

Broadband Infrastructure Program

Third Set of Frequently Asked Questions (June 23, 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.

Program Overview

The statute includes \$300M for the Broadband Infrastructure Program, why is only \$288M available for award in the NOFO?

NTIA retains a small percentage of the funds allocated in the statute to fund the administration of the grant program, including pre-award and post-award processes and procedures.

Eligibility

Does a covered partnership have to include a State affiliated organization?

No, a covered partnership does not have to include a State-affiliated organization or division. It must include a political subdivision, which can include a local government or other organization deemed a political subdivision by the State's specific law that authorizes or establishes it as a political subdivision of the State. 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.

Does the NOFO require political subdivisions to competitively procure or select the service provider for participation in the covered partnership?

No, the NOFO does not require political subdivisions to competitively select their service provider partner. NTIA defers to the political subdivision and its applicable State or local laws or requirements in determining or selecting a service provider for participation in the covered partnership. However, the application must name the specific provider of fixed broadband service participating in the covered partnership, and the application must include all required documentation from that service provider.

Can the service provider member of a covered partnership be a new service provider that is established for the purpose of this grant program?

Yes, if the new service provider offers fixed broadband service, and the covered partnership can meet the specific speed and latency rate requirements in the "qualifying broadband service" definition in Section I.B.i of the NOFO.

Is a political subdivision agreement with an MVNO provider eligible under the grant program?

NTIA does not require any formal relationship between the political subdivision and the service provider comprising the covered partnership. NTIA does require, however, letters of commitment from each member of the covered partnership and other significant partners participating in implementing the

proposed covered broadband project. MVNOs are eligible as service providers in a covered partnership if they are able to provide fixed broadband services, and the covered partnership can meet the specific speed and latency rate requirements in the “qualifying broadband service” definition in Section I.B.i of the NOFO.

Does a covered partnership that includes multiple political subdivisions require any special agreements or arrangements among the political subdivisions and/or with the service provider partner(s) to submit an application?

No. The program does not require any formal agreement among the political subdivision(s) and/or the service provider(s) to apply for funding under this program. The program does require a single political subdivision to serve as lead applicant and any other political subdivisions and service provider(s) involved in the proposed covered broadband project would need to submit a Letter of Commitment that details their role in the proposed project and commitment to fulfilling the intent of the proposed project.

Is a utility company eligible to be a service provider?

Yes, if they can or intend to provide fixed broadband services, and the covered partnership can meet the specific speed and latency rate requirements in the “qualifying broadband service” definition in Section I.B.i of the NOFO.

Does the FCC’s definition of a census block being served if one household or business has broadband service apply to the eligibility of service areas for this program?

Not necessarily. While NTIA will consider broadband availability data provided by the FCC in the review of proposed funded service areas, NTIA encourages applicants to provide any additional data they have on the availability of broadband services in their proposed service areas that may provide additional detail and clarity on the presence of qualifying broadband service and level of need in those areas.

In the definition of qualifying broadband service, specifically 25/3, is minimum broadband speed based on advertised speeds or actual speeds?

The definition of qualifying broadband service in Section I.B.i of the NOFO is based on actual speeds, and includes as a requirement the ability to provide 25 Mbps downstream and 3 Mbps upstream service simultaneously to every household in the eligible service area. NTIA encourages applicants to provide any additional information or clarifying data that can demonstrate the level of need in a proposed service area. This data can include speed test data that may indicate that a service area is not being served with 25/3 broadband speeds with low latency and therefore may be eligible for funding under the Broadband Infrastructure Program.

If a proposed funded service area includes a small portion of households that are served with qualifying broadband, will the application be disqualified or be viewed negatively?

No, however in the application review process, NTIA may request the applicant to remove portions of their proposed service area that is already served by a qualifying broadband service as defined in Section I.B.i of the NOFO. Applications proposing to serve a higher proportion of unserved households in a service area will score more highly than those that propose to serve less. See Section V.A.1.a of the NOFO.

To what extent is FCC Form 477 data and the associated map going to be used in assessing a proposed service area’s level of need and eligibility under this program?

The FCC’s Form 477 data and maps are one of many inputs that NTIA will use to evaluate applications and eligibility of service areas for funding. NTIA will evaluate the applicant’s data and assertions of the level of need in the proposed service areas and also use data from NTIA’s National Broadband Availability Map (NBAM) and FCC Form 477 data (which is a data layer in the NBAM) to determine the eligibility of the proposed service area.

What is the definition of broadband for the purpose of this NOFO?

The relevant definition of broadband for the purposes of this grant program is the NOFO’s definition of “qualifying broadband service” listed in Section I.B.i. The term “qualifying broadband service” means broadband service with: (i) a download speed of not less than 25 megabits per second; (ii) an upload speed of not less than 3 megabits per second; and (iii) a latency sufficient to support real-time, interactive applications. For purposes of this program, NTIA will interpret the 25/3 standard to mean the ability to provide 25 Mbps downstream and 3 Mbps upstream simultaneously to every household in the eligible service area. NTIA will interpret latency to mean 95 percent or more of all peak period measurements of network round trip latency [i.e., the total round-trip latency between the customer premises and the closest designated Internet core peering interconnection point] are at or below 100 milliseconds.

Are middle mile network upgrades eligible for funding?

Yes, upgrades to middle mile networks are eligible costs under this program. To score highly under Section V.A.1.a of the NOFO, applications for projects deploying middle mile networks must prioritize connecting with last mile networks serving unserved households and substantiate the incremental value to the last mile connection to the middle mile network, including increased network capacity for last mile circuits, increased network performance, and lower costs that are passed onto end users, as well as identify potential or partnered last mile networks that could or would leverage the middle mile network, in the proposed service area.

If applicants are proposing a middle mile network/backhaul for ISPs serving the last mile, do they need to include commitments from the ISPs?

No, however, applicants are encouraged to demonstrate the need for the infrastructure they propose in the respective communities they intend to serve, which is an evaluation factor for this grant program. This could include partnerships or commitments from include local ISPs who require improved or more cost effective backhaul to deliver last mile qualifying broadband service to end users.

Are pre-paid service costs, e.g., for 5 years, for Internet connectivity backhaul for interconnecting ISPs providing last mile broadband service eligible under this program?

Yes, so long as the cost and terms are reasonable, eligible under the NOFO, and the grantee makes full payment for that service during the grant’s period of performance. If an applicant intends to use grant funds in this way, the applicant must include a description of such proposed costs in its application, including the proposed period of service. NTIA may include a specific award condition in any such award to ensure that the funds are used appropriately, and to ensure that if the service is cancelled and/or the grantee receives a refund, any grant funds returned to the grantee are subsequently returned to the Federal government.

For infrastructure equipment or supplies that have a long procurement lead time, e.g., fiber, are applicants allowed to use grant funds for items that were ordered or purchased prior to award?

No. Grant funds may not be used for items that were ordered or purchased prior to award. Only costs borne during the award period of performance are eligible.

May the covered partnership apply its grant funds towards the purchase and deployment of broadband infrastructure and equipment to any site or location in the proposed service area?

Yes, the covered partnership may apply grant funds to eligible costs to deploy broadband infrastructure and equipment to any location, including households, businesses, community anchor institutions, and sites associated with the political subdivision, *e.g.*, city offices, so long as the locations are not already served by a qualifying broadband service. The covered partnership should describe in its proposal the expected use of the grant funds, including the sites and locations where broadband infrastructure and equipment will be deployed.

May applicants, in particular those who require undersea backhaul to provide Internet connectivity, propose projects with latency that is higher than 100ms?

Section I.B.i of the NOFO defines the term “qualifying broadband service” to mean broadband service with: (i) a download speed of not less than 25 megabits per second; (ii) an upload speed of not less than 3 megabits per second; and (iii) a latency sufficient to support real-time, interactive applications. Specifically, the latency standard means 95 percent or more of all peak period measurements of network round trip latency [*i.e.*, the total round-trip latency between the customer premises and the closest designated Internet core peering interconnection point] are at or below 100 milliseconds. Under the terms of the NOFO, applications providing qualifying broadband service to the most unserved households will score most highly.

May applicants that are closer in proximity to international peering locations and rely on undersea cabling for backhaul allowed to use an international peering location, in large part to improve latency and meet the qualifying broadband service latency requirements set forth in the NOFO?

This will depend on the specifics of each case. A covered partnership may not use grant funds received under the Broadband Infrastructure Program 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)). A covered partnership is also subject to the prohibition on using grant funds to procure, obtain or to otherwise secure certain telecommunications and video surveillance services or equipment described in 2 C.F.R. 200.216.

Other Broadband Funding Programs and Eligible Service Areas

If the proposed service area is already receiving State or Federal funds for broadband improvements, either through the covered partnership service provider(s) or another service provider, must it be disclosed by the applicant if known by the applicant?

Yes, as required by the Consolidated Appropriations Act, 2021, and described in Section IV.B.6.j of the NOFO, applicants must disclose in their Project Narrative any support received by the provider of broadband service (that is part of the covered partnership) in the proposed service area, among other reporting requirements.

If a proposed funded service area is receiving State or Federal funds for broadband improvements does it disqualify the application or negatively impact its score/review?

Not necessarily. In order to maximize State and Federal investment in broadband and avoid duplication of funding, NTIA will review any State or Federal funding already committed to a proposed project. NTIA

will compare the applicant's proposed service area against those service areas that have been funded by other Federal or State programs and assess if the area is already covered by qualifying broadband services. If, during the application review process, NTIA identifies service areas with pre-existing qualifying broadband service, applicants may be requested to descope those areas in order to ensure eligibility as outlined in the NOFO.

Are service areas that are to be served by non-wireline broadband services (e.g., wireless, satellite) through the recent FCC RDOF and/or CAF II funding programs eligible 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 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 and CAF II projects in order to understand if areas of proposed projects are descoped or projects are no longer eligible for Federal funding.

If a proposed funded service area is already being served by a Federally funded project, can an applicant propose a different type of technology or approach for broadband? Can covered partnerships propose a project in the same service area using a different type of broadband technology?

No, unless the previously Federally funded project is not delivering a qualifying broadband service, as defined in Section I.B.i of the NOFO. Under Section 905(a)(4) of the Act, this program will fund technologically and competitively neutral projects for the deployment of fixed broadband service.

How to Apply

Is only the lead applicant of a covered partnership required to submit the Standard Form (SF) 424 on Grants.gov or must all parties of a covered partnership submit the form?

Only the State or political subdivision that is designated as the lead applicant in a covered partnership is required to submit the SF 424 on Grants.gov.

Do project partners that will be designated subrecipients in the proposed project have to have an active SAM.gov registration?

Subrecipients do not have to complete the full SAM.gov registration. However per 2 C.F.R. 25.300 and the July 25, 2019 General Services Administration guidance, grant recipients must ensure that its subrecipients have a unique entity identifier (UEI). Subrecipients are required to provide the recipient with a UEI, which the subrecipient obtains from SAM.gov. Subrecipients must have and provide the UEI to recipients before subawards can be made and the recipient must notify any potential subrecipients as such. Note that a recipient may request subrecipients to provide a UEI sooner as part of the pre-award clearance.

Are applicants required to submit audited financials as a part of their application package?

No, audited financials are not generally required to be submitted in the application package. However, a detailed project budget and other cost details of the project, including financial analyses and revenue and expense projections, and a description of why federal financial assistance is needed to implement the covered broadband project are required. Please note that certain grantees are required to submit annual audit documentation to the Federal Audit Clearinghouse in accordance with 2 C.F.R. Part 200, Subpart F, and Section VI.G of the NOFO.

Evaluation of Applications

Will applications be evaluated more favorably if they propose a higher than suggested (10%) non-Federal cost share (match)?

Per Section V.A.3.c of the NOFO, Merit Reviewers may assign 5 (non-scaled) points to applicants that propose a non-federal cost share of 10% or more. Those applicants proposing less than 10% in non-Federal cost share or no cost share will not receive any points. Additionally, at the conclusion of the Programmatic Review, the Associate Administrator for the Office of Telecommunications and Information Applications (OTIA Associate Administrator) will prepare a rank order of applications within a particular priority grouping and present a package or packages of recommended grant awards to the Selecting Official for review and approval. The OTIA Associate Administrator's recommendations to the Selecting Official will consider nine selection factors, one of which is the extent to which the applicant proposes to contribute non-federal cost share to fund a portion of the total eligible costs of the project. Section V.C of the NOFO all of the selection factors.

Should applicants propose a service area with a large number of homes to be served, although some portions may already have qualifying broadband, or should an applicant propose a service area that is smaller in which all households do not have qualifying broadband service?

Applicants should only propose service areas for which there is no qualifying broadband service as defined in Section I.B.i of the NOFO. Service areas may be non-contiguous, as needed, to focus the application on those areas that do not have qualifying broadband service. If, during the application review process, NTIA identifies service areas with pre-existing qualifying broadband service, applicants may be requested to descope those areas in order to ensure eligibility as outlined in the NOFO.

Grant Award and Reporting Requirements

Are licensed Professional Engineers (PE) required for projects funded under this program?

No, licensed Professional Engineers (PEs) are not required to be used in this program. However, applicants should propose and involve in their project the personnel and resources that are qualified to execute the various aspects of their proposed projects successfully.

Are both last mile and middle mile networks funded under this program subject to the Open Network Requirements outlined in the NOFO?

Only middle mile networks are subject to the Open Network Requirements outlined in the NOFO (see VI.D.6 for additional details on the Open Network Requirements).

If an infrastructure project is already underway and the covered partnership wishes to fund additional infrastructure associated with the project through the grant program, should the applicant, for the purposes of the application, use an estimate of the remaining project costs to develop their proposed grant funded project costs? If the budget estimation in the grant application needs to be changed after award, is this allowed?

An applicant should only propose costs in their budget that are to be incurred during the award period of performance. No costs incurred before the period of performance are allowable under this program, except that applicants are allowed to use up to \$50,000 for eligible application development expenses. Further, a grant recipient cannot receive duplicate funding from NTIA for costs that are already paid for from another source. If an applicant receives an award and needs to make adjustments to its budget, they may work with their NTIA Program Officer and the NIST Grants Office to seek approval for those budget modifications, however, the costs must be eligible and no more than the awarded amount.

If there are supply chain issues in the procurement of needed project materials, e.g., fiber, will NTIA allow projects to extend their period of performance?

The Consolidated Appropriations Act, 2021 requires covered partnerships to complete their covered broadband projects within one year of their receipt of grant funds. The Assistant Secretary, however, may extend the award period for broadband infrastructure construction projects if the covered partnership certifies that: (1) it has a plan for the use of the grant funds, (2) the construction project is underway, or (3) extenuating circumstances require an extension of time to allow the project to be completed. Section II.B of the NOFO includes information on how and if an applicant/grantee can request an extension of the period of performance for its project, if necessary.

What are a grant recipient's obligations regarding the prevention of waste, fraud, and abuse?

In accordance with specific award conditions and consistent with statutory requirements in the Consolidated Appropriations Act, 2021, and in 2 C.F.R. Part 200, at any time(s) during the grant period of performance, NTIA may direct a grant recipient's key personnel to take a Government-provided training on preventing waste, fraud and abuse. Key personnel include those responsible for managing the grant recipient's finances and overseeing any contractors, sub-contractors or sub-grantees (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 recipient relative to the training (e.g., staff time) is eligible for reimbursement pursuant to the NTIA award.

Further, grant recipients 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 grant recipient detect any fraud schemes or any other suspicious activity, the grant recipient 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 C.F.R. § 200.113, an applicant or grant recipient 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. Non-Federal entities that have received a Federal award 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 Section 200.339. (*See also* 2 C.F.R. Part 180, 31 U.S.C. § 3321, and 41 U.S.C. § 2313.)

What are a grant recipient’s obligations regarding the 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 U.S.C. § 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 non-Federal entity 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, subaward, or a contract under a Federal award or subaward, a gross waste of Federal funds, an abuse of authority relating to a Federal award or subaward or contract under a Federal award or subaward, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a Federal award, subaward, or contract under a Federal award or subaward.

Non-Federal entities and contractors under Federal awards and subawards must inform their employees in writing of the rights and remedies provided under 41 U.S.C. § 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.