
INTERNET FOR ALL

Frequently Asked Questions and Answers Version 4.0

Broadband, Equity, Access, and
Deployment (BEAD) Program



U.S. Department of Commerce
National Telecommunications and Information Administration

Note

The Broadband, Equity, Access & Deployment Program (BEAD)¹ provides federal funding to make grants to Eligible Entities for broadband planning, deployment, mapping, equity, and adoption projects and activities. The following Frequently Asked Questions (FAQs) are intended to clarify and provide guidance on information set forth in the Notice of Funding Opportunity (NOFO) on May 13, 2022. NTIA will update this document on a periodic basis as further questions arise. Newly added questions in this FAQ are indicated with an asterisk (*). Questions may be submitted to BEAD@ntia.gov.

The below FAQs are for informational purposes only and are intended solely to assist potential applicants in better understanding the NTIA BEAD 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.

Please note that all new questions are disbursed throughout the document as well in their appropriate sections. All new questions and answers are italicized.

¹ Authorized by the Infrastructure Investment and Jobs Act of 2021, Division F, Title I, Section 60102, Public Law 117-58, 135 Stat. 429 (November 15, 2021), also known as the Bipartisan Infrastructure Law.

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1. Program Overview and Eligibility

1.1 Who can apply for funding under the BEAD program?

Any State of the U.S., the District of Columbia, Puerto Rico, American Samoa, Guam, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands are considered “Eligible Entities” under the BEAD program and may apply for funding.

1.2 Can U.S. territories / the District of Columbia apply for funding under the BEAD program?

Yes, BEAD funds are available for use by U.S. territories and the District of Columbia.

1.3 What are the eligible uses of general funds (i.e., funds not including planning funds) for BEAD?

Subject to the prioritization scheme included in the NOFO, BEAD funds may be used for the purposes listed below. A complete list of the eligible uses of funds is included in the NOFO at Sections IV.B.7.a.(ii) and (iii).

1. Deploying and/or upgrading broadband network facilities in connection with an Unserved Service Project or an Underserved Service Project;
2. Deploying and/or upgrading broadband network facilities to provide or improve service to an eligible community anchor institution;
3. Data collection, broadband mapping, and planning to the extent necessary beyond the planning fund allocation to facilitate the goals and deliverables of the BEAD Program;
4. Installing internet and Wi-Fi infrastructure or providing reduced-cost broadband within a multi-family residential building, with priority given to a residential building that has substantial share of unserved households or is in a location in which the percentage of individuals with a household income that is at or below 150 percent of the poverty line² applicable to a family of the size involved is higher than the national percentage of such individuals;
5. Broadband adoption, including programs to provide affordable internet-capable devices;
6. Training and workforce development; and
7. Other uses, including other Digital Equity programs not already included above, proposed by Eligible Entities and approved in advance in writing by the Assistant Secretary that support the goals of the Program.³

² As determined under Section 673(2) of the Community Services Block Grant Act (42 U.S.C. § 9902(2)).

³ Requests for approval of uses not listed here should be made in writing to the Assistant Secretary and submitted through the appropriate Federal Program Officer. Eligible Entities should make such requests on a timely basis to facilitate resolution prior to point at which the Eligible Entity seeks to make the expenditure or expenditures at issue.

1.4 What are the core milestones for the BEAD program and what does an Eligible Entity need to submit by when?

In creating the BEAD program, the Bipartisan Infrastructure Law created a multi-step, multi-year process. NTIA will work as expeditiously as possible to effectively implement the program. The chart below summarizes the key milestones of the BEAD Program and additional information about program sequencing can be found in Section IV.B. of the NOFO:

Stage	Description
Letter of Intent	July 18, 2022 , is the deadline for an Eligible Entity to submit a Letter of Intent to participate in the Program.
Request for Initial Planning Funds	A state, the District of Columbia, or Puerto Rico may request up to \$5,000,000 in Initial Planning Funds. American Samoa, Guam, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands may request up to \$1,250,000. Each Eligible Entity’s Initial Planning Funds will be drawn from that Eligible Entity’s Minimum Initial Allocation. If the Eligible Entity requests Initial Planning Funds, it must submit an application for Initial Planning Funds by August 15, 2022 , and a Five-Year Action Plan within 270 days of receipt of Initial Planning Funds.
Notice of Available Amounts	On or after the date on which the Broadband DATA Maps are made public, the Assistant Secretary will notify each Eligible Entity of the estimated amount of funding that NTIA will make available to the Eligible Entity under the Program (Notice of Available Amounts) and invite the submission of an initial grant proposal (Initial Proposal) and a final grant proposal (Final Proposal).
Initial Proposal	Eligible Entities will have 180 days from receipt of the Notice of Available Amounts to develop and submit an Initial Proposal, which will, among other things, describe the competitive process the Eligible Entity proposes to use to select subgrantees to construct broadband projects. Prior to submission to NTIA, the Initial Proposal must be made available for public comment and must incorporate local coordination feedback for the Assistant Secretary’s review.
Challenge Process	After submission of its Initial Proposal and before allocating BEAD funds received for the deployment of broadband networks, an Eligible Entity must conduct a challenge process. Under this process, a unit of local government, nonprofit organization, or broadband service provider can challenge a determination made by the Eligible Entity in the Initial Proposal as to whether a particular location or community anchor institution within the jurisdiction of the Eligible Entity is eligible for the grant funds, including whether a particular location is unserved or underserved, and submit any successful challenges to NTIA for review and approval.
Initial Funding Availability	NTIA will review Initial Proposals as expeditiously as possible. Once an Initial Proposal is approved, NTIA will make available to the Eligible Entity not less than 20 percent of the total grant funds allocated to the Eligible Entity.
Subgrantee Selection	An Eligible Entity may initiate its competitive subgrantee selection process upon approval of its Initial Proposal and will have up to one year to conduct additional local coordination, complete the selection

	process, and submit a Final Proposal to NTIA. The Eligible Entity may, at this point, utilize the funding provided upon approval of the Initial Proposal (not less than 20 percent of the Eligible Entity’s total grant funds) to initiate qualifying activities.
Final Proposal	After the Eligible Entity has selected subgrantees and otherwise executed its approved Initial Proposal, it will submit to NTIA a Final Proposal describing how it complied with that Initial Proposal and the results of its processes. NTIA will award the remaining funds allocated to the Eligible Entity upon approval of the Eligible Entity’s Final Proposal, and Eligible Entities will initiate their subgrants for the remaining 80 percent of funding and any portion of the original 20 percent that the Eligible Entity has not yet awarded as a subgrant. Prior to submission to NTIA the Final Proposal must be made available for public comment.
Ongoing Monitoring, Reporting, and Performance Management	Throughout the BEAD Program, NTIA will conduct ongoing monitoring of an Eligible Entity’s progress against its plans and ensure that the requirements of the Infrastructure Act are met. Eligible Entities will be required to comply with reporting requirements and monitor subgrantee compliance.

1.5 How does the BEAD program define an “unserved” location?

An unserved service project is defined as a project in which not less than 80 percent of broadband-serviceable locations served by the project are unserved locations. An “Unserved Service Project” may be as small as a single unserved broadband serviceable location (NOFO Section I.C. ee).

An unserved location is defined as a broadband-serviceable location that the Broadband DATA Maps show as (a) having no access to broadband service, or (b) lacking access to Reliable Broadband Service offered with - (i) a speed of not less than 25 Mbps for downloads; and (ii) a speed of not less than 3 Mbps for uploads; and (iii) latency less than or equal to 100 milliseconds (NOFO Section I.C. dd).

1.6 How does the BEAD program define an “underserved” location?

An underserved service project is defined as a project in which not less than 80 percent of broadband-serviceable locations served by the project are unserved locations or underserved locations. An “Underserved Service Project” may be as small as a single underserved broadband-serviceable location (NOFO Section I.C. cc).

An underserved location is defined as a broadband-serviceable location that is (a) not an unserved location, and (b) that the Broadband DATA Maps show as lacking access to Reliable Broadband Service offered with - (i) a speed of not less than 100 Mbps for downloads; and (ii) a speed of not less than 20 Mbps for uploads; and (iii) latency less than or equal to 100 milliseconds (NOFO Section I.C. bb).

1.7 How does the BEAD program define a “Community Anchor Institution” (CAI)?

Section I.C.f. of the NOFO defines “Community Anchor Institution” as an entity such as a school, library, health clinic, health center, hospital or other medical provider, public safety entity, institution of higher education, public housing organization, or community support organization that facilitates greater use of broadband service by vulnerable populations, including, but not limited to, low-income individuals, unemployed individuals, children, the incarcerated, and aged individuals. An Eligible Entity may propose to NTIA that additional types of institutions should qualify as CAIs within the entity’s territory.

1.8 Which Community Anchor Institutions are eligible to receive broadband access through the BEAD Program?

A Community Anchor Institution that lacks access to Gigabit-level broadband service is an eligible service location under the BEAD Program.

1.9 Are BEAD funds only restricted for use on last-mile broadband deployment? May funds be used for middle mile infrastructure?

As noted in Section IV.B.5.b. of the NOFO an “Unserved Service Project” or “Underserved Service Project” may include Middle Mile Infrastructure in or through any area required to reach interconnection points or otherwise to ensure the technical feasibility and financial sustainability of a project providing service to an unserved location, underserved location, or eligible CAI.

1.10 How must an Eligible Entity prioritize eligible uses of BEAD funding?

In general, Eligible Entities must follow the process below in prioritizing eligible uses of BEAD funding as explained in Section IV.B.7.b. of the NOFO:

1. An Eligible Entity must prioritize deploying broadband service to unserved service projects. With respect to those deployments, the Eligible Entity should prioritize projects designed to provide fiber connectivity directly to the end user. The Eligible Entity should also prioritize proposals that provide affordable service to end users, minimize the program subsidy required, and demonstrated record of and plans to follow Federal labor and employment laws, speed of deployment, and speed of the proposed network. Eligible Entities may also consider other factors that align with state and local priorities. This can include deploying Wi-Fi to multiunit buildings that are currently unserved.
2. Once an Eligible Entity certifies that it will reach all unserved locations in its jurisdiction, the Eligible Entity must next prioritize the provision of broadband to underserved service projects, again prioritizing fiber services and the other criteria mentioned above.
3. To the extent an Eligible Entity has funds left over after allocating funds for unserved and underserved areas, it can then use funds to connect and upgrade community anchor institutions such as libraries and community centers that lack a 1 gigabit per second (Gbps) connection or to pursue eligible access-, adoption-, and equity-related uses, as well as any other uses approved by the Assistant Secretary that support the Program’s goals.

Please note that these requirements do not impose any temporal requirement as to the order in which BEAD-funded initiatives are undertaken or completed. NTIA recognizes that broadband deployment projects often take months or years to complete, whereas certain other eligible uses of BEAD funds can be implemented more quickly. Thus, if an Eligible Entity has a plan to deploy service to all unserved and underserved locations within its jurisdiction, it may pursue non-deployment initiatives using BEAD funds before or while deployment projects are underway. For example, while an Eligible Entity is only permitted to pursue a device-subsidy program using BEAD funds if it has a plan to deploy service to all unserved and underserved locations within its jurisdiction, an Eligible Entity proposing such a program is both permitted and encouraged to implement it as soon as is feasible once its Initial Proposal has been approved.

1.11 Who can an Eligible Entity designate to administer the BEAD program?

An Eligible Entity may designate any entity within the state or territorial government (i.e., state department, agency, or office) to administer the BEAD program, so long as this entity is able to meet program requirements, including administration of a competitive subgrant process. An Eligible Entity may create and designate a new or standalone entity to administer the program if desired.

1.12 Is an Eligible Entity able to change the administering entity for the BEAD program after initial designation in the LOI?

Yes. An Eligible Entity may contact its Federal Program Officer or other designated program contact to change the designated administering entity or the point-of-contact. Eligible Entities must provide updates to Federal Program Officers of any personnel changes that result in changes to the designated point-of-contact.

1.13 Can an Eligible Entity designate more than one entity to administer the program?

An Eligible Entity must designate a lead entity for BEAD program administration in the LOI, but an Eligible Entity may distribute program administration responsibilities among multiple entities if desired.

1.14 Must the same entity administer both the Digital Equity Act and the BEAD program?

No. The same entity is not required to administer both the BEAD Program and the Digital Equity Act Planning and Capacity Grants. However, Eligible Entities are strongly encouraged to ensure collaboration between these initiatives to create a cohesive effort to close the digital divide with the Eligible Entity. This will be important in reducing the burden and confusion on community stakeholders when fulfilling the local coordination requirements in the NOFO and building an inclusive plan for the Eligible Entity.

1.15 Are public health institutions considered an Eligible Entity as a subgrant recipient?

Eligible Entities 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 grant funds (NOFO Section IV.C.1.a).

To the extent that a “public health institution” falls into one of those categories, it is eligible to be a subgrant recipient.

1.16 Will BEAD cover both capital expenditures (CapEx) and operating expenditures (OpEx)?

The BEAD Program does not restrict eligible uses of funds to capital expenses. However, the cost principals applied must be in accordance with 2 C.F.R. Part 200, Subpart E for States and non-profit organizations and in 48 C.F.R. Part 31 for commercial organizations.

Refer to section IV.B.2 of the NOFO for a listing of eligible uses of Initial Planning Funds, Section IV.B.5.b. for how funds can be allocated for the Initial Proposal, and sections IV.B.7.a.ii and IV.B.7.a.iii for eligible use of funds for last-mile broadband Deployment and non-Deployment activities.

An Eligible Entity may not use more than two percent of the grant amounts received under the BEAD Program for expenses relating (directly or indirectly) to administration of the grant under Section 60102(d)(2)(B) of the Infrastructure Act.

In addition, requests for approval of uses of funds not listed should be made in writing to the Assistant Secretary and submitted through the appropriate Federal Program Officer (FPO). Eligible Entities should make such requests on a timely basis to facilitate resolution prior to the point at which the Eligible Entity seeks to make the expenditure or expenditures at issue.

1.17 How long do Eligible Entities have to spend Initial Planning Funds?

The period of performance for the planning grants will be 5 years from the date of award. Eligible Entities can spend initial planning funds over the 5-year period.

1.18 Is an area that has no fiber but is served by fixed wireless at speeds of 100/20 considered served or unserved?

Under the BEAD Program, any location with speeds of 100/20 by technology that meets the definition of Reliable Broadband Service is considered served. Reliable Broadband Service is broadband service that the FCC Broadband DATA Maps show is accessible to a location via: (i) fiber-optic technology; (ii) Cable Modem/ Hybrid fiber-coaxial technology; (iii) digital subscriber line (DSL) technology; or (iv) terrestrial fixed wireless technology utilizing entirely licensed spectrum or using a hybrid of licensed and unlicensed spectrum (NOFO Section I.C.u).

Eligible Entities will establish an Extremely High Cost Per Location Threshold above which an Eligible Entity may decline to select a proposal if use of an alternative technology meeting the BEAD Program’s technical requirements would be less expensive. Eligible Entities must establish its Extremely High Cost Per Location Threshold in a manner that maximizes use of the best available technology while ensuring that the program can meet the prioritization and scoring requirements set forth in Section IV.B.7.b of the BEAD NOFO. NTIA expects Eligible Entities to set the Extremely High Cost Per Location Threshold as high as possible to help ensure that end-to-end fiber projects are deployed wherever feasible.

1.19 Are Eligible Entities or subgrantees subject to any union requirements?

Quality, high paying jobs, a skilled workforce, and safe workplaces are critically important to the overall goals of the BEAD Program. However, a union workforce is not required. If a subgrantee

does not utilize union labor or pay at or above the prevailing wage, the wages paid to staff must be reported (NOFO Section VII.E.2).

1.20 Are subgrantees required to retain ownership of assets that they build, or can ownership be transferred in exchange for arrangements like right of way?

The costs related to the assets are only allowed to be charged to the grant if they are necessary and reasonable for the performance of the BEAD award. As these assets would not be used in the performance of the BEAD award, they are not necessary and reasonable for the purpose of this grant and are thus not allowed (*see* 2 CFR 200.403(a)). The costs related to a plan to build grant-funded assets for eventual exchange, for example exchanging asset ownership for right of way, are not allowable. If a subgrantee sought to obtain a right of way using NTIA grant funds, and the costs related to obtaining that right of way were determined to be necessary and reasonable for the purpose of the grant, those costs would be an allowable use of NTIA grant funds.

In the event that original or replacement grant-funded equipment is no longer needed for the original project or program, the Eligible Entity and subrecipients must dispose of property in accordance with 2 CFR 200.313.

1.21 Are Tribal Entities eligible to apply for BEAD Program funding?

Tribal Entities are not Eligible Entities under the BEAD Program. However, Tribal entities can apply to be a subgrantee through the Eligible Entity's (the state's or territory's) Grants Office. Additionally, states are required to have formal Tribal consultations with Tribal Entities as part of their BEAD planning. Contact information for state broadband offices can be found at broadbandusa.ntia.doc.gov/resources/states,

1.22 How do Tribal Entities pursue a subgrant?

Tribal Entities can apply to be a subgrantee through their respective Eligible Entity's (their state's or territory's) Grant Office. Tribal Entities are encouraged to engage with Eligible Entities, beginning with the planning process and extending through the implementation of the program.

1.23 If a provider has a demonstrated relationship with a subcontractor, is it permissible to pursue a subcontract without obtaining three (3) competitive quotes?

Eligible Entities should keep in mind that there is a distinction between a subcontract and a subgrantee/subrecipient. A subgrantee or subrecipient is an entity that receives grant funds from an Eligible Entity (state, territory or the District of Columbia) to carry out eligible activities. A contractor is an entity that receives a contract for the purpose of obtaining goods and services for a non-Federal entity's own use (See 2 CFR § 200.331 for additional information on subrecipient and contractor determinations).

When Eligible Entities are entering into a subcontracting relationship, they must follow their own local procurement policies and procedures, including any competitive procurement process. When Eligible Entities (states, territories, or the District of Columbia) enter into a subgrant or subrecipient relationship to build broadband infrastructure, Eligible Entities must establish a fair, open, and competitive process for selecting subgrantees (NOFO Section IV.B.7).

Eligible Entities that receive grants from the BEAD Program must satisfy the standards established by the relevant NOFO, the Department's Standard Terms and Conditions for federal financial assistance awards, and 2 CFR Part 200. Under 2 CFR § 200.317, all subrecipients must follow the procurement standards set forth in 2 CFR §§ 200.318 – 200.327.

1.24 Will subgrantees be allowed to deploy other offerings over a Funded Network?

Yes, subgrantees may use BEAD-funded facilities to provide other offerings, such as telephone and video, over a Funded Network. It is important to note that income generated by a project over the period of performance is subject to project income regulations outlined in 2 CFR § 200.307.

1.25 Is it permissible for broadband providers to use BEAD funding to serve unserved locations within a different provider's service area?

Yes, if those areas are unserved or underserved locations.

1.26 Who holds the title to BEAD funded assets at the end of the period of performance?

Eligible Entities or subgrantees (when funding through a subgrant) will hold the title to BEAD funded assets. All assets, however, are subject to federal interest per 2 CFR § 200 Subpart D, the DOC Standard Terms and Conditions, and Specific Award Conditions.

2. Letter of Intent (LOI) Submission and Initial Planning Funds

2.1 Who can apply for funding under the BEAD program?

Any State of the U.S., the District of Columbia, Puerto Rico, American Samoa, Guam, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands are considered “Eligible Entities

2.2 When is the LOI due, and where must it be submitted?

The LOI is due by 11:59 pm EDT on July 18, 2022. The LOI must be submitted through the NTIA Grants Portal at grants.ntia.gov. Additional information about LOIs can be found in Section IV.B.1. of the NOFO.

2.3 Who can an Eligible Entity contact if it is having difficulty navigating the NTIA Grants Portal?

If an Eligible Entity has questions related to the NTIA Grants Portal, they can contact ngphelpdesk@ntia.gov.

2.4 Can an Eligible Entity edit its LOI once it has been submitted?

Edits may not be made to the LOI after submission. However, if an Eligible Entity needs to change the administering entity or point-of-contact, the Federal Program Officer or other assigned contact can assist in updating this information.

2.5 What are the necessary form and contents of the LOI?

The LOI should be in letter form and signed by the Governor of the Eligible Entity, or an equivalent official (*e.g.*, the Mayor of the District of Columbia). The LOI must include:

1. A statement that the entity intends to participate in the Program;
2. Identification of the agency, department, or office that will serve as the recipient of, and administering agent for, any BEAD Program award for the Eligible Entity and the main point of contact at that agency, department, or office for the purposes of the BEAD Program;

Additionally, if the Eligible Entity wishes to receive planning funds, the LOI can include a request for Initial Planning Funds. The Eligible Entity may also submit a request for Initial Planning Funds and associated documentation later through the NTIA Grants Portal.

For the planning funds to be released, Eligible Entities must complete the planning fund application within the NTIA Grants Portal by August 15, 2022.

Eligible Entities are encouraged to use the provided LOI Template provided with the Application Guidance. Additional information about LOIs can be found in Section IV.B.1. of the NOFO.

2.6 Who can be listed as a Point of Contact in the LOI?

The main “Point of Contact” may be any individual coordinating the implementation of the BEAD program within the administering agency, department, or office of the Eligible Entity. This individual should be the person with line responsibility for programmatic operations.

2.7 How do I know if my state has submitted a Letter of Intent?

Visit internetforall.gov to see which states have submitted a Letter of Intent.

2.8 What if an Eligible Entity does not submit a LOI to participate in the BEAD Program?

As explained in Section IV.B.10. of the NOFO, if an Eligible Entity does not submit an LOI before the deadline (and no extension is granted), then a political subdivision or a consortium of political subdivisions of the Eligible Entity may apply by submitting an LOI instead. In this case, NTIA will publish a public notice inviting political subdivisions to apply. The public notice will include any relevant deadlines and instructions for application submission.

2.9 If an Eligible Entity submits an LOI, do they automatically receive Initial Planning Funds? If not, how does an Eligible Entity request Initial Planning Funds?

No, an Eligible Entity will not automatically receive Initial Planning Funds by submitting an LOI. An Eligible Entity must request Initial Planning Funds in the NTIA Grants Portal (NGP) by submitting a planning application. The application can be submitted beginning immediately following submission of the Letter of Intent up until August 15, 2022. As a part of the application, an Eligible Entity will be required to submit the following information:

1. Standard organization information (i.e., AOR, Technical/Program POC);
2. Detail on eligible planning activities that the Eligible Entity plans to fund using the Initial Planning Funds;
3. A brief narrative (1000 words maximum) describing activities to be completed using the planning money;
4. SF 424, (i.e., application for federal assistance);
5. SF 424-C (i.e., budget information for construction programs)
6. SF-LLL (i.e., disclosure of lobbying activities);
7. CD-511 (i.e., certification of lobbying activities);
8. A detailed budget; and
9. A budget narrative.

Further detail and instruction on the above components are available in the [application guidance](#), which can be found on internetforall.gov, and in Section V of the NOFO.

2.10 If an Eligible Entity chooses not to request Initial Planning Funds in the LOI, are they able to request the Funds at a later date?

Yes, until August 15, 2022. An Eligible Entity can re-enter the Grants Portal at any time until the deadline to request Initial Planning Funds and submit the required application materials.

2.11 If an Eligible Entity requests Initial Planning Funds within its LOI, does the Eligible Entity need to submit all the required application materials for the funds at the same time?

No, an Eligible Entity does not need to submit all application materials at the time of LOI submission. They can re-enter the Grants Portal at any time until August 15, 2022, to submit the required application materials.

2.12 How much funding can an Eligible Entity request in Initial Planning Funds?

U.S. States, the District of Columbia, and Puerto Rico may request up to \$5,000,000 in Initial Planning Funds. American Samoa, Guam, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands may request up to \$1,250,000 in Initial Planning Funds.

2.13 What happens to the Initial Planning Funding designated for an Eligible Entity if that Entity does not request planning funding or requests less than the maximum amount of planning funding?

Initial Planning Funds are part of the Minimum Total Allocation that each Eligible Entity will receive. If an Eligible Entity does not request planning funds, those funds will be available to the entity upon approval of the Initial and Final Proposals for broadband deployment and other authorized uses. If an Eligible Entity requests less than the maximum amount of planning funds, the remaining funds will be available as part of the Minimum Allocation released upon approval and of the Initial and Final Proposals. Any Eligible Entity that does not request planning funds or requests less than the maximum amount of planning funds will have those funds for implementation. However, Eligible Entities that do not participate in the planning process will not receive access to any funds prior to the approval of the Initial Proposal. Additional information about the funding allocation process can be found in Section IV.B.4.c. of the NOFO.

2.14 When and how will Initial Planning Funds be released?

NTIA will review LOI submissions for completeness, evaluate the application for Initial Planning Funds, and award Initial Planning Funds as expeditiously as possible. As explained in Section VI.C. of the NOFO, applications will be reviewed on a rolling basis. Eligible Entities are encouraged to submit their applications as soon as possible.

2.15 Are there any conditions to receiving Initial Planning Funds?

Eligible Entities that receive Initial Planning Funds are required to submit a Five-Year Action Plan within 270 days of the receipt of funds. Eligible Entities must also comply with all programmatic and grant requirements included in the NOFO.

2.16 How may an Eligible Entity use the Initial Planning Funds?

Initial Planning Funds may be used for the following planning and pre-deployment activities:

1. Research and data collection, including initial identification of unserved locations and underserved locations;
2. The development of a preliminary budget for pre-planning activities;
3. Publications, outreach, and communications support;
4. Providing technical assistance to potential subgrantees, including through workshops and events;
5. Training for employees of the broadband program or office of the Eligible Entity, or employees or political subdivisions of the Eligible Entity, and related staffing capacity or consulting or contract support to effectuate the goals of the BEAD Program;
6. Establishing, operating, or increasing capacity of a broadband office that oversees broadband programs and broadband deployment in an Eligible Entity;
7. Asset mapping across the Eligible Entity to catalogue broadband adoption, affordability, equity, access and deployment activities occurring within the Eligible Entity;
8. Conducting surveys of unserved, underserved, and underrepresented communities to better understand barriers to adoption;
9. Costs associated with meeting the local coordination requirements in Section IV.C.1.c of this NOFO including capacity building at the local and regional levels or contract support;
10. Reasonable post-NOFO, pre-award expenses in an amount not to exceed \$100,000 relating to the preparation of program submissions to NTIA (such as the LOI) or adding additional capacity to state or territorial broadband offices in preparation for the BEAD Program may be reimbursed if they are incurred after the publication date (May 13, 2022) of this NOFO and prior to the date of issuance of the grant award from NTIA, except that lobbying costs and contingency fees are not reimbursable from grant funds. Pre-award expenses should be clearly identified in the proposed project budget. Additionally, pre-award costs are incurred at the sole risk of the applicant and will not be reimbursed by NTIA if the proposed project does not receive an award pursuant to this Program. Pre-award expenses must be approved by NTIA and the Grants Officer in writing to be considered allowable; and
11. Other uses approved in advance writing by the Assistant Secretary (including in response to an Eligible Entity's request) that support the goals of the Program.⁴

⁴ Requests for approval of uses not listed here should be made in writing to the Assistant Secretary and submitted through the appropriate Federal Program Officer. An Eligible Entity should make such requests on a timely basis to facilitate resolution before the Eligible Entity seeks to make the expenditure or expenditures at issue.

If an Eligible Entity requests and receives Initial Planning Funds, it will be required to submit a Five-Year Action Plan. Eligible Entities should reserve enough resources to complete the plan in a timely manner. Additional information about requesting Initial Planning Funds can be found in Section IV.B.2. of the NOFO.

2.17 Can an Eligible Entity use Initial Planning Funds to hire additional full time employees or increase the capacity of its broadband office or program?

Yes, these are eligible uses of BEAD funds as noted in Section IV.B.2. of the NOFO.

2.18 Can an Eligible Entity subgrant planning funds to local governments?

Yes, an Eligible Entity can make subgrants to local governments to carry out eligible activities for the Initial Planning Funds.

2.19 How may BEAD Initial Planning Funds be used in conjunction with other federal funding (e.g., Capital Projects Fund, DEA) allocated to an Eligible Entity?

Designated entities may use funds for eligible purposes as described in Section IV.B.2. of the NOFO, but entities may not seek reimbursement for the same cost from different funding sources. For example, one half of a staff member's salary may be paid for through BEAD and one half may be paid for through DEA, but the full staff member's salary may not be paid for through BEAD and DEA because then the federal government would be paying for the same cost twice.

2.20 If an Eligible Entity has incurred planning costs prior to receiving a planning grant, may these costs be reimbursed once Initial Planning Funds are released?

As described in Section IV.B.2. of the NOFO, BEAD funds may only be used to cover allowable costs incurred during the period of performance, except for reasonable pre-award expenses not exceeding \$100,000 relating to the preparation of program submissions to NTIA (such as the LOI and planning funds application) or adding capacity to a broadband office in preparation for the BEAD Program. Reasonable pre-award expenses must be incurred after the publication date (May 13, 2022) of this NOFO and prior to the date of issuance of the grant award from NTIA.

2.21 Do pre-award expenses need to be approved in advance by NTIA and the Grants Officer in writing to be considered allowable?

Pre-award expenses need to be approved in the proposed budget by NTIA and the Grants Officer (NIST) in order to be considered allowable. Pre-award costs, as defined by 2 CFR part 200.458, are those incurred prior to the effective date of the Federal award or subaward directly pursuant to the negotiation and in anticipation of the Federal award where such costs are necessary for efficient and timely performance of the scope of work. Such costs are allowable only to the extent that they would have been allowable if incurred after the date of the Federal award and only with the written approval of the Federal awarding agency. If charged to the award, these costs must be charged to the initial budget period of the award, unless otherwise specified by the Federal awarding agency or pass-through entity.

Pre-award costs must be clearly identified in the proposed budget as part of the overall application. During the review of the application, NIST and NTIA will either approve or

disapprove the pre-award costs listed in the application. If costs are determined to be unallowable, the application will either be returned to the grantee to remove the costs and adjust the budget, or a SAC will be added to the award stipulating the costs are unallowable and cannot be charged to the grant award. No action will be taken if costs are determined to be allowable.

Some costs, including pre-award costs that were not originally listed in the application budget or overall application, require pre-approval from the NIST GMD. For costs that may require prior written approval, see 2 CFR § 200.407, which lists relevant categories and their sections within 2 CFR § 200 that further explain what, if any prior written approvals may be required. Some examples of costs that may require prior written approval are travel costs, participant support costs for meetings or events, and equipment costs.

3. Local Coordination

3.1 What are the BEAD requirements for local coordination?

Each Eligible Entity is required to demonstrate coordination and collaboration with local, regional, and Tribal (as applicable) entities (governmental and non-governmental) and diverse stakeholder groups, including political subdivisions and local and community-based organizations, to ensure full representation and inclusion of unserved, underserved, and underrepresented communities throughout the planning and deployment process. This local coordination must begin in the development of the Five-Year Action Plan and continue throughout the entirety of the program. NTIA will evaluate the sufficiency of local coordination efforts to ensure that each Eligible Entity activities include the following as further explained in Section IV.C.1.c. of the NOFO:

1. Full geographic coverage of the Eligible Entity;
2. Meaningful engagement and outreach to diverse stakeholder groups and community organizations;
3. Utilization of multiple awareness and participation mechanisms and different methods to convey information and outreach;
4. Transparency of processes to include the documentation and publication of results and outcomes of coordination and outreach efforts, including related additions or changes to the Initial Proposal and/or Final Proposal (*e.g.*, documentation of responses to comments received from local stakeholders); and
5. Outreach to and direct engagement of unserved and underserved communities to include historically underrepresented and marginalized groups and/or communities.

3.2 Why is local coordination important?

Local coordination and stakeholder engagement is critical to the BEAD Program's success, to eliminating barriers to broadband access and adoption, and to rapidly and economically building out new broadband networks. NTIA views strong involvement between Eligible Entities and local communities as key to ensuring that the broadband needs of all unserved and underserved locations and underrepresented communities are accounted for in Initial and Final Plans. Local coordination promotes alignment of priorities between the Eligible Entity and local officials and helps ensure visibility of local needs and preferences. Robust engagement efforts increase initial adoption rates once the broadband is deployed and stimulate awareness about the programs that can support the local community.

3.3 What must an Eligible Entity do to demonstrate that it has met the requisite level of local coordination in its Five-Year Plan and throughout the BEAD program?

An Eligible Entity is required to document local coordination and outreach activities by providing a detailed description of its efforts to engage local governments, community groups, underrepresented populations, and other stakeholders in the Five-Year Action Plan, Initial Proposal, and Final Proposal, relative to each stage in the BEAD program process. NTIA will

consider quantitative measures as well as the quality of the engagements as noted in Section IV.C.1.c. of the NOFO.

3.4 How may localities, tribes, and other stakeholders become involved in the BEAD program?

Localities, tribes, and other stakeholders should reach out to and establish communication with their state broadband offices. Entities may connect with their state office by looking up state contacts through the State Broadband Leaders Network (SBLN) at [this link](#), reaching out to NTIA to make a connection, or reaching out to state and county municipal associations.

Stakeholders may consider assessing previous stakeholder engagement efforts, sharing feedback with states and localities on engagement processes, and communicating opportunities for local involvement and collaboration.

Localities can play a key role in:

- a. Understanding community needs, priorities, and current broadband projects;
- b. Engaging with underrepresented populations to ensure all voices are heard; and
- c. Communicating local insights to the Eligible Entity.

3.5 How will NTIA monitor whether states are indeed engaging with key stakeholders as required?

For BEAD, each Eligible Entity must ensure that a diverse set of stakeholders is involved in development of its Five-Year Action Plan, Initial Proposal, and Final Proposal. The Final Proposal requires the Eligible Entity to provide a certification that it has conducted coordination, including with Tribal Governments, local community organizations, and unions and worker organizations, consistent with the requirements set forth in the BEAD NOFO and include a description of the coordination conducted, and a summary of the impact such coordination had on the content of the Final Proposal (NOFO Section IV.C.1.c). For Digital Equity, Eligible Entities must include stakeholder engagement in Digital Equity plan, implementation strategy, and their coordination and outreach strategy. States and Territories must establish coordinate and collaborate with ongoing engagement representatives of each category of covered populations within the State and with the full range of stakeholders within the State (NOFO Section IV.C.4.b.i).

When conducting local coordination and outreach activities, Eligible Entities must establish, document, and adhere to clear procedures to ensure transparency. This includes publicly posting the proposals prior to submission to NTIA as well as plans or comments submitted by local political subdivisions or Tribal Governments and explanations of how local recommendations were addressed. Examples of ways to promote and document transparency include but are not limited to publicly available information and easily navigable websites with up-to-date information, periodic reporting/reports to local and community stakeholders, and involvement of diverse stakeholders in the planning, implementation and execution of coordination and outreach efforts and activities, and in-person meetings and mailings.

NTIA will also have FPO in place as state NTIA liaisons to provide support and technical assistance, and to ensure that the Final Proposal fully meets the requirements of the Infrastructure Act and the goals of the program.

3.6 Can planning funds be expended for consulting services to support stakeholder outreach and plan development?

Yes, Planning Funds may be used for planning and pre-deployment activities to include training for employees of the broadband program or office of the Eligible Entity or employees of political subdivisions of the Eligible Entity, and related staffing capacity or consulting or contracted support to effectuate the goals of the BEAD Program (NOFO Section IV.B.2).

This section of the NOFO also states that funds can be used for other uses approved in advance in writing by the Assistant Secretary (including in response to an Eligible Entity’s request) that support the goals of the Program.

3.7 What are the differences between the local coordination requirements for BEAD and the Digital Equity Act? Should an eligible entity organize one local coordination effort that meets the requirements of both programs?

Yes. In fact, NTIA strongly encourages Eligible Entities to conduct BEAD and Digital Equity Program local coordination efforts in tandem as one cohesive effort, especially because BEAD and the State Digital Equity Planning Grant Program are very closely aligned. Specifically, NTIA expects that the Five-Year Action Plans and Initial Proposals developed for the BEAD Program will fully incorporate the Digital Equity Plans developed for the State Digital Equity Planning Grant Program.

See Section I.B. of the State Digital Equity Planning Grant Program NOFO and Section IV.C.1.c. of the BEAD NOFO for more information.

<p>BEAD Local Coordination Requirements</p>	<p>Local coordination efforts include the following as further explained in Section IV.C.1.c. of the BEAD NOFO:</p> <ol style="list-style-type: none"> 1. Full geographic coverage of the Eligible Entity 2. Meaningful engagement and outreach to diverse stakeholder groups and community organizations 3. Utilization of multiple awareness and participation mechanisms and different methods to convey information and outreach 4. Transparency of processes to include the documentation and publication of results and outcomes of coordination and outreach efforts, including related additions or changes to the Initial Proposal and/or Final Proposal (<i>e.g.</i>, documentation of responses to comments received from local stakeholders) 5. Outreach to and direct engagement of unserved and underserved communities to include historically underrepresented and marginalized groups and/or communities.
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<p>DE Local Coordination Requirements</p>	<p>Local coordination efforts included as further explained in Section IV.C1.b.ii.8. of the DE NOFO:</p> <ol style="list-style-type: none"> 1. Implementation strategy for engaging or partnering with Workforce agencies such as state workforce agencies and state/local workforce; boards and workforce organizations; labor organizations and community-based organizations; and Institutions of higher learning, including but not limited to four-year colleges and universities, community colleges, education and training providers, and educational service agencies 2. Incorporation of municipal, regional, and/or Tribal digital equity plans 3. A coordination and outreach strategy, including opportunities for public comment by, collaboration with, and ongoing engagement with representatives of each category of covered populations within the State and with the full range of stakeholders within the State 4. Collaboration with entities that serve covered populations or, through their ties to the community, are able to provide valuable insight into how best to advance digital equity, broadband adoption, device access, and digital literacy among all populations in the State.
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3.8 How does an Eligible Entity show it has given "consideration" to plans submitted by political subdivisions and federally recognized Tribes? How should Eligible Entities treat plans submitted that are at odds with its own plan?

The Eligible Entity’s proposals must detail how the entity addressed each related plan submitted by a political subdivision or federally recognized Tribe. Consideration of plans from political subdivisions and federally recognized Tribes will be measured qualitatively, and there is no specific metric that can be used for determining whether the Eligible Entity has adequately considered any submitted plans. However, Eligible Entities should describe, in detail, their process for reviewing plans submitted by the political subdivisions and federally recognized Tribes, as well as how the Eligible Entity incorporated those plans into the broader plan.

3.9 Can Eligible Entities use grant funding to leverage, augment, upgrade, or modify existing infrastructure owned by their potential partners, subgrantees, political subdivisions, or associated federally recognized Tribes to meet BEAD goals (i.e. adding fiber lines to an existing electrical networks)?

Yes, this may be an allowable use of grant funds if leveraging the existing infrastructure aids or otherwise helps the entity achieve the goals of the BEAD Program. Use of such existing infrastructure could also potentially count towards matching funds requirements. Applicants are encouraged to review sections III.B and V.H.2 of the NOFO, FAQs in the “Cost Sharing and Matching Guidelines” section, and 2 CFR § 200.306 CFR for further information on matching funds.

4. Mapping and Analytics

The following content has been developed from publicly available information.

4.1 What are the FCC Broadband DATA Maps?

The Broadband DATA Maps⁵ refer to the maps created by the Federal Communications Commission (FCC) that will be utilized by NTIA in determining the allocation of funding for each Eligible Entity in the BEAD program. These maps will identify the availability of broadband service at the individual location level as opposed to [previous maps](#) produced by the FCC that provided data at the less granular census block level. Entities may refer to the [FCC's Second Report and Order on Establishing the Digital Opportunity Data Collection](#) for further detail on the FCC maps.

4.2 When will the FCC be accepting broadband deployment data and when are FCC DATA Maps expected to be released?

[FCC Public Notice DA 22-182](#) states that broadband service providers may begin submitting broadband deployment data beginning on June 30, 2022, with all data required to be submitted by September 1, 2022.

4.3 What can an Eligible Entity do now to prepare for the FCC DATA Maps release?

In preparation for the FCC Broadband DATA Map release and subsequent challenge process, an Eligible Entity may improve their data collection and analysis efforts by identifying existing pertinent data sources (*e.g.*, [NTIA's Broadband Indicators of Need Map](#), the American Community Survey, National Broadband Availability Map), collecting relevant data and information on both infrastructure availability/access and adoption/use, and developing/updating a comprehensive broadband map at the location level. Refer to the [FCC's Third Report and Order \(FCC 21-20\)](#) for further detail on the FCC challenge process.

4.4 Must an Eligible Entity's Five-Year Action Plan and subsequent proposals be based on the FCC's Broadband DATA maps?

Eligible Entities are encouraged to begin their planning processes prior to the release of the FCC's Broadband DATA maps. In this situation, Eligible Entities may utilize all available sources of existing data such as state level data, existing FCC data, the National Broadband Availability Map, [NTIA's Broadband Indicators of Need Map](#), the American Community Survey, and other sources.

NTIA will use the updated FCC Broadband DATA maps in allocating funds, but an Eligible Entity can incorporate information from its own mapping data and must conduct its own challenge process prior to awarding subgrants for broadband deployment.

4.5 How will the challenge process be run for the FCC DATA Maps?

⁵ Created under Section 802(c)(1) of the Communications Act of 1934 (47 U.S.C. 642(c)(1)).

Per the Broadband Deployment Accuracy and Technological Availability (DATA) Act requirements, the FCC will design a challenge process through which consumers, State, local, and Tribal governmental entities, and other entities or individuals may submit coverage data to the FCC. The FCC will provide associated technical assistance to stakeholders, including Tribal governments, small service providers, and participants in the challenge process. Refer to the [FCC's Third Report and Order \(FCC 21-20\)](#) for further detail on the challenge process.

4.6 What is the FCC Challenge Process?

The FCC is in the process of establishing a granular location-by-location map of broadband availability nationwide under the Broadband DATA Act. The FCC's challenge processes will permit types of challenges:

1. Challenges to the "Fabric," which is a common dataset of all locations (or structures) in the U.S. where fixed broadband internet access service can be installed, and
2. Challenges to the "coverage map," which is the layer on the FCC map that will show what services providers report as offered at each location on the Fabric in the Broadband Data Collection (BDC).

The FCC has provided information regarding the Fabric and the BDC for providers at <https://help.bdc.fcc.gov/hc/en-us>. NTIA is coordinating with the FCC and will provide additional information when it is available.

4.7 What is the expected timeline for the FCC challenge processes?

The FCC has not yet made public the anticipated timeline and all aspects of its challenge processes.

After the inaugural BDC filing window closes on September 1st, the FCC will review data and published the fixed and mobile availability data maps in the Fall of 2022. A bulk Fabric challenge process will open on September 12, 2022, for providers and State, local, and Tribal governments.

Upon the release of maps in the Fall, challenges to the availability data and individual consumer challenges to Fabric location data will be accepted. Windows of time for submitting challenges will be made available on a rolling, on-going basis to allow for the maps to be continuously updated and improved.

4.8 What is the difference between the FCC BDC challenge processes and the NTIA BEAD Program Eligible Entity challenge process?

The FCC challenge process will give service providers, State/Territory/Tribal/local governments, and other entities opportunities to challenge the accuracy of the data collected in the BDC. A challenge will contest whether provider-reported services and speeds are in fact offered at a given location, and a speed test that demonstrates a difference between offered and actual speed will be accepted as crowdsourced data that the FCC may use to verify the accuracy of provider data. The BDC will be an ongoing, iterative process to continually improve and refine broadband availability data. Broadband coverage maps (Broadband DATA Maps) prepared by the FCC will be used to determine the allocation of BEAD funding based on the number of unserved locations in every state and territory.

Separately, the BEAD Program requires Eligible Entities to conduct a challenge process under which a unit of local government, nonprofit organization, or broadband service provider can challenge a determination made by the Eligible Entity in their BEAD Initial Proposal as to whether a particular location is unserved or underserved and thereby eligible for grant funds. When designing the challenge process, an Eligible Entity may decide to accept a broader range of information that may bear on broadband service in an area than is considered in an FCC BDC challenge. The BEAD Eligible Entity challenge process will be conducted after the submission of the Initial Proposal but before the distribution of funding for broadband deployment (*see* BEAD NOFO section IV.B.6).

In short, the FCC BDC challenge processes will provide an opportunity for the broadband availability data displayed on the FCC's broadband DATA map to be challenged, which will eventually inform funding allocation to Eligible Entities (states, territories and the District of Columbia) under the BEAD Program. The NTIA BEAD Program challenge process will be designed and set forth by each Eligible Entity (states, territories and the District of Columbia) and will allow for further refinement of service determinations as states prepare to select subgrants and fund specific locations.

4.9 What speeds will be reflected in the Broadband DATA Maps? How does that relate to the BEAD Program?

The Broadband DATA Maps will reflect advertised speeds offered to a given location. NTIA will use the Broadband DATA Maps to identify the number of unserved and underserved locations in an area and thereby determine funding allocations under the BEAD Program. Speed standards are outlined in the legislation and in the BEAD NOFO section I.C. – for unserved communities, this includes speeds less than 25/3, and for underserved communities, this includes speeds less than 100/20.

4.10 Which version of FCC maps will NTIA leverage for formula funding calculations?

Section 60102(c)(1)(A) states that the Assistant Secretary shall allocate BEAD Program funds to the Eligible Entities “[o]n or after the date on which the Broadband DATA Maps are made public.” The Assistant Secretary will decide when to calculate that allocation while balancing the need for accuracy with the desire to distribute funding as soon as possible.

The Assistant Secretary has stated that NTIA intends to calculate the allocation during the first half of 2023.

4.11 What is the Eligible Entity challenge process for the BEAD Program?

By statute, the FCC's Broadband DATA Act maps are the beginning, but not the end, of the process for identifying the universe of unserved and underserved locations that each Eligible Entity will put out for bid during their subgrantee selection process. Section 60102(h)(2) requires Eligible Entities to “ensure a transparent, evidence-based, and expeditious challenge process under which a unit of local government, nonprofit organization, or other broadband service provider can challenge a determination made by the Eligible Entity in the initial proposal as to whether a particular location or community anchor institution within the jurisdiction of the Eligible Entity is eligible for the grant funds, including whether a particular location is unserved or underserved.” The BEAD NOFO section IV.B.6 directs Eligible Entities

to “update the data provided in their Initial Proposal to reflect the most recently published version of the Broadband DATA Maps available as of the initiation of the challenge process.”

Eligible Entities are required to include a detailed plan for their challenge process as part of their Initial Proposal, which should include descriptions of the types of evidence that the Eligible Entity may consider as part of that challenge process. NTIA will review each of these proposals, and the Assistant Secretary may modify the challenge process proposed by the Eligible Entity as necessary and shall inform the Eligible Entity of any modifications required.

Upon conclusion of the challenge process, each Eligible Entity must 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, NTIA may reverse the determination of an Eligible Entity with respect to the eligibility of a particular location or community anchor institution.

NTIA has and will continue to work closely with each Eligible Entity on ensuring that the challenge process required under Section 60102(h)(2) is transparent, evidence-based, and expeditious.

4.12 Will the FCC provide technical assistance and resources related to the BDC challenge process?

Technical assistance resources for the FCC’s Fabric Challenge Process and Broadband Availability Data Collection are available at the [Broadband Data Collection Help Center](https://fcc.gov/broadbanddata/help) (fcc.gov/broadbanddata/help). This includes resources related to:

- [How to Prepare Availability Data for the BDC](#)
- [How to Prepare Subscription Data for the BDC](#)
- [What the Broadband Serviceable Location Fabric is and How to Access It](#)
- [How to use the BDC System](#)
- [BDC System Video Tutorials](#)

In addition to resources on the BDC Help site, the BDC system is built with robust error checking guidance and warning signals within the tool that will guide users throughout the process and intend to prevent the submission of any issue-ridden data. Those submitting data through the BDC system should also refer to the [BDC System User Guide](#) for additional information and guidance.

4.13 Where can I find additional information about the BDC and challenge processes?

The FCC has published FAQs related to the [Broadband Data Collection](#) and the [Broadband Serviceable Location Fabric](#).

4.14 Can Eligible Entities use BEAD funding to hire data validators?

Yes, hiring data validators qualifies as an eligible expense under BEAD subject to the general rules regarding uses of grant funding under 2 CFR § 200. (See BEAD NOFO Section V.H.1).

5. Five-Year Action Plan

5.1 When is the Five-Year Action Plan due?

As noted in Section IV.B.3.a. of the NOFO, the Five-Year Action Plan is due no later than 270 days after receipt of the Initial Planning Funds. The 270-day period begins when the Initial Planning Funds have been awarded and are accessible by the Eligible Entity.

5.2 What is the distinction between the Five-Year Action Plan and the Initial Proposal?

The purpose of the Five-Year Action Plan is for the Eligible Entity to establish its broadband goals and priorities and serve as a comprehensive needs assessment that will inform Initial Plans.

The Initial Proposal is the required submission for any Eligible Entity to use to apply for BEAD funding. The Initial Proposal should explain the process by which the Eligible Entity will award subgrants to ensure that every resident has access to a reliable, affordable, high-speed broadband connection.

While these are two separate submissions, a well-crafted Five-Year Action Plan is critical to the full and complete development of the Initial Proposal.

5.3 What should an Eligible Entity include in its Five-Year Action Plan?

At a minimum, the Five-Year Action Plan should address an Eligible Entity's goals and approaches to broadband access, affordability, equity, and adoption as addressed below. Additional information about the content of Five-Year Action Plans can be found in Section IV.B.3.b. of the NOFO.

1. Provide details of the existing broadband program or office within the Eligible Entity, including any activities that the program or office currently conducts, any previous entity-wide plans or goals for availability of broadband, and any prior experience awarding broadband deployment grants.
2. Identify the funding that the Eligible Entity currently has available for broadband deployment and other broadband-related activities, including data collection and local planning, and the sources of that funding, including whether the funds are from the Eligible Entity or from the federal government.
3. Identify existing efforts funded by the federal government, including the Universal Service Fund, or an Eligible Entity to deploy broadband and close the digital divide.
4. Identify the current full-time and part-time employees of the Eligible Entity who will assist in implementing and administering the BEAD Program and the duties assigned to those employees, as well as any existing contracted support, and any planned expansion of employees or contractors.
5. Identify known or potential obstacles or barriers to the successful implementation of the BEAD Program and the Eligible Entity's corresponding plans to address them.

6. Include an asset inventory that catalogues broadband adoption, affordability, equity, access, and deployment activities occurring within the Eligible Entity and identifies and provides details regarding any relevant partners, such as community-based organizations and CAIs that may inform broadband deployment and adoption planning.
7. Include a description of the Eligible Entity's external engagement process, demonstrating collaboration with local, regional, and Tribal (as applicable) entities (governmental and non-governmental) and reflective of the local coordination requirements outlined herein, including outreach to underrepresented communities and unions and worker organizations. The engagement required must be undertaken both during the development of the Five-Year Action Plan itself and following submission of the plan, reflecting ongoing collaboration throughout the BEAD Program.
8. Incorporate available federal, Eligible Entity, or local broadband availability and adoption data, including but not limited to Affordable Connectivity Program enrollment data. Other federal broadband federal data sources include the NTIA Internet Use Survey, the NTIA Indicators of Broadband Need Map, and the American Community Survey.
9. Identify local and regional broadband service needs and gaps within the Eligible Entity's boundaries, including unserved or underserved locations and CAIs without gigabit service, and/or any plans to make these determinations where service availability is unclear.
10. Provide a comprehensive, high-level plan for providing reliable, affordable, high-speed internet service throughout the Eligible Entity, including:
 - a. The estimated timeline and cost for universal service,
 - b. The planned utilization of federal, Eligible Entity, and local funding sources,
 - c. Prioritization of areas for federal support,
 - d. Any consideration afforded to the use of public-private partnerships or cooperatives in addressing the needs of the Eligible Entity's residents,
 - e. Strategies to address affordability issues, including but not limited to strategies to increase enrollment in the Affordable Connectivity Program by eligible households; and
 - f. Strategies to ensure an available and highly skilled workforce (including by subgrantees, contractors, and subcontractors) to minimize project disruptions, including any plans to ensure strong labor standards and protections, such as those listed in Section IV.C.1.e; and plans to attract, retain, or transition the skilled workforce needed to achieve the plan's goals, including describing the involvement and partnerships of sub-grantees, contractors, and sub-contractors with existing in-house skills training programs, unions and worker organizations; community colleges and public school districts; supportive services providers; Registered Apprenticeship programs and other labor-management training programs, or other quality workforce training providers.

g. Identify digital equity and inclusion needs, goals, and implementation strategies, including ways in which the Eligible Entity plans to utilize BEAD funding, Digital Equity Act funding and/or other funding streams in concert to remedy inequities and barriers to inclusion. Accordingly, the Five-Year Action Plan should set forth a vision for digital equity, include the results of a needs assessment for underrepresented communities and an asset inventory of ongoing digital equity activities, and detail holistic strategies around affordability, devices, digital skills, technical support, and digital navigation. This requirement may be satisfied by the completion of a State Digital Equity Plan under the Digital Equity Act. Please refer to the Digital Equity Act State Planning Grant Program NOFO for the requirements and deadlines applicable to that program.

h. Detail alignment of the Five-Year Action Plan with other existing and planned economic development, telehealth, workforce development, related connectivity efforts, and other Eligible Entity priorities.

i. Describe technical assistance and additional capacity needed for successful implementation of the BEAD Program.

5.4 If an Eligible Entity has an existing entity-wide broadband plan, may they use this plan as the Five-Year Action Plan?

If an Eligible Entity has an existing broadband plan that meets the requirements in the NOFO for the Five-Year Action Plan, and that plan has been completed within the 12 months prior to date of receipt of Initial Planning Funds, the Eligible Entity may submit that plan as their Five-Year Action Plan. If the existing plan does not meet all the NOFO requirements, the Eligible Entity may submit the existing plan along with supplemental materials sufficient to fulfill all requirements. If an Eligible Entity does not use the online template that will be published by NTIA, they must provide an index, cross-walk, or similar document to allow the reader to quickly and efficiently locate relevant content. If an Eligible Entity has an existing plan that was previously completed, Initial Planning Funds must be used for other allowable expenses.

5.5 Will NTIA release a template for the Five-Year Action Plan? When can we expect these materials to be released?

Yes, NTIA will release an online Five-Year Action Plan template. The online template will be published on the program website and shared directly with Eligible Entity POCs shortly after release of the NOFO.

5.6 What happens if an Eligible Entity is unable to complete its Five-Year Action Plan by the deadline? Will NTIA allow extensions for submission of Five-Year Action Plans? How will extensions be granted?

NTIA may allow extensions for submission of Five-Year Action Plans at the sole discretion of the Assistant Secretary as described in Section II.B.1. of the NOFO. If extenuating circumstances demonstrate that additional time will support the overall goals of the BEAD Program, an Eligible Entity may make a request for an extension in writing to NTIA and explain the need for the extension. The request will be evaluated by NTIA and approved by the Assistant Secretary, if appropriate.

5.7 What actions will be taken by NTIA if an Eligible Entity fails to submit a Five-Year Action Plan after receiving Initial Planning Funds?

If an Eligible Entity fails to submit a Five-Year Action Plan, NTIA may pursue all available grant compliance and enforcement mechanisms, as described in Section IX.G.4. of the NOFO, up to and including the clawback of Initial Planning Funds. An Eligible Entity that encounters challenges in the development of its Five-Year Action Plan is encouraged to contact its Federal Program Officer (FPO) or other dedicated program staff for additional assistance.

6. Digital Equity

Note: NTIA will publish separate FAQs in reference to the Digital Equity Act NOFOs. The questions below include those that are related to BEAD and digital equity generally.

6.1 Can the digital equity portion of the Five-Year Action Plan be the same as the plan for the Digital Equity Act?

Yes, the digital equity components required in the Five-Year Action Plan may be satisfied by completion of the State Digital Equity Plan under the Digital Equity Act. Eligible Entities can and should develop both plans concurrently.

6.2 What are examples of ways an Eligible Entity can support digital equity through the BEAD Program?

Examples of ways an Eligible Entity can use BEAD funds to support digital equity activities include but are not limited to:

1. User training with respect to cybersecurity, privacy, and other digital safety matters;
2. Remote learning or telehealth services/facilities;
3. Digital literacy/upskilling (from beginner-level to advanced);
4. Computer science, coding and cybersecurity education programs;
5. Broadband sign-up assistance and programs that provide technology support;
6. Multi-lingual outreach to support adoption and digital literacy;
7. Prisoner education to promote pre-release digital literacy, job skills, and online job-acquisition skills;
8. Digital navigators; and
9. Direct subsidies for use toward broadband subscription, where the Eligible Entity shows the subsidies will improve affordability for the end user population (and to supplement, but not to duplicate or supplant, the subsidies provided by the Affordable Connectivity Program).

An Eligible Entity can only use BEAD funds for these purposes after demonstrating that it will be able to ensure broadband service to all unserved and underserved locations as explained in Section IV.B.7.a.iii. of the NOFO.

6.3 Can the Administering Entity for the State Digital Equity Planning Grant Program be the administering agent for the BEAD Program?

Yes, being the Administering Entity designated in the State Digital Equity Planning Grant Program does not preclude participation as the administering agent in the BEAD program.

7. Funding and Allocation Process

7.1 When will NTIA determine the allocation of BEAD funds to each Eligible Entity? How will NTIA notify the Eligible Entities as to how much funding they will receive?

On or after the date on which the Federal Communications Commission's Broadband DATA Maps are made public, the Assistant Secretary, in coordination with the Commission, shall issue a "Notice of Available Amounts" to each Eligible Entity that contains the amount of Program funds that will be available to the Eligible Entity as noted in Section I.B.2. of the NOFO.

7.2 How will NTIA determine the total funding allocation an Eligible Entity will receive?

Each Eligible Entity's allocation will reflect the share of the nation's unserved locations that exist within the boundaries of each Eligible Entity based on the FCC's Broadband DATA Maps. As described more specifically in Section IV.B.4.c. of the NOFO, each Eligible Entity's Total Allocation will be the sum of the Eligible Entity's (i) Minimum Initial Allocation; (ii) High-Cost Allocation; and (iii) Remaining Funds Allocation, calculated as follows:

1. Minimum Initial Allocation: The "Minimum Initial Allocation" for (i) each State of the United States, the District of Columbia, and Puerto Rico is \$100,000,000, and (ii) for American Samoa, Guam, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands is \$25,000,000.
2. High-Cost Allocation: The "High-Cost Allocation" for each Eligible Entity will be calculated by (i) dividing the number of unserved locations in high-cost areas in the Eligible Entity by the total number of unserved locations in high-cost areas in the United States and (ii) multiplying the quotient obtained by \$4,245,000,000. NTIA will provide further information regarding its designation of high-cost areas.
3. Remaining Funds Allocation: The funds remaining after subtracting each of (i) the total Minimum Initial Allocations; and (ii) the total High-Cost Allocation from \$41,601,000,000 are the "Remaining Funds." Each Eligible Entity's Remaining Funds Allocation shall be computed by dividing the number of unserved locations in the Eligible Entity by the total number of unserved locations in the United States and multiplying the result by the Remaining Funds.

7.3 How will NTIA account for currently unserved locations that may be served in the future by projects funded through other government programs such as the Rural Digital Opportunity Fund (RDOF), Coronavirus Aid, Relief, and Economic Security Act (CARES Act), or American Rescue Plan Act (ARPA)?

Section IV.B.7.a.ii. of the NOFO states that an Eligible Entity may not fund a project covering a location or area already subject to an enforceable federal, state, or local commitment to deploy qualifying broadband unless the Assistant Secretary waives the exclusion of areas with prior enforceable commitments at the request of the Eligible Entity. The waiver may be applied in cases where the Eligible Entity can demonstrate to the satisfaction of the Assistant Secretary that including the area is necessary to achieve the goals of the program.

An enforceable commitment for the deployment of qualifying broadband exists when the commitment to deploy was made as a condition of:

1. Any grant, loan, or loan guarantee provided by an Eligible Entity to the provider of broadband service for the deployment of qualifying broadband service in the proposed service area;
2. Any grant, loan, or loan guarantee with respect to the proposed service area provided by the Secretary of Agriculture under:
 - a. Title VI of the Rural Electrification Act of 1936 (7 U.S.C. 950bb et seq.), including: any program to provide grants, loans, or loan guarantees under Sections 601 through 603 of that Act (7 U.S.C. 950bb et seq.); and the Community Connect Grant Program established under Section 604 of that Act (7 U.S.C. 950bb-3); or
 - b. The broadband loan and grant pilot program known as the “Rural eConnectivity Pilot Program” or the “ReConnect Notice of Funding Opportunity Program” authorized under Section 779 of division A of the Consolidated Appropriations Act, 2018 (Public Law 115-141; 132 Stat. 348);
3. Any high-cost universal service support provided under Section 254 of the Communications Act of 1934 (47 U.S.C. 254), except that in the case of the Rural Digital Opportunity Fund, a location will be considered to have an enforceable commitment for qualifying broadband only (a) after the Federal Communications Commission has authorized RDOF support for the winning bid that includes that location in a Public Notice, and (b) the provider does not rely on satellite technologies to deliver service;
4. Any grant provided under Section 6001 of the American Recovery and Reinvestment Act of 2009 (47 U.S.C. 1305);
5. Amounts made available for the Education Stabilization Fund established under the heading “DEPARTMENT OF EDUCATION” in title VIII of division B of the CARES Act (Public Law 116-136; 134 Stat. 564), and funded under the CARES Act, the Coronavirus Response and Relief Supplemental Appropriations Act (CRRSA Act), and the American Rescue Plan Act (ARP Act);
6. Amounts made available for the Coronavirus State and Local Fiscal Recovery Funds (SLFRF) established under the American Rescue Plan Act of 2021 (Public Law 117-2; 135 Stat. 4) (ARPA);
7. Amounts made available for the Capital Projects Fund established by Section 604 of the Social Security Act, as added by Section 9901 of ARPA; or
8. Any other grant, loan, or loan guarantee provided by, or funded in whole or in part by, the federal government or a state or local government for the provision of broadband service.

7.4 When will funds (other than Initial Planning Funds) be released?

The release of BEAD funds is tied to the Eligible Entity’s successful submission of its Initial Proposal and its Final Proposal. Eligible Entities will be able to submit Initial Proposals after they are officially notified by NTIA of their total allocation of BEAD funds. The Initial Proposal will be submitted through NTIA’s Grants Portal and application guidance specific to submission of the Initial Proposal will be available when allocations are announced. Once an Eligible Entity’s Initial Proposal is approved, NTIA will make available to the Eligible Entity 20% of its Total Allocation (or a higher percentage at the discretion the Assistant Secretary). Additional information about the 20% funding release can be found in Section IV.B.8. of the NOFO.

Once an Eligible Entity’s Final Proposal is approved, NTIA will make available to the Eligible Entity the remaining Program funds identified in the Eligible Entity’s Notice of Available Amounts to be used to implement the Final Proposal.

7.5 Are there restrictions on the use of the initial 20% funding release?

Yes. After approval of the Initial Proposal but before awarding subgrants, Eligible Entities must conduct a fair and transparent challenge process in which a unit of local government, nonprofit organization, or broadband service provider can challenge a determination made by the Eligible Entity in the Initial Proposal as to whether a particular location or CAI is eligible for grant funds, including whether the location is unserved or underserved. After completing the challenge process, Eligible Entities must select subgrantees using a fair, open, and competitive process. As described in Section IV.B.8. of the NOFO, after the selection of a subgrantee, the Eligible Entity may use the initial 20% of grant funds released for deployment projects that:

1. Are proposed for project areas consisting of at least 80% unserved locations; and
2. Are in a location in which the percentage of individuals with a household income at or below 150% of the poverty line applicable to a family of the size involved (as determined under Section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) that is higher than the national percentage of such individuals.

An Eligible Entity may use the funds for other eligible uses only if the Eligible Entity is able to demonstrate to the satisfaction of the Assistant Secretary that the Eligible Entity will have sufficient BEAD Program funds to meet the unserved and underserved broadband deployment commitments.

7.6 Does an Eligible Entity need to spend all the 20% funding before receiving the remaining funds?

No. An Eligible Entity is not required to spend the 20% of funding released after approval of the Initial Proposal before submitting a Final Proposal and receiving access to the remaining funds.

7.7 How long do Eligible Entities have to spend planning funds?

The period of performance for the planning grants will be 5 years. Eligible entities can spend funds over the 5-year period. Within the 5 years, the following must be submitted per the time windows established in the NOFO: Five-Year Action Plans (due within 270 days of receipt of Initial Planning Funds), Initial Proposals (due within 180 days of receipt of a Notice of Available Amounts), and Final Proposals (due no later than 12 months after Assistant Secretary approval

of the Initial Proposal). Once implementation funds are made available to states and territories, Eligible Entities may utilize those funds towards completing these activities.

7.8 Is the 25% non-federal match required for BEAD Planning funds?

A non-federal match is not required for Initial Planning Funds.

7.9 What is the 2% statutory cap for the BEAD program?

The BEAD program has a **cap of 2% of project funds only for costs related to the administration of the Eligible Entity’s grant.** Programmatic costs and administrative costs that are not for the administration of the Eligible Entity’s grants do not count towards this 2% cap. The 2% statutory cap includes any subcontracts or subawards made to assist in the administration of the Eligible Entities grant. The 2% statutory cap on costs related to the administration of the Eligible Entity’s grant administrative costs does not apply to funds allocated during the Initial Planning Funds phase of the BEAD Program (*see* BEAD NOFO section IV.B.2). Otherwise, the 2% statutory cap applies to all other BEAD Program funding.


7.10 What is the difference between a programmatic cost and an administrative cost?

Administrative costs are those expenses incurred by the grant recipients or subrecipients in support of the **day-to-day operations.** These overhead costs are the expenses that are not directly tied to a specific programmatic purpose or activity.


Programmatic costs are costs that are directly tied to the **delivery of a particular project, service or activity** undertaken by a Grantee to achieve an outcome intended by the funding program.

Guidelines regarding both costs are below:


Administrative Cost Guidelines:

- 


Not Direct Provision
These expenses are **not related to the direct provision of program activities.**

- 

General Operating Expenses
The costs are usually for **general operating expenses** incurred by the organization.


- 

Different Forms
Administrative cost can be for **Personnel, Non-Personnel, Direct or Indirect.**


- 

Distinguish Costs
Budgets and financial reporting need to distinguish separately the **cost between administrative and programmatic costs.**


Programmatic Cost Guidelines:

- 


Program Activities
These expenses are **directly related to the provisions of program activities.**

- 


Approvals
All program type costs would be **approved during the budget certification process.**

- 


Allocation of Time
All **allocation of time would need to be kept through time reports** to show how much time was worked on each program and/or administrative duty.

- 

Acceptable Program Costs
Acceptable program costs are **determined by the grant program.**

- 

Multiple Cost Types
Personnel and related non-personnel who perform a portion of both administrative and programmatic services should have their **time allocated between the two different cost types.**

- 

Time Reports
Time reports need to be accurate and saved for review by monitoring staff or audit staff.

Examples of Administrative costs include, but are not limited to:

- Salaries for grant administrative personnel
- Office supplies
- General liability insurance
- General legal services
- Rent and utilities
- Indirect salaries
- Accounting fees

Examples of programmatic costs include, but are not limited to:

- Broadband deployment, including construction and acquisition of infrastructure, engineering, permitting, etc.
- Digital equity and adoption, such as providing low-cost devices and digital navigators
- Implementation of the Subgranting Process
- Mapping and data collection
- Updating the 5-Year Plan
- Installing Wi-Fi in multitenant buildings

7.11 Do all administrative costs count towards the 2% admin cap?

No – Only those costs that are related to the administration of the Eligible Entity’s grant count towards the 2% cap. Additionally, the 2% statutory cap does not apply to funds allocated during the Initial Planning Funds phase of the BEAD Program (*see* BEAD NOFO section IV.B.2).

In making a determination of whether an expense falls within the 2% caps, consider the following:

- **The 2% cap may include expenses** that are both indirect and direct administrative costs so long as those expenses are related to the administration of the Eligible Entity’s grant.
- **Indirect costs** that are related to the administration of the Eligible Entity’s grant count toward the 2% ceiling. By their nature, indirect costs are those recipient costs that are not directly associated with the recipient’s execution of its grant-funded project, but that are necessary to the operation of the organization and the performance of its programs. A grantee should describe the types of indirect costs that it will charge to the grant. A grantee can never double-charge a cost as both a direct and an indirect administrative cost. The budget provided by the Eligible Entity must explain how they will account for direct and indirect personnel costs charged to the grant with the 2% administrative cost ceiling.
- **Examples of personnel expenses** relating to administration of the grant may include costs attributable to: accounting, auditing, contracting, budgeting, and general legal services.
- **Examples of expenses** include costs attributable to: accounting, auditing, contracting, budgeting, and general legal services; facility occupancy costs, e.g., rent, utilities, insurance, taxes, and maintenance; general liability insurance that protects the organization (not directly related to a program); depreciation on buildings and

equipment; general office supplies; general and administrative salaries and wages; subgrants administration like staffing and/or contract support; and training for staff in relation to subgranting (e.g., federal grants compliance training)

- **Additional items that are NOT included in the 2% administrative expenses cap** include:
 - Eligible uses of funding listed in the NOFO for the Initial Planning funds
 - Updated data collection and mapping (both for access and adoption) – Because these are not stagnant measures, the maps must be regularly updated to remain accurate. This is expressly allowed in the NOFO under authority in f(4).
 - Apprenticeship programs for network technicians to ensure adequate workforce for deployment projects. This is expressly allowed in the NOFO under authority in f(6).
 - Updating the 5-Year Action Plan. This is expressly allowed in the NOFO under authority in f(4).

7.12 Does the 2% statutory cap on costs related to grant administration apply to all BEAD funds?

No, the 2% statutory cap on costs only applies to the administration of an Eligible Entity's grant (*see* BEAD NOFO section IV.B.4). The 2% statutory cap does not apply to funds allocated during the Initial Planning Funds phase of the BEAD Program (*see* BEAD NOFO section IV.B.2).

7.13 Are the costs associated with the challenge process considered administrative?

No – The state challenge process is a key component of the overall program and therefore not a cost related to the administration of the Eligible Entity's grant.

7.14 Are the costs associated with subgrantee subject to the 2% cap?

No – Costs related to the subgrantee selection process are not subject to the 2% cap. Subgrantee selection process is a key programmatic component and therefore not an expense related to the administration of an Eligible Entity's grant. Costs associated with the actual subgranting process (contracting, monitoring, disbursement of funds, etc.) are administrative costs but are not expenses related to the administration of the Eligible Entity's grant.

7.15 How should applicants track their 2% administrative costs?

Recipients are required to maintain financial management systems that include records documenting compliance with Federal statutes, regulations and terms and conditions of Federal award, that is sufficient to permit the preparation of reports; and the tracing of funds to a level of expenditures adequate to establish that such funds have been used according to the Federal statutes, regulations, and the terms and conditions of the Federal award.

As such, recipients will be required to track and report the costs associated with this requirement. For example, if any position funded by grant funds will incur direct administrative charges, you must note which position will be doing these activities, what the activities are, and how much time will be spent on these activities.

Additional information about how to report these costs and the frequency of the reporting will be provided at a future date and incorporated into the specific award conditions for the award during the initial-phase of the award (not in the planning phase).

Below are some strategies that NTIA recommends to help applicants track costs related to the administration of the grant:

- Identify the 2% cap amount first to understand your budget for costs related to the administration of the Eligible Entity's grant;
- Track when direct administrative costs are incurred and retain documentation;
- Identify key personnel associated with administering the program. Record their salaries and fringe benefits;
- Report operating expenses of facilities required to administer the program;
- Check spent administrative costs against the 2% cap estimate on a monthly basis;
- Contact FPO if you have any questions about costs that may qualify as administrative costs;
- Create an internal fund code specific to administrative charges within your BEAD funding codes in your financial system and a more specific, separate code of administrative charges related to the administration of the Eligible Entity's grant, and;
 - This way, employees can charge their admin time directly to the administrative charge code and make it easier for you to track personnel administrative charges.
- Ensure your organization has a time and attendance policy that addresses tracking of administrative charges.

7.16 Are subgrantees subject to the 2% administrative cap? How does this affect the administrative cap for Eligible Entities?

Yes- subgrantees are subject to the 2% administrative cap, however the administrative cap only applies to administrative expenses related to administration of the Eligible Entity's grant. The administration cap requirement in section 60102(d)(2)(B) applies to the Eligible Entities and all subcontractors and subgrantees. Under 2 CFR 200.101 and DOC ST&Cs F.03, the terms and conditions of Federal awards generally flow down to subcontracts and subawards. So, this requirement will flow down to subrecipients.

Regarding the scope of this requirement, Section 60102(d)(2)(B) states that "An eligible entity may use not more than 2 percent of the grant amounts made available to the eligible entity under subsection (e) for expenses relating (directly or indirectly) to administration of the grant" (emphasis added).

The cap applies only to the expenses relating to the administration of the Eligible Entity's BEAD grant. If an Eligible Entity enters a subcontract or subaward for a subcontractor or subgrantee to undertake administrative activities related to the administration of the Eligible Entity's BEAD grant, those expenses would be included within the 2% cap. However, the cap does not apply to a *subgrantee's* administrative expenses to administer its subaward.

While the statutory requirement will apply to all grants and subgrants, the scope of the statutory requirement (and the 2% cap) is somewhat narrow. The majority of subgrants for broadband deployment will not be associated with the administrative expenses related to the

administration of the Eligible Entity's grant, and therefore will not fall within the 2% administrative cap.

7.17 What is a Direct Administrative Cost and what is an Indirect Administrative Cost?

Direct Administrative Costs are costs associated with specific work for the effective administration of the grant, and they must be specific to the program. Examples include salaries and fringe benefits for grant administration personnel, office supplies, postage, program coordination and project execution, and equipment required to administer the program.

Indirect Administrative Costs are costs incurred by the organization during the execution of the project, but not clearly identifiable to the project. Examples include depreciation of facilities, facility occupancy costs, general liability insurance, general legal services, taxes, rent and utilities, indirect salaries, and accounting fees.

If you would like additional context on this question, please refer to Q-111 in the 2 CFR Frequently Asked Question & Answers. The document can be accessed [here](https://www.cfo.gov/assets/files/2CFR-FrequentlyAskedQuestions_2021050321.pdf):
https://www.cfo.gov/assets/files/2CFR-FrequentlyAskedQuestions_2021050321.pdf.

7.18 Are facilities constructed using non-BEAD funding subject to BEAD network requirements?

No, facilities constructed using non-BEAD funding are not subject to BEAD network requirements unless those facilities are used to meet federal funding match requirements. If facilities count toward matching funds, they are subject to the same network requirements as those directly funded by BEAD projects. Accordingly, Eligible Entities should ensure all potential subgrantees are specific and precise in their proposals for funding usage and potential federal funding match opportunities.

8. Initial Proposal

8.1 What is the Initial Proposal?

The Initial Proposal will detail how an Eligible Entity intends to use BEAD funding, including how it will design both a challenge process and a competitive subgrantee selection process. The Initial Proposal should explain how the Eligible Entity intends to ensure that every resident has access to a reliable, affordable, high-speed broadband connection, utilizing all funding available to be brought to bear to accomplish this goal, including but not limited to BEAD Program funds. The Initial Proposal will also detail actions that the Eligible Entity will take on critical issues such as climate resiliency, fair labor practices, workforce development, minority and women-owned business contracting.

Additional information about the initial proposal can be found in Section IV.B.5. of the NOFO.

8.2 When is the Initial Proposal due and how and where must it be submitted?

The Initial Proposal may be submitted immediately upon issuance of the Notice of Available Amounts and will be due to NTIA no later than 180 days after the notice is issued. It must be submitted through the NTIA Grants Portal at grants.ntia.gov.

8.3 What must be included in the Initial Proposal?

The Initial Proposal must, at a minimum include the following information detailed in Section IV.B.5.b. of the NOFO:

1. Outline long-term objectives for deploying broadband, closing the digital divide, addressing access, affordability, equity, and adoption issues, and enhancing economic growth and job creation including information developed by the Eligible Entity as part of the Five-Year Action Plan and information from any comparable strategic plan otherwise developed by the Eligible Entity, if applicable.
2. Identify, and outline steps to support, local, Tribal, and regional broadband planning processes or ongoing efforts to deploy broadband or close the digital divide and describe coordination with local and Tribal Governments, along with local, Tribal, and regional broadband planning processes.
3. Identify existing efforts funded by the federal government or an Eligible Entity within the jurisdiction of the Eligible Entity to deploy broadband and close the digital divide, including in Tribal Lands.
4. Certify that the Eligible Entity has conducted coordination, including with Tribal Governments, local community organizations, unions and worker organizations, and other groups, consistent with the requirements set forth in Section IV.C.1.c of the NOFO, describe the coordination conducted, summarize the impact such coordination had on the content of the Initial Proposal, detail ongoing coordination efforts, and set forth the plan for how the Eligible Entity will fulfill the coordination requirements associated with its Final Proposal.

5. Identify each unserved location and underserved location under the jurisdiction of the Eligible Entity, including unserved and underserved locations in applicable Tribal Lands, using the most recently published Broadband DATA Maps as of the date of submission of the Initial Proposal, and identify the date of publication of the Broadband DATA Maps used for such identification.
6. Describe how the Eligible Entity applied the statutory definition of the term “community anchor institution,” identified all eligible CAIs in its jurisdiction, identified all eligible CAIs in applicable Tribal Lands, and assessed the needs of eligible CAIs, including what types of CAIs it intends to serve; which institutions, if any, it considered but declined to classify as CAIs; and, if the Eligible Entity proposes service to one or more CAIs in a category not explicitly cited as a type of CAI in Section 60102(a)(2)(E) of the Infrastructure Act, the basis on which the Eligible Entity determined that such category of CAI facilitates greater use of broadband service by vulnerable populations.
7. Include a detailed plan to conduct a challenge process as described in Section IV.B.6. of the NOFO.
8. Include a detailed plan to competitively award subgrants consistent with Section IV.B.7.a of the NOFO with regard to both last-mile broadband deployment projects and other eligible activities. With respect to last-mile broadband deployment projects, the plan must explain how the Eligible Entity will ensure timely deployment of broadband and minimize the BEAD subsidy required to serve consumers consistent with Section IV.B.7 and the other priorities set out in the NOFO. The Initial Proposal must include identification of, or a detailed process for identifying, an Extremely High Cost Per Location Threshold to be utilized during the subgrantee selection process described in Section IV.B.7 of the NOFO. Each Eligible Entity must establish its Extremely High Cost Per Location Threshold in a manner that maximizes use of the best available technology while ensuring that the program can meet the prioritization and scoring requirements set forth in Section IV.B.7.b of the NOFO. NTIA expects Eligible Entities to set the Extremely High Cost Per Location Threshold as high as possible to help ensure that end-to-end fiber projects are deployed wherever feasible.
9. With respect to non-deployment eligible activities, explain any preferences the Eligible Entity will employ in selecting the type of initiatives it intends to support using BEAD Program funds, the means by which subgrantees for these eligible activities will be selected, how the Eligible Entity expects the initiatives it pursues to address the needs of the Eligible Entity’s residents, the ways in which engagement with localities and stakeholders will inform the selection of eligible activities, and any efforts the Eligible Entity will undertake to determine whether other uses of the funds might be more effective in achieving the BEAD Program’s equity, access, and deployment goals.
10. Describe any initiatives the Eligible Entity proposes to implement as the recipient without making a subgrant, and why it proposes that approach.
11. Detail how the Eligible Entity will ensure that subgrantees, contractors, and subcontractors use strong labor standards and protections, such as those listed in

Section IV.C.1.e, and how the Eligible Entity will implement and apply the labor-related subgrantee selection criteria described below in Section IV.C.1.e of the NOFO.

12. Detail how the Eligible Entity will ensure an available, diverse, and highly skilled workforce consistent with Section IV.C.1.e of the NOFO.
13. Describe the process, strategy, and data tracking method(s) that the Eligible Entity will implement to ensure that minority businesses, women-owned business enterprises, and labor surplus area firms are recruited, used, and retained when possible.
14. Identify steps that the Eligible Entity will take to reduce costs and barriers to deployment, promote the use of existing infrastructure, promote and adopt dig-once policies, streamlined permitting processes and cost-effective access to poles, conduits, easements, and rights of way, including the imposition of reasonable access requirements.
15. Provide an assessment of climate threats within the Eligible Entity and proposed mitigation methods consistent with the requirements of Section IV.C.1.h of the NOFO.
16. Describe the low-cost plan(s) that must be offered by subgrantees consistent with the requirements of Section IV.C.2.c.i of the NOFO.
17. Describe the intended use of the 20 percent of total funding allocation that is made available upon approval of the Initial Proposal consistent with Section IV.B.8 of the NOFO.
18. Disclose (1) whether the Eligible Entity will waive all laws of the Eligible Entity concerning broadband, utility services, or similar subjects, whether they predate or postdate enactment of the Infrastructure Act, that either (a) preclude certain public sector providers from participation in the subgrant competition or (b) 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; and (2) if it will not waive all such laws for BEAD Program project selection purposes, identify those that it will not waive and describe how they will be applied in connection with the competition for subgrants.
19. Certify the intent of the Eligible Entity to comply with all applicable requirements of the Program, including the reporting requirements, and describe subgrantee accountability procedures.

Additional requirements for the Initial Proposal may be provided to Eligible Entities when the Notice of Available Amounts is released.

8.4 What are the requirements for the challenge process that an Eligible Entity must design?

Within the Initial Proposal, an Eligible Entity must include a detailed plan to conduct a challenge process before allocating BEAD funds. Under this process, a unit of local government, nonprofit organization, or broadband service provider can challenge a determination made by

the Eligible Entity in the Initial Proposal as to whether a particular location or community anchor institution within the jurisdiction of the Eligible Entity is eligible for the grant funds, including whether a particular location is unserved or underserved. Once the Initial Proposal is approved by NTIA, Eligible Entities must conduct the challenge process. An Eligible Entity must also notify NTIA of any modifications to the Initial Proposal that are necessitated by successful challenges to its initial determinations. After resolving each challenge and at least 60 days before allocating grant funds for network deployment, an Eligible Entity must provide public notice of the final classification of each unserved location, underserved location, or eligible community anchor institution within the jurisdiction of the Eligible Entity.

Information about the challenge process can be found in Section IV.B.6. of the NOFO.

8.5 What oversight will NTIA have in the challenge process?

The Assistant Secretary may modify determinations made in the challenge as to whether a location is served, unserved, or underserved, and may, pursuant to Section 60102(h)(2)(D)(ii) of the Infrastructure Act, reverse the determination of an Eligible Entity regarding a particular location or CAI for grant funds.

8.6 What technical assistance will NTIA provide Eligible Entities to help them prepare their Initial Proposals? Will NTIA provide a template for the Initial Proposal?

NTIA will provide iterative feedback on draft Initial Proposals and will support Eligible Entities throughout the development process. NTIA will provide Eligible Entities with a template and detailed application guidance for submission of the Initial Proposal.

8.7 Will an Eligible Entity be provided the opportunity to revise its Initial Proposal upon receiving feedback?

NTIA may request and accept corrections to the Initial Proposal after submission. If the Initial Proposal is incomplete, or the Assistant Secretary determines that the use of funds proposed in the Initial Proposal does not meet the standards set forth in the NOFO, the Assistant Secretary will notify the Eligible Entity of deficiencies in the proposal, provide the Eligible Entity with an opportunity to resubmit the Initial Proposal, and will establish a deadline for resubmission.

Additional information about the review process for the BEAD Program can be found in Section VI.A. of the NOFO.

8.8 What will the review process entail for the Initial Proposal, and how will Proposals be evaluated?

NTIA will acknowledge receipt of the Initial Proposals and begin the review process on a rolling basis. As noted in Section IV.B.5.c. of the NOFO, upon determination that the Initial Proposal is complete, NTIA will determine whether the use of funds proposed in the Initial Proposal:

1. Complies with Section 60102(f) of the Infrastructure Investment and Jobs Act;
2. Is in the public interest; and
3. Effectuates the purposes of the Act.

8.9 What percentage of funds will be released upon approval of the Initial Proposal? When will these funds be released?

Once an Initial Proposal is approved, NTIA will make available to the Eligible Entity not less than 20 percent of the total grant funds allocated to the Eligible Entity.

8.10 Do Wi-Fi access points installed outside of, not within, an eligible multi-family dwelling unit qualify under the BEAD Program?

Internet or Wi-Fi infrastructure that provides qualifying broadband services within an eligible multi-family residential building is an eligible use of funding, subject to the priority framework for uses of BEAD funding, regardless of where the access point is located.

8.11 Is it sufficient to have an employee serving in the capacity of a network engineer certify a project instead of a professional engineer?

No, per NOFO Section IV.D.2.c the materials submitted by a prospective subgrantee must be certified by a professional engineer.

8.12 *Is setting a cost to the consumer (or using a formula) for low-cost service offerings allowed?**

Yes. The Bipartisan Infrastructure Law requires Eligible Entities to propose a definition of “low-cost broadband service option” that will apply to covered subgrantees. Acceptable approaches to satisfy this requirement include, but are not limited to, offering a definition that establishes a specific dollar figure, a formula that would yield a firm dollar figure, a range of figures, a mechanism that would tie cost to an objective benchmark, or a set ceiling below which variation is permissible. These figures can be statewide or cover subdivisions of the state.

In all cases, the definition must allow the Assistant Secretary to determine the expected cost to an Eligible Subscriber. Initial Proposals that do not comply with this requirement will not be approved.

8.13 *But isn't that rate regulation?**

No. The Bipartisan Infrastructure Law (BIL) states that NTIA is not authorized to regulate broadband rates. NTIA has not, and will not, engage in rate regulation.

The BIL also directs each Eligible Entity to develop a “low-cost broadband service option,” subject to the review and approval of the Assistant Secretary, that BEAD program subgrantees must offer to eligible subscribers. This is a separate requirement of the law, and compatible with the prohibition on regulating broadband rates.

8.14 *What options exist for states to implement this requirement?**

Under the BEAD NOFO, Eligible Entities have discretion in how they propose to define “low-cost broadband service option,” and the Assistant Secretary will consider multiple factors in approving a proposed definition, including the expected cost to an Eligible Subscriber. The BEAD NOFO offers a proposed definition that the Assistant Secretary has already indicated would be met with his approval. Consistent with that definition, Eligible Entities could propose a specific dollar-value rate for the low-cost service option.

Alternative approaches include, but are not limited to, proposing a formula that would yield a firm dollar figure, a range of figures, a mechanism that would tie cost to an objective benchmark, or a set ceiling below which variation is permissible.

At the end of the day, NTIA will consider any proposal by a state that allows the Assistant Secretary to objectively evaluate whether the low-cost service option is, in fact, “low-cost” for eligible subscribers. This requires that the Assistant Secretary be able to determine what the maximum cost could be for an eligible subscriber at a given location at a given time.

8.15 *Can low-cost plans be indexed or otherwise allowed to increase over time?**

Regardless of approach, Eligible Entities are permitted to allow for reasonable cost adjustments over time. This could be tied to any number of reasonable metrics including CPI, the Urban Rate Survey, or others as Eligible Entities may prefer.

8.16 *So the BIL says every ISP in my state or territory can be required to offer this plan?**

No. Offering a low-cost service offering is a condition for receipt of BEAD subgrants. Governments routinely require specific actions as a condition for grant receipt that they otherwise might not as general lawmaking or regulatory activity. The BIL does not otherwise alter the regulatory authority of Eligible Entities.

9. Cost Sharing and Matching Guidelines

9.1 What are the matching requirements for BEAD?

As described in Section III.B.1. of the NOFO, except in certain specific circumstances (i.e., projects in “high-cost areas” and other cases in which NTIA has waived the matching requirement), in the context of subgrants used to fund broadband network infrastructure deployment, each Eligible Entity shall require its subgrantee to provide, or provide in concert with its subgrantee, matching funds of not less than 25 percent of project costs. A matching contribution may be provided by the subgrantee, an Eligible Entity, a unit of local government, a utility company, a cooperative, a nonprofit or philanthropic organization, a for-profit company, regional planning or governmental organization, a federal regional commission or authority, or any combination thereof. While the match may be provided by multiple sources, Eligible Entities are encouraged to the maximum extent possible to require a match from the subgrantee before utilizing other sources of matching funds.⁶ Eligible Entities are also required to incentivize matches of greater than 25 percent from subgrantees wherever feasible (especially where expected operational costs and revenues are likely to justify greater investment by the subgrantee) to reduce the federal share of projects and extend the reach of BEAD Program funding.

9.2 What is a “high-cost area”?

Section I.C. of the NOFO defines the term “high-cost area” as an unserved area in which the cost of building out broadband service is higher, as compared with the average cost of building out broadband service in unserved areas in the United States (as determined by the Assistant Secretary, in consultation with the Federal Communications Commission), incorporating factors that include— (I) the remote location of the area; (II) the lack of population density of the area; (III) the unique topography of the area; (IV) a high rate of poverty in the area; or (V) any other factor identified by the Assistant Secretary, in consultation with the Commission, that contributes to the higher cost of deploying broadband service in the area. For purposes of defining “high-cost area,” the term “unserved area” means an area in which not less than 80 percent of broadband-serviceable locations are unserved locations. NTIA will release further information regarding the identification of high-cost areas for purposes of BEAD funding allocations at a later date.

9.3 Can federal funds be used as matching funds? (e.g., ARPA Capital Projects Fund)

Federal funds may not be used as matching funds, except as expressly provided by federal statute. The Infrastructure Act expressly provides that for the BEAD Program matching funds may come from a federal regional commission or authority and from funds that were provided

⁶ Rather than using state or local funds as a match to BEAD projects, Eligible Entities are encouraged to use these funding sources on broadband separately and leverage additional subgrantee match commitments. Eligible Entities also must use BEAD Program funds to supplement, and not supplant, the amounts that the Eligible Entity would otherwise make available for the purposes for which the grant funds may be used.

to an Eligible Entity or a subgrantee for the purpose of deploying broadband service under the following legislation, to the extent permitted by those laws:

- 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); or
- American Rescue Plan Act of 2021 (Public Law 117-2; 135 Stat. 4).

Eligible Entities are encouraged to consider terms and conditions that may be associated with potential sources of match funds and how those may impact the project overall. For example, if an Eligible Entity utilizes federal regional commission funding as a match, the project will need to comply with all BEAD programmatic requirements and any requirements imposed by the federal regional commission.

Additional information about matches from other federal programs can be found in Section III.B.3. of the NOFO.

9.4 What are circumstances under which NTIA may consider granting a match waiver?

As explained in Section III.B.5. of the NOFO, in evaluating requests for waiver of the BEAD Program's non-federal match requirement, NTIA will carefully balance the Program's various objectives. It is NTIA's policy to ensure that BEAD funds are used to bring affordable broadband to all Americans. Thus, the Assistant Secretary will generally seek to minimize the BEAD funding outlay on a particular project to extend the Program's reach, and expects to grant waivers only in special circumstances, when waiver is necessary to advance objectives that are critical to the Program's success. In order to be considered for a waiver, an Eligible Entity must submit a request that describes the special circumstances underlying the request and explain how a waiver would serve the public interest and effectuate the purposes of the BEAD Program. The Assistant Secretary retains the discretion to waive any amount of the match, including up to the full 25 percent requirement.

9.5 Can matching funds be provided in any form other than cash? What are allowable in-kind contributions?

Section III.B.4. of the NOFO states that matching funds may be provided in the form of either cash or in-kind contributions, so long as such contributions are made consistent with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards set forth at 2 C.F.R. Part 200. In-kind contributions, which may include third-party in-kind contributions, are non-cash donations of property, goods or services, which benefit a federally assisted project, and which may count toward satisfying the non-federal matching requirement of a project's total budgeted costs when such contributions meet certain criteria. In-kind contributions must be allowable and allocable project expenses.

The rules governing allowable in-kind contributions are detailed and encompass a wide range of properties and services. NTIA encourages applicants to thoroughly consider potential sources of

in-kind contributions that, depending on the particular property or service and the applicable federal cost principles, could include:

- Employee or volunteer services;
- Equipment;
- Supplies;
- Indirect costs;
- Computer hardware and software; and
- Use of facilities.

In the broadband context this could include, consistent with federal cost principles:

- Access to rights of way;
- Pole attachments;
- Conduits;
- Easements; or
- Access to other types of infrastructure.

9.6 Is the 25% non-federal match required for BEAD Planning Funds?

A non-federal match is not required for Initial Planning Funds or non-deployment uses of BEAD fundings.

As described in the NOFO, except in certain specific circumstances in the context of subgrants used to fund broadband network infrastructure deployment (i.e., projects in “high-cost areas” and other cases in which NTIA has waived the matching requirement), each Eligible Entity shall provide, require its subgrantee to provide, or provide in concert with its subgrantee, matching funds of not less than 25 percent of project costs. A matching contribution may be provided by the subgrantee, an Eligible Entity, a unit of local government, a utility company, a cooperative, a nonprofit or philanthropic organization, a for-profit company, regional planning or governmental organization, a federal regional commission or authority, or any combination thereof. While the match may be provided by multiple sources, Eligible Entities are encouraged to the maximum extent possible to require a match from the subgrantee before utilizing other sources of matching funds. Eligible Entities are also required to incentivize matches of greater than 25 percent from subgrantees wherever feasible (especially where expected operational costs and revenues are likely to justify greater investment by the subgrantee) to reduce the federal share of projects and extend the reach of BEAD Program funding (NOFO Section III.B.1).

9.7 Can state highway right of ways (ROWs) be used as match for the BEAD Program?

Yes, state highway ROWs can be used as a match subject to the requirements around in-kind contributions. In-kind contributions are non-cash donations of property, goods or services, such as waiver of fees associated with access to rights of way, pole attachments, conduits, easements, or access to other types of infrastructure (NOFO Section III.B.4).

9.8 Is it allowable for a grantee to contribute municipal revenue bond proceeds as matching funds for a BEAD?

The Infrastructure Act and BEAD NOFO include a matching requirement of not less than 25 percent of project costs, subject to certain waivers (Act Section 60102(h)(3)(A), and NOFO Section III.B.1). A non-Federal entity may contribute municipal revenue bond proceeds to meet its BEAD matching funds requirement, so long as the contributions meet the criteria laid out in 2 CFR § 200.306(b) and such use is consistent with the terms of the bond. Such a bond would be considered governmental revenue, and not program income, under 2 CFR § 200.307(c).

9.9 If a BEAD grantee contributes municipal revenue bond proceeds as matching funds, can the grantee then use program income to repay a revenue bond?

Under the Financial Assistance Standard Terms and Conditions (ST&Cs), unless otherwise indicated in a specific award term, program income may be used for any required cost sharing consistent with 2 CFR § 200.307 (see ST&Cs Section B.05). Any match contributions must meet the criteria of allowable costs (2 CFR § 200.306(b)(4)). Allowable costs for the BEAD Program are determined in accordance with the cost principles identified in 2 CFR Part 200, including Subpart E of such regulations, for States and non-profit organizations, and in 48 CFR Part 31 for commercial organizations (NOFO Section V.H). A recipient may request that the Grants Officer and NTIA consider the repayment of the principal of the bond as an allowable cost. However, the repayment of the interest portion of the municipal revenue bond would not be allowable for the proposed project purpose. The Grants Officer would have to approve any such a proposal to use program income to repay revenue bonds and may require special award conditions.

9.10 Can U.S. Treasury Coronavirus Capital Projects Fund (CPF) grants be used for BEAD matching funds?

Yes, CPF grants can be used as matching funds. Further, assets purchased with previously disbursed CPF grant funds may be used as an in-kind matching contribution for the BEAD program if the purchase of that asset was an eligible use of BEAD funding. Eligible Entities that use CPF funds as the source of matching funds must comply with the requirements of both programs, as well as regulations regarding in-kind matches.

10. Competitive Subgrantee Grants

10.1 What are the requirements for the subgrantee selection process?

Each Eligible Entity must establish fair, open, and competitive processes for selecting subgrantees. The selection of subgrantees is a critically important process that will determine the providers that will bring service to unserved and underserved locations and CAIs. These processes must be made clear to potential subgrantees and must be described in the Eligible Entity's Initial Proposal and Final Proposal. NTIA recognizes that there may be a variety of competitive processes Eligible Entities might use to select subgrantees and does not mandate any specific approach. NTIA will provide further guidance and technical assistance on approaches to subgrantee selection.

Each Eligible Entity's process must abide by the following principles:

1. An "Unserved Service Project" or "Underserved Service Project" can be as small as a single unserved or underserved location, respectively. This principle will help ensure that isolated unserved and underserved locations that cannot be aggregated in groups that are 80 percent or more unserved or underserved are addressed by the BEAD Program.
2. An "Unserved Service Project" or "Underserved Service Project" may include Middle Mile Infrastructure in or through any area required to reach interconnection points or otherwise to ensure the technical feasibility and financial sustainability of a project providing service to an unserved location, underserved location, or eligible CAI.
3. In identifying an Unserved Service Project or Underserved Service Project, an Eligible Entity may not treat as "unserved" or "underserved" any location that is already subject to an enforceable federal, state, or local commitment to deploy qualifying broadband as of the date that the challenge process described in Section IV.B.6 of this NOFO is concluded. The Assistant Secretary may waive such treatment of locations or areas with prior enforceable commitments at the request of the Eligible Entity in cases where the Eligible Entity can demonstrate to the satisfaction of the Assistant Secretary that such treatment of such locations or areas is necessary to achieve the goals of the program, including where purported commitments do not have the appropriate documentation with respect to Tribal lands consistent with requirements set out above. For the purposes of the subgrantee selection process, "qualifying broadband" to a location that is not a CAI is Reliable Broadband Service with (i) a speed of not less than 100 Mbps for downloads; and (ii) a speed of not less than 20 Mbps for uploads; and (iii) latency less than or equal to 100 milliseconds; "qualifying broadband" to a CAI is Reliable Broadband Service with (i) a speed of not less than 1 Gbps for downloads and uploads alike and (ii) latency less than or equal to 100 milliseconds.
4. An Eligible Entity must establish a competitive process designed to maximize the public benefits achieved through the subgrant process by increasing subgrantee-provided match and reducing costs to consumers. The type of competitive process selected is at the discretion of the Eligible Entity, subject to the Assistant Secretary's approval in reviewing the Eligible Entity's Initial Proposal and to the criteria and other requirements set forth in the NOFO.

5. The Eligible Entity may seek proposals to serve unserved locations, underserved locations, and CAIs collectively or separately, so long as the Eligible Entity awards funding in a manner that prioritizes Unserved Service Projects and once it certifies that it will ensure coverage of all unserved locations within the Eligible Entity, prioritizes Underserved Service Projects.

6. The Eligible Entity may not exclude, as a class, cooperatives, nonprofit organizations, public-private partnerships, private companies, public or private utilities, public utility districts, or local governments from eligibility as a subgrantee.

7. The Eligible Entity may solicit proposals from prospective subgrantees at the geographic level of its choosing—for example, on a per-location basis, per-census block basis, per-town, per-county or another geographic unit. An Eligible Entity may alternatively solicit proposals for project areas it defines or ask prospective subgrantees to define their own proposed project areas. If the Eligible Entity allows prospective subgrantees to define proposed project areas, it must develop a mechanism for de-conflicting overlapping proposals (for example, by de-scoping some locations from a provider’s proposed project area) to allow for like-to-like comparison of competing proposals. Whatever process is selected, the Eligible Entity must ensure it has a plan for serving all unserved and (where it has sufficient funding) underserved locations.

8. Each Eligible Entity must require that each proposal from a prospective subgrantee identify, for each location to be served in the proposal, the amount of BEAD funding the prospective subgrantee is seeking to serve that location.

9. If, after soliciting proposals, the Eligible Entity has received no proposals to serve a location or group of locations that are unserved, underserved, or a combination unserved and underserved, the Eligible Entity may engage with existing providers and/or other prospective subgrantees to find providers willing to expand their existing or proposed service areas. An Eligible Entity may consider inducements such as use of state funding toward the match requirement or benefits during the grant selection process (e.g., points or credits). The Eligible Entity shall, in this circumstance, work to ensure that its approach is as transparent as possible. For the avoidance of doubt, this provider-specific outreach is only appropriate after the Eligible Entity has solicited proposals and failed to obtain one or more proposals to serve the location or locations at issue.

10. As discussed further in Section IV.B.9.b, if an Eligible Entity’s Final Proposal includes plans to deploy broadband to Unserved Service Projects or Underserved Service Projects that include any locations on Tribal Lands, the Eligible Entity must submit proof of the Tribal Government’s consent to such deployment.

11. Notwithstanding any of the above:

- An Eligible Entity may decline to select a proposal that requires a BEAD subsidy that exceeds the Extremely High Cost Per Location Threshold for any location to be served in the proposal if use of an alternative Reliable Broadband Service technology meeting the BEAD Program’s technical requirements would be less expensive. Subject to the overarching requirement to run a fair, open, and competitive process, the Eligible Entity has discretion to design a selection

process that allows it to engage with a prospective subgrantee to revise the proposal to ensure that no location requires a subsidy that exceeds the Extremely High Cost Per Location Threshold.

- If no Reliable Broadband Service technology meeting the BEAD Program’s technical requirements would be deployable for a subsidy of less than the Extremely High Cost Per Location Threshold at a given location, an Eligible Entity is authorized to select a proposal involving a less costly technology for that location, even if that technology does not meet the definition of Reliable Broadband Service but otherwise satisfies the Program’s technical requirements. In this instance, Eligible Entities are directed to seek out the most robust, affordable, and scalable technologies achievable under the circumstances particular to that location.

Additional information about requirements for the subgrantee selection process can be found in Section IV.B.7. of the NOFO.

10.2 Will “non-traditional” providers be able to apply as subgrantees?

Section IV.C.1.a. of the NOFO holds that Eligible Entities 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 grant funds. In determining whether to approve an Eligible Entity’s Initial or Final Proposal, NTIA will consider whether the Eligible Entity has, after the enactment of the Infrastructure Act, adopted new laws, regulations, policies, procedures or other 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. This could include new laws that have the effect of excluding providers from offering broadband service or rendering them incapable of effectively competing for subgrants.

Some laws of Eligible Entities concerning broadband, utility services, or similar subjects that predate the enactment of the Infrastructure Act 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. NTIA encourages Eligible Entities to waive all such laws for purposes of the Program. If an Eligible Entity does not do so, the Eligible Entity must identify all such laws in its Initial Proposal and describe how the laws will be applied in connection with the competition for subgrants. Such Eligible Entity must, in its Final Proposal, disclose each unsuccessful application affected by such laws and describe how those laws impacted the decision to deny the application.

10.3 Can subgrantees submit audited financial statements at the parent-company level?

Yes, audited financial statements of a publicly traded parent company are sufficient to meet the BEAD Program requirements.

10.4 What are the requirements to demonstrate compliance with fair labor practices?

To evaluate a prospective subgrantee's record of and plans to be in compliance with fair labor practices, Eligible Entities must:

1. Obtain and evaluate information on the prospective subgrantee's record of compliance with federal labor and employment laws, as well as the records of any other entities that will participate in the project, including contractors and subcontractors, and
2. Require the submission of, and evaluate, the prospective subgrantee's plans for ensuring compliance with federal labor and employment laws (NOFO Section IV.C.1.e).

Information on (1) the prospective subgrantee's record of compliance must include:

- Information on the entities' compliance with federal labor and employment laws on broadband deployment projects in the last three years

Information on (1) the prospective subgrantee's record of compliance may include:

- Data on prospective subgrantee's historical use of contracting and subcontracting arrangements, including staffing plans
- Examples of the contractor and subcontractor's past performance in the context of a similar project

Information on (2) the prospective subgrantee's plan for ensuring compliance with fair labor practices may include:

- How the prospective subgrantee will ensure compliance in its own labor and employment practices, as well as that of its contractors and subcontractors
- 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
- How the subgrantee will ensure the implementation of workplace safety committees that are authorized to raise health and safety concerns in connection with the delivery of deployment projects

10.5 Are subgrantees required to deploy new interconnection points in addition to conduit access points?

No. The requirement in Section IV.C.2.b.ii of the NOFO is that subgrantees proposing to lay conduit must ensure there is additional space for access to the conduit.

11. Final Proposal

11.1 When is the Final Proposal due and how and where must it be submitted?

The Final Proposal is due to NTIA no later than one year after approval of the Initial Proposal as explained in Section IV.B.9.a. of the NOFO. It must be submitted through the NTIA Grants Portal at grants.ntia.gov.

11.2 What must be included in the Final Proposal?

Section IV.B.9.b. of the NOFO notes that the Final Proposal must include, at a minimum:

1. A detailed plan that specifies the outcome of the Eligible Entity's subgrantee selection process and how the Eligible Entity will:
 - a. allocate grant funds to subgrantees for the deployment of broadband networks to unserved locations, underserved locations, and (if applicable) CAIs in accordance with the prioritization framework described in Section IV.B.7.b of the NOFO; and
 - b. align the grant funds allocated to the Eligible Entity under the BEAD Program, where practicable, with the use of other funds for broadband that the Eligible Entity receives from the federal government, an Eligible Entity, or any other source.
2. A timeline for implementation of the detailed plan and completion of each project and other eligible activity to be funded;
3. Processes for oversight and accountability to ensure the proper use of the grant funds allocated to the Eligible Entity under the BEAD Program consistent with Section IX.G of the NOFO;
4. Certification that the Eligible Entity has conducted coordination, including with Tribal Governments, local community organizations, and unions and worker organizations, consistent with the requirements set forth in Section IV.C.1.c of the NOFO, a description of the coordination conducted, and a summary of the impact such coordination had on the content of the Final Proposal;
5. Description of the results of the challenge process conducted by the Eligible Entity under Section IV.B.6;
6. Certification that the Eligible Entity will provide service to all unserved and underserved locations, if the Eligible Entity is seeking to use BEAD funding for deployment to CAIs or for other eligible activities;
7. A detailed description of all planned uses of BEAD funding that are not last-mile broadband deployment projects, including the nature of each funded initiative, how those uses are consistent with Section V.K of this NOFO, how the Eligible Entity expects the initiative to address the needs of the Eligible Entity's residents, the ways in which engagement with localities and stakeholders informed the selection of such

- eligible activities, and any efforts the Eligible Entity undertook to determine whether other uses of the funds might have been more effective in achieving the BEAD Program's equity, access, and deployment goals;
8. The means by which subgrantees for non-deployment eligible activities were selected, if the Eligible Entity pursued those initiatives via subgrant, or, alternatively, how the Eligible Entity determined that it should undertake the initiative itself;
 9. A description of efforts undertaken by the Eligible Entity to ensure the participation of non-traditional broadband providers (such as municipalities or political subdivisions, cooperatives, non-profits, Tribal Governments, and utilities), including an explanation for awards to traditional broadband providers when one or more non-traditional providers submitted competing proposals to serve an area consistent with the requirements of Section IV.C.1.a of the NOFO;
 10. Implementation status of plans described in the Initial Proposal related to:
 - a. Steps that the Eligible Entity has taken or intends to take to promote streamlined permitting processes and cost-effective access to poles, conduits, easements, and rights of way, including the imposition of reasonable access requirements;
 - b. Labor and workforce activities, including how the Eligible Entity implemented and applied the labor-related subgrantee selection criterion required herein;
 - c. Utilization of minority businesses, women-owned business enterprises, and labor surplus area firms;
 - d. Low-cost plan requirements; and
 - e. Climate change and resilience;
 11. Information regarding specific commitments made by provisionally selected subgrantees to warrant a project's treatment as a Priority Broadband Project;
 12. Information regarding specific commitments made by provisionally selected subgrantees to warrant benefits in the Eligible Entity's subgrantee selection process (e.g., the primary and secondary criteria);
 13. Environmental documentation associated with any construction and/or ground-disturbing activities and a description of how the Eligible Entity will comply with applicable environmental and national historical preservation requirements.
 14. To the extent an Eligible Entity's Final Proposal includes plans to deploy broadband to Unserved Service Projects or Underserved Service Projects on Tribal Lands, the Eligible Entity must submit 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.
 15. A description of (1) each unsuccessful application that was affected by laws of the Eligible Entity concerning broadband, utility services, or similar subjects, whether

they predate or postdate enactment of the Infrastructure Act, that the Eligible Entity did not waive for purposes of BEAD Program project selection and that either (a) preclude certain public sector providers from participation in the subgrant competition or (b) 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; and (2) how those laws impacted the decision to deny each such application.

Additional requirements for the Final Proposal may be provided to Eligible Entities when the approval of the Initial Proposal is granted.

11.3 What technical assistance will NTIA provide Eligible Entities to help them prepare their Final Proposals? Will NTIA provide a template for the Final Proposal?

NTIA will provide iterative feedback on draft proposals and will support Eligible Entities throughout the development process to ensure that the Final Proposals meet all requirements and goals of the program. NTIA will provide an online template for submission.

11.4 Are there any formatting instructions for the Final Proposal submission?

The Final Proposal submission should follow the following formatting instructions:

- Paper, email, and facsimile submissions will not be accepted;
- Figures, graphs, images, and pictures should be of a size that is easily readable or viewable and may be presented in landscape orientation;
- Font should be easy to read (11-point minimum). Smaller type may be used in figures and tables but must be clearly legible;
- Applicants may use single or double spacing;
- Margins should be one inch on the top, bottom, left, and right;
- Page layout should be in portrait orientation except for figures, graphs, images, and pictures. Paragraphs should be clearly separated from each other by double spacing, paragraph formatting, or equivalent;
- Pages should be numbered sequentially;
- Pages must be 8 1/2 by 11 inches; and
- The document must be typed.

12. Grant Award and Reporting Requirements

12.1 What kind of reporting will be required from Eligible Entities? When are the deadlines for reporting?

Eligible Entities must comply with the reporting requirements included in Section VII.E.1. of the NOFO. This includes the following:

Not later than 90 days after receiving any Program grant funds, for the sole purposes of providing transparency and providing information to inform future federal broadband planning, an Eligible Entity shall submit to the Assistant Secretary an **initial report** that:

1. describes the planned and actual use of funds;
2. describes the planned and actual subgrant process;
3. identifies the establishment of appropriate mechanisms by the Eligible Entity to ensure that all subgrantees of the Eligible Entity comply with the eligible uses prescribed under the BEAD Program; and
4. includes any other information required by the Assistant Secretary.

Not later than one (1) year after receiving grant funds under this Section, and semiannually thereafter until the funds have been expended, an Eligible Entity shall submit to the Assistant Secretary a **semiannual report**, with respect to the 6-month period immediately preceding the report date, that tracks the progress the Eligible Entity is making against its approved plans and:

1. describes how the Eligible Entity expended the grant funds;
2. describes each service provided with the grant funds;
3. describes the number of locations at which broadband service was made available using the grant funds, the number of those locations at which broadband service was utilized, and the comparative demographics of the those served; and
4. certifies that the Eligible Entity complied with the requirements of this Section and with any additional reporting requirements prescribed by the Assistant Secretary.

The semiannual report must also include an SF-425 and a Federal Financial Report, and must meet the requirements described in 2 C.F.R. §§ 200.328 and the [Department of Commerce Financial Assistance Standard Terms and Conditions](#).⁷ The semiannual report shall contain information as prescribed in 2 C.F.R. § 200.329.

Not later than one (1) year after an Eligible Entity has expended all grant funds received under this Section, the Eligible Entity shall submit to the Assistant Secretary a final report that:

1. describes how the Eligible Entity expended the funds;

⁷ Dated November 12, 2020, Section A.01 for Financial Reports.

2. describes each service provided with the grant funds;
3. describes the number of locations at which broadband service was made available using the grant funds, the number of those locations at which broadband service was utilized, and the comparative demographics of those served;
4. includes each report that the Eligible Entity received from a subgrantee under Section 60102(j) of the Act; and
5. certifies that the Eligible Entity complied with the requirements of this Section and with any additional reporting requirements prescribed by the Assistant Secretary.

12.2 What kind of reporting will be required from subgrantees? When are the deadlines for reporting?

Subgrantees must comply with the reporting requirements included in Section VII.E.2. of the NOFO. This includes the following:

The recipient of a subgrant from an Eligible Entity under this Section shall submit to the Eligible Entity a regular reporting, at least semiannually, for the duration of the subgrant to track the effectiveness of the use of funds provided. Each report shall describe each type of project carried out using the subgrant and the duration of the subgrant. Eligible Entities may add additional reporting requirements or increase the frequency of reporting. In the case of a broadband infrastructure project, the report must, at minimum:

1. include a list of addresses or locations that constitute the service locations that will be served by the broadband infrastructure to be constructed;
2. include an aggregate percentage of customers taking service at new locations served within each project area;
3. identify whether each address or location is residential, commercial, or a community anchor institution;
4. describe the types of facilities that have been constructed and installed;
5. describe the peak and off-peak actual speeds of the broadband service being offered;
6. describe the maximum advertised speed of the broadband service being offered;
7. describe the non-promotional prices, including any associated fees, charged for different tiers of broadband service being offered;
8. list all interconnection agreements that were requested, and their current status;
9. report the number and amount of contracts and subcontracts awarded by the subgrantee disaggregated by recipients of each such contract or subcontracts that are MBEs or WBEs;
10. 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;
11. 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;
12. for projects over \$5,000,000 (based on expected total cost), provide certifications regarding the laborers and mechanics employed by contractors or subcontractors working on the project; if such certification is not provided, the subgrantee must

- provide a project employment and local impact report and a project workforce continuity plan; and
13. comply with any other reasonable reporting requirements determined by the Eligible Entity or the Assistant Secretary; and certify that the information in the report is accurate.

12.3 What happens if funds are not allocated to an Eligible Entity?

In this instance, funds that would have otherwise been available to the Eligible Entity may be reallocated to other Eligible Entities. Reallocation will be based on the percentage of unserved locations in each Eligible Entity.

Additional information about the treatment of unallocated funds can be found in Section II.D. of the NOFO.

12.4 What happens if an Eligible Entity does not use the full allocation?

If an Eligible Entity does not use the full allocation by the applicable deadline, the unused amounts may be reallocated by NTIA to other Eligible Entities with approved Final Proposals based on the percentage of unserved locations in each Eligible Entity.

Additional information about the treatment of unused funds can be found in Section II.D. of the NOFO.

12.5 Will NTIA grant period of performance extensions? How will these be granted?

Yes, under certain circumstances. NTIA may grant extensions for both the Eligible Entity and subgrantees under the following circumstances:

Section II.B.1. of the NOFO states that an Eligible Entity may extend the four-year network deployment deadline for subgrantees by not more than one year if:

1. the subgrantee has a specific plan for use of the grant funds, with project completion expected by a specific date not more than one year after the four-year deadline;
2. the construction project is underway; or
3. extenuating circumstances require an extension of time to allow the project to be completed.

Extensions for Eligible Entities for any part of the process may be granted at the sole discretion of the Assistant Secretary when extenuating circumstances demonstrate that additional time will support the overall goals of the BEAD Program.

Section II.B.2. of the NOFO states that each Eligible Entity must develop a process by which subgrantees may request extensions and provide documentation about the qualifying circumstances that warrant the extension.

If an Eligible Entity is seeking an extension for any part of the process with respect to which the Act does not authorize the Eligible Entity itself to grant such extension, it shall make a request in writing to NTIA and explain the need for such an extension. Such requests will then be

evaluated by the Assistant Secretary based on the text of the Infrastructure Act and the goals of the BEAD Program.

12.6 Are providers eligible for progress-based reimbursements, or must projects be completed before providers are reimbursed?

Yes, Eligible Entities can reimburse subgrantees while projects are in progress. NTIA recommends that Eligible Entities distribute “funding to subgrantees for, at a minimum, all deployment projects on a reimbursable basis (which would allow the Eligible Entity to withhold funds if the subgrantee fails to take the actions the funds are meant to subsidize)” (NOFO Section IV.C.1.b). Eligible entities can provide reimbursement throughout the course of a project as expenses are incurred by subgrantees.

12.7 What are tips for mitigating waste, fraud, and abuse?

NTIA recommends the following tips for mitigating waste, fraud, and abuse:

- Develop and implement fair, transparent, and effective processes, including a system of accounting, procurement policies, internal controls, and records retention
- Examine existing processes and internal controls to identify areas vulnerable to fraud
- Host regular trainings to educate staff on risks
- Implement an internal compliance and ethics program that encourages the recognition and reporting of waste, fraud, abuse, and mismanagement
- Check that all financial and performance reports are supported with the required documentation
- Conduct monthly bank reconciliations to identify errors or irregularities

Allegations of waste, fraud, abuse, and mismanagement may be made anonymously through the OIG Hotline at 1-800-424-5197.

13. Cross-Program

13.1 Where can I get more information about each application process?

BEAD:

- Information on the application process for BEAD can be found on the Internet For All website at <https://grants.ntia.gov/grantsPortal/s/funding-program/aog3d00000018ObAAI/broadband-equity-access-and-deployment-bead-program>

Digital Equity:

- Information on the application process for DE can be found on the Internet For All website at <https://grants.ntia.gov/grantsPortal/s/funding-program/aog3d00000018OlAAI/state-digital-equity-planning-grant-program>

13.2 How can I sign up to receive e-mails about BIL Grant Programs?

Subscribe to e-mail communications about Internet for All programs, webinars, and announcements at <https://ntiagrants.force.com/broadbandusanewsletter/s/>.

News and media updates on the BIL grant programs can be found on the Internet for All site at <https://www.internetforall.gov/news-and-media>.

13.3 Where can I get more information about the application process?

BEAD:

- Information on the application process for BEAD can be found on the Internet For All website at <https://grants.ntia.gov/grantsPortal/s/funding-program/aog3d00000018ObAAI/broadband-equity-access-and-deployment-bead-program>

Digital Equity:

- Information on the application process for DE can be found on the Internet For All website at <https://grants.ntia.gov/grantsPortal/s/funding-program/aog3d00000018OlAAI/state-digital-equity-planning-grant-program>

13.4 How can I find out if my state has submitted a Letter of Intent for BEAD or application for DE? How do I find who is administering the programs in my state?

BEAD:

- Visit <https://www.internetforall.gov/has-your-state-signed-on> to see which states have submitted a Letter of Intent or go to www.internetforall.gov/ for the latest news and media updates.
- To find a state or territory point of contact for the BEAD program, send an e-mail request to BEAD@NTIA.gov.

Digital Equity:

- States had until July 12, 2022 to submit an application for the State Digital Equity Planning Grant Program. All states have submitted an application for the Digital Equity Planning Grant Program.
- U.S. territories and possessions (other than Puerto Rico) and Indian Tribes, Alaska Native entities, and Native Hawaiian organizations, had until July 12, 2022 to submit a Letter of Intent. A list of entities that have submitted a Letter of Intent is currently being compiled by NTIA and will be published upon completion.
- NTIA is in the process of collecting a list of state Administering Entities for the Digital Equity Planning Grant Program. NTIA will publish the list once all the information is gathered.
- Use the following link <https://broadbandusa.ntia.doc.gov/resources/states> to locate a state level contact person for the State Broadband Programs.

13.5 How will Eligible Entities incorporate State Digital Equity Plans into BEAD 5-Year Action Plans given that BEAD Program 5-Year Action Plans will be due before the State Digital Equity Plans are due?

Each state and territory should ensure that those tasked with developing the State Digital Equity Plan, the Five-Year Action Plan, and the Initial and Final Proposals for the BEAD Program are working closely to meet the programs’ shared objectives. As part of that coordination, States and territories should consider overlap in personnel between State Digital Equity planning teams and BEAD Program planning teams. At a minimum, States and territories should establish formal and direct communications and collaboration pathways between the teams that remain in place throughout the entire planning process. This will be particularly important to reduce the burden and confusion on community stakeholders when fulfilling the local coordination, outreach, and stakeholder engagement requirements of both programs (NOFO Section I.B.2).

Appendix: *New Questions & Answers as of Version 4.0

Is setting a cost to the consumer (or using a formula) for low-cost service offerings allowed?

Yes. The Bipartisan Infrastructure Law requires Eligible Entities to propose a definition of “low-cost broadband service option” that will apply to covered subgrantees. Acceptable approaches to satisfy this requirement include, but are not limited to, offering a definition that establishes a specific dollar figure, a formula that would yield a firm dollar figure, a range of figures, a mechanism that would tie cost to an objective benchmark, or a set ceiling below which variation is permissible. These figures can be statewide or cover subdivisions of the state.

In all cases, the definition must allow the Assistant Secretary to determine the expected cost to an Eligible Subscriber. Initial Proposals that do not comply with this requirement will not be approved.

But isn't that rate regulation?

No. The Bipartisan Infrastructure Law (BIL) states that NTIA is not authorized to regulate broadband rates. NTIA has not, and will not, engage in rate regulation.

The BIL also directs each Eligible Entity to develop a “low-cost broadband service option,” subject to the review and approval of the Assistant Secretary, that BEAD program subgrantees must offer to eligible subscribers. This is a separate requirement of the law, and compatible with the prohibition on regulating broadband rates.

What options exist for states to implement this requirement?

Under the BEAD NOFO, Eligible Entities have discretion in how they propose to define “low-cost broadband service option,” and the Assistant Secretary will consider multiple factors in approving a proposed definition, including the expected cost to an Eligible Subscriber. The BEAD NOFO offers a proposed definition that the Assistant Secretary has already indicated would be met with his approval. Consistent with that definition, Eligible Entities could propose a specific dollar-value rate for the low-cost service option.

Alternative approaches include, but are not limited to, proposing a formula that would yield a firm dollar figure, a range of figures, a mechanism that would tie cost to an objective benchmark, or a set ceiling below which variation is permissible.

At the end of the day, NTIA will consider any proposal by a state that allows the Assistant Secretary to objectively evaluate whether the low-cost service option is, in fact, “low-cost” for eligible subscribers. This requires that the Assistant Secretary be able to determine what the maximum cost could be for an eligible subscriber at a given location at a given time.

Can low-cost plans be indexed or otherwise allowed to increase over time?

Regardless of approach, Eligible Entities are permitted to allow for reasonable cost adjustments over time. This could be tied to any number of reasonable metrics including CPI, the Urban Rate Survey, or others as Eligible Entities may prefer.

So the BIL says every ISP in my state or territory can be required to offer this plan?

No. Offering a low-cost service offering is a condition for receipt of BEAD subgrants. Governments routinely require specific actions as a condition for grant receipt that they otherwise might not as general lawmaking or regulatory activity. The BIL does not otherwise alter the regulatory authority of Eligible Entities.

