

Broadband Infrastructure Program

Second Set of Frequently Asked Questions (June 10, 2021)

The below FAQs are for informational purposes only and are intended solely to assist potential applicants in better understanding the NTIA Broadband Infrastructure Program and the application requirements set forth in the Notice of Funding Opportunity (NOFO) for this program. The FAQs do not and are not intended to supersede, modify, or otherwise alter applicable statutory or regulatory requirements, or the specific application requirements set forth in the NOFO. In all cases, statutory and regulatory mandates, and the requirements set forth in the NOFO, shall prevail over any inconsistencies contained in the below FAQs.

Eligibility

Can multiple counties or towns submit an application with a fixed broadband service provider?

Multiple political subdivisions may join together to collaborate with a fixed broadband service provider(s) as a covered partnership to propose a covered broadband project.

What entities qualify as political subdivisions of a state?

Neither the Act nor the NOFO explicitly define the term “political subdivision.” In general, political subdivisions are created by a State to fulfill governmental functions and are expressly defined in State statutes. Such entities may typically include, but are not limited to, counties, cities, towns, municipalities, or parishes. In the Project Narrative section of its application under the description of the covered partnership, an entity should provide a citation to the specific State law that authorizes or establishes it as a political subdivision of the State to qualify to submit an application under this grant program. See Section IV.B.6.b of the NOFO. For example, if a State statute authorizes local economic development councils as political subdivisions, then that entity could qualify as the public/State member of the covered partnership.

Are municipally-owned networks, by themselves, considered “covered partnerships” since they are both broadband providers and part of a government entity?

The intent of the statute is to award funds to a “covered partnership” in which at least two parties are involved. The definition of covered partnership set forth in the Consolidated Appropriations Act, 2021, Division N, Title IX, Section 905(a)(5) (the Act) includes two components, one for each entity that makes up one half of the partnership: (1) a State or 1 or more political subdivisions of a State, and (2) a provider of fixed broadband service. A covered partnership can include multiple entities in either category (*e.g.*, a covered partnership consisting of two political subdivisions of a State and one provider). But at the very least, a covered partnership needs to consist of: (1) one State or political subdivision, and (2) one provider of fixed broadband. A municipally-owned network could serve as either the State or political subdivision of a State or as a service provider in the covered partnership, but could not serve as both (*i.e.*, if the municipal broadband provider applies as a political subdivision, the application includes a separate provider of fixed broadband service, if it applies as a provider of fixed broadband service, the application includes a separate State or political subdivision of a State).

If a cooperative or service provider applies to this program, must they establish a formal partnership with a state/local organization or can they simply include letters of support from the city/county government, etc.?

The Broadband Infrastructure Program, per the Act, states that eligible applicants must be a “covered partnership” which is defined as a partnership between: (A) a State, or one or more political subdivisions of a State; and (B) a provider of fixed broadband. Therefore, a cooperative or service provider would not be eligible applying on their own, even with letters of support from the State or political subdivision(s) they intend to serve. They would need to partner with the State or political subdivision(s) of a State they intend to serve, with the State or political subdivision serving as the lead applicant.

Are States only allowed one application each?

A State as a part of the covered partnership, may only submit one application proposing a covered broadband project in accordance with Section 905(e)(2)(C) of the Act, which limits covered partnerships to a single application. Political subdivisions of a State are also limited to one application for program funding.

Will NTIA award only one application per State?

Not necessarily. NTIA may award more than one covered broadband project in a State, depending on the number of competitive applications received from eligible applicants within a State and the available funding. However, equitable geographic distribution of proposed grant awards is a selection factor listed in Section V.C of the NOFO. Further, NTIA will only award one application per State or political subdivision applicant.

Does the State have to be involved in the covered partnership?

A State does not have to be a part of the covered partnership, provided that one or more political subdivision of that state are included. NTIA encourages applicants to consult and/or coordinate project proposals with the State's broadband office.

How do I coordinate with the State on my covered project application?

Applicants can reach out to their State’s broadband office to coordinate their application to this grant program. For more information on State broadband offices, see <https://broadbandusa.ntia.doc.gov/resources/states>. Additionally, the applicant must identify on Line 19 of the SF-424 application form whether the application is subject to State review pursuant to Executive Order 12372 and whether the application was selected for review by the State.

Do the members of the covered partnership need to have a formal partnership agreement in place before applying?

The partnership does not need to be documented in a formal legal agreement at the time of application submission but should be expressed in the application as a general intent to cooperate in implementing the covered broadband project proposed for an award. NTIA requires that letters of commitment from the covered partnership participants and any other significant partners in the proposed project be submitted as a part of the application. See Sections III.A.1 and IV.B.9 of the NOFO.

Are projects that have already commenced, including costs expended already for planning, permitting, and/or construction, eligible for funding?

Yes, projects already underway are eligible for funding under this program. However, Federal and non-federal funds committed to an award under this program may only be used to cover allowable costs

incurred during the period of performance. So no project costs incurred before the period of performance would be allowable under this program. Further, a grant recipient cannot receive duplicate funding from NTIA for costs that are already paid for from another source. Applicants, if awarded grants, are allowed to use up to \$50,000 in awarded funds towards the reasonable pre-application costs of preparing applications for this grant program.

Will projects that are currently underway, in which funds have been expended, be eligible for retroactive funding if a part of a larger project?

Grant funds may not be applied to retroactive project costs. Federal and non-federal funds committed to an award under this program may only be used to cover allowable costs incurred during the period of performance. Applicants, if awarded grants, are allowed to use up to \$50,000 in awarded funds towards the reasonable pre-application costs of preparing applications for this grant program.

Given the scoring priority and criteria, is NTIA prioritizing large-scale projects that propose to serve the largest number of unserved locations prioritized over a smaller project serving a single political subdivision with a service provider?

Not necessarily. While projects designed to provide broadband service to the greatest number of households in an eligible service area are the highest priority, the NOFO lists other priorities that NTIA may consider and assess as well, including projects designed to provide broadband service in an eligible service area that is wholly within any area other than a county, city, or town that has a population of more than 50,000 inhabitants and the urbanized area contiguous and adjacent to a city or town of more than 50,000 inhabitants, projects that are the most cost-effective, prioritizing such projects in areas that are the most rural, projects designed to provide broadband service with speed of 100 Mbps download/20 Mbps upload, and other broadband projects that meets the requirements of the NOFO.

Will NTIA use the FCC's National Broadband Map for determining if a census block is eligible for funding under this program?

NTIA will use the FCC's National Broadband Map data, which is incorporated in NTIA's National Broadband Availability Map (NBAM), to assess the eligibility of the proposed service areas. NTIA's NBAM includes multiple data sets on broadband services, including data sets from the FCC, U.S. Census Bureau, Universal Service Administrative Company, U.S. Department of Agriculture, U.S. Department of the Treasury, Ookla, Measurement Lab, BroadbandNow, White Star, and state governments. NTIA will also use applicant provided data (e.g., State broadband data, speed test data) to assess the eligibility of the proposed service area.

Will NTIA fund a project in census blocks that are shown as served by the FCC's National Broadband Map but one or more locations in that census block are not served by qualifying broadband service?

Yes. NTIA will consider the applicant's submission of data and information used to substantiate the position that not all locations in the census block are served by qualifying broadband service (25/3 with low latency) and will also rely on data sets found in NTIA's NBAM to assess eligibility. NTIA will only fund the portions of that census block that are currently unserved (i.e., lack access to qualifying broadband service as defined in Section 2.B.i of the NOFO).

If according to the FCC's National Broadband Map a census block has fixed broadband service, however that service for that census block or part of that census block is less than 25/3 (with low latency), is that service area eligible for funding under this program?

Yes. NTIA will consider the applicant's submission of data and information used to substantiate the position that not all locations in the census block are served by qualifying broadband service (25/3 with low latency) and will also use data sets found in NTIA's NBAM to assess eligibility. NTIA will only fund the portions of that census block that are currently unserved (i.e., not receiving 25/3 broadband service with low latency).

Are projects that propose to serve only a portion of a political subdivision be eligible for funding? For example, there is already fiber in one part of the political subdivision, but not in the entire political subdivision?

Yes. Data and maps provided by the application should clearly demonstrate where the project aims to deploy infrastructure and why it is not proposing to serve the entire census tract or political subdivision, *e.g.*, qualifying broadband service/infrastructure already exists in those locations, or these locations are already funded by other Federal or state programs supporting broadband investments.

How should an applicant measure how rural an area is?

The NOFO does not define rural for purposes of this program, however, Section 905(d)(4) of the Act includes, among its priorities, service to areas that are wholly within any area other than a county, city, or town that has a population of more than 50,000 inhabitants and the urbanized area contiguous and adjacent to a city or town of more than 50,000 inhabitants.

Can a community that exceeds the population threshold of more than 50,000 residents but otherwise qualifies under the other priorities apply for this grant program?

Yes. Per the Act and the NOFO, the population threshold is a priority factor (second of five), not an eligibility requirement. NTIA will first review applications addressing the first statutory priority (service to greatest number of households). If funding remains after review of these applications, NTIA will review applications addressing the second statutory priority, and so on, until it has awarded all available funding. Satisfaction of multiple statutory priorities is a selection factor listed in Section V.C of the NOFO.

What does NTIA mean by 'competitively and technologically neutral'?

Competitively and technologically neutral means that, for the purposes of this program, NTIA will consider funding different fixed broadband service providers and technology modalities of fixed broadband service, *e.g.*, fixed wireless, fiber, cable, satellite.

Does "fixed" broadband include "fixed" wireless broadband or just fiber/wireline based services?

Yes, fixed wireless broadband service is eligible under this program.

Where is there map-based data on broadband service coverage to help determine eligibility of a proposed service area?

NTIA's BroadbandUSA website has resources that applicants can use as input to determine and demonstrate eligibility of a proposed service area. Two recent resources include:

- February 2021 webinar and PowerPoint on Data as the Foundation of Broadband Planning: <https://broadbandusa.ntia.doc.gov/events/latest-events/february-2021-webinar-data-foundation-broadband-planning>.
- April 2021 webinar and PowerPoint on Broadband Infrastructure Program, includes overview of data sets to help assess broadband services in areas:

<https://broadbandusa.ntia.doc.gov/events/latest-events/ntia-grant-program-broadband-infrastructure-webinar-session-1a>.

Applicants are also encouraged to work with their State Broadband offices to access any broadband mapping data they may have, including access to NTIA's National Broadband Availability Map (NBAM).

How do applicants get access to the NTIA's National Broadband Availability Map (NBAM)?

The NBAM is a secure cloud-based GIS platform designed for use by state and federal broadband policymakers. The tool includes a variety of federal, state, and commercially-sourced data sets which can be geospatially analyzed to support broadband policymaking, planning, and investment decision-making. Because the NBAM contains a mix of public and non-public data, which may be business sensitive or have licensing restrictions, access to the NBAM and its data are not generally available to the public.

NTIA expects that derivative products (*e.g.* maps, dashboards, infographics) can and will be published and shared in the future. Due to the data confidentiality issues describe above, sharing and summarizing data will be particularly challenging (and in some cases prohibited). NTIA is examining these issues, although it does not yet have a firm schedule for publication of any derivative works.

Other Broadband Funding Programs and Eligible Service Areas

If a covered partnership is receiving state funds for a broadband deployment project are they precluded from receiving federal funding?

The use of State funds for broadband projects associated with the covered project proposed in the application is not prohibited; however, a grant recipient cannot receive duplicate funding from NTIA for costs that are already paid for from another source. NTIA encourages applicants to coordinate with their State in order to maximize Federal, state, and local funding as much as possible and avoid any duplication of broadband deployment funding.

If any portion of the proposed service area has already received Federal funding for broadband service, is the whole project ineligible for award?

NTIA intends to fund specific eligible areas for which there are no other Federal funds awarded and/or leveraged to provide a qualifying broadband service (25/3 with low latency). The definition of "unserved" in Section 905(a)(14) of the Act (and included in Section I.B.k of the NOFO) includes the conditions that: (1) the household lacks access to qualifying broadband service; and (2) no broadband service provider has been selected to receive, or is otherwise receiving, Federal or State funding subject to enforceable build out commitments to deploy qualifying broadband service in the specific area where the household is located by dates certain. NTIA may fund projects within a larger geographic area (*e.g.*, a State or county) receiving prior/current Federal funding, if the specific portions of the area described in the application to NTIA (*e.g.*, census tract, political subdivision) are not served by Federal funding and/or are not being served with a qualifying broadband service (25/3 with low latency).

If a portion of the project proposed is ineligible for funding, during the application review process NTIA may request that the applicant descope that portion of the project to continue receiving consideration (if other portions of the project are deemed eligible, meet the funding priorities outlined in the NOFO, and the proposed project scores favorably against the review criteria).

What is the timeframe for consideration of prior Federal funding for broadband services in a proposed service area?

There is no specific timeframe that is taken in consideration for prior Federal funding, rather the focus is on avoidance of duplication with the initiatives of other federal agencies. As noted above, a grant recipient cannot receive duplicate funding from NTIA for costs that are already paid for from another source. NTIA intends to fund eligible areas for which there are no other Federal funds awarded and/or leveraged to provide a qualifying broadband service as defined in Section I.B.i of the NOFO.

Would any location that has received prior FCC Universal Service Fund (USF) funding be ineligible for funding under this program?

NTIA intends to fund eligible areas for which there are no other Federal funds awarded and/or leveraged to provide qualifying broadband service as defined in Section I.B.i of the NOFO. NTIA may fund projects within a larger geographic area receiving prior/current Federal funding, if the specific portions of the area described in the application to NTIA (*e.g.*, census tract, political subdivision) are not served by Federal funding and/or are not being served with a qualifying broadband service as defined in Section I.B.i.

How will NTIA, the FCC, and USDA/RUS coordinate given all of their prior, current, and on-going Federal funding investments in broadband deployment?

NTIA, the FCC, and USDA/RUS, as well as other Federal agencies investing in broadband infrastructure projects, will continue to share information on past, current, and proposed Federal broadband infrastructure funding, including project specific details such as proposed service areas/maps, broadband speeds, etc., in order to maximize Federal investment in broadband infrastructure while avoiding duplication of funding.

Are service areas that were preliminarily awarded in the FCC's RDOF program excluded as eligible service areas for this program even if the final awards are not yet decided?

NTIA intends to fund specific eligible areas for which there are no other Federal funds awarded and/or leveraged to provide qualifying broadband service as defined in Section I.B.i of the NOFO. The definition of "unserved" in Section 905(a)(14) of the Act (and included in Section I.B.k of the NOFO) includes the conditions that: (1) the household lacks access to qualifying broadband service; and (2) no broadband service provider has been selected to receive, or is otherwise receiving, Federal or State funding subject to enforceable build out commitments to deploy qualifying broadband service in the specific area where the household is located by dates certain. Thus, NTIA may fund specific areas (*e.g.*, census tract, political subdivision) that are not receiving funding for and/or are not being served with a qualifying broadband service as defined in Section I.B.i of the NOFO. NTIA will also coordinate with the FCC on the status of proposed RDOF projects in order to understand if areas of proposed projects are descope or projects are no longer eligible for Federal funding.

Are service areas that were awarded in the FCC's CAF II program excluded as eligible service areas for this program?

NTIA intends to fund specific eligible areas for which there are no other Federal funds awarded and/or leveraged to provide qualifying broadband service as defined in Section I.B.i of the NOFO. The definition of "unserved" in Section 905(a)(14) of the Act (and included in Section I.B.k of the NOFO) includes the conditions that: (1) the household lacks access to qualifying broadband service; and (2) no broadband service provider has been selected to receive, or is otherwise receiving, Federal or State funding subject to enforceable build out commitments to deploy such service in the specific area where the household is located by dates certain. NTIA may fund specific areas (census tract, political subdivision) that are not

receiving funding for and/or are not being served with a qualifying broadband service as defined in Section I.B.i of the NOFO.

Are areas that have already received Federal funding for broadband infrastructure projects providing service less than 25/3 eligible for funding under this grant program?

Yes.

Application Requirements/Process

Are all members of the covered partnership (the State and/or political division of a State and the service provider) required to have a DUNS number, be registered in SAM, and/or have a Grants.gov account?

Only the lead applicant that would enter into the grant agreement with NTIA (the State or political subdivision of a State) is required to have a DUNS number, be registered in SAM, and have a Grants.gov account.

Will we need to have an environmental review completed prior to submitting the application, or is it okay if the process is just initiated? With a short deadline of one year, will a NEPA document be required for new backbone construction?

Applicants with projects containing construction and/or ground disturbing activities are required to submit all required environmental documentation with their application package or describe in their project narrative the physical project location and included photographs, and how they will comply with applicable environmental and national historical preservation requirements. It is the applicant's responsibility to obtain all necessary federal, state, and local governmental permits and approvals necessary for the proposed work to be conducted. Applicants are expected to design their projects so that they minimize the potential for adverse impacts on the environment. Applicants also will be required to cooperate with NTIA in identifying feasible measures to reduce or avoid any identified adverse environmental impacts of their proposed projects. The failure to do so may be grounds for not making an award. Applications will be reviewed to ensure that they contain sufficient information to allow agency staff to conduct a NEPA analysis so that appropriate NEPA documentation can be submitted to NTIA, along with the recommendation for funding of the selected applications. If additional information is required after an application is accepted for funding, funds can be withheld by NTIA under a specific award condition requiring the awardee to submit additional environmental compliance information sufficient for the agency to make an assessment of any impacts that a project may have on the environment.

Section II.B of the NOFO includes information on how and if an applicant/awardee can request an extension of the period of performance for its project, if necessary.

Will projects need to be pre-permitted in order to be competitive?

No. However, the applicant should identify in their application any permitting that may be required to complete the proposed covered project, including the status of such permits. It warrants noting that NTIA will give additional consideration for construction projects that are "shovel ready" and capable of completion within the one-year award period.

How can NTIA help with the Federal permitting process for any awarded projects?

NTIA will work with our Federal partners involved in permitting for construction to expedite the process to the extent possible. NTIA serves on the Executive Leadership Team of the American Broadband Initiative (ABI), which is focused on promoting coordination across federal agencies to better leverage public assets and resources to expand our nation's broadband capacity. NTIA actively participates in the ABI's Streamlining Federal Permitting workstream, which strives to make it easier for network builders and service providers to access federal assets and rights-of-way, reducing the regulatory burden and simplifying the deployment of broadband networks. NTIA will leverage the ABI to assist applicants in overcoming obstacles to deploying their broadband infrastructure projects on federal property (to the extent applicable).

Post Award Requirements

Which member of the covered partnership would retain ownership of the infrastructure or associated assets funded by this grant program? May the members of the covered partnership decide which entity would own the funded infrastructure/assets?

The grant recipient (State or political subdivision of a State) or a subrecipient, including the service provider, may retain ownership (serve as the trustee, see below) of the funded covered project's infrastructure and associated assets. The members of the covered partnership may make that determination. Title vests subject to the terms and conditions of this program and of the Property Standards located in 2 C.F.R. §§ 200.310-200.316.

Applicants and grant recipients must be aware that in accordance with 2 C.F.R. § 200.316, real property, equipment, and intangible property, that are acquired or improved with a Federal award must be held in trust by the recipient or subrecipient as trustee for the beneficiaries of the project or program under which the property was acquired or improved. In this connection, NTIA may require the non-Federal entity to record liens or other appropriate notices of record to indicate that personal or real property has been acquired or improved with a Federal award and that use and disposition conditions apply to the property. Awards issued pursuant to this NOFO may contain specific award conditions pertaining to the use and disposition of grant-acquired property and a requirement that the recipient or subrecipient file certain public notices (e.g., UCC-1, Covenant of Purpose, Use and Ownership, etc.) with respect to grant-acquired property.

Will projects be subject to special conditions (e.g., environmental and historic preservation clearance) that may extend the project past the intended 12 month grant period of performance?

Yes, the NOFO provides a list of special conditions, including environmental and historic preservation (EHP) requirements, for funded projects. For EHP, applicants with projects containing construction and/or ground disturbing activities are required to submit all required environmental documentation with their application package or describe in their project narrative the physical project location and included photographs, as described above, and how they will comply with applicable environmental and national historical preservation requirements. It is the applicant's responsibility to obtain all necessary federal, state, and local governmental permits and approvals necessary for the proposed work to be conducted. Applicants are expected to design their projects so that they minimize the potential for adverse impacts on the environment. Applicants also will be required to cooperate with NTIA in identifying feasible measures to reduce or avoid any identified adverse environmental impacts of their proposed projects. The failure to do so may be grounds for not making an award. Applications will be reviewed to ensure that they contain sufficient information to allow agency staff to conduct a NEPA analysis so that appropriate NEPA documentation can be submitted to NTIA, along with the

recommendation for funding of the selected applications. If additional information is required after an application is accepted for funding, funds can be withheld by NTIA under a specific award condition requiring the awardee to submit additional environmental compliance information sufficient for the agency to make an assessment of any impacts that a project may have on the environment.

Section II.B of the NOFO includes information on how and if an applicant/awardee can request an extension of the period of performance for its project, if necessary.