

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Notice of Programmatic Waiver

ACTION: Notice

SUMMARY:

The Infrastructure Investment and Jobs Act (Infrastructure Act), enacted in November 2021, includes funding for robust investment in American infrastructure projects. The Infrastructure Act includes the Broadband Equity, Access, and Deployment (BEAD) Program, which provides \$42.45 billion of funding to achieve reliable, affordable, and high-speed Internet coverage throughout the United States. *See* Infrastructure Investment and Jobs Act of 2021, Division F, Title I, Section 60102, Public Law 117-58, 135 Stat. 429 (Nov. 15, 2021). The U.S. Department of Commerce, in keeping with its mission to create the conditions for economic growth and opportunity for all communities, is ready to lead the building of equitable access to universal high-speed Internet coverage in the United States, in partnership with other agencies and Departments.

The National Telecommunications and Information Administration (NTIA), as the agency responsible for administering the BEAD Program, provides herein:

- Notice of a conditional limited programmatic waiver of the of the professional engineer certification requirement set forth in the BEAD Program Notice of Funding Opportunity.¹
- Clarification that the professional engineer making certifications in connection with the professional engineer certification requirement may be licensed in any of the 56 Eligible Entities.

¹ Broadband Equity, Access, and Deployment Program Notice of Funding Opportunity at 74, § IV.D.2.c (BEAD NOFO).

1. Background

The BEAD NOFO requires that:

Prospective subgrantees must submit a network design, diagram, project costs, build-out timeline and milestones for project implementation, and a capital investment schedule evidencing complete build-out and the initiation of service within four years of the date on which the entity receives the subgrant, all certified by a professional engineer, stating that the proposed network can deliver broadband service that meets the requisite performance requirements to all locations served by the Project.²

The Assistant Secretary of Commerce for Communications and Information has determined that, for good cause shown, and in the best interest of the Federal Government, a conditional limited programmatic waiver of the requirement to obtain a professional engineer's certification (the PE Certification Requirement) should be granted as described herein.

2. Conditional Limited Programmatic Waiver

The PE Certification Requirement is waived only to the extent and as described below:

The requirement that a prospective subgrantee submit, as part of its demonstration of technical capability, a "capital investment schedule evidencing complete build-out and the initiation of service within four years of the date on which the entity receives the subgrant" that is "certified by a professional engineer" is waived. A professional engineer is still required to certify the remaining elements of the PE Certification Requirement.

This waiver is conditioned on the prospective subgrantee's submission of a capital investment schedule evidencing complete build-out and the initiation of service within four years of the date on which the entity receives the subgrant.

3. Clarification Regarding Professional Engineer Licensing

OICG clarifies that the professional engineer making certifications in connection with the PE Certification Requirement may be licensed in any of the 56 Eligible Entities.

² BEAD NOFO at 74, § IV.D.2.c.