

Initial Proposal

Volume II

Commonwealth of Kentucky

Broadband Equity, Access, and Deployment Program
(BEAD)

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OFFICE OF
BROADBAND DEVELOPMENT

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Volume II Initial Proposal

2.1 Objectives (Requirement 1)

2.1.1 Outline the long-term objectives for deploying broadband; closing the digital divide; addressing access, affordability, equity, and adoption issues; and enhancing economic growth and job creation. Eligible Entities may directly copy objectives included in their Five- Year Action Plans.

The tables below list Kentucky’s broadband deployment and digital equity objectives, identified and validated during the Commonwealth’s local coordination process as well as concurrent research and outreach to stakeholders and interested parties:

Broadband Deployment Objectives

Category	Objective
Deployment	With ISPs and local governments, identify unserved and underserved locations and community anchor institutions (CAIs) in need of broadband infrastructure
Deployment	Eliminate unserved locations (speeds of less than 25/3), prioritizing areas of “no service” (under 10/1), low density areas, and high-cost locations, deploying networks capable of least 100/20 with scalability to 100/100
Deployment	Eliminate underserved areas (speeds less than 100/20), deploying networks capable of least 100/20 with scalability to 100/100
Deployment	Identify and leverage other potential funding sources to maximize federal investments
Deployment	Develop an Initial Proposal that identifies prioritized project areas and proposed distribution of federal funds through an efficient and transparent subgrantee selection process
Deployment	Develop a Final Proposal that reviews and strengthens processes and procedures for subgrantee selection identified during Initial Proposal
Deployment	Coordinated infrastructure development
Deployment	Construct resilient networks and infrastructure
Deployment	Assist internet service providers (ISPs) in navigating federal funding requirements
Deployment	Improve permitting processes
Deployment	Increase broadband workforce availability

Access	Ensure that residents of multi-dwelling units (MDUs) have access to home internet service
Access	Promote the development of additional public wi-fi connections
Affordability	Continue to promote participation in the Affordable Connectivity Program (ACP) by ISPs and consumers.
Affordability	Explore other policy solutions and programs to support low- and no-cost internet subscriptions for eligible households should ACP funding lapse

Digital Equity Objectives

Category	Objective
Equity	Enhance broadband availability and affordability for covered populations
Equity	Ensure access to affordable devices are available for all Kentuckians
Equity	Increase application accessibility and inclusivity to state and local government programs and services
Equity	Ensure that all Kentuckians are equipped to navigate the internet safely
Equity	Improve digital literacy for all covered populations in Kentucky
Equity	Kentuckians develop the digital skills necessary for work and life

2.2 Local, Tribal, and Regional Broadband Planning Processes (Requirement 2)

2.2.1 Identify and outline steps that the Eligible Entity will take to support local, Tribal, and regional broadband planning processes or ongoing efforts to deploy broadband or close the digital divide. In the description, include how the Eligible Entity will coordinate its own planning efforts with the broadband planning processes of local and Tribal Governments, and other local, Tribal, and regional entities. Eligible Entities may directly copy descriptions in their Five-Year Action Plans.

Stakeholder engagement has been an important, and ongoing, process for broadband deployment in Kentucky, and began prior to the first round of funding for broadband expansion was awarded in 2021. Stakeholder engagement will be a continuous process throughout the implementation of the BEAD program in Kentucky. Section 2.3.1 describes the Office's current and future efforts related to stakeholder engagement.

2.3 Local Coordination (Requirement 4)

2.3.1 Describe the coordination conducted, summarize the impact such impact has on the content of the Initial Proposal, and detail ongoing coordination efforts. Set forth the plan for how the Eligible Entity will fulfil the coordination associated with its Final Proposal.

The local coordination requirements of the BEAD program outlined in the BEAD NOFO were considered throughout the planning, outreach, and engagement phases of Kentucky's stakeholder engagement efforts, including:

1. Full geographic coverage of the Eligible Entity: The statewide listening tour visited communities across the state, covering urban, suburban, and rural areas. The tour was supported by Kentucky's Area Development Districts, which represent all 120 Kentucky counties.
2. Meaningful engagement of and outreach to diverse stakeholder groups was accomplished by conducting multiple in-person listening sessions with key stakeholder groups, including residents, community-based non-profits and digital inclusion practitioners, local governments, and ISPs.
3. Utilization of multiple awareness and participation mechanisms and different methods to convey information and outreach was accomplished by promotion of events through press releases in each community, promotion of events on the Office's website and the Commonwealth's social media channels, email, and local media coverage of events.
4. Establishment, documentation, and adherence to clear procedures to ensure transparency. Events included accessibility considerations for covered populations, regular website updates, and frequent meetings with other state agencies, non-profits

and community organizations, local governments, and internet service provider associations.

5. Outreach and engagement of unserved and underserved communities, including historically underrepresented and marginalized groups and/or communities was a consideration in planning the outreach, including targeted outreach to covered populations.

Statewide Listening Tour

The Office and ELC hosted a 14-stop listening tour, in partnership with the Area Development Districts in their role as regional convenors and stakeholders. The listening sessions allowed the public to participate in the planning process and provide feedback on internet access and use in their communities directly to state officials. In addition to the 14 in-person stops, two statewide virtual meetings were held—one during the day and one during the evening—to allow participation from residents who were unable to attend in person.

Over 400 participants from across the commonwealth attended to share local perspectives. Public promotion of the tour included outreach to local governments, community anchor institutions, and nonprofits serving covered populations, as well as press coverage and social media announcements. Attendance by covered population included:

- 59% rural residents
- 32% people with disabilities
- 39% low-income households
- 28% veterans
- 39% seniors
- 25% people of color
- 23% individuals with language barriers
- 17% justice-involved people

During the discussions, officials from local governments, internet service providers, non-profits, residents, and for-profit businesses, as well as education, libraries, and healthcare provided input.

Participants were led through discussions that included a summary and timeline of the BEAD and DE programs, as well as facilitated discussion related to high-speed internet needs, barriers, digital inclusion, and impacts on their community. Digital meeting facilitation tools were used to pose questions to guide discussion and collect and aggregate responses.

Focus Groups

In addition to the statewide listening sessions, the ELC has begun hosting a series of focus groups to gather insights from covered populations. As of August 2023, at least one focus

group for each covered population have been hosted with plans to hold more. The focus groups included participants living in covered households, aging individuals, individuals with disabilities, low income, rural communities, justice involved, individuals with a language barrier, racial or ethnic minorities, and veterans.

Focus group feedback indicates that cybersecurity is a serious concern for older adults and veterans. For participants with literacy challenges or a language barrier, the lack of in-person services in their native languages (such as live phone operators, versus written or online communication) presents a challenge; they discussed preferring to do things with a live person rather than a form or website. For many, those forms are too difficult to navigate without assistance, no matter what language the form is presented in.

For others, the monthly cost of home internet service is a barrier, leading families to resort to free Wi-Fi hotspots in restaurant parking lots or libraries as their only option. These challenges and existing financial and social stressors lead many non-English speakers to choose not to subscribe. The ELC continues to conduct more of these focus group meetings to provide a clearer picture of broadband adoption and barriers among covered populations in the Commonwealth.

Provider Advisory Group

In March 2023, the Office hosted an advisory meeting with the internet service provider community. During this meeting, the Office encouraged discussion from ISPs related to policy issues contained in BEAD to guide the Office's decisions in these matters. Additional meetings and outreach will be held with ISPs as Kentucky develops its Initial and Final Proposals.

General Outreach

Office staff continuously engage the Commonwealth's many stakeholders by accepting meetings and speaking engagements to promote the Office's activities related to broadband planning and deployment. Staff have met individually with elected officials, other state agencies involved in broadband deployment, community organizations, and industry officials. Additionally, staff have provided program updates to stakeholder groups at meetings and events held by groups such as the Kentucky County Judge/Executive Association, the Kentucky Rural Broadband Association, the Kentucky Municipal Utility Association, the Kentucky 811 conference, as well as many local and national stakeholder groups and associations.

2.3.2 Describe the formal tribal consultation process conducted with federally recognized Tribes, to the extent that the Eligible Entity encompasses federally recognized Tribes. If the Eligible Entity does not encompass federally recognized Tribes, note "Not applicable."

Not Applicable - Kentucky does not encompass any federally recognized tribes, and has no state recognized tribes.

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2.4 Deployment Subgrantee Selection (Requirement 8)

Deployment Projects Subgrantee Selection Process & Scoring Approach

2.4.1 Describe a detailed plan to award subgrants to last-mile broadband deployment projects through a fair, open, and competitive process.

Kentucky's BEAD subgrantee selection process will begin following approval of Volume II of its Initial Proposal by NTIA or following the completion of the BEAD challenge process and publication of a finalized list of unserved and underserved Broadband Serviceable Locations (BSLs), and unserved community anchor institutions, whichever is later.

The subgrantee selection process will begin with a 30-calendar day period where the Office of Broadband Development will accept submissions of Notices of Intent to Apply (NOIA) from prospective subgrantees for BEAD funding. This process may run concurrent with the BEAD Challenge Process. The NOIA will require prospective subgrantees to outline plans to construct broadband services, including middle-mile networks, equipment, or other investments required to deliver last-mile service to eligible areas of the Commonwealth.

The NOIA will serve as a prequalification period for potential subgrantees. Prospective subgrantees will be required to submit information including, but not limited to, their managerial, financial, and technical capacity related to broadband deployment. In addition, the prospective subgrantee must identify counties in which it may intend to file an application for funding under the BEAD program. Prospective subgrantees will not be required to submit a full application in all counties identified during the NOIA process, however, a prospective subgrantee may not apply for projects in a county or counties that it did not identify during the NOIA process. Additionally, only prospective subgrantees submitting a NOIA during the submission period will be eligible to submit applications during the application cycle.

Eligible project geographies will be defined by Census Block Groups. Block groups may be split into smaller geographies at the discretion of the Office. Block group boundaries and unserved and underserved BSLs and CAIs contained within each will be published prior to the NOIA period. Project applications may include one or multiple contiguous or non-contiguous block groups. By including a block group in an application, the prospective subgrantee commits to serving no less than 95% of the eligible unserved or underserved BSLs contained within that block group if awarded.

The Office of Broadband Development will invite applications for 60 calendar days following the close of the NOIA period from responsive prospective subgrantees meeting the prequalification criteria. Prior to and throughout this application period, the Office of Broadband Development may issue clarifications and answer questions related to guidance outlined in this Initial Proposal to streamline project development and clarify requirements for prospective subgrantees.

Within 10 business days following the submission deadline, the Office of Broadband will post all applications and non-proprietary materials submitted on its website. If an award of other state or federal funds¹ for broadband deployment occurs during the application window, applications impacted by these awards will be given an extension of 10 business days to revise and resubmit applications or be withdrawn.

An application must include the list of block groups and BSLs included in the application, the amount of BEAD funds requested, the proposed technology type for the project and additional primary and secondary application elements including plans for affordability, fair labor practices, deployment timeline, local support, resiliency, speed of network for non-FTTH applications and the budget and technical plan for deployment to the eligible locations included in the application. Prospective subgrantees should detail any unserved or underserved BSLs not included in the proposal and reason for exclusion, not to exceed 5% of eligible locations within a block group, and list any served BSLs included in the application. Served locations should not exceed 10% of locations included in the application, on aggregate. An application will also ask prospective subgrantees to indicate whether an included Block Group is separable or inseparable from an application in event of a competitive application.

The Office of Broadband Development will not specify an Extremely High-Cost Per Location Threshold (EHCT) cost level in advance of this Initial Proposal to encourage the broad participation of non-FTTH technologies and providers to address the variety of needs across the Commonwealth.

Following the closure of the application period, the Office of Broadband Development will evaluate all proposals submitted based on the scoring criteria described in Section 2.4.2 below. "Priority Broadband Projects"² for which there are no competing applications, do not exceed the EHCT, and which satisfy all NOFO and other applicable criteria shall be considered the default winner and will be recommended for some BEAD funding. Competing applications (overlapping applications containing one or more common block group) that would otherwise meet the criteria to be considered "priority broadband projects" will be prioritized and scored as described in Section 2.4.2 and be deconflicted as described in Section 2.4.6 prior to selection of a proposal for funding.

The Office of Broadband Development will publish estimated timelines for the stages of the process on its website.

The Office of Broadband Development, in this document, has established a fair, open, and competitive subgrantee selection process and has ensured that adequate safeguards are in place to protect the integrity of the competition, including safeguards against collusion, bias,

¹ Awards made by regional commissions, such as ARC and DRA, and from the Kentucky Government Resources Accelerating Needed Transformation (G.R.A.N.T.) Program for the purpose of providing matching funds for BEAD projects will not be required to revise and resubmit.

² "Priority Broadband Project" means a project that will provision service via end-to-end fiber-optic facilities to each end-user premises.

conflicts of interest, arbitrary decisions, and other factors that could undermine confidence in the process outlined above.

2.4.2 Describe how the prioritization and scoring process will be conducted and is consistent with the BEAD NOFO requirements on pages 42 - 46.

The Office will first determine which block group project areas are subject to one or more proposals that constitute Priority Broadband Projects and satisfy all other requirements set out in the NOFO with respect to subgrantees.

In the event there is just one proposed Priority Broadband Project for a project area, and that proposal does not exceed the Extremely High Cost Per Location Threshold, that proposal will be the default winner. The Office reserves the ability, as outlined within NTIA's Initial Proposal Guidance, to request a grant waiver from the Assistant Secretary, which would allow the Office to select an alternative project.

All proposals that qualify as Priority Broadband Projects will be scored based on the elements outlined below. If there are multiple proposals that constitute Priority Broadband Projects and satisfy all other requirements with respect to subgrantees, the Office will use the scoring criteria outlined in this section to select the successful proposal. If there are multiple proposals for a given project area, and one or more do not qualify as Priority Broadband Projects, they will be evaluated as "other last-mile deployment projects."

Scoring Elements

Minimal BEAD Program Outlay (35 points)

Description: The total BEAD funding that will be required to complete the project, accounting for both total projected cost and the prospective subgrantee's proposed match (which must, absent a waiver, cover no less than 25 percent of the project cost), with the specific points awarded increasing as the BEAD outlay decreases.

Scoring:

Per BSL cost scoring (35 points) - The most cost-efficient proposal, evaluated as the average BEAD funding per BSL requested to provide broadband access to a defined application area, will receive full credit under this section. Less cost-efficient proposals will receive points based on an inverse proportion of cost per BSL compared to the most cost-efficient proposal.

Affordability (30 points)

Description: For priority broadband projects, the prospective subgrantee's commitment to provide the most affordable total price to the customer for 1 Gbps/1 Gbps (Gigabit symmetrical) service in the project area. For other last mile broadband projects, the prospective subgrantee's commitment to provide the most affordable total price to the customer for 100 Mbps/20 Mbps

service in the project area.

Scoring: The Office will adopt the rate for the highest speed threshold plan listed in Kentucky by the FCC in the Commission’s Urban Rate Survey³ as the standard to score prospective subgrantees’ highest speed threshold plan. Packages, inclusive of all taxes, fees, and charges billed to the customer, more expensive than this rate will receive fewer points. Packages less expensive than the standard will receive more points. The service option that the prospective subgrantee submits to the Office for scoring purposes must remain available for the useful life of the network assets.

Pricing above benchmark = 0 points

Pricing at benchmark = 5 points

Pricing is 90 to 99 percent of benchmark = 10 points

Pricing is 80 to 89 percent of benchmark = 15 points

Pricing is 70 to 79 percent of benchmark = 20 points

Pricing is 60 to 69 percent of benchmark = 25 points

Pricing is 59 percent of benchmark or lower = 30 points

The price identified, as well as the speed offerings, for this service option will be a contractual requirement of awardees for the useful life of the network assets, which is defined by the Office as 8 years for the purpose of this section. This price may be indexed to the Consumer Price Index, as outlined by the U.S. Bureau of Labor Statistics, but shall not exceed an increase 4% annually. Prices cannot be introductory rates, subject to arbitrary cost escalation, or part of a bundle.

Fair Labor Practices (10 points)

Description: Points will be awards to projects based on a prospective subgrantee’s demonstrated record of and plans to be in compliance with Federal labor and employment laws. New entrants without a record of labor and employment law compliance must be permitted to mitigate this fact by making specific, forward-looking commitments to strong labor and employment standards and protections with respect to BEAD-funded projects.

Scoring: Points will be assigned according to the table below:

Fair Labor Element	Points
Certification of compliance	5
Past compliance with federal labor and employment laws	2
Disclosure of prospective subgrantee violations	1

³ <https://www.fcc.gov/economics-analytics/industry-analysis-division/urban-rate-survey-data-resources>

Disclosure of contractor and/or subcontractor violations	1
Wage information provided	0.5
Workplace safety committees	0.5

Speed to Deployment - (8 points)

Description: All prospective subgrantees that receive BEAD Program funds for network deployment must deploy the planned broadband network and begin providing services to each customer that desires broadband services within the project area not later than four years after the date on which the subgrantee executes a subgrant award with the Office. Higher points will be awarded for projects proposing shorter completion timelines.

Scoring: Points will be assigned according to the table below:

Completion Timeline	Points
Project to be complete within 1 year	8
Project to be complete within 2 years	6
Project to be complete within 3 years	4
Project to be complete within 4 years	2

Local Coordination (8 points)

Description: While most proposals for broadband deployment come directly from broadband providers, this scoring criteria is designed to allow a mechanism for local input in the awarding of BEAD funding. Prospective subgrantees should demonstrate outreach efforts in proposed jurisdictions.

Scoring: Points will be assigned based on prospective subgrantees’ evidence of local coordination, including, but not limited to, support letters from county judges/executive, fiscal court members, mayors, and/or city council/commission members, resolutions of support from local governments, matching funds commitments, and/or minutes or records of public meetings where project proposals were discussed. Local governments may support one or multiple prospective subgrantees.

Network Resiliency (5 points)

Description: Prospective subgrantees should describe network design elements that enhance the resiliency of the BEAD-funded network against risks identified in Section 2.11, including but not limited to buried fiber optic cable.

Scoring: The Office will evaluate and score narrative responses under this category.

Scalability of Technology (4 points)

Description: For Priority Broadband Projects, proposals that demonstrate scalability beyond one gigabit symmetrical minimum service will be awarded a percentage of points with 0 equating to provision for only minimum one gigabit symmetrical and maximum award for those services that reach symmetrical 10G speeds.

For “Other Last Mile Projects,” applications proposing to use technologies that exhibit greater ease of scalability with lower future investment and whose capital assets have longer useable lives will be given full points, while those proposing technologies with higher costs to upgrade and shorter capital asset cycles will be given fewer points.

Scoring for Applications with Multiple Technologies for Broadband Service

Some project proposals may include a combination of fiber optic technology, hybrid fiber coaxial cable (HFC), or fixed wireless. Applications that include multiple technologies for broadband service will be considered for an award if they satisfy the speed of service requirements, any competing proposals exceed the Extremely High Cost Threshold, and the proposed project can attain a lower cost per location within the project area. For these projects, the scores for “affordability” and “scalability” will be based on the alternate technology.

Waiver of Matching Funds

As permitted by the NOFO, the Office may consider requesting a full or partial waiver of matching funds from NTIA on a case-by-case basis. To be eligible for a waiver, an applicant must submit a proposal with more than 80% of BSLs in the Project Funding Area defined as High-Cost Area by NTIA and no other sources of matching funds are available.

Prospective subgrantees requesting a waiver must demonstrate the effect of affordability to potential subscribers by submitting pro forma financials with different capex assumptions based on different matching fund requirements, showing the impact on subscriber rates to achieve average revenue per customer (ARPC).

To the extent NTIA allows additional waivers, including but not limited to the Extremely High Cost per Location threshold, the Office reserves the right to consider any and all waivers for subgrantees. All waiver requests are subject to NTIA review and approval.

- a) **Attachment:** Scoring Rubric

2.4.3 Describe how the proposed subgrantee selection process will prioritize Unserved Service Projects in a manner that ensures complete coverage of all unserved locations prior to prioritizing Underserved Service Projects followed by prioritization of eligible CAIs.

The inclusion of a project area in an application by a prospective subgrantee carries an obligation to deploy broadband service to no less than 95 percent of broadband serviceable locations within the boundaries of the project area if the application is awarded. This obligation also includes any future BEAD-eligible locations identified via the FCC’s DATA Act map and Broadband Data Collection process through the end of the BEAD subgrant performance term. All application plans and commitments such as for affordability, technology type, and performance level must apply to all current and future eligible locations within the project area.

While the BEAD NOFO defines “unserved service projects” as projects in which not less than 80 percent of broadband-serviceable locations served by the project are unserved locations and “underserved service project” as projects in which not less than 80 percent of broadband-serviceable locations served by the project are unserved locations or underserved locations, the Kentucky Office of Broadband Development will require that proposals contain not less than 90 percent unserved or underserved locations on aggregate, respectively. Should subgrant proposals exceed available funding, the Office will prioritize funding to unserved service projects and project areas before underserved project areas.

As described above in sections 2.4.1 and 2.4.2, the Office has reviewed enforceable commitments, projected BEAD funding, and cost modeling data and is confident that the allotted funding is sufficient to reach 100% of Kentucky locations with high-speed internet. However, deploying service to unserved locations is the priority, and the Office reserves the right to unilaterally remove locations from a subgrant proposal in order to comply with BEAD program requirements to serve unserved locations before underserved locations or CAIs if a determination is made in the future that BEAD funds are not sufficient to reach all locations. In this circumstance, the Office would adjust the subgrant award as described in section 2.4.7.

2.4.4 If proposing to use BEAD funds to prioritize non-deployment projects prior to, or in lieu of the deployment of services to eligible CAIs, provide a strong rationale for doing so. If not applicable to plans, note “Not applicable.”

Not Applicable

2.4.5 The proposed subgrantee selection process is expected to demonstrate to subgrantees how to comply with all applicable Environmental and Historic Preservation (EHP) and Build America, Buy America Act (BABA) requirements for their respective project or projects. Describe how the Eligible Entity will communicate EHP and BABA requirements to prospective subgrantees, and how EHP and BABA requirements will be incorporated into the subgrantee selection process.

The Commonwealth is committed to following all relevant federal and state guidance and regulations in the deployment of BEAD funds. As such, the Office will communicate to potential subgrantees their responsibilities in following regulations established by the Build America, Buy America Act (BABA) and the Environmental and Historic Preservation (EHP) requirements.

To meet BABA requirements, subgrantees must meet the following criteria:

- All iron, steel, and manufactured products (including but not limited to fiber-optic communications facilities) and construction materials used in the project must be produced in the United States, as defined in Section 70921 of the Build America Buy America Act.
- The Secretary of Commerce will seek to minimize any BABA requirement waivers, and those waivers that are offered will be limited in duration and scope. However, a BABA requirement waiver may be offered if:
 - Applying a domestic procurement would be inconsistent with the public interest;
 - The type of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality;
 - The inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cover of the overall project or other eligible activities by more than 25 percent.

The Office will also require subgrantee compliance with other purchasing restrictions contained in the NOFO. For example, subgrantees cannot use BEAD funding to purchase or support any covered communications equipment or services. Moreover, subgrantees cannot use BEAD funding to purchase or support fiber optic cable and optical transmission equipment manufactured in the People's Republic of China unless a waiver is received from the Assistant Secretary of Commerce. In this circumstance, the potential subgrantee must demonstrate that this restriction would unreasonably increase the cost of the project, or cause a delay in implementing the project or project-related activities. Any application that does not demonstrate intent to comply with BABA⁴, or found to be in violation of the requirements, will not be considered for BEAD funding.

The Office will incorporate BABA requirements into the subgrantee selection process. The Office will disseminate information on BABA requirements through outreach, including informational webinars, sharing relevant information on its website, and including the requirements in grant applications and assistance agreements. Additional outreach and subgrantee compliance activities will occur post-award, including but not limited to project reporting and monitoring.

Prospective subgrantees will also have to demonstrate compliance with Environmental and

⁴ The Office will follow NTIA's final guidance on BABA compliance

Historical Preservation requirements. The Office will engage in and document the following activities, and encourage subgrantees to do the same:

- Coordinate with federal land- and resource-managing agencies, such as the National Park Service, U.S. Fish and Wildlife Service, and the U.S. Forest Service.
- Coordinate with state agencies that may have a role in EHP requirements, including but not limited to Kentucky Heritage Council, the State Clearinghouse, and the Energy and Environmental Cabinet (EEC).
- Solicit contracted, EHP-related subject matter expertise and technical support where currently not available.

The Office will conduct the following activities:

- Understand the National Environmental Policy Act (NEPA) review process and the National Historic Preservation Act (NHPA) requirements for implementation of the BEAD program;
- Hire staff or contractors as necessary to ensure adequate capacity and expertise to manage EHP compliance;
- Conduct an RFQ process to identify qualified EHP compliance service providers to assist subgrantees with NEPA and NHPA requirements; and
- Conduct post-award technical assistance with subgrantees related to NHPA and NEPA compliance requirements.

Last-Mile Broadband Deployment Project Areas

2.4.6 Describe how the Eligible Entity will define project areas from which they will solicit proposals from prospective subgrantees. If prospective subgrantees will be given the option to define alternative proposed project areas, describe the mechanism for de- conflicting overlapping proposals to allow for like-to-like comparisons of competing proposals.

As described above in sections 2.4.1 and 2.4.2, Kentucky's BEAD program will require prospective subgrantees to define application as a set of pre-defined project areas based on Census Block Group geographies⁵. The inclusion of a Block Group in an application obligates the prospective subgrantee to serve not less than 95 percent of all eligible broadband serviceable locations (BSLs) within each individual block group project area.

The Office has chosen to use Census geographies to ensure full geographic coverage. Census geographies have been used previously to determine project areas for broadband funding programs such as the FCC's RDOF and CAF II programs. The Office has chosen Census block groups as the basic unit of geography in order to allow potential subgrantees flexibility in designing project proposals and to encourage project scopes and participation by the widest variety of providers while encouraging the inclusion of relatively harder to serve BSLs in project

⁵ Large block groups may be divided into smaller geographies by the Office prior to the application period, as necessary.

proposals. This approach will also allow the office to compare and de-conflict overlapping proposals by requiring prospective subgrantees to use a common set of geographies when defining project areas.

For overlapping proposals, the Scoring Criteria for Priority Broadband Projects and Other Last-Mile Broadband Deployment Projects will be used, but only like-to-like comparisons will be made (i.e., Priority Broadband Projects will not be compared to Other Last-Mile Broadband Deployment Projects). Prospective subgrantees will be asked to identify which, if any, block groups are separable or inseparable from the application.

If multiple applications have a common block group all applicants identified as “separable,” that block group will be assigned to the applicant which proposes to serve the greatest number of locations above 95% within the block group. If the proposed number of BSLs proposed in the subject block group is equal, then the block group will be assigned to the proposal with the lowest BEAD funding request per BSL. If only one applicant identifies a common block group as “inseparable,” while other applicants identified it as “separable,” that block group will be assigned to the application which identified it as “inseparable.” Applicants will be allowed 15 business days to revise applications from which a block group has been removed through voluntary separation.

For overlapping applications where all applicants identify common block groups as inseparable, the Office will first attempt to negotiate with the applicants, a mutually agreeable resolution that advances the BEAD goal of reaching 100% of eligible locations. In the event that negotiations are unsuccessful, resulting in two or more otherwise selectable applications posing a small amount of overlap that cannot be resolved via the stated “separability” preferences of the applicants, the state reserves the right to de-scope one or more of the applications only to the amount necessary to award the applications without overlap, such as the removal of one or more block group comprising in total less than 20% of the BSLs from one of the applications. Finally, if the state does de-scope an application prior to award under this provision, the amount of the award will be reduced by an amount proportional to the average cost per location times the number of locations in the subject application.

The Office will not limit the number of applications an individual prospective subgrantee can submit. Applications can be made for one or more contiguous or non-contiguous project area. The same individual block group project area may not be included in more than one application by the same prospective subgrantee.

2.4.7 If no proposals to serve a location or group of locations that are unserved, underserved, or a combination of both are received, describe how the Eligible Entity will engage with prospective subgrantees in subsequent funding rounds to find providers willing to expand their existing or proposed service areas or other

actions that the Eligible Entity will take to ensure universal coverage.

If no proposals to serve an eligible location or group of locations are received, the Office will conduct targeted outreach to prospective subgrantees whose service areas are near or adjacent to the omitted locations, or to other internet service providers who have the capacity to serve these locations. The Office will identify any eligible locations not included in a proposal and facilitate the inclusion of these locations in proposed priority projects where feasible. The Office will undertake a direct negotiation process for a period not to exceed four months to meet the deadline to submit the Final Proposal. If no proposals are received for a project area, and direct negotiations are unsuccessful, the Office may determine that the subject project area is a high cost area and seek alternative technologies to serve the locations. The Office may conduct this as a second application round.

The Office will use CostQuest cost modeling data as a reference for evaluating the proposed expense of expanding project proposals to include appropriate omitted locations. The Office will seek approval in the Final Proposal for an alternative technology option to be made available to individual locations (for example, unlicensed fixed wireless or low-earth orbit satellite service) with minimum speeds of 100 Mbps download and 20 Mbps upload.

2.4.8 Describe how the Eligible Entity intends to submit proof of Tribal Governments' consent to deployment if planned projects include any locations on Tribal Lands.

The Commonwealth of Kentucky has no federally recognized tribes or tribal lands, however, there are 13 tribes that have an interest in Kentucky. Tribal consultation will be conducted and documented during the NEPA and NHPA review process.

Extremely High Cost Per Location Threshold

2.4.9 Identify or outline a detailed process for identifying an Extremely High Cost Per Location Threshold to be utilized during the subgrantee selection process. The explanation must include a description of any cost models used and the parameters of those cost models, including whether they consider only capital expenditures or include operational costs for the lifespan of the network.

The Office will not set an extremely high cost per location threshold (EHCT) until all priority and non-priority project proposals are received to ensure that funds are used efficiently and effectively to meet the goal of universal service. The Office will use CostQuest cost modeling data and other relevant data to aid in setting the threshold and the EHCT tool in the NTIA's Eligible Entity Toolkit to assist in establishing the threshold. The Office may elect to set Extremely High Cost Per Location Thresholds regionally to account for factors that vary by region and impact the cost of deployment, such as variations in population density and topography.

2.4.10 Outline a plan for how the Extremely High Cost Per Location Threshold will be utilized in the subgrantee selection process to maximize the use of the best available technology while ensuring that the program can meet the prioritization and scoring requirements set forth in Section IV.B.6.b of the BEAD NOFO. The response must describe:

- a) The process for declining a subgrantee proposal that exceeds the threshold where an alternative technology is less expensive.
- b) The plan for engaging subgrantees to revise their proposals and ensure locations do not require a subsidy.
- c) The process for selecting a proposal that involves a less costly technology and may not meet the definition of Reliable Broadband.

a) Process for Declining Proposals above the High Cost Per Location Threshold

If the Office receives an application to serve an area that exceeds the EHCT, calculated as the average funding requested per location in application, the Office will then evaluate any non-priority applications received for that same service area. In the circumstance that no non-priority applications are submitted for a project area, the Office will determine whether the costs for the project exceeding the EHCT program are appropriate and justify an award exceeding these thresholds.

b) Process for Ensuring Locations Do Not Require a Subsidy

All applications will be assessed against reference benchmark costs for the locations included. The Office reserves the right to negotiate with prospective subgrantees proposing projects where costs exceed the benchmark to ensure cost reasonableness and minimal BEAD subsidy.

c) Process for Selecting Applications with Less Costly Technology

The Office will consider technology options proposed by prospective subgrantees neutrally and identify the most cost-effective technology and appropriate options for each area through research with the subject areas and experts. Kentucky will consider licensed and unlicensed fixed wireless and low-orbit-satellite technology if no other technology meeting the Reliable Broadband Service definition is proposed or no application is received below the EHCT.

Deployment Subgrantee Qualifications

2.4.11 Describe how the Eligible Entity will ensure prospective subgrantees deploying network facilities meet the minimum qualifications for financial capability as outlined on pages 72 - 73 of the BEAD NOFO. If the Eligible Entity opts to provide application materials related to the BEAD subgrantee selection process, the Eligible Entity response may reference those to outline alignment with requirements for this section. The response must:

- a) Detail how the Eligible Entity will require prospective subgrantees to certify that they are qualified to meet the obligations associated with a Project, that prospective subgrantees will have available funds for all project costs that exceed the amount of the grant, and that prospective subgrantees will comply with all Program requirements, including service milestones. To the extent the Eligible Entity disburses funding to subgrantees only upon completion of the associated tasks, the Eligible Entity will require each prospective subgrantee to certify that it has and will continue to have sufficient financial resources to cover its eligible costs for the Project until such time as the Eligible Entity authorizes additional disbursements.
- b) Detail how the Eligible Entity plans to establish a model letter of credit substantially similar to the model letter of credit established by the FCC in connection with the Rural Digital Opportunity Fund (RDOF).
- c) Detail how the Eligible Entity will require prospective subgrantees to submit audited financial statements.
- d) Detail how the Eligible Entity will require prospective subgrantees to submit business plans and related analyses that substantiate the sustainability of the proposed project.

- a) Prospective subgrantees will be required to certify during prequalification that they have the financial capacity to fulfill project requirements, including but not limited to, firm commitments of matching funds and certification that all cost overruns will be paid by the prospective subgrantee. The Office will reimburse subgrantees for project costs as expenses are incurred, therefore prospective subgrantees must further certify that sufficient financial resources are available to cover eligible costs until such reimbursement can be made.
- b) In order to ensure that subgrantees have the resources to build, deploy, and operate broadband networks, the Office will require prospective subgrantees to demonstrate financial capacity by one of the methods described below:

Irrevocable Letter of Credit

Prospective subgrantees will be required to submit a letter of credit (LOC) from an eligible bank (see 47 C.F.R. §54.804(c)(2)) substantially similar to the model letter of credit required by the FCC's Rural Digital Opportunity Fund (RDOF), whereby the bank commits to issuing an irrevocable standby letter of credit to the prospective subgrantee. This letter must include the dollar amount and be accompanied by the agreement from the issuing bank. An irrevocable standby letter of credit shall be obtained by every prospective subgrantee prior to the execution of any subgrant agreement and shall comprise no less than 25% of the award amount. An opinion letter from prospective subgrantee's legal counsel must be included with the letter of credit stating, subject only to customary assumptions, limitations, and qualifications, that in a proceeding under Title 11 of the United States Code, 11 U.S.C. § 101 et seq. (the "Bankruptcy Code"), the bankruptcy court would not treat the letter of credit or proceeds of the letter of credit as property of the winning subgrantee's bankruptcy estate under Section 541 of the

Bankruptcy Code.

Performance Bond

As permitted by the BEAD Letter of Credit Waiver⁶ issued by NTIA on November 1, 2023, the Office will permit prospective subgrantees to use performance bonds to ensure financial capacity.

The LOC Requirement is waived where:

1. During the application process, prospective subgrantees submit a letter from a company holding a certificate of authority as an acceptable surety on federal bonds as identified in the Department of Treasury Circular 570⁷ committing to issue a performance bond to the prospective subgrantee.

The letter shall at a minimum provide the dollar amount of the performance bond.

2. Prior to entering into any subgrantee agreement, each prospective subgrantee obtains a performance bond, acceptable in all respects to the Eligible Entity and in a value of no less than 100 percent of the subaward amount.

Where a subgrantee chooses to exercise the option to obtain a performance bond under this waiver, the requirement that the subgrantee “provide with its letter of credit an opinion letter from legal counsel clearly stating, subject only to customary assumptions, limitations, and qualifications, that in a proceeding under Title 11 of the United States Code, 11 U.S.C. § 101 et seq. (the “Bankruptcy Code”), the bankruptcy court would not treat the letter of credit or proceeds of the letter of credit as property of the winning subgrantee’s bankruptcy estate under Section 541 of the Bankruptcy Code” is waived.

This requirement is consistent with current practices, as the Office currently requires its Broadband Deployment Fund grantees to secure separate payment and performance bonds payable to the Office, each in an amount equal to 100% of the grant award to ensure financial and programmatic performance. This alternative approach will both show financial capability and protect taxpayers in the event of a defaults, while at the same time allowing the BEAD program to achieve its goals.

- c) Prospective subgrantees must submit the most recent audited financial statements as a required exhibit during prequalification. Awarded subgrantees will be required to submit subsequent audited financial statements to the Office during the period of performance.

In order to encourage participation from a diverse range of providers, the Office will

⁶ <https://broadbandusa.ntia.gov/funding-programs/policies-waivers/BEAD-Letter-of-Credit-Waiver>

⁷ <https://www.fiscal.treasury.gov/surety-bonds/list-certified-companies.html>

allow prospective subgrantees, which in the ordinary course of business did not conduct an independent audit of the prior fiscal year's financial statements, to submit unaudited financial statements from the prior fiscal year. These unaudited statements must be accompanied by a certification that it will conduct an audit of the prior fiscal year's financial statements. The Office will not execute any subgrant agreement with any potential subgrantee unless the documents submitted demonstrate sufficient financial capability with respect to the proposed project.

- d) The application will require prospective subgrantees to submit business plans and related analyses such as balance sheets, income statements, and statement of cash flows for no less than 8 years, that demonstrate the sustainability of the proposed project as an exhibit during for the project application.

2.4.12 Describe how the Eligible Entity will ensure any prospective subgrantee deploying network facilities meets the minimum qualifications for managerial capability as outlined on pages 73 - 74 of the BEAD NOFO. If the Eligible Entity opts to provide application materials related to the BEAD subgrantee selection process, the Eligible Entity response may reference those to outline alignment with requirements for this section. The response must:

- a) Detail how the Eligible Entity will require prospective subgrantees to submit resumes for key management personnel.
- b) Detail how it will require prospective subgrantees to provide a narrative describing their readiness to manage their proposed project and ongoing services provided.

- a) Prospective subgrantees will be required to submit resumes for all key management personnel and any necessary project organizational chart(s) and corporate relationships detailing all parents, subsidiaries, and affiliates during the prequalification phase.
- b) Prospective subgrantees must provide a narrative describing the prospective subgrantee's readiness to manage a broadband network. The narrative should describe the experience and qualifications of key management for undertaking this project, its experience undertaking projects of similar size and scope, recent and upcoming organizational changes including mergers and acquisitions, and relevant organizational policies.

The Office shall not approve any grant for the deployment or upgrading of network facilities unless it determines that the documents submitted demonstrate the prospective subgrantee's managerial capability with respect to the proposed project. The Office will relay these requirements to prospective subgrantees through webinars, posting rules and regulations on its website, and by incorporating these requirements into the grant application and agreement processes.

Applications that fail to meet the minimum qualifications for managerial capability as described on pages 73-74 of the BEAD NOFO will not be considered to receive BEAD funding.

2.4.13 Describe how the Eligible Entity will ensure any prospective subgrantee deploying network facilities meets the minimum qualifications for technical capability as outlined on page 74 of the BEAD NOFO. If the Eligible Entity opts to provide application materials related to the BEAD subgrantee selection process, the Eligible Entity response may reference those to outline alignment with requirements for this section. The response must:

- a) Detail how the Eligible Entity will require prospective subgrantees to certify that they are technically qualified to complete and operate the Project and that they are capable of carrying out the funded activities in a competent manner, including that they will use an appropriately skilled and credentialed workforce.
- b) Detail how the Eligible Entity will require prospective subgrantees to submit a network design, diagram, project costs, build-out timeline and milestones for project implementation, and a capital investment schedule evidencing complete build-out and the initiation of service within four years of the date on which the entity receives the subgrant, all certified by a professional engineer, stating that the proposed network can deliver broadband service that meets the requisite performance requirements to all locations served by the Project.

- a) During the prequalification process, prospective subgrantees will be required to certify that they have adequate technical capability to deploy network facilities. This certification will require a description of the technical capability including but not limited to, personnel, project engineer, and contractor oversight team with the relevant certifications for deployment projects as mandated by state and federal law and reflective of industry best practices. In addition, prospective subgrantees must certify that all contracted resources will possess the relevant and necessary skills, and detail in narrative the contractor selection process along with which skills, certifications, qualifications, or training programs will be required for each role. The Office will evaluate these materials to confirm adherence to industry best practices, as well as compliance with relevant state and federal law.
- b) As part of the application, prospective subgrantees must submit detailed plan elements, including network design in shapefile, diagram in PDF, project costs in a spreadsheet template, build-out timeline with milestones for project implementation. Prospective subgrantees will submit the capital investment schedule as part of the pro forma template, which is auto-calculated, as required by 2.4.11 (d).

A licensed professional engineer will be required to certify that the proposed network can deliver broadband service that meets the requisite performance requirements to all

locations served by the project within the required four-year deployment timeline.

The Office may use third-party consultants or contracted professional engineer to verify that the details in the submitted materials are reasonable and achievable within the prescribed four-year timeline.

2.4.14 Describe how the Eligible Entity will ensure any prospective subgrantee deploying network facilities meets the minimum qualifications for compliance with applicable laws as outlined on page 74 of the BEAD NOFO. If the Eligible Entity opts to provide application materials related to the BEAD subgrantee selection process, the Eligible Entity response may reference those to outline alignment with requirements for this section. The response must:

- a) Detail how the Eligible Entity will require prospective subgrantees to demonstrate that they are capable of carrying out funded activities in a competent manner in compliance with all applicable federal, state, territorial, and local laws.
- b) Detail how the Eligible Entity will require prospective subgrantees to permit workers to create worker-led health and safety committees that management will meet with upon reasonable request.

a) The Office will require prospective subgrantees to demonstrate capability of conducting funded activities competently and in compliance with all applicable federal, state, territorial, and local laws during the prequalification process, and certify that no information has changed during the application phase. The prospective subgrantee will be required to demonstrate compliance, including but not limited to the following regulatory and legal areas:

- Employment
- Safety and Health (OSHA)
- Underground utility protection
- Siting of wireless infrastructure
- Use of Public right-of-way
- Consumer Privacy
- Cybersecurity (data breach notification)
- FCC (ACP participation)
- Kentucky Secretary of State
- Subgrantee Registrations with regulatory agencies
- Truth in Billing
- Deceptive Trade Practices
- Nondiscrimination in service areas
- Lobbying

Prospective subgrantees may provide written internal procedures, required compliance reports, reports of violations and their remedies, audit reports etc. as evidence of demonstrated compliance with all applicable laws. In addition, the prospective

subgrantee must identify the key management personnel responsible for legal compliance.

Any legal actions taken against the subgrantee resulting from non-compliance with any federal, state, or local laws resulting in judgment or are pending litigation against the prospective subgrantee in the three (3) years prior to the submission of an application must be disclosed and documented. If the prospective subgrantee operations are unionized, any union actions reaching the Chief Compliance Officer or key management personnel level must be disclosed and documented.

- b) The Office will require prospective subgrantees to certify that, upon award, the prospective subgrantee will permit workers to create worker-led health and safety committees that key management personnel will meet upon reasonable request. The Office will require prospective subgrantees to describe the process for promoting worker-led health and safety committees for each functional area described in Section 2.4.12.

Prospective subgrantees with existing worker-led health and safety programs must describe the program and document past meetings with key management personnel. Prospective subgrantees with union contracts must disclose terms and conditions in the contract applying to worker-led health and safety committees.

Prospective subgrantees must document the reasonable time provided for during working hours for the worker-led health and safety committees to meet independently of key management personnel on prospective subgrantee premises. Key management personnel of the prospective subgrantee must respond to a reasonable request to meet with the worker-led health and safety committees within 10 business days of the request. Prospective subgrantees are prohibited from retaliation against the worker-led health and safety committee or its members.

A worker-led health and safety committee does not supplant the prospective subgrantee's obligation to comply with all applicable federal, state, and local laws.

2.4.15 Describe how the Eligible Entity will ensure any prospective subgrantee deploying network facilities meets the minimum qualifications for operational capability as outlined on pages 74 - 75 of the BEAD NOFO. If the Eligible Entity opts to provide application materials related to the BEAD subgrantee selection process, the Eligible Entity response may reference those to outline alignment with requirements for this section. The response must:

- a) Detail how the Eligible Entity will require prospective subgrantees to certify that they possess the operational capability to qualify to complete and operate the Project.
- b) Detail how the Eligible Entity will require prospective subgrantees to submit a

certification that they have provided a voice, broadband, and/or electric transmission or distribution service for at least two (2) consecutive years prior to the date of their application submission or that they are a wholly owned subsidiary of such an entity and attest to and specify the number of years the prospective subgrantee or its parent company has been operating.

- c) Detail how the Eligible Entity will require prospective subgrantees that have provided a voice and/or broadband service, to certify that it has timely filed Commission Form 477s and the Broadband DATA Act submission, if applicable, as required during this time period, and otherwise has complied with the Commission's rules and regulations.
- d) Detail how the Eligible Entity will require prospective subgrantees that have operated only an electric transmission or distribution service, to submit qualified operating or financial reports, that it has filed with the relevant financial institution for the relevant time period along with a certification that the submission is a true and accurate copy of the reports that were provided to the relevant financial institution.
- e) In reference to new entrants to the broadband market, detail how the Eligible Entity will require prospective subgrantees to provide evidence sufficient to demonstrate that the newly formed entity has obtained, through internal or external resources, sufficient operational capabilities.

- a) Prospective subgrantees will be required to provide information about organizational and operational capacity during the prequalification period, including but not limited to:
 - Experience providing internet service, including number of years providing mass-market, non-enterprise grade internet service and years of operation in Kentucky;
 - Whether the provider participates in the Kentucky Broadband Availability Map.
 - Number of households, businesses, and community anchor institutions currently subscribing to prospective subgrantee's internet service;
 - Prospective subgrantee's network monitoring and restoration capabilities;
 - Quality-of-service metrics and/or reports;
 - Past experience with federal- or state-funded deployment projects, including sources and amounts of funding; whether open projects are meeting completion milestones; completion or non-completion of closed out projects; and explanation of any awards turned back, clawed back, or otherwise returned to any agency;
 - Penalties paid by the prospective subgrantee, or any subsidiary or affiliate or holding company of the prospective subgrantee related to broadband deployment projects; and
 - The number of times prospective subgrantee has ever been a defendant in any federal or state criminal proceeding or civil litigation along with final rulings, details on any penalties assessed or provisions against future service.

Prospective subgrantees not currently participating in Kentucky's Broadband Availability mapping program will be required to furnish availability data to the Office or its contractors as a condition of a subgrant agreement.

- b) During the prequalification period, prospective subgrantees, including wholly owned subsidiaries, will be required to submit certification, and supporting evidence supporting the certification, that they have provided voice, broadband, and/or electric transmission or distribution service for at least two years prior to the date of application submission. The certification must be signed by an officer of the prospective subgrantee (President, CEO, etc.). A draft certification form will be provided by the Office. Evidence sufficient to support the certification may include, but is not limited to:
- Audited Financial Statements
 - FCC Form 477 filings
 - Evidence of registration in good standing with the Kentucky Secretary of State
 - Federal and/or USF Filings and Disbursements
 - Board Meeting Minutes and Resolutions
 - Number and type of broadband subscribers
 - Number of subscribers enrolled in ACP
- c) During the prequalification period, prospective subgrantees that currently provide a voice and/or broadband service will be required to certify that they have filed timely Commission Form 477s and the Broadband DATA Act submissions, if applicable, as required during the two years prior to the date of its application submission, and otherwise has complied with the Commission's rules and regulations. The certification must be signed by an officer of the prospective subgrantee (President, CEO, etc.). A draft certification form will be provided by the Office. Evidence supporting the certification may include, but is limited to:
- Bi-annual Submission Acknowledgements by the FCC of Form 477 filing
 - A narrative explanation if the prospective subgrantee has not filed Form 477

In addition, the prospective subgrantee must disclose during prequalification, any Form 477 issues, corrections, or other actions requested by the FCC to the prospective subgrantee including data irregularities, missed filings, and any other inquiry.

Prospective subgrantees must disclose any pending or completed enforcement action, civil litigation, or other matter in which it failed to comply or was alleged to have failed to comply with Commission rules or regulations.

- d) Prospective subgrantees that have operated only an electric transmission or distribution service will be required to submit qualified operating or financial reports that it has filed with the relevant financial institution or regulatory agency during the previous two years prior to the date of its application submission, along with a certification that the submission is a true and accurate copy of the reports that were provided to the relevant financial institution or regulatory agency. The certification must be signed by an officer of the prospective subgrantee (President, CEO, etc.). A draft certification will be provided by the Office. Audited financial statements including the auditor's opinion are preferred.

In addition, the Office will require the electric transmission or distribution service prospective subgrantee to describe its proposed organizational structure separating the electric transmission or distribution service from its broadband operations to prevent any cross subsidization of electric transmission or distribution operations by broadband operations in the application process.

- e) Prospective subgrantees with less than two (2) consecutive years providing a voice, broadband, and/or electric transmission or distribution service in Kentucky will be considered a “new entrant” to the market and must submit sufficient to demonstrate that the newly established entity has obtained, through internal or external resources, sufficient operational capabilities to conduct such service in the Commonwealth. Any evidence provided must be certified and signed by an officer of the prospective subgrantee (President, CEO, etc.). A draft certification will be provided by the Office. Sufficient evidence may include, but is not limited to, resumés from key personnel, project descriptions and narratives from contractors, subcontractors, or other partners with relevant operational experience, or other comparable evidence. Operational capabilities must demonstrate experience in operating a broadband network providing mass-market services to residential and business customers.

Documentation related to the requirements listed above will be collected and reviewed by qualified personnel. If necessary, the Office will hire additional staff or contractor support to ensure there is appropriate capacity and expertise to review prospective subgrantee qualifications. The Office will communicate requirements stipulated above to all prospective subgrantees prior to the prequalification and application process. Information will be disseminated by conducting outreach efforts to participating stakeholders (webinars, in-person meetings, etc.), posting a list of requirements and regulations on the Office website, and including the requirements in grant application instructions and grant agreement terms, conditions, and program monitoring requirements.

2.4.16 Describe how the Eligible Entity will ensure that any prospective subgrantee deploying network facilities meets the minimum qualifications for providing information on ownership as outlined on page 75 of the BEAD NOFO. If the Eligible Entity opts to provide application materials related to the BEAD subgrantee selection process, the Eligible Entity response may reference those to outline alignment with requirements for this section. The response must:

- Detail how the Eligible Entity will require prospective subgrantees to provide ownership information consistent with the requirements set forth in 47 C.F.R. § 1.2112(a)(1)-(7).

The Office will ensure that any prospective subgrantee proposing to deploy network facilities meets ownership disclosure requirements outlined in 47 C.F.R. § 1.2112(a)(1)-(7) as follows:

- 1) List the real party or parties in interest in the prospective subgrantee or application, including a complete disclosure of the identity and relationship of those persons or entities directly or indirectly owning or controlling (or both) the prospective subgrantee.
- 2) List the name, address, and citizenship of any party holding 10% or more of stock in the prospective subgrantee, whether voting or nonvoting, common, or preferred, including the specific amount of the interest or percentage held.
- 3) List, in the case of a limited partnership, the name, address and citizenship of each limited partner whose interest in the prospective subgrantee is 10% or greater (as calculated according to the percentage of equity paid in or the percentage of distribution of profits and losses).
- 4) List, in the case of a general partnership, the name, address and citizenship of each partner, and the share or interest participation in the partnership.
- 5) List, in the case of a limited liability company, the name, address, and citizenship of each of its members whose interest in the prospective subgrantee is 10% or greater.
- 6) List all parties holding indirect ownership interests in the prospective subgrantee as determined by successive multiplication of the ownership percentages for each link in the vertical ownership chain, that equals 10% or more of the prospective subgrantee, except that if the ownership percentage for an interest in any link in the chain exceeds 50% or represents actual control, it shall be treated and reported as if it were a 100% interest.
- 7) List any FCC-regulated entity or prospective subgrantee for an FCC license, in which the prospective subgrantee or any of the parties identified in paragraphs (a)(1) through (a)(5) of this section, owns 10% or more of stock, whether voting or nonvoting, common, or preferred. This list must include a description of each such entity's principal business and a description of each such entity's relationship to the prospective subgrantee (e.g., Company A owns 10% of Company B [the prospective subgrantee] and 10% of Company C, then Companies A and C must be listed on Company B's application, where C is an FCC licensee and/or license prospective subgrantee).

The Office will require prospective subgrantees to make disclosure of ownership based on (1) through (7) in as part of the prequalification process. The Office will validate disclosures of ownership through various sources of information including SEC filings, FCC filings, registration with the Kentucky Secretary of State, and other regulatory bodies. In addition, public record services such as Dun and Bradstreet or audited financial statements may be considered if proper disclosures are made regarding ownership.

2.4.17 Describe how the Eligible Entity will ensure any prospective subgrantee deploying network facilities meets the minimum qualifications for providing information on

other public funding as outlined on pages 75 - 76 of the BEAD NOFO. If the Eligible Entity opts to provide application materials related to the BEAD subgrantee selection process, the Eligible Entity response may reference those to outline alignment with requirements for this section. The response must:

- a) Detail how it will require prospective subgrantees to disclose for itself and for its affiliates, any application the subgrantee or its affiliates have submitted or plan to submit, and every broadband deployment project that the subgrantee or its affiliates are undertaking or have committed to undertake at the time of the application using public funds.
- b) At a minimum, the Eligible Entity shall require the disclosure, for each broadband deployment project, of: (a) the speed and latency of the broadband service to be provided (as measured and/or reported under the applicable rules), (b) the geographic area to be covered, (c) the number of unserved and underserved locations committed to serve (or, if the commitment is to serve a percentage of locations within the specified geographic area, the relevant percentage), (d) the amount of public funding to be used, (e) the cost of service to the consumer, and (f) the matching commitment, if any, provided by the subgrantee or its affiliates.

a) Prospective subgrantees and its affiliates will be required to disclose any application it has submitted or plans to submit, and every broadband deployment project that the subgrantee or its affiliates are undertaking or have committed to undertake using public funds in the Commonwealth of Kentucky at the time of the application. The Office will use publicly available information for validation of the broadband deployment projects being undertaken or committed to undertake at the time of the application using public funds and resolve any discrepancies with the prospective subgrantee. Initial Proposal, Volume 1, Requirement 3 identifies many of these programs and the Office tracks recipients of public funding for broadband deployment through state and federal programs, and will conduct outreach to local governments to identify local commitments of public funds for broadband deployment projects. and local agreements has identified the potential prospective subgrantees receiving these public funds.

b) Prospective subgrantees will be required to disclose the following information about publicly funded projects, along with any supplemental information requested:

- 1) The speed and latency of the broadband service to be provided (as measured and/or reported under the applicable rules)
- 2) The technology to be deployed
- 3) The geographic scope of the project
- 4) The number of unserved and underserved locations committed to serve (or, if the commitment is to serve a percentage of locations within the specified geographic area, the relevant percentage)
- 5) The amount of public funding committed
- 6) The amount of funding committed by the prospective subgrantee or its

- affiliates
- 7) The cost of service to the consumer
- 8) The number of CAIs to be served and speeds to be made available
- 9) If the CAI served is participating in the FCC E-rate or Rural Health Care programs
- 10) Estimated date of project completion

Prospective subgrantees will be required to certify disclosure of the use of public funds by an appropriate officer of the company (i.e., CEO, CFO, President). Failure to disclose may result in rejection of the application or forfeiting of all awarded funds.

As a post-award subgrantee reporting requirements, the Office will require subgrantees to report progress and completion, including but not limited to (1) through (10) above, of every broadband deployment project funded by a federal, state, or local program. Subgrantees who are in compliance with reporting requirements of earlier Kentucky Broadband Deployment Fund grants will be considered to be in compliance with this requirement for those grants.

2.5 Non-Deployment Subgrantee Selection (Requirement 9)

2.5.1 Describe a fair, open, and competitive subgrantee selection process for eligible non-deployment activities. Responses must include the objective means, or process by which objective means will be developed, for selecting subgrantees for eligible non-deployment activities. If the Eligible Entity does not intend to subgrant for non-deployment activities, indicate such.

Not applicable - Kentucky does not intend to subgrant for non-deployment activities.

2.5.2 Describe the Eligible Entity's plan for the following:

- a) How the Eligible Entity will employ preferences in selecting the type of non-deployment initiatives it intends to support using BEAD Program funds.
- b) How the non-deployment initiatives will address the needs of residents within the jurisdiction.
- c) The ways in which engagement with localities and stakeholders will inform the selection of eligible non-deployment activities.
- d) How the Eligible Entity will determine whether other uses of the funds might be more effective in achieving the BEAD Program's equity, access, and deployment goals.

Not applicable

2.5.3 Describe the Eligible Entity's plan to ensure coverage to all unserved and underserved locations prior to allocating funding to non-deployment activities.

Not applicable

2.5.4 Describe how the Eligible Entity will ensure prospective subgrantees meet the

general qualifications outlined on pages 71 - 72 of the BEAD NOFO.

Not applicable

2.6 Eligible Entity Implementation Activities (Requirement 10)

2.6.1 Describe any initiatives the Eligible Entity proposes to implement as the recipient without making a subgrant, and why it proposes that approach.

The Office proposes to implement two (2) initiatives as the recipient (i.e., without making a subgrant), which are:

- BEAD Implementation, Deployment, and Administrative Activities, in which the Office will implement the BEAD program and undertake further planning, mapping, data collection, and conduct administrative activities required to successfully manage the BEAD program in Kentucky
- Workforce Development Initiatives, in which the Office, working with the Department of Workforce Development in the Education & Labor Cabinet will develop a cohesive, statewide workforce development program to help meet the workforce needs of the BEAD program

These initiatives will not involve any broadband adoption activities.

BEAD Implementation, Deployment, and Administrative Activities

The Office plans to implement key grant activities without issuing a subgrant. These activities include those directly related to the BEAD program, including:

- BEAD grant administration, including development of grant agreements and contracting, subgrant management, reporting, monitoring, and compliance processes
- Hiring or contracting to increase Office capacity
- Deduplication of funding, both prior to and after the Challenge process
- Development and implementation of the subgrantee selection process, including development of application, prequalification, selection, negotiation, challenge, rebuttal, and adjudication processes
- Continued local coordination
- Project inspection and testing
- Continued data collection to support further mapping, analysis, and program development and evaluation
- Grant disbursement and financial management
- Program closeout

- Procurement of software and professional services to support processes listed above.

Workforce Development Initiatives

Kentucky is experiencing historically low unemployment rates, currently at 4.1 percent. Further, workforce research conducted by the NTIA identifies a cross-industry labor deficit of 20,900 FTEs for occupations related to construction of broadband networks. Shortfalls in these occupations do not address the shortfalls in non-technical roles such as administrative and customer support.

Pursuant to NTIA guidance for “Eligible Entity Deployment Activities,” the Office intends to designate \$10 million for workforce development and readiness efforts, in partnership with the Department of Workforce Development in the Education & Labor Cabinet.

These efforts are in direct support of deployment activities as they will ensure ISPs have an available, diverse, and highly skilled workforce. The activities to be undertaken will include:

- Local outreach and planning with educational facilities, local community leaders, correctional facilities, and non-profit organizations involved in digital and technical education
- Take advantage of existing workforce training programs for technical training curriculum in multiple community colleges, and workforce centers focused on covered populations
- Marketing and advertising of workforce development and adult education programs
- Develop career pathways and training access for all parts of the state, especially for covered populations—the entire lifecycle of technical training, broadband education, and digital literacy will be considered
- Support of registered apprenticeship programs
- Mobile training units that can provide training access to those with limited mobility or resources
- Re-entry training for “justice involved” individuals to create pathways to employment
- K-12 education and training modules to guide students in digital skills and digital career pathways
- Coordination efforts between BEAD and DEA personnel
- Data collection to inventory and monitor the success of broadband and digital skillset curriculum
- Childcare and transportation stipends or reimbursements to remove barriers to training attendance

2.7 Labor Standards and Protection (Requirement 11)

2.7.1 Describe the specific information that prospective subgrantees will be required to provide in their applications and how the Eligible Entity will weigh that information in its competitive subgrantee selection processes. Information from prospective

subgrantees must demonstrate the following and must include information about contractors and subcontractors:

- a) Prospective subgrantees' record of past compliance with federal labor and employment laws, which:
 - 1) Must address information on these entities' compliance with federal labor and employment laws on broadband deployment projects in the last three years;
 - 2) Should include a certification from an Officer/Director-level employee (or equivalent) of the prospective subgrantee evidencing consistent past compliance with federal labor and employment laws by the subgrantee, as well as all contractors and subcontractors; and
 - 3) Should include written confirmation that the prospective subgrantee discloses any instances in which it or its contractors or subcontractors have been found to have violated laws such as the Occupational Safety and Health Act, the Fair Labor Standards Act, or any other applicable labor and employment laws for the preceding three years.
- b) Prospective subgrantees' plans for ensuring compliance with federal labor and employment laws, which must address the following:
 - 1) How the prospective subgrantee will ensure compliance in its own labor and employment practices, as well as that of its contractors and subcontractors, including:
 - 2) Information on applicable wage scales and wage and overtime payment practices for each class of employees expected to be involved directly in the physical construction of the broadband network; and
 - 3) 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.

- a) The Commonwealth of Kentucky has a history of requiring fair labor standards and adherence to federal and state labor laws and wage and hour requirements, as applicable, in prior state-administered federal grant programs. The Office will work with the appropriate agencies to ensure compliance by subgrantees.

A prospective subgrantee will be required to submit evidence of compliance with state and federal labor and employment laws for the preceding three years during the prequalification process. Requiring a three-year compliance record will help the Office ensure a prospective subgrantee can complete a deployment and infrastructure project in a competent manner.

The Office will require the following information from prospective subgrantees to evaluate:

- A certification from an Officer/Director-level employee (or equivalent) of the prospective subgrantee demonstrating consistent past compliance with federal labor and employment laws by the subgrantee, as well as any contractors and subcontractors for the proposed project identified at the time of submission, of the laws outlined in the table below for the preceding three years.

- Written confirmation that the prospective subgrantee discloses any instances in which it or its contractors or subcontractors have been found to have violated laws such as the Occupational Safety and Health Act, the Fair Labor Standards Act, or any other applicable labor and employment laws in the table below for the preceding three years.

Act	Summary
Fair Labor Practices	
Fair Labor Standards Act	Establishment of minimum wage, overtime pay, recordkeeping, and child labor standards affecting full-time and part-time workers across private and public sectors
Occupational Safety and Health Act	Establishment of safe and healthy workplace standards
Civil Rights and Nondiscrimination	
Title VI of the Civil Rights Act of 1964 (See also 15 C.F.R. Part 8)	Prohibition on discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance, including from the Department of Commerce
Title IX of the Education Amendments of 1972	
The Americans with Disabilities Act of 1990	Prohibition of discrimination on the basis of disability under programs, activities, and services provided or made available by Eligible Entities and local governments or instrumentalities or agencies thereto, as well as public or private entities that provide transportation
Section 504 of the Rehabilitation Act of 1973	Prohibition of discrimination on the basis of handicap under any program or activity receiving or benefiting from federal assistance
The Age Discrimination Act of 1975	Prohibition of discrimination on the basis of age in programs or activities receiving federal financial assistance
Additional Authorities	
Parts II and III of Executive Order 11246. Equal Employment Opportunity	Requires that federally assisted construction contracts incorporate and fulfill the nondiscrimination provisions of §§ 202 and 203 of E.O. 11246 and Department of Labor regulations implementing E.O. 11246 (41 C.F.R. § 60-1.4(b))
Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency	Requires federal agencies to examine the services that they provide, identify any need for services to those with limited English proficiency (LEP), and develop and implement a system to provide those services so LEP persons can have meaningful access to them
Executive Order 13798, Promoting Free Speech and Religious Liberty (see also OMB M-20-09 Guidance Regarding Federal Grants and Executive Order 13798)	States or other public grantees may not condition sub-awards of federal grant money in a manner that would disadvantage grant applicants based on their religious character

New entrants without a three-year record of federal labor and employment law compliance will be permitted to make binding commitments to strong labor and employment standards and protections for BEAD-funded projects. Prospective subgrantees, who at the time of submission have not identified all contractors and subcontractors for the proposed project, shall provide binding commitments that strong labor and employment standards and protections will be required from contractors and subcontractors engaged in BEAD-funded projects.

If prospective subgrantee, including a new entrant, fails to provide certification, confirmation, and/or a binding commitment, the prospective subgrantee will not be prequalified and will not be permitted to file an application for BEAD funding.

- b) Should a prospective subgrantee satisfy prequalification criteria and submit an application (or applications) for BEAD funding that advance(s) in the selection process, the Office will require a prospective subgrantee to provide a plan for ensuring consistent compliance with federal labor and employment laws. An effective plan for consistent compliance with federal labor and employment laws shall include the following:
- How the prospective subgrantee will ensure organizational compliance with its own labor and employment practices, and that of its contractors and subcontractors, including:
 - Information on wage scales and wage and overtime payment practices for each class of employee 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.
 - Information on wage scales and wage and overtime payment practices can be satisfied by presenting contracts in effect at the time of application submittal. All information on applicable wage scales and wage and overtime payment practices will be treated confidential and not published publicly. Supervisory, managerial, and executive wage scales and wage and overtime practices should not be provided.

2.7.2 Describe in detail whether the Eligible Entity will make mandatory for all subgrantees (including contractors and subcontractors) any of the following and, if required, how it will incorporate them into binding legal commitments in the subgrants it makes:

- a) Using a directly employed workforce, as opposed to a subcontracted workforce;
- b) Paying prevailing wages and benefits to workers, including compliance with Davis-

Bacon and Service Contract Act requirements, where applicable, and collecting the required certified payrolls;

- c) Using project labor agreements (i.e., pre-hire collective bargaining agreements between unions and contractors that govern terms and conditions of employment for all workers on a construction project);
- d) Use of local hire provisions;
- e) Commitments to union neutrality;
- f) Use of labor peace agreements;
- g) Use of an appropriately skilled workforce (e.g., through Registered Apprenticeships or other joint labor-management training programs that serve all workers, particularly those underrepresented or historically excluded);
- h) Use of an appropriately credentialed workforce (i.e., satisfying requirements for appropriate and relevant pre-existing occupational training, certification, and licensure); and
- i) Taking steps to prevent the misclassification of workers.

As stated in Section 2.7.1, the Office will require subgrantees to turn in a written plan for ensuring compliance with state and federal labor and employment regulations. An effective plan for compliance with federal labor and employment laws may include items a) through i) listed in the text box above, although they will not be mandatory.

Potential subgrantees will be required to include a description of its fair labor practices into application materials as dictated by the BEAD NOFO. These items will not be included in legally binding commitments, but will be evaluated in the selection process.

To demonstrate subgrantees' commitments to strong labor standards and protections for the project workforce, the Office will require prospective subgrantees to submit:

- A description of how it will incorporate strong labor standards, including but not limited to, offering wages at or above the prevailing wage and adhering to local hiring provisions.
- A description of how it will ensure that its work provides quality jobs, as defined by the Department of Commerce and Department of Labor's Good Jobs Principles⁸
- A description of any prior legal determination by any court, administrative body or other adjudicator that the prospective subgrantee has failed to satisfy governing wage or labor mandates.
- A description of how, if at all, it expects to rely on subcontracting arrangements in completing the project.

⁸ <https://www.dol.gov/general/good-jobs/principles>

2.8 Workforce Readiness (Requirement 12)

2.8.1 Describe how the Eligible Entity and their subgrantees will advance equitable workforce development and job quality objectives to develop a skilled, diverse workforce. At a minimum, this response must clearly provide each of the following, as outlined on page 59 of the BEAD NOFO:

- a) A description of how the Eligible Entity will ensure that subgrantees support the development and use of a highly skilled workforce capable of carrying out work in a manner that is safe and effective;
- b) A description of how the Eligible Entity will develop and promote sector-based partnerships among employers, education and training providers, the public workforce system, unions and worker organizations, and community-based organizations that provide relevant training and wrap-around services to support workers to access and complete training (such as child care, transportation, mentorship, etc.), to attract, train, retain, or transition to meet local workforce needs and increase high-quality job opportunities;
- c) A description of how the Eligible Entity will plan to create equitable on-ramps into broadband-related jobs, maintain job quality for new and incumbent workers engaged in the sector; and continually engage with labor organizations and community-based organizations to maintain worker voice throughout the planning and implementation process; and
- d) A description of how the Eligible Entity will ensure that the job opportunities created by the BEAD Program and other broadband funding programs are available to a diverse pool of workers.

The Office will collaborate with state agencies, non-profits, and subject matter experts to support and expand existing efforts to train workers and develop the talent pipeline to support the deployment of broadband throughout Kentucky.

- a) The Office will require safety training and compliance measures to be incorporated into any workforce training created or supported by BEAD funds. These training and compliance measures shall include but are not limited to, OSHA training, bucket truck certifications, safety training for work around electric utilities, proper grounding techniques, pole climbing and vault descension techniques certifications, parking and traffic management safety, and compliance with all 811 or local "dig once" policies. In addition, subgrantees will be encouraged to undertake activities to reduce barriers to employment, such as providing laptops and electronics required for training programs and providing personal protective equipment for onsite activities such as hard hats, safety glasses, boots (available in all sizes for both men and women), and gloves. These activities reduce the financial barriers for individuals seeking to join trades and workforce development programs. Additional strategies to create equitable on-ramps to employment include, but are not limited to, the following:

- Subgrantees, through outreach, labor standards, and investment

requirements, will be encouraged to document and evaluate efforts to hire and retain workers from underrepresented and historically disadvantaged groups, which could include women, people of color, veterans, and people with disabilities.

- Subgrantees will be encouraged to document and evaluate efforts to promote an inclusive working environment that does not tolerate harassment or discrimination. This could include promoting anti-harassment policies, offering equitable training opportunities, and providing employee benefits such as childcare and pregnancy and parental support.
 - Subgrantees shall demonstrate that the project workforce is appropriately trained, certified, and credentialed, including pre-existing occupational training, certification, and licensure. Subgrantees will be required to document and evaluate efforts to support and implement training, certification, and credentialing standards for the industry.
- b) The Office will collaborate with workforce development partners to support programs to identify, attract, and prepare new workforce entrants throughout the Commonwealth. This will include partnerships among employers, education and training providers, the public workforce system, unions and worker organizations, and community-based organizations that provide relevant training and wrap-around services to support workers to access and complete training (such as childcare, transportation, mentorship, etc.). Strategies to be undertaken include, but are not limited to:
- Encouraging subgrantees to provide “wrap-around services” such as on-site childcare or stipends for childcare, learning materials, and transportation to training programs.
 - Encouraging subgrantees to promote or participate in existing job training and workforce development programs such as registered apprenticeships, pre-apprenticeships, joint labor management training programs, or other high-quality on-the-job training opportunities. These programs can create a pathway to advancement and increased wages through career progression either with the same employer or prepare workers for other jobs.
 - The Office, in collaboration with the Department of Workforce Development, will work to identify appropriate training and education providers and help facilitate contacts amongst providers who have similar training needs.
 - Encouraging subgrantees to participate in local career fairs, incentivize employee referrals, and promoting and supporting existing programs and/or scholarships for fiber and splicing certification or apprenticeship programs and other targeted functional areas like broadband network architects, surveyors/locators, or digital navigators.
 - Collecting data and information from employers, education and training providers, the public workforce system, unions and worker organizations,

and community-based organizations to tailor the development of workforce programs.

The Office will promote and support existing efforts being undertaken by the Department of Workforce Development to develop the workforce pipeline. Among the existing programs that currently support the development of the broadband workforce are:

- Work Ready Kentucky Scholarship Program, a collaborative effort between the Education & Labor Cabinet, public and private universities, and Kentucky Community and Technical Colleges to provide tuition assistance to Kentucky students and adults to obtain an industry-recognized certificate, associate degree in applied science or diploma at one of 21 participating colleges and universities throughout the Commonwealth, in one of Kentucky's high-demand industry sectors, which includes many programs in the broadband career pipeline.
- Kentucky's Registered Apprenticeship program, which helps businesses develop their workforce by increasing employee retention and finding qualified candidates for hard-to-fill jobs. This program helps businesses develop talent through work-based training initiatives, combining on-the-job training with first-hand experience. Broadband technicians and line workers are among the occupations eligible for this program.
- The Department of Workforce Development was awarded \$5 million in September 2023 through the Quality Jobs, Equity, Strategy and Training (QUEST) Dislocated Worker Grant. This program will focus on individuals whose employment was affected negatively by the pandemic and workers from historically underrepresented and underserved populations. The goal of this program is to support unemployed and underemployed people in accessing, returning to, or advancing in high-quality jobs in infrastructure, environment and climate, the care economy and other critical and growing industries.
- Work Opportunity Tax Credits, which assists employers in hiring certain types of workers, including veterans from families currently or recently receiving public assistance or food stamps.
- Kentucky Fair Chance Bonds, part of the Federal Bonding Program to provide fidelity bonds that protect employers against employee fraud and dishonesty for "at-risk," hard-to-place job seekers. These bonds are available through the Kentucky Career Center at no cost to Kentucky employers or job prospective subgrantees. Among the types of job seekers these bonds can assist are individuals with criminal records and individuals in recovery from substance use disorders.

c) The Commonwealth is committed to developing and creating equitable on-

ramps into broadband-related jobs by removing barriers to entry while maintaining job quality and worker voice. Multiple strategies will be undertaken to ensure that prospective subgrantees support the development and use of a highly skilled workforce to deploy and operate broadband networks throughout the state.

Those strategies include, but are not limited to, the following:

- Encouraging subgrantees document and monitor efforts to engage with labor organizations to prioritize local workers and the development of robust plans to recruit historically underrepresented populations facing labor market barriers and ensure reasonable access to the job opportunities created by subgrantees.
 - Encouraging subgrantees to demonstrate their active support of job skills development and Diversity, Equity, Inclusion, and Accessibility (DEIA) efforts in the workplace.
 - Encouraging subgrantees to remove barriers for women, people of color, formerly incarcerated individuals, people with disabilities, and other historically marginalized groups to entering the telecommunications workforce.
 - Documenting and monitoring subgrantee efforts to remove barriers to entry, such as limitations on hiring people who have previously been incarcerated and unneeded degree requirements, provide roles where those with physical disabilities or limitations can safely perform, and promote pre-apprenticeship programs that will encourage underrepresented youth to seek early education in this sector.
- d) The Office has conducted, and will continue to conduct, stakeholder outreach to industry organizations, as well as individual ISPs, local governments, labor unions, and others who have the need for a highly skilled workforce. The Office collaborates with the Department of Workforce Development, which connects all Kentuckians to employment, workforce information, education, and training. The Office will continue to collaborate with the Department of Workforce Development to ensure that the workforce development activities related to the BEAD program are in alignment with, and integrated with, the services and initiatives overseen by the Department of Workforce Development. The statewide reach and breadth of services offered by the Department of Workforce Development will ensure that the job opportunities created by BEAD are available to a diverse pool of workers.

2.8.2 Describe the information that will be required of prospective subgrantees to demonstrate a plan for ensuring that the project workforce (including contractors and subcontractors) will be an appropriately skilled and credentialed workforce. These plans should include the following:

- a) The ways in which the prospective subgrantee will ensure the use of an appropriately

skilled workforce, e.g., through Registered Apprenticeships or other joint labor-management training programs that serve all workers;

- b) The steps that will be taken to ensure that all members of the project workforce will have appropriate credentials, e.g., appropriate and relevant pre-existing occupational training, certification, and licensure;
- c) Whether the workforce is unionized;
- d) Whether the workforce will be directly employed or whether work will be performed by a subcontracted workforce; and
- e) The entities that the proposed subgrantee plans to contract and subcontract with in carrying out the proposed work.

If the project workforce or any subgrantee's, contractor's, or subcontractor's workforce is not unionized, the subgrantee must also provide with respect to the non-union workforce:

- a) The job titles and size of the workforce (FTE positions, including for contractors and subcontractors) required to carry out the proposed work over the course of the project and the entity that will employ each portion of the workforce;
- b) For each job title required to carry out the proposed work (including contractors and subcontractors), a description of:
 - c) Safety training, certification, and/or licensure requirements (e.g., OSHA 10, OSHA 30, confined space, traffic control, or other training as relevant depending on title and work), including whether there is a robust in-house training program with established requirements tied to certifications, titles; and
 - d) Information on the professional certifications and/or in-house training in place to ensure that deployment is done at a high standard.

Prospective subgrantees will be required to submit a plan ensuring the project workforce will be an appropriately skilled and credentialed workforce, including:

1. The Office will encourage subgrantees to demonstrate how they will use an appropriately skilled workforce, e.g., through Registered Apprenticeships or other joint labor-management training programs that serve all workers
2. The Office will encourage subgrantees to demonstrate that all members of the project workforce will have appropriate credentials, e.g., appropriate, and relevant pre-existing occupational training, certification, and licensure
3. The Office will encourage subgrantees to declare whether the project workforce will be unionized or not
4. The Office will encourage subgrantees to declare whether the workforce will be directly employed or whether work will be performed by a subcontracted workforce
5. The Office will encourage subgrantees to identify the entities that the proposed subgrantee plans to contract and subcontract with in carrying out the proposed work

In the event the project workforce or any subgrantee's, contractor's, or subcontractor's workforce is not unionized, The Office will require the subgrantee to provide the following with respect to the non-union workforce:

1. The job titles and size of the workforce (FTE positions, including for contractors and subcontractors) required to carry out the proposed work over the course of the project and the entity that will employ each portion of the workforce
2. For each job title required to carry out the proposed work (including contractors and subcontractors), a description of:
 - a. Safety training, certification, and/or licensure requirements (e.g., OSHA 10, OSHA 30, confined space, traffic control, or other training as relevant depending on title and work), including whether there is a robust in-house training program with established requirements tied to certifications, titles
 - b. Information on the professional certifications and/or in-house training in place to ensure deployment activities meet a high standard

2.9 Minority Business Enterprises (MBEs)/ Women's Business Enterprises (WBEs)/ Labor Surplus Firms Inclusion (Requirement 13)

2.9.1 Describe the process, strategy, and the data tracking method(s) the Eligible Entity will implement to ensure that minority businesses, women-owned business enterprises (WBEs), and labor surplus area firms are recruited, used, and retained when possible.

Subgrantees will be required to document affirmative efforts to recruit, use, and retain MBEs/WBEs. Examples of measures a subgrantee may take to solicit MBE/WBE firms include:

- Including MBE and WBE firms on solicitation lists and sending Invitation to Bid.
- Maintaining a list of qualified small, minority, and female owned businesses.
- When economically feasible, dividing total requirements into smaller tasks or quantities so as to permit maximum participation by small businesses and MBE/WBEs.
- Where the requirements permit, establishing delivery schedules which will encourage participation by small businesses and MBE/WBEs.
- If any subcontracts are to be let, requiring the prime contractor to take the above affirmative steps.
- Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce

- Setting aside a percentage of subgrant funds to be awarded to MBE/WBEs.
- Including MBE/WBE criteria with additional points in selection criteria for professional services procurement.

Existing Kentucky resources that can assist subgrantees and MBE/WBEs are:

- [Kentucky's Minority & Women Business Enterprise Certification Program](#) provides certification of MBEs/WBEs and maintains a listing of certified Kentucky businesses.
- Kentucky Transportation Cabinet maintains a [Certified DBE directory](#)
- Kentucky Chamber of Commerce hosts the [Kentucky Minority-Owned Business Database](#)
- [Kentucky APEX Accelerator](#), (formerly the Kentucky Procurement Technical Assistance Center), aids small businesses in connecting with procurement processes and socioeconomic certifications.

Additionally, Kentucky has 17 counties considered to be "labor surplus areas" where the local unemployment rate more than 20% higher than the national average unemployment rate, or a minimum of 6%. Subgrantees will be required to document efforts to recruit, use, and retain labor surplus area firms.

As part of post-award outreach, the Office will provide subgrantees information on best practices to recruit, use, and retain MBE/WBEs and labor surplus area firms. While the Office does not currently track and monitor efforts to recruit, use, and retain MBE/WBEs or labor surplus area firms, documentation of subgrantee efforts undertaken to engage disadvantaged firms will be included in required subgrantee reporting. At a minimum, subgrantees will be required to report number of MBE/WBE and labor surplus area firms solicited, method of solicitation, and whether contracts or subcontracts were awarded to MBE/WBE or labor surplus firms.

2.9.2 Certify that the Eligible Entity will take all necessary affirmative steps to ensure minority businesses, women's business enterprises, and labor surplus area firms are used when possible, including the following outlined on pages 88 - 89 of the BEAD NOFO:

- a) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- b) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- c) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- d) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;

- e) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- f) Requiring subgrantees to take the affirmative steps listed above as it relates to subcontractors.

Yes

2.10 Cost and Barrier Reduction (Requirement 14)

2.10.1 Identify steps that the Eligible Entity has taken or will take to reduce costs and barriers to deployment. Responses may include but not be limited to the following:

- a) Promoting the use of existing infrastructure;
- b) Promoting and adopting dig-once policies;
- c) Streamlining permitting processes;
- d) Streamlining cost-effective access to poles, conduits, easements; and
- e) Streamlining rights of way, including the imposition of reasonable access requirements.

The Commonwealth of Kentucky is committed to improving broadband access and connectivity in the most efficient, cost-effective manner. Efforts to overcome the costs and barriers of broadband expansion that have been undertaken, or are planned, are described below:

- a) Promoting the use of existing infrastructure
 - KentuckyWired, the state-owned, statewide middle mile fiber optic network has capacity to lease dark fiber to ISPs to expand broadband access. The network spans 3,200 miles and touches all 120 counties. The location of KentuckyWired's network is published in the statewide broadband map.
 - KRS 278.5464, created in 2021, removed regulatory barriers for electric distribution cooperatives to provide broadband.
- b) Promoting and adopting dig-once policies
 - Kentucky does not have a dig-once law; however other efforts are underway to promote coordination and work to remove the duplication of efforts of utilities and other infrastructure located in public rights-of-way. Broadband providers are required to seek permits from the Kentucky Transportation Cabinet (KYTC) when telecommunications infrastructure encroaches on public right of way. Office staff and KYTC staff meet at regular intervals to coordinate on matters related to utility and rights-of-way permits and ongoing construction of broadband infrastructure in public rights-of-way, and these meetings and collaboration are expected to continue throughout the implementation of the BEAD program.
- c) Streamlining permitting processes

- The Office will provide subgrantee outreach and training to navigate the environmental and historical review requirements of the BEAD program.
 - The Office will continue to work with its local, state and federal government partners to streamline the permitting process of broadband projects and find solutions to improve the capacity of permitting agencies to address the increased volume of requests that will occur during BEAD.
- d) Streamlining cost-effective access to poles, conduits, easements
- Pole access continues to be a significant barrier in the timely deployment of broadband infrastructure. Before permits are approved, providers seeking to attach to poles must comply with pole owners' requirements, including load limitation, separation requirements, and height standards before the permit is approved. Pole owners can require the attaching provider to replace the pole before granting a permit ("Make-Ready" work). Make-ready work can add significant costs and delays for broadband deployment. Kentucky has the \$20 million Rural Infrastructure Improvement Program, which subsidizes the replacement of utility poles for the extension of broadband service to unserved areas.
 - While pole attachment processing times are set out in state law and utility tariffs, these processing times do not apply to "high volume" requests. High volume requests are subject to timelines mutually agreed upon by pole owners and attaching providers. Broadband projects presently under construction have resulted in many high volume requests; this has already overburdened the capacity of pole owners to process attachment permits. The Office will work with ISPs and pole owners to develop solutions to these capacity limitations.
- e) Streamlining rights of way, including the imposition of reasonable access requirements.
- KYTC and the Office of Broadband Development are actively collaborating to address permitting issues related to installation of broadband facilities on public rights-of-way. Internet providers must obtain encroachment permits to operate in the right-of-way. Permits are obtained from local KYTC District Offices. On December 3, 2021, FHWA published a new Broadband Infrastructure Deployment rule. § 645.307(a) adds four new requirements to Section 607 of the MOBILE NOW Act. Under the new rules, states must: (1) Identify a broadband utility coordinator who is responsible for facilitating the infrastructure ROW efforts within the State. (2) Establish a registration process for broadband infrastructure entities who may be interested in installing facilities in conjunction with roadway projects. (3) Notify broadband infrastructure companies identified under (2), on an annual basis, of the State Transportation Improvement Program (STIP) and provide other notifications as necessary (4) Coordinate these initiatives with other statewide telecommunication and broadband plans, state and local

transportation plans and land use plans. KYTC and the Office work collaboratively to meet MOBILE NOW Act requirements.

2.11 Climate Assessment (Requirement 15)

2.11.1 Describe the Eligible Entity's assessment of climate threats and proposed mitigation methods. If an Eligible Entity chooses to reference reports conducted within the past five years to meet this requirement, it may attach this report and must provide a crosswalk narrative, with reference to page numbers, to demonstrate that the report meets the five requirements below. If the report does not specifically address broadband infrastructure, provide additional narrative to address how the report relates to broadband infrastructure. At a minimum, this response must clearly do each of the following, as outlined on pages 62 - 63 of the BEAD NOFO:

- a) Identify the geographic areas that should be subject to an initial hazard screening for current and projected future weather and climate-related risks and the time scales for performing such screenings;
- b) Characterize which projected weather and climate hazards may be most important to account for and respond to in these areas and over the relevant time horizons;
- c) Characterize any weather and climate risks to new infrastructure deployed using BEAD Program funds for the 20 years following deployment;
- d) Identify how the proposed plan will avoid and/or mitigate weather and climate risks identified; and
- e) Describe plans for periodically repeating this process over the life of the Program to ensure that evolving risks are understood, characterized, and addressed, and that the most up-to-date tools and information resources are utilized.

Severe weather events pose a significant threat to the environment, human health, and the economy, and are projected to increase in occurrence and severity in the future. Over the past few years, Kentucky has experienced significant natural disasters, including severe tornados and flooding that devastated entire communities. Telecommunications infrastructure has been a critical asset in both preventing loss of life, but also in the recovery efforts following disasters. The BEAD Program is aimed at supporting Eligible Entities in addressing these risks and minimizing their impacts. This proposal outlines a plan for addressing climate threats within the Eligible Entity and proposed mitigation methods while performing BEAD-funded activities.

Kentucky's Hazard Mitigation Plan identifies the following vulnerabilities, many of which are climate-related:

- Flooding
- Drought
- Earthquakes
- Landslides
- Karst/Sinkholes & Mine Subsidence

- Severe Winter Storms
- Tornadoes and Severe Thunderstorm Wind
- Extreme Temperatures
- Wildfire

The Office has identified the following weather and climate hazards that have potential to impact telecommunications infrastructure:

- Flood: Flooding is the most frequent and costly natural hazard within the Commonwealth, with an average annual loss of greater than \$40,000,000. Flood events occur within the state every year with several substantial floods occurring annually. Kentucky's topography contains 13 major drainage basins to accommodate 40-50 inches of average rainfall (maximum during winter and spring, minimum during late summer and fall), The state contains 89,431 miles of rivers and streams, 637,000 acres of wetlands, 18 reservoirs over 1,000 acres in size, and 228,382 acres of publicly-owned lakes and reservoirs.
- Extreme Temperatures: Extreme heat from the warming climate will impact the entire Commonwealth. Per the Climate Explorer, days where the temperature exceeds 90 degrees will double by the mid-2050s, even under a lower-emissions scenario. Infrastructure will need to be able to stand up to extended periods of extreme heat. Additionally, severe winter weather is also expected to intensify. Higher temperatures lead to more moisture in the air, which creates stronger snowstorms. While the frequency of regular snowfall will decrease, the storms that do hit will be more intense than before. This effect will be felt statewide. More winter weather can be expected in localities with higher elevations, but winter storms and ice events impact all areas.
- Tornadoes and Severe Thunderstorm Wind: Higher winds, especially those from severe weather, are expected to become more frequent. Climate change is leading to an increase in severe weather and high-wind events. These storms and events can impact any part of the commonwealth and infrastructure needs to be withstand these events.

Through research conducted using the resources and tools recommended by NTIA, the Office believes the weather and climate risks mentioned above (flood, extreme temperatures, and tornadoes and severe wind) all present risks to new infrastructure deployed using BEAD program funds.

Soil erosion from flooding and damage from high winds or severe weather are all possible given the climate projections over the next 20 years.

For the identified weather and climate hazards, subgrantees should describe how these climate risks will be mitigated by:

- Incorporating climate resilience into infrastructure design
- Developing emergency response plans and communication strategies to ensure timely and effective response to extreme weather events.

Additional mitigation measures not listed may be required by the Office. On an annual basis, unless otherwise spurred by a severe weather event, the Office will periodically repeat this analysis over the course of the program to ensure that evolving risks are understood, characterized, and addressed. The most up-to-date tools and information resources will be utilized to ensure that the plan remains effective in addressing climate threats. The Office may update program materials including but not limited to programmatic guidelines and applications.

2.12 Low-Cost Broadband Service Option (Requirement 16)

2.12.1 Describe the low-cost broadband service option(s) that must be offered by subgrantees as selected by the Eligible Entity, including why the outlined option(s) best services the needs of residents within the Eligible Entity’s jurisdiction. At a minimum, this response must include a definition of low-cost broadband service option that clearly addresses the following, as outlined on page 67 of the BEAD NOFO:

- All recurring charges to the subscriber, as well as any non-recurring costs or fees to the subscriber (e.g., service initiation costs);
- The plan’s basic service characteristics (download and upload speeds, latency, any limits on usage or availability, and any material network management practices);
- Whether a subscriber may use any Affordable Connectivity Benefit subsidy toward the plan’s rate; and
- Any provisions regarding the subscriber’s ability to upgrade to any new low-cost service plans offering more advantageous technical specifications.

The prospective subgrantee offers a service option that meets, at a minimum, the following criteria:

- The monthly price inclusive of taxes and fees and before the application of any subsidy does not exceed the highest rate listed for a 100/20 service offering in Kentucky by the FCC in the Commission’s Urban Rate Survey.

The prospective subgrantee must submit to the Office justification on why the service option is affordable to the eligible population, including market analysis that demonstrates clearly that the service option is reasonably affordable to the average ACP-eligible household. Failure to demonstrate that the low-cost service option is affordable may result in the Office requiring additional information be submitted to justify that the service option meets the requirement.

The price identified, as well as the provisions identified below, for this service option will be a contractual requirement of awardees for the useful life of broadband networks built with BEAD funding must be reasonably affordable to the Commonwealth residents they serve.

As required in the BEAD Notice of Funding Opportunity, subgrantees receiving BEAD funds to deploy broadband infrastructure are required to offer a “low-cost broadband service option” that is available to customers for the useful life of the network assets. The Office defines a low-cost service option as the following:

- Allows the end user to apply the Affordable Connectivity Program benefit subsidy to the service price and makes a demonstrable effort to inform prospective customers of these programs and the steps necessary to enroll and apply the benefit to the service plan.
- Consistently and reliably provides download speeds of at least 100 Mbps and typical upload speeds of at least 20 Mbps.
- Provides typical latency measurements of no more than 100 milliseconds.
- Is not subject to data caps, surcharges, or usage-based throttling, and is subject only to the same acceptable use policies to which subscribers to all other broadband internet access service plans offered to home subscribers by the participating subgrantee must adhere.
- In the event the prospective subgrantee later offers a low-cost plan with higher speeds downstream and/or upstream, permits Eligible Subscribers that are subscribed to a low-cost broadband service option to upgrade to the new low-cost offering at little to no cost.
- The prospective subgrantee is required to participate in the Affordable Connectivity Program, and encouraged to ensure that prospective customers are aware of their participation in the ACP. The prospective subgrantee is encouraged to participate in any successor broadband subsidy programs should funding for the Affordable Connectivity Program be depleted and the Program not renewed.
- The low-cost broadband service option must be made available to those who qualify for the FCC’s Affordable Connectivity Program. Eligibility criteria for the Affordable Connectivity Program are located at <https://www.affordableconnectivity.gov/do-i-qualify/>. Subgrantees may not impose additional eligibility restrictions beyond those applicable to the Affordable Connectivity Program. In the event that funding for the Affordable Connectivity Program is not replenished and the National Verifier is no longer available, the Office will defer to NTIA clarification on how low-cost service option eligibility verification should occur.

- The Office requires the low-cost broadband service option made available to all eligible prospective customers across the subgrantee’s service territory, including locations within the awarded project areas under the BEAD program.

The Office proposes this definition for a required low-cost service option after consideration of how to best effectuate the affordability aims of both the BEAD program and the Infrastructure Investment and Jobs Act. The Office’s priority in establishing affordability requirements for the BEAD program is to increase awareness of and enrollment in available broadband subsidy programs while maintaining flexibility given the diversity in size, territory, and service offerings of prospective subgrantees.

2.12.2 Certify that all subgrantees will be required to participate in the Affordable Connectivity Program or any successor program.

Yes

2.13 Middle-Class Affordability Plans

2.13.1 Describe a middle-class affordability plan that details how high-quality broadband services will be made available to all middle-class families in the BEAD- funded network’s service area at reasonable prices. This response must clearly provide a reasonable explanation of how high-quality broadband services will be made available to all middle-class families in the BEAD-funded network’s service area at reasonable prices.

Affordability of broadband services from BEAD-funded networks for middle-class households is a priority for the Commonwealth. The affordability of internet service plans for middle class households is addressed with the following program elements:

BEAD Proposal Scoring Criteria

Affordability is a primary criterion in the scoring rubric for Kentucky’s BEAD program established in this proposal. Affordability is assigned 30% of the points in evaluating proposals. In addition to these requirements, the following recommendations and requirements listed below will promote affordability of services for middle class households.

Low-Cost Service Option

Providers participating in the BEAD program are required to offer to eligible customers the Low-Cost Service Option defined in this Proposal. Broadband service providers are encouraged to ensure that broadband services offered to prospective customers in the BEAD-awarded area are affordable and reasonably accessible to middle class households.

Special Construction Costs

For some Kentucky residents, connecting to internet service is unaffordable because the distance to their home exceeds an internet service provider’s standard connection drop length from a roadway or easement containing telecommunications infrastructure. The cost incurred by homeowners to extend broadband infrastructure to these locations, referred to as special

construction costs, range from a few hundred to a few thousand dollars depending on the distance and cost to connect the location. Subgrantees will be prohibited from charging special construction charges for a minimum of twelve months after broadband service is made available to a BEAD-funded location. Subgrantees will not be permitted to charge any fees to subscribers for these line extensions, except for the regular connection fees associated with any connection made on the network.

2.14 Use of 20 Percent of Funding (Requirement 17)

2.14.1 Describe the Eligible Entity’s planned use of any funds being requested, which must address the following:

- a) If the Eligible Entity does not wish to request funds during the Initial Proposal round, it must indicate no funding requested and provide the rationale for not requesting funds.
- b) If the Eligible Entity is requesting less than or equal to 20 percent of funding allocation during the Initial Proposal round, it must detail the amount of funding requested for use upon approval of the Initial Proposal, the intended use of funds, and how the proposed use of funds achieves the statutory objective of serving all unserved / underserved locations.
- c) If the Eligible Entity is requesting more than 20 percent (up to 100 percent) of funding allocation during the Initial Proposal round, it must detail the amount of funding requested for use upon approval of the Initial Proposal, the intended use of funds, how the proposed use of funds achieves the statutory objective of serving all unserved / underserved locations, and provide rationale for requesting funds greater than 20 percent of the funding allocation.

- a) Not applicable
- b) Not applicable
- c) The Commonwealth is requesting 100% of its funding allocation upon approval of its BEAD Initial Proposal. The table below shows funding requested for each activity, including initiatives and activities to be undertaken without a subgrant process as described in Section 2.6.1.

Activity	Funding	Percent of Total
Broadband Deployment Funds	\$1,054,449,086.12	97.08%
Workforce Readiness	\$10,000,000.00	0.92%
Programmatic BEAD Implementation, Deployment, and Administrative Activities	\$21,723,450.74	2.00%

Total Allocation	\$1,086,172,536.86
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The Office believes approval, and the immediate use, of Kentucky’s full allocation best enables the Commonwealth to undertaken and accomplish the statutory objectives of the BEAD program.

2.14.2 Financial Data Entry: Enter the amount of the Initial Proposal Funding Request. If not requesting Initial Proposal funds, enter '\$0.00.'

\$1,086,172,537

2.14.3 Check Box: Certify that the Eligible Entity will adhere to BEAD Program requirements regarding Initial Proposal funds usage. If the Eligible Entity is not requesting funds in the Initial Proposal round and will not submit the Initial Proposal Funding Request, note “Not applicable.”

Yes

2.15 Eligible Entity Regulatory Approach (Requirement 18)

2.15.1

a) Disclose 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.

b) If the Eligible Entity will not waive all such laws for BEAD Program project selection purposes, identify those that it will not waive (using the Excel attachment) and their date of enactment and describe how they will be applied in connection with the competition for subgrants. If there are no applicable laws, note such.

a) Kentucky has no statutes or regulations that would preclude or limit public sector providers from being eligible and participating in the subgrantee selection process for BEAD funding. Kentucky Revised Statute 278.5462 expressly prohibits state regulation of the provision of broadband services. No waiver of regulations is necessary to allow public sector providers to participate in the BEAD program.

b) Not applicable.

2.16 Certification of Compliance with BEAD Requirements (Requirement 19)

2.16.1 Check Box: Certify the Eligible Entity's intent to comply with all applicable requirements of the BEAD Program, including the reporting requirements.

Yes

2.16.2 Text Box: Describe subgrantee accountability procedures, including how the Eligible Entity will, at a minimum, employ the following practices outlined on page 51 of the BEAD NOFO:

- a) Distribution of 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);
- b) The inclusion of clawback provisions (i.e., provisions allowing recoupment of funds previously disbursed) in agreements between the Eligible Entity and any subgrantee;
- c) Timely subgrantee reporting mandates; and
- d) Robust subgrantee monitoring practices.

- a) Distribution of 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);**

The Office will review invoices and documentation submitted by subgrantees and reimburse eligible expenses as they are incurred by the subgrantee. Subgrant funds shall be reimbursed proportional to matching funds. The Office reserves the right to hold up to 10 percent of grant funds until project monitoring and closeout requirements are completed by the subgrantee.

- b) The inclusion of clawback provisions (i.e., provisions allowing recoupment of funds previously disbursed) in agreements between the Eligible Entity and any subgrantee;**

Kentucky's BEAD program assistance agreements will include clawback provision to allow for recoupment of funds previously disbursed if a subgrantee fails to meet performance objectives.

- c) Timely subgrantee reporting mandates; and**

The Office of Broadband Development will require the following subgrantee reporting requirements:

Quarterly Performance and Financial Reports

Subgrantees will be required to submit at least on a quarterly basis, performance and financial reports. The first set of reports is to cover the first three months after the awards begins. Pursuant to 2 CFR 200.328, PFR's shall be submitted no later than 30 calendar days following the period covered by the report. Grantees will also be required to submit a final closeout report within 45 calendar days following the end of the period of performance.

Project Reporting

Grantees will be required to submit regular reports to document the progress of the project as part of the grant requirements. These reports include but are not limited to:

- Projected/actual construction start date (month/year)
- Projected/actual initiation of operations date (month/year)
- Location (for broadband, geospatial location data);
- Speeds/pricing tiers to be offered, including the speed/pricing of its affordability offering;
- Technology to be deployed;
- Miles of fiber;
- Cost per mile;
- Cost per passing;
- Number of households projected to have increased access to broadband meeting the minimum speed standards in areas that previously lacked access to service of at least 25 Mbps download and 3 Mbps upload;
- Number of households with access to minimum speed standard of reliable 100 Mbps symmetrical upload and download;
- Number of households with access to minimum speed standard of reliable 100 Mbps download and 20 Mbps upload;
- Number of businesses and CAIs projected to have increased access to broadband meeting the minimum speed standards in areas that previously lacked access to service of at least 25 Mbps download and 3 Mbps upload, in each of the following categories: business, small business, elementary school, secondary school, higher education institution, library, healthcare facility, and public safety organization
 - a. Specify the number of each type of institution with access to the minimum speed standard of reliable 100 Mbps symmetrical upload and download; and
 - b. Specify the number of each type of institution with access to the minimum speed standard of reliable 100 Mbps download and 20 Mbps upload.

For projects with total projects costs over \$10 million:

- a. Grantee may provide a certification that a project includes a project labor agreement, meaning a pre-hire collective bargaining agreement consistent with section 8(f) of the National Labor Relations Act (29 U.S.C. 158(f)) and the Illinois Project Labor Agreements Act (30 ILCS 571). Grantee will provide a copy of the project labor agreement. A project labor agreement must

- Set forth mutually binding procedures for resolving jurisdictional labor disputes and grievances;
- Guarantee against strikes, lockouts, or similar actions;
- Ensure a reliable source of labor;
- Set goals for woman and minority apprenticeship hours;
- Permit the selection of the lowest responsible bidder, regardless of union status;
- Bind all contractors and subcontractors through the inclusion of bid specifications in all relevant bid documents; and
- Be signed by a bona fide labor organization. Grantee will provide contact information for the bona fide labor organization.

b. Grantee must maintain sufficient records to substantiate this information upon request.

c. If the Grantee does not provide such certification, Grantee must provide a Project Workforce Continuity Plan, detailing:

- How the Grantee will ensure the project has ready access to a sufficient supply of appropriately skilled and unskilled labor to ensure high-quality and timely construction throughout the life of the project;
- How the Grantee will minimize risks of labor disputes and disruptions that would jeopardize timeliness and cost-effectiveness of the project;
- How the Grantee will resolve jurisdictional labor disputes and grievances;
- How the Grantee will provide a safe and healthy workplace that avoids delays and costs associated with workplace illnesses, injuries, and fatalities;
- How the Contractor will ensure that the lowest responsible bidder is chosen for the project;
- How the Grantee will ensure that all contractors and subcontractors are bound by the Project Workforce Continuity Plan;
- Whether workers on the project will receive wages and benefits that secure an appropriately skilled workforce in the context of a local or regional labor market;
- Whether the project prioritizes local hires; and
- Whether the project has a Community Benefit Agreement, with a description of any such agreement

d) Robust subgrantee monitoring practices.

Kentucky's BEAD program will implement the same robust monitoring practices currently in practice for the administration of prior Broadband Deployment Fund grants, in compliance with BEAD regulations, and modeled after practices adopted by the Kentucky Infrastructure Authority in the administration of federal funds, to which the Office of Broadband Development

is administratively attached.

Subgrantees will be subject to fiscal and programmatic monitoring visits by the Office or its contractors in accordance with 2 CFR 200.337. Subgrantees will be required to have periodic monitoring visits by Office staff or contractors to evaluate the compliance and progress of the project. Subgrantees must provide documentation upon request of the monitor. Program staff will also maintain contact with participants and monitor progress and performance of the contracts. The Office reserves the right to modify subgrant awards based on performance.

2.16.3 Check Box: Certify that the Eligible Entity will account for and satisfy authorities relating to civil rights and nondiscrimination in the selection of subgrantees.

Yes

2.16.4 Check Box: Certify that the Eligible Entity will ensure subgrantee compliance with the cybersecurity and supply chain risk management requirements on pages 70 - 71 of the BEAD NOFO to require prospective subgrantees to attest that:

Cybersecurity

- a) The prospective subgrantee has a cybersecurity risk management plan (the plan) in place that is either: (a) operational, if the prospective subgrantee is providing service prior to the award of the grant; or (b) ready to be operationalized upon providing service, if the prospective subgrantee is not yet providing service prior to the grant award;
- b) The plan reflects the latest version of the National Institute of Standards and Technology (NIST) Framework for Improving Critical Infrastructure Cybersecurity (currently Version 1.1) and the standards and controls set forth in Executive Order 14028 and specifies the security and privacy controls being implemented;
- c) The plan will be reevaluated and updated on a periodic basis and as events warrant; and
- d) The plan will be submitted to the Eligible Entity prior to the allocation of funds. If the subgrantee makes any substantive changes to the plan, a new version will be submitted to the Eligible Entity within 30 days.

Supply Chain Risk Management (SCRM)

- a) The prospective subgrantee has a SCRM plan in place that is either: (a) operational, if the prospective subgrantee is already providing service at the time of the grant; or (b) ready to be operationalized, if the prospective subgrantee is not yet providing service at the time of grant award;
- b) The plan is based upon the key practices discussed in the NIST publication NISTIR 8276, Key Practices in Cyber Supply Chain Risk Management: Observations from Industry and related SCRM guidance from NIST, including NIST 800-161, Cybersecurity Supply Chain Risk Management Practices for Systems and Organizations and specifies the supply chain risk management controls being implemented;
- c) The plan will be reevaluated and updated on a periodic basis and as events warrant; and
- d) The plan will be submitted to the Eligible Entity prior to the allocation of funds. If the subgrantee makes any substantive changes to the plan, a new version will be submitted to the Eligible Entity within 30 days. The Eligible Entity must provide a subgrantee's plan

to NTIA upon NTIA's request.

Yes

Volume II Public Comment

2.16.5 Describe the public comment period and provide a high-level summary of the comments received during the Volume II public comment period and how they were addressed by the Eligible Entity. The response must demonstrate:

- a. The public comment period was no less than 30 days; and
- b. Outreach and engagement activities were conducted to encourage feedback during the public comment period.

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