

## **50. Program Income**

In the case of subgrants whose major purpose is a broadband infrastructure project, Subgrantees may retain program income without restriction, including retaining program income for profit. This exception does not alter the prohibition in Term 37 regarding a profit, fee, or other incremental charge above the actual cost incurred by the Subgrantee.

## **51. Uniform Guidance Exceptions, Adjustments, and Clarifications Applicable to Fixed Amount Subgrants For Which the Major Purpose of the Subgrant is a Broadband Infrastructure Project(s)**

The following Uniform Guidance exceptions, adjustments, and clarifications apply to fixed amount subgrants for which the major purpose of the subgrant is a broadband infrastructure project. Throughout the below discussion on exceptions, adjustments, and clarifications, the phrase “fixed amount subgrant” is used as shorthand to refer to fixed amount subgrants as described in the preceding sentence.

### **A. Exceptions to 2 CFR Part 200 Fixed Amount Subgrant Requirements (200.333—Fixed Amount Subgrants and 200.201(b)(2)—Use of grant agreements (including fixed amount awards), cooperative agreements, and contracts)**

Pursuant to exceptions of 2 CFR 200.333 and 200.201(b)(2) approved by the Office of Management and Budget (“OMB”), and subject to the conditions identified below, Grantees may issue fixed amount subgrants without further NTIA approval, regardless of whether the value of the subgrant exceeds \$250,000, and notwithstanding whether the subgrant includes a non-Federal match from the Subgrantee that is being used to satisfy the Grantee’s statutory match requirement.

Grantees may elect to treat subgrants as fixed amount subgrants even if the Grantee requires Subgrantees to submit evidence of costs. Grantees thus may treat subgrants providing for a maximum payment amount that is based on a reasonable estimate of actual cost (see 2 CFR 200.201(b)(1)) as fixed amount subgrants, even if the subgrant agreement also provides that payments to the Subgrantee will be limited to actual costs after review of evidence of costs.

The authority to issue fixed amount subgrants pursuant to these exceptions is conditioned upon a requirement that the Grantee monitor the reasonableness of Subgrantee costs. Measures to validate that

fixed amount subgrants reasonably approximate the actual cost of broadband infrastructure projects would include, but are not limited to, requiring Subgrantees to periodically report their expenses using Generally Accepted Accounting Principles or other standard accounting practices, or monitoring the relative proportion of costs across key spending areas: professional services (e.g., engineering, environmental and historic preservation permitting, legal expenses, etc.); construction services (e.g., digging trenches, erecting towers, blowing fiber, constructing and improving buildings, etc.); outside plant, towers, and poles (e.g., fiber plan, conduit, towers, poles, emergency power generational equipment, etc.); network and access equipment (e.g., broadband routing equipment, broadband transport equipment, network broadband access equipment, wireless base stations, antennas, etc.); operating equipment (e.g., office furniture and fixtures, work equipment and vehicles, etc.); customer premise equipment; contingency funds; and all other expenses. A Grantee's monitoring responsibility also means monitoring the non-Federal share/required by the subgrant agreement.

Grantees issuing fixed amount subgrants shall require the Subgrantee to use subgrant payments only for the reimbursement of the eligible costs in connection with the last-mile broadband deployment projects for which the payment is intended and, if applicable, the eligible costs for non-deployment uses for which the payment is intended. Ineligible uses of fixed amount subgrant payments include but are not limited to the following:

- i. Personal expenses of employees, executives, board members, and contractors, and family members thereof, or any other individuals affiliated with the Subgrantee, including but not limited to personal expenses for housing, such as rent or mortgages, vehicles for personal use and personal travel, including transportation, lodging and meals;
- ii. Gifts to employees; housing allowances or other forms of mortgage or rent assistance for employees except that a reasonable amount of assistance shall be allowed for work-related temporary or seasonal lodging; cafeterias and dining facilities; food and beverage except that a reasonable amount shall be allowed for work-related travel; entertainment;
- iii. Expenses associated with: tangible property not logically related or necessary to the broadband infrastructure project or authorized non-deployment use; corporate aircraft, watercraft, and other motor vehicles designed for off-road use except insofar as necessary or reasonable to access portions of the project area not readily accessible by motor vehicles travelling on roads; tangible property used for entertainment purposes; consumer electronics used for personal use; kitchen appliances except as part of work-related temporary or seasonal lodging assistance; artwork and other objects which possess aesthetic value;
- iv. Political contributions; charitable donations; scholarships; membership fees and dues in clubs and organizations; sponsorships or conferences or community events not logically related or necessary for the intended use of the subgrant; nonproduct-related corporate image advertising; and
- v. Penalties or fines for statutory or regulatory violations; penalties or fees for any late payments on debt, loans, or other payments.

The remainder of 2 CFR 200.201 remains unchanged. Payments to Subgrantees under fixed amount subgrants shall be made on a reimbursement basis in accordance with terms of the subgrants. *See* NOFO Sec. IV.C.1.b. Pursuant to 2 CFR 200.201(b)(1), acceptable forms of payment include, but are not limited to: (a) partial payments of agreed amounts upon meeting milestones or other triggering events identified in the subgrant; (b) payments on a unit price basis, for a defined unit or units, at a defined price or prices identified in the subgrant; or (c) a single payment upon completion of the project.

Pursuant to 2 CFR 200.201(b)(3), the Subgrantee must certify in writing to the Grantee at the end of the Federal award that the broadband infrastructure project funded under the subgrant was completed.

Accordingly, a Subgrantee receiving a fixed amount subgrant must certify to the Grantee that the broadband infrastructure project was placed into service, as defined in 47 USC 1702(h)(4)(C) for last-mile broadband deployment projects, or in the Subgrantee agreement for all other broadband infrastructure projects, by the end of the Grantee's period of performance.

The above notwithstanding, the BEAD Program prohibition on the Grantee or Subgrantees claiming profit or fees as allowable costs remains unchanged by this exemption. *See* NOFO Sec. V.H.2.b. Therefore, neither fees above the estimated actual cost that will be incurred by the Subgrantee nor profit shall be considered reasonable costs when determining the reasonable estimate of actual costs (*i.e.*, neither fees nor profits may be included in the estimate of actual costs).

Subgrantees of fixed amount subgrants pursuant to the above exceptions are not required to comply with the Cost Principles set forth in 2 CFR Subpart E. However, all fixed amount subgrants must be based on a reasonable estimate of actual cost. It is imperative that the Grantee establish effective means for determining the reasonable estimate of actual costs prior to the issuance of any fixed amount subgrant to ensure there is sufficient funding to cover the proposed activities, while minimizing to the greatest extent possible an unexpended balance at the conclusion of the subgrant.

#### **B. Adjustments to 2 CFR 200.318-320 and 200.324-326—Procurement Standards**

Subgrantees of fixed amount subgrants pursuant to the above exceptions are not required to comply with the Procurement Standards set forth in 2 CFR 200.318-320 and 200.324-326. All other Procurement Standards, *i.e.*, 2 CFR 200.317, 200.321-200.323, and 200.327, remain as requirements.

#### **C. Exceptions and Clarifications to 2 CFR 200.313—Equipment**

Title to equipment acquired or improved under the fixed amount subgrant vests in the Subgrantee upon acquisition, subject to the following conditions and clarifications that apply for the duration of the Federal Interest Period:

1. Subgrantees must follow their existing commercial practices for managing equipment in the normal course of business and must use inventory controls indicating the applicable Federal interest and loss prevention procedures. This requirement is in lieu of the requirements contained in 2 CFR 200.313(d), pursuant to an exception from OMB. Subgrantees that do not have existing commercial practices for managing equipment in the normal course of business must comply with 2 CFR 200.313(d).
2. Subgrantees must comply with the use and equipment disposition requirements of 2 CFR 200.313(c)(4) and 313(e).
  - a. Subgrantees acquiring replacement equipment under 2 CFR 200.313(c)(4) may treat the equipment to be replaced as "trade-in" even if the Subgrantee elects to retain full ownership and use over equipment. As with trade-ins that involve a third party, the Subgrantee will have to record the fair market value of the equipment being replaced in its Tangible Personal Property Status Reports to the DOC to ensure adequate tracking of the Federal percentage of participation in the cost of the grant funded activities. The Subgrantee will also be responsible for tracking the value of the replacement equipment, including both the Federal and non-Federal share.

- b. Subgrantees may sell, lease, or transfer equipment only after (a) securing the agreement of the successor or transferee to comply with these requirements and the acknowledgement of the successor or transferee of the Federal interest in the subject equipment, and (b) obtaining consent to the sale or transfer from NTIA. NTIA will provide additional information concerning the review and approval process for transactions involving BEAD-funded equipment, as well as real property, in subsequent guidance.
- c. Subgrantees must notify the Grantee and NTIA upon the filing of a petition under the U.S. Bankruptcy Code, whether voluntary or involuntary, with respect to the Subgrantee or any affiliate that would impact the Subgrantee's ability to perform in accordance with its subgrant.

**D. Exception to 2 CFR 200.314--Supplies**

Pursuant to an exception approved by OMB, the property standards set forth in 2 CFR 200.314 for supplies shall not apply to fixed amount subgrants.

**E. Exception to 2 CFR 200.315--Intangible Property**

Pursuant to an exception approved by OMB, the property standards set forth in 2 CFR 200.315 for intangible property shall not apply to fixed amount subgrants.

**F. Additional Discretionary Conditions**

The Grantee may impose additional conditions in their fixed amount subgrants at their discretion; however, a Grantee may not alter the exceptions, adjustments, and clarifications to the Uniform Guidance as provided to Subgrantees and described herein without written prior approval from the NIST Grants Officer. Requests for modifications to this section must be submitted to [ugam@nist.gov](mailto:ugam@nist.gov) and must contain sufficient detail about the specific modifications the Grantee is requesting and a thorough justification supporting the request. They may only be granted in extremely limited circumstances and only in cases wherein the modification will protect the integrity of the BEAD Program funding and that are in the best interests of the Program as a whole.

## RFP/RFQ RESPONSE CERTIFICATION COVER FORM

**Instruction: To fulfill your RFP/RFQ response, this form must be completed, printed, signed and included with your submission.**

### SECTION 1 - RESPONDENT INFORMATION

**RFP/RFQ Number:**

**RFP/RFQ Title:**

**RFP/RFQ Respondent Name:**

**Address:**

**Telephone:**

**Fax:**

**Contact Name:**

**Contact Title:**

**Contact Email:**

### SECTION 2 —DISCLOSURES

**RFP/RFQ Respondents must respond to every statement. RFP/RFQ Responses submitted without a complete response may be deemed nonresponsive.**

*Indicate "Y" (Yes) or "N" (No) for Disclosures 1-4, and if "Yes," provide details below*

\_\_\_\_ 1. State whether the Respondent, or any officer, director, manager, stockholder, member, partner, or other owner or principal of the Respondent or any parent, subsidiary, or affiliate has been subject to suspension or debarment by any federal, state, or municipal governmental authority, or the subject of criminal prosecution, or convicted of a criminal offense within the previous 5 years. If "Yes," provide details below.

\_\_\_\_ 2. State whether the Respondent, or any officer, director, manager, stockholder, member, partner, or other owner or principal of the Respondent or any parent, subsidiary, or affiliate has had any contracts with a federal, state, or municipal governmental authority terminated for any reason within the previous 5 years. If "Yes," provide details below.

\_\_\_\_ 3. State whether the Respondent, or any officer, director, manager, stockholder, member, partner, or other owner or principal of the Respondent or any parent, subsidiary, or affiliate has been fined more than \$5000 for violation(s) of any Rhode Island environmental law(s) by the Rhode Island Department of Environmental Management within the previous 5 years. If "Yes," provide details below.

\_\_\_\_ 4. State whether any officer, director, manager, stockholder, member, partner, or other owner or principal of the Respondent is serving or has served within the past two calendar years as either an appointed or elected official of any state governmental authority or quasi-public corporation, including without limitation, any entity created as a legislative body or public or state agency by the general assembly or constitution of this state.

*Disclosure details (continue on additional sheets if necessary):*

## SECTION 3 — OWNERSHIP DISCLOSURE

**Respondents must provide all relevant information. Respondent proposals submitted without a complete response may be deemed nonresponsive.**

If the Respondent is publicly held, the Respondent may provide owner information about only those stockholders, members, partners, or other owners that hold at least 10% of the record or beneficial equity interests of the Respondent; otherwise, complete ownership disclosure is required.

List each officer, director, manager, stockholder, member, partner, or other owner or principle of the Respondent, and each intermediate parent company and the ultimate parent company of the Respondent. For each individual, provide his or her name, business address, principal occupation, position with the Respondent, and the percentage of ownership, if any, he or she holds in the Respondent, and each intermediate parent company and the ultimate parent company of the Respondent.

## SECTION 4 — CERTIFICATIONS

**Respondents must respond to every statement. Responses submitted without a complete response may be deemed nonresponsive.**

*Indicate "Y" (Yes) or "N" (No), and if "No," provide details below.*

### THE RESPONDENT CERTIFIES THAT:

- 1. The Respondent will immediately disclose, in writing, to the Rhode Island Commerce Corporation any potential conflict of interest which may occur during the term of any contract awarded pursuant to this solicitation.
- 2. The Respondent possesses all licenses and anyone who will perform any work will possess all licenses required by applicable federal, state, and local law necessary to perform the requirements of any contract awarded pursuant to this solicitation and will maintain all required licenses during the term of any contract awarded pursuant to this solicitation. In the event that any required license shall lapse or be restricted or suspended, the Respondent shall immediately notify the Rhode Island Commerce Corporation in writing.
- 3. The Respondent will maintain all required insurance during the term of any contract pursuant to this solicitation. In the event that any required insurance shall lapse or be canceled, the Respondent will immediately notify the Rhode Island Commerce Corporation in writing.
- 4. The Respondent understands that falsification of any information in its RFP/RFQ response or failure to notify the Rhode Island Commerce Corporation of any changes in any disclosures or certifications in this Respondent Certification may be grounds for suspension, debarment, and/or prosecution for fraud.
- 5. The Respondent has not paid and will not pay any bonus, commission, fee, gratuity, or other remuneration to any employee or official of the Rhode Island Commerce Corporation or the State of Rhode Island or any subdivision of the State of Rhode Island or other governmental authority for the purpose of obtaining an award of a contract pursuant to this solicitation. The Respondent further certifies that no bonus, commission, fee, gratuity, or other remuneration has been or will be received from any third party or paid to any third party contingent on the award of a contract pursuant to this solicitation.
- 6. This RFP/RFQ response is not a collusive RFP/RFQ response. Neither the Respondent, nor any of its owners, stockholders, members, partners, principals, directors, managers, officers, employees, or agents has in any way colluded, conspired, or agreed, directly or indirectly, with any other Respondent or person to submit a collusive response to the solicitation or to refrain from submitting response to the solicitation, or has in any manner, directly or indirectly, sought by agreement or collusion or other communication with any other Respondent or person to fix the price or prices in the response or the response of any other Respondent, or to fix any overhead, profit, or cost component of the price in the response or the response of any other Respondent, or to secure through any collusion, conspiracy, or unlawful agreement any advantage against the Rhode Island Commerce Corporation or the State of Rhode Island or any person with an interest in the contract awarded pursuant to this solicitation. The price in the response is fair and proper and is not tainted by any collusion, conspiracy, or unlawful agreement on the part of the Respondent, its owners, stockholders, members, partners, principals, directors, managers, officers, employees, or agents.
- 7. The Respondent: (i) is not identified on the General Treasurer's list created pursuant to R.I. Gen. Laws § 37-2.5-3 as a person or entity engaging in investment activities in Iran described in § 37-2.5-2(b); and (ii) is not engaging in any such investment activities in Iran.

\_\_\_\_ 8. The Respondent will comply with all of the laws that are incorporated into and/or applicable to any contract with the Rhode Island Commerce Corporation.

*Certification details (continue on additional sheet if necessary):*

**Submission by the Respondent of a response pursuant to this solicitation constitutes an offer to contract with the Rhode Island Commerce Corporation on the terms and conditions contained in this solicitation and the response. The Respondent certifies that: (1) the Respondent has reviewed this solicitation and agrees to comply with its terms and conditions; (2) the response is based on this solicitation; and (3) the information submitted in the response (including this Respondent Certification Cover Form) is accurate and complete. The Respondent acknowledges that the terms and conditions of this solicitation and the response will be incorporated into any contract awarded to the Respondent pursuant to this solicitation and the response. The person signing below represents, under penalty of perjury, that he or she is fully informed regarding the preparation and contents of this response and has been duly authorized to execute and submit this response on behalf of the Respondent.**

## **RESPONDENT**

**Date:** \_\_\_\_\_

Name of Respondent

\_\_\_\_\_  
Signature in ink

\_\_\_\_\_  
Printed name and title of person signing on behalf of Respondent