



# Montana Broadband Advisory Commission Meeting

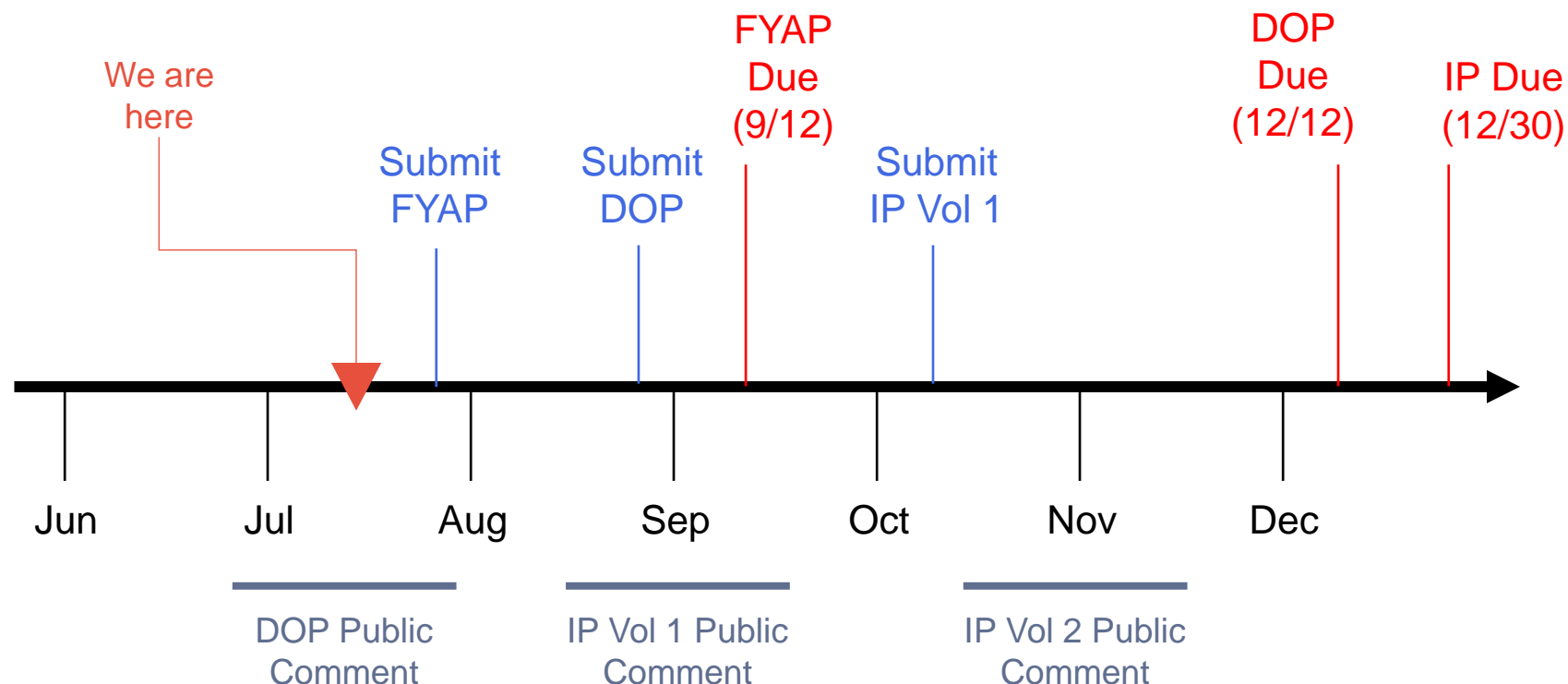
July 12, 2023



# Overall timeline and high-level summary of potential commission meeting agendas

As of 12 July 2023

## Timeline of key milestones for BEAD & DO



Focus for today

## Potential Future Commission Meeting Topics

### July

- DOP approval
- DOP public comment period
- Initial Proposal key themes

### August

- IP V1 (Challenge Process)
- IP V1 public comment period

### September

- IP Volume 2 (EHCT, Subgrantee process)

### October

- IP Volume 2 (Workforce, Affordability)
- IP V2 public comment period

### November

- IP Volume 2 approval




### December

- Finalize any pending items for IP or DOP



# Potential detailed agenda for July Commission Meeting

As of 12 July 2023

Agenda Item 	Facilitator 	Time 
<b>Open Meeting</b> <ul style="list-style-type: none"> <li>a. Call to order and notice of audio / video recording</li> <li>b. Roll call and proxies</li> </ul>	Commission Chair	5 minutes
<b>IIJA: Digital Opportunity Plan</b> <ul style="list-style-type: none"> <li>a. Review DO program timeline</li> <li>b. Summarize feedback from public comment period</li> <li>c. Discuss progress to date and next steps</li> </ul>	Misty Ann Giles, Director of DOA	30 minutes
<b>IIJA: BEAD Initial Proposal Overview</b> <ul style="list-style-type: none"> <li>a. Summary of key components, including allocation implications</li> </ul>	Misty Ann Giles, Director of DOA	20 minutes
<b>IIJA: Initial Proposal Volume 1 Preliminary Approach</b> <ul style="list-style-type: none"> <li>a. Challenge process and timeline</li> <li>b. Key design choices</li> </ul>	Adam Carpenter, Chief Data Officer	20 minutes
<b>IIJA: Initial Proposal Volume 2 Decision Points</b> <ul style="list-style-type: none"> <li>a. Affordability</li> <li>b. Workforce strategy</li> <li>c. Subgrantee process</li> </ul>	Misty Ann Giles, Director of DOA	60 minutes
<b>Public Comment</b>	Commission Chair	30 minutes
<b>Next Steps / Timelines</b>	Misty Ann Giles, Director of DOA	15 minutes



# Agenda

**IIJA: DOP Approval**

IIJA: BEAD Initial Proposal Overview



# Recall: Digital Opportunity Program timeline

As of 12 July 2023

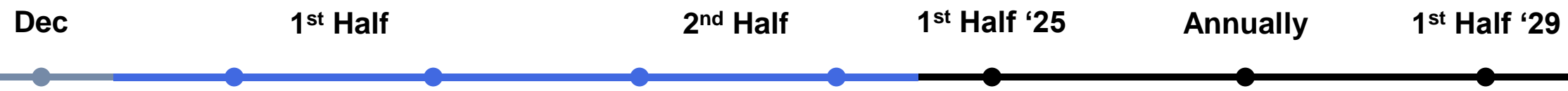
## 2023



## 2024



## 2025 - 2029



Digital Opportunity Plan due (12/12)

Submit State DO Capacity Grant Application to NTIA (\$1.44B, formula)

Receive Year 1 of DO Capacity Grant Funds from NTIA

Conduct grant process (or transfer funds to other state agencies)

NTIA holds competitive DO grant program for implementing entities (\$1.25B)

NTIA disburses competitive DO grant funds to implementing entities

Receive DO Capacity Grant funding annually from NTIA and disburse funds to implementing entities, as needed

Digital Opportunity program concludes (5 years after initial allocation to sub-grantees)

Source: Digital Equity Planning Grant NOFO

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# Summary of DOP feedback received during public comment period

As of 12 July 2023

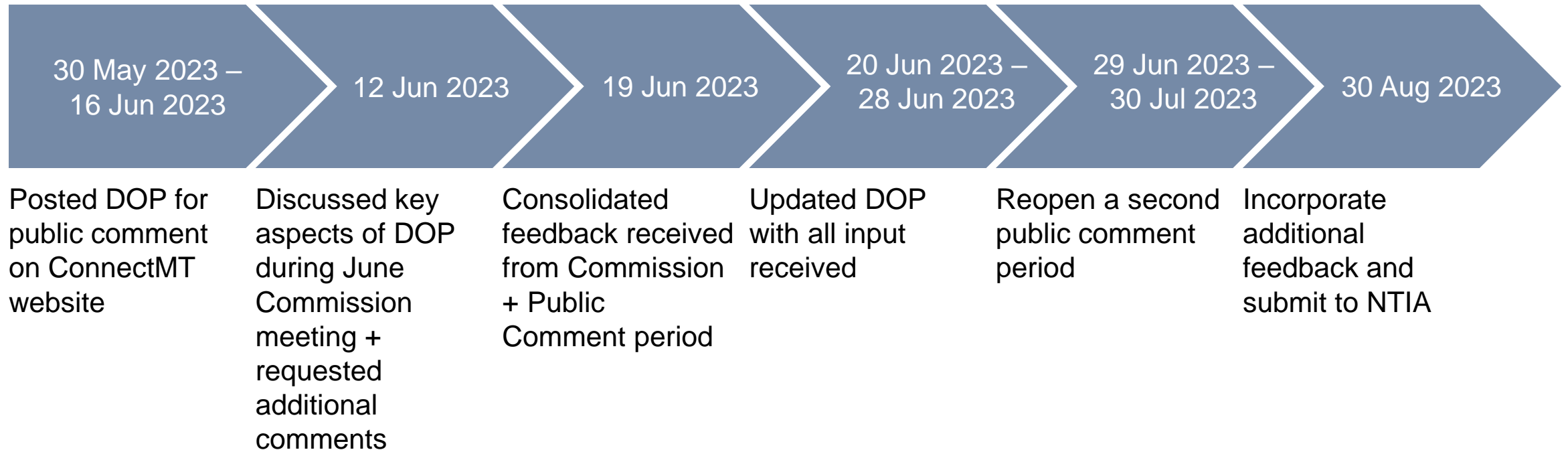
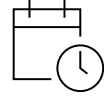
Theme	Examples	Relevant Updates
Overall	<ul style="list-style-type: none"> <li>Sharing of resources that may be helpful as MBO further develops its Digital Opportunity Plan</li> <li>Appreciation for the hard work and detailed analysis put into this draft by the MBO to date</li> </ul>	<ul style="list-style-type: none"> <li>MBO will explore the additional resources as it finalizes the plan</li> </ul>
Program Design	<ul style="list-style-type: none"> <li>Leverage CAIs in implementing the Digital Opportunity Plan</li> <li>Adapt digital skills curricula from other states / contexts</li> <li>Consider promoting device ownership via subsidies, partnering with ISPs, etc.</li> <li>Importance of cybersecurity in protecting citizen data</li> </ul>	<ul style="list-style-type: none"> <li>Program design suggestions have been incorporated throughout the DOP</li> <li>One of the core goals of the DOP is focused on online privacy and cybersecurity and MBO will ensure it remains a key focus</li> </ul>
Stakeholder Engagement	<ul style="list-style-type: none"> <li>Importance of ongoing stakeholder engagement</li> <li>Desire from specific stakeholder groups to engage in the planning process</li> <li>Consider creating advisory committee for Covered Populations</li> </ul>	<ul style="list-style-type: none"> <li>MBO is committed to furthering engagement with key stakeholder groups throughout planning &amp; implementation</li> <li>The draft DOP has also been reposted for additional public comments until 30 Jul</li> </ul>
Clarifications	<ul style="list-style-type: none"> <li>Clarity of language and key terms</li> <li>Delineation of funding between BEAD and DOP</li> <li>Definition of CAIs</li> </ul>	<ul style="list-style-type: none"> <li>Language has been revised for clarity</li> <li>BEAD will focus on infrastructure, while DOP will focus on other barriers to adoption</li> <li>CAIs will be defined as part of the Initial Proposal</li> </ul>



# Overview of progress to date

As of 12 July 2023

## Timeline for completion of DOP



### Next Steps

- Commission to review draft motion today for approval
- MBO to make any final edits after second public comment period and submit to NTIA by August 30th



# Agenda

IIJA: DOP Approval

## **IIJA: BEAD Initial Proposal Overview**

- Volume 1 Preliminary Approach
- Volume 2 Decision Points





# Montana's BEAD allocation

As of 12 July 2023

# \$628.97M

BEAD allocation

On June 26<sup>th</sup>, NTIA announced the BEAD allocations for all Eligible Entities.

Montana's final BEAD allocation is similar to the originally estimated allocation, which means the planning efforts to date are not significantly impacted or require significant adjustments.

Through development of the Initial Proposal, MBO will update deployment scenarios and potential impact based on the final allocation.



# Summary of the BEAD Initial Proposal

As of 12 July 2023

## Context

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Eligible Entities will have 180 days from receipt of the Notice of Available Amounts to develop and submit an Initial Proposal.

The Initial Proposal will, among other things, describe the competitive process the Eligible Entity proposes to use to select subgrantees to construct broadband projects.

Prior to submission to NTIA, the Initial Proposal must be made available for public comment, and the Initial Proposal must incorporate local coordination feedback for the Assistant Secretary's review.

## Key objectives

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Serve as the “first draft” of an Eligible Entity’s Final Proposal for grant funding

Explain how the Eligible Entity intends to ensure every resident has access to a reliable, affordable, high-speed broadband connection

Outline plan to utilize all funding available to be brought to bear to accomplish this goal, including but not limited to BEAD Program funds



# Agenda

IIJA: DOP Approval

IIJA: BEAD Initial Proposal Overview

- **Volume 1 Preliminary Approach**
- Volume 2 Decision Points



# The BEAD NOFO outlines 19 requirements for the IP

As of 12 July 2023

## Initial Proposal Volume 1 (Challenge Process)

- 1.1 Federal funding (3)**
  - 1.1.1 Federal and state funded location file
- 1.2 Eligible Broadband Serviceable Locations (BSLs) (5)**
  - 1.2.1 Unserved and underserved location file
  - 1.2.2 Vintage of National Broadband Map used
- 1.3 Community Anchor Institutions (CAIs) (6)**
  - 1.3.1 Definition, location and service availability
  - 1.3.2 CAI location file
- 1.4 Challenge Process (7)**
  - 1.4.1 Model process adoption
  - 1.4.2 Bulk modifications to eligible locations
  - 1.4.3 Deduplication of funding, BEAD Planning Toolkit
  - 1.4.4 Deduplication of funding, preventing overlap
  - 1.4.5 Programs that will be analyzed for deduplication
  - 1.4.6 Plan to conduct challenge process
  - 1.4.7 Sources & requirements if not adopting model process

Vol. 1 information relies on NTIA's April 2023 draft guidance. When further information is available, MBO can adjust its plans as needed.

1 Requirements 9 and 10 have not been included here as they are only applicable if using BEAD funding for non-deployment uses (#9) or for direct implementation (#10). See Appendix A for details

Source: BEAD NOFO

DOCUMENT INTENDED TO PROVIDE INSIGHT BASED ON CURRENTLY AVAILABLE INFORMATION FOR CONSIDERATION AND NOT PRESCRIBE SPECIFIC ACTION

Details follow

BEAD Requirement #

## Initial Proposal Volume 2 (Grant Program)

- 2.1 Objectives (1)**
- 2.2 Existing Efforts (2)**
- 2.3 Stakeholder Engagement (4)**
  - 2.3.1 Coordination efforts
  - 2.3.2 Impact on Initial Proposal
- 2.4 Subgrantee process (8)**
  - 2.4.1 Selection criteria
  - 2.4.2 Project area definition
  - 2.4.3 Extremely High Cost per Location Threshold
  - 2.4.4 Detailed plan to award subgrants
- Workforce & Labor Strategy**
  - 2.5 Plan to ensure use of strong labor standards (11)
  - 2.6 Plan to ensure available workforce (12)
  - 2.7 Plan to recruit minority businesses (13)
- 2.8 Regulatory (14)**
  - 2.8.1 Steps to use existing infrastructure
  - 2.8.2 Steps to reduce barriers to deployment
- 2.9 Climate Assessment (15)**
- 3.1 Low-cost plan (16)**
- 3.2 Priority projects (17)**
- Compliance**
  - 3.3 Waiver of local laws (18)
  - 3.4 Certification to comply with requirements (19)



# Overview of the MT-run BEAD challenge process

As of 12 July 2023

## What is it?

The BEAD NOFO requires Eligible Entities (e.g., MT), to run a challenge process to refine the national broadband map's service availability before conducting a subgrantee process.

Through the state challenge process, a unit of local government, nonprofit organization, or broadband service provider may challenge whether a particular location or community anchor institution is eligible for BEAD funds (i.e., unserved or underserved).



## Why is it important?

The challenge process will facilitate:

- Identifying more accurately which locations in MT are currently unserved or underserved
- Identifying which CAIs currently do not have access to Gigabit service
- Achieving the goals of the state of MT to increase connectivity and bridge the digital divide
- Achieving the goals of the BEAD program in reaching all unserved (and potentially underserved) locations, in addition to CAIs (if funding allows)

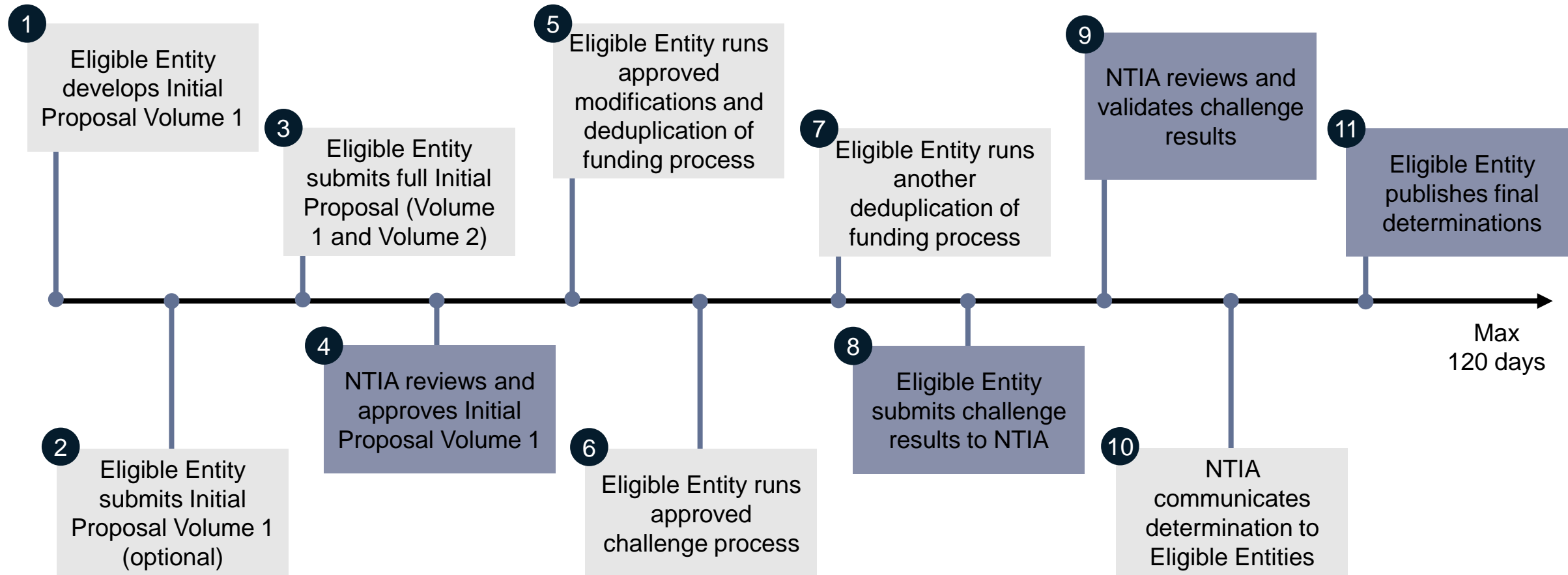
## Key design choices

1. How to define CAIs, locate CAIs, & determine CAI service availability
2. Whether to follow NTIA's model challenge process or design a new process
3. Length of each step in the challenge process
4. Whether to make bulk modifications to BSL service availability classifications
5. What will constitute acceptable evidence for a challenge



# The state-run BEAD challenge process is comprised of 10 distinct phases

As of 12 July 2023



## Additional considerations

Per BEAD requirements, states are not able to run the challenge process until IP V1 is approved & IP V2 is submitted. However, states could run the challenge process before IP V2 is reviewed/approved, though it is not required.

Source: [BEAD Challenge Process Policy Notice](#). NTIA. Internet For All.



# Key requirements for the MT-run BEAD challenge process

As of 12 July 2023

## Key requirements for Eligible Entities

Basis for challenges	<p><b>Use Broadband Serviceable Locations from most recent National Broadband Map</b> to identify un- and underserved locations (including on tribal lands)<sup>1</sup></p> <p><b>Any location already subject to an enforceable commitment to deploy qualifying broadband</b> is not eligible for BEAD funding<sup>2</sup></p> <p>May <b>modify location designations</b> (pending approval) to reflect data not present in National Broadband Map. However, <b>may not (a) add or remove locations or (b) change the definitions</b> of un- &amp; underserved</p>
Eligible challengers	<p>Only <b>nonprofit organizations, local and tribal governments, and broadband service providers</b> can submit challenges</p>
Evidentiary review	<p><b>Outline rigorous evidentiary review process</b> to make determinations on challenges (see Appendix)</p>
Transparency	<p><b>Publicly post challenge process</b> once approved by NTIA &amp; before implementing <b>Publicly post final location classifications (once approved by NTIA) ≥60 days before allocating grant funds</b> for network deployment</p>

## Implications

May want to ensure all BSLs are included in the National Broadband Map via the FCC process before implementing state-run challenge process

As written by NTIA, consumers may not participate in the state-run challenge process

May choose to follow acceptable evidence to avoid rejection

May want to accelerate challenge process implementation to ensure expeditious funding disbursement

1. The publication date of the National Broadband Map cannot predate the submission of the Initial Proposal by more than 59 days

2. As of the date the challenge process is concluded

Source: [BEAD Challenge Process Policy Notice](#). NTIA. Internet For All.



# Summary of key design choices for the MT-run challenge process

As of 12 July 2023

## NTIA

Element #	Description	Decisions Required
1.3	Provide list of CAIs eligible for BEAD funding, even if funding is insufficient to upgrade service to CAIs	<ul style="list-style-type: none"> <li><input type="checkbox"/> 1.3.1 Determine whether to include / exclude any CAI types from NTIA's standard definition</li> <li><input type="checkbox"/> 1.3.1 Develop approach to locate CAIs</li> <li><input type="checkbox"/> 1.3.1 Determine whether each CAI has access to 1 Gbps service</li> </ul>
1.4	Describe the challenge process the state will use to determine the final list of all locations (unserved, underserved, CAIs) eligible for BEAD funding	<ul style="list-style-type: none"> <li><input type="checkbox"/> 1.4.1 Determine whether to adopt NTIA's model challenge process. If yes, decide timing and whether to make allowable modifications.</li> <li><input type="checkbox"/> 1.4.2 (Modification) Determine whether to move locations from served to underserved in state baseline map if:               <ul style="list-style-type: none"> <li>• Served by DSL</li> <li>• Demonstrated to receive slower speed via rigorous speed tests (e.g., a municipality conducted high-quality speed tests)</li> </ul> </li> <li><input type="checkbox"/> 1.4.6 (Modification) Determine whether to add new methods to evaluate challenges to the state map that:               <ul style="list-style-type: none"> <li>• Move the burden of proof to the provider</li> <li>• Rely on speed test data</li> </ul> </li> <li><input type="checkbox"/> 1.4.7 If no, decide structure of alternative challenge process</li> </ul>





# Potential process for identifying Community Anchor Institutions

As of 12 July 2023

## BEAD definition<sup>1</sup>

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The term “community anchor institution” (CAI) means an entity such as a

- School
- Library
- Health clinic
- Health center
- Hospital or other medical provider
- Public safety entity
- Institution of higher education
- Public housing organization, or
- Community support organization that facilitates greater use of broadband service by vulnerable populations<sup>2</sup>

<sup>1</sup> The BEAD definition of CAI is also reflected in Montana Senate Bill 531

<sup>2</sup> Vulnerable populations include, but are not limited to, low-income individuals, unemployed individuals, children, the incarcerated, and aged individuals

<sup>3</sup> Identification does not guarantee funding for CAIs. Per BEAD guidelines, MT will first ensure coverage of all unserved locations, then underserved locations before upgrading service to CAIs

## Potential process to identify CAIs<sup>3</sup>

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- I. Leverage federal data sources to identify initial list of Community Anchor Institutions (CAIs)
- II. Cross-reference CAI locations with nearest Broadband Serviceable Locations in the National Broadband Map to estimate service availability
- III. Contact relevant state agencies (e.g., Health, Education, Libraries) to provide location data and associated service availability for any additional CAIs



# Agenda

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IIJA: BEAD Initial Proposal Overview

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As of 12 July 2023

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Source: BEAD NOFO

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# Affordability requirements & potential considerations

As of 12 July 2023

BEAD requirement	Description	Potential examples per NTIA
<p>Low-cost plan</p>	<p>Each subgrantee receiving BEAD funding to deploy network infrastructure must offer at least one low-cost broadband service option.</p> <p>Each Eligible Entity must consult with the Assistant Secretary and prospective subgrantees regarding a proposed definition of the term “low-cost broadband service option.”</p>	<ul style="list-style-type: none"> <li>• Cost \$30/month or less (\$75/month or less on tribal lands) inclusive of all taxes, fees, charges; and</li> <li>• Allow the end user to apply the ACP subsidy to the service price; and</li> <li>• Provide speeds of <math>\geq 100/20</math> Mbps; and</li> <li>• Provide latency measurements of <math>\leq 100</math> ms; and</li> <li>• Is not subject to data caps, surcharges, or usage-based throttling</li> </ul>
<p>Middle class affordability plan</p>	<p>Each Eligible Entity must include in its Initial and Final Proposals a middle-class affordability plan to ensure that all consumers have access to affordable high-speed internet.</p>	<ul style="list-style-type: none"> <li>• Require providers receiving BEAD funds to offer low-cost, high-speed plans to all middle-class households</li> <li>• Provide consumer subsidies to defray subscription costs for households not eligible for the ACP</li> <li>• Use regulatory authority to promote structural competition</li> <li>• Assign especially high weights to selection criteria relating to affordability and/or open access</li> </ul>



# High-level workforce components and requirements for the Initial Proposal

As of 12 July 2023

## Context

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The availability of a highly-skilled workforce is critical for **successful deployment of broadband infrastructure**.

Workforce initiatives can also help individuals in non-deployment roles **engage in digital opportunities enabled by new broadband service** by strengthening digital skills.

A component of the BEAD Initial Proposal Volume 2 requires a workforce and labor strategy for enhancing workplace experiences, offering good jobs,<sup>1</sup> and building a highly skilled and equitable telecommunications workforce. Specifically, the strategy must capture three things:

- Plan to ensure use of strong labor standards and protections
- Plan to ensure available and highly skilled workforce
- Plan to recruit minority businesses

1. The NTIA defines “good jobs” in alignment with the Department of Commerce and Labor’s Good Jobs Principles. These core values are present throughout the BEAD workforce strategy requirements and additional guidance (i.e., recruitment and hiring; diversity, equity, inclusion, and accessibility; job security and working conditions; organizational culture; pay; and skills and career advancement).

Source: BEAD NOFO; NTIA Workforce Planning Guide (October 2022)

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## Key components required by the BEAD NOFO:

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The BEAD NOFO requires Eligible Entities to outline and implement a workforce plan that includes the following components:

- **Federal labor and employment laws** – present a record of compliance with federal labor and employment laws from all subgrantees and prospective BEAD projects
- **Skilled workforce activities** – develop a highly skilled and qualified workforce to complete all funded projects in a timely manner
- **Equitable training and workforce development** – offer on-the-job and professional skills development tailored to local context
- **Contracting** – partner with minority-owned businesses and ensure subgrantees’ proposed contracting aligns with state-wide plan



# Overview of the BEAD subgrantee selection process

As of 12 July 2023

## What is it?

The BEAD program directs Eligible Entities to create and implement an open, fair, and competitive subgrantee selection process.

The process will identify subgrantees that will work in partnership with the state of Montana and will be responsible for completing eligible activities that promote the goals and objectives of the BEAD program.



## Why is it important?

The subgrantee selection process will facilitate:

- Meeting requirements of the BEAD NOFO and SB531
- Incentivizing the right behavior and engagement from subgrantees in achieving the BEAD program goals
- Achieving 100% coverage of unserved locations, at a minimum
- Efficient deployment of public funds

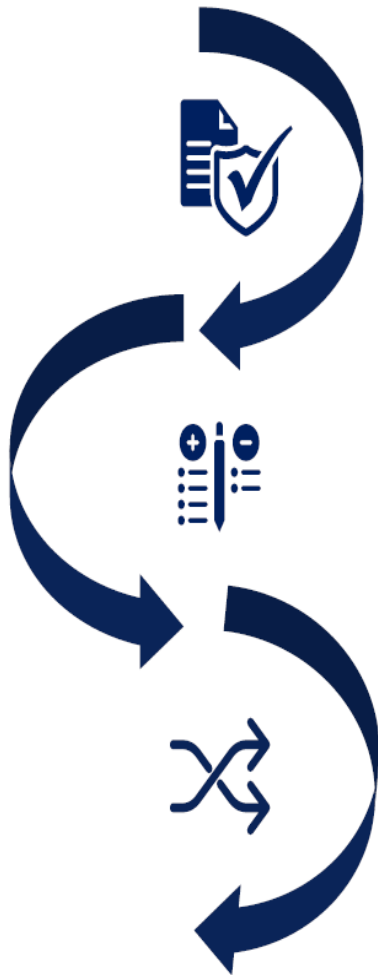
## Key design choices

1. Design of project areas
2. Sequencing
3. Scoring criteria



# Implementing a subgrantee selection process

As of 12 July 2023



## Evaluating Subgrantees for Selection

After NTIA approves the subgrantee selection process outlined in the Initial Proposal, Eligible Entities can begin evaluating and scoring potential recipients. Note, it is imperative that Eligible Entities do not deviate from their approved selection plan; doing so may risk the integrity of subgrantee selection.

## Addressing Unmet Needs from Selection Process Implementation

If, after soliciting proposals, the Eligible Entity has received no proposals to serve a location or group of locations that are unserved, underserved, or a combination of unserved and underserved, the Eligible Entity may engage with existing providers and/or other prospective subgrantees to find providers willing to expand their existing or proposed service areas.

## De-Conflicting Projects/Activities

To avoid duplicative efforts amongst subgrantees, Eligible Entities should establish measures to assess projected improvement activities and their proposed locations before awarding subgrantee funding. These measures can help determine the goal of each subgrantee's proposed activities and should be compared to the subgrantee's proposed project timeline by linking activities and their projected goals.



# Identification of project areas for the sub-grantee process

As of 12 July 2023

**Project areas:** Geographic delineations by which the Montana Broadband Office may solicit proposals from subgrantees during the BEAD subgrantee application process

## BEAD requirements

The Eligible Entity may solicit proposals from prospective subgrantees at the geographic level of its choosing (e.g., location, census block, town, county or another geographic unit).

An Eligible Entity may alternatively solicit proposals for project areas it defines or ask prospective subgrantees to define their own proposed project areas.

If the Eligible Entity allows prospective subgrantees to define proposed project areas, it must develop a mechanism for de-conflicting overlapping proposals (for example, by de-scoping some locations from a provider's proposed project area).<sup>1</sup>

The Eligible Entity must ensure it has a plan for serving all unserved and (where it has sufficient funding) underserved locations.

<sup>1</sup> The BEAD NOFO states "If the Eligible Entity is considering competing proposals that are materially identical, and one includes a higher proposed total cost but a larger match, whereas the other includes a lower proposed total cost and smaller match, the key consideration for comparative purposes is the amount of the subsidy required, not the proportion of the stated cost that the prospective subgrantee is willing to match."

Source: BEAD NOFO

## Potential options

MBO pre-defines project areas

Enables a simpler and more streamlined subgrantee process to meet BEAD deadlines  
 Enables apples to apples comparison of project applications  
 Encourages competition as project areas may not align with existing footprints

ISPs define project areas

Enables providers to submit applications based on knowledge of their existing footprint  
 Provides greater flexibility for providers and MBO in ensuring full coverage of the state  
 Enables providers to design project areas in which  $\leq 20\%$  of locations are served





# Sequencing and scoring considerations for the BEAD subgrantee process

The BEAD NOFO prescribes rules that may limit the amount of input states have on BEAD scoring criteria

## BEAD scoring requirements

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While full details on scoring requirements are yet to be released by NTIA, the following are the areas in which the BEAD NOFO has prescribed scoring—and the areas in which it has signaled flexibility:

### Mandatory Primary Scoring Criteria:

- Commitment to comply with fair labor standards
- Commitment not to inflate pricing for gigabit relative to price offered elsewhere
- Minimal BEAD funding, by incentivizing a match of >25% from subgrantees
- Weighting of primary criterion
  - Primary criteria must represent >3/4 of scoring weights
  - Each primary criterion must > any secondary criterion

### Mandatory Secondary Criterion:

- Timeline for build

### State-determined Secondary Criteria

- NTIA recommends such items as: local support; public ownership; Tribal support; open access; workforce efforts; commitment to offer affordable programs in addition to ACP

## Additional considerations

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MT could seek to maximize non-prescribed components of the grant scoring structure.

By tailoring the scoring criteria where allowable, MT could align with Montana's policy goals while remaining compliant with NTIA's rules.



# Potential framework for grant scoring based on BEAD and SB531 requirements

As of 12 July 2023

Scoring Criteria	Description of requirement	● None ● Limited	Flexibility
<b>Primary criteria</b>	Minimal BEAD Program Outlay: lowest cost per location requested BEAD funding		●
	Service Affordability: requirement for lowest available price for premium service & commitment not to charge higher prices for 1 Gbps symmetrical than in other areas		●
	Fair Labor Practices: Demonstrate or promise compliance with federal labor laws		●
<b>Secondary criteria</b>	Speed to deployment: must be complete in 4 years, with added points for projects that can deliver earlier		●
	NTIA suggested criteria: <ul style="list-style-type: none"> <li>- Open access</li> <li>- Local and Tribal support</li> <li>- Equitable workforce development</li> <li>- Job quality</li> </ul> <hr/> Potential other criteria: <ul style="list-style-type: none"> <li>- Formal partnerships or agreements with localities</li> <li>- Service to covered populations and other preferred geographies</li> <li>- Number of included underserved and anchors in unserved proposals</li> <li>- Workforce development</li> <li>- Local hiring; other aspects of affordability – e.g., guarantee a discount service tier for eligible households if ACP expires</li> </ul>		●



# Appendix A: Initial proposal requirements

As of 12 July 2023



# Initial proposal requirements (1/2)

Part of Volume 1: Challenge Process

## Requirement

- 1 **Objectives:** Outline long-term objectives for deploying broadband, closing the digital divide, addressing access, affordability, equity, and adoption issues, and enhancing economic growth and job creation
- 2 **Existing Efforts:** Identify, and outline steps to support, local, Tribal, and regional broadband planning processes or ongoing efforts to deploy broadband or close the digital divide and describe coordination with local and Tribal Governments, along with local, Tribal, and regional broadband planning processes
- 3 **Federal Funding:** Identify existing efforts funded by the federal government or an Eligible Entity within the jurisdiction of the Eligible Entity to deploy broadband and close the digital divide, including in Tribal Lands
- 4 **Stakeholder Engagement:** Certify that the Eligible Entity has conducted coordination, including with Tribal Governments, local community organizations, unions and worker organizations, and other groups, consistent with the requirements set forth in Section IV.C.1.c of this NOFO, describe the coordination conducted, summarize the impact such coordination had on the content of the Initial Proposal, detail ongoing coordination efforts, and set forth the plan for how the Eligible Entity will fulfill the coordination requirements associated with its Final Proposal.
- 5 **Eligible BSLs:** Identify each unserved location and underserved location under the jurisdiction of the Eligible Entity, including unserved and underserved locations in applicable Tribal Lands, using the most recently published Broadband DATA Maps as of the date of submission of the Initial Proposal, and identify the date of publication of the Broadband DATA Maps used for such identification.
- 6 **CAIs:** Describe how the Eligible Entity applied the statutory definition of the term “community anchor institution,” identified all eligible CAIs in its jurisdiction, identified all eligible CAIs in applicable Tribal Lands, and assessed the needs of eligible CAIs, including what types of CAIs it intends to serve; which institutions, if any, it considered but declined to classify as CAIs; and, if the Eligible Entity proposes service to one or more CAIs in a category not explicitly cited as a type of CAI in Section 60102(a)(2)(E) of the Infrastructure Act, the basis on which the Eligible Entity determined that such category of CAI facilitates greater use of broadband service by vulnerable populations.
- 7 **Challenge Process:** Include a detailed plan to conduct a challenge process as described in Section IV.B.6.
- 8 **Subgrantee Process:** Include a detailed plan to competitively award subgrants consistent with Section IV.B.7.a of this NOFO with regard to both last-mile broadband deployment projects and other eligible activities. With respect to last-mile broadband deployment projects, the plan must explain how the Eligible Entity will ensure timely deployment of broadband and minimize the BEAD subsidy required to serve consumers consistent with Section IV.B.7 and the other priorities set out in this NOFO. The Initial Proposal must include identification of, or a detailed process for identifying, an Extremely High Cost Per Location Threshold to be utilized during the subgrantee selection process described in Section IV.B.7 of this NOFO.
- 9 **Non-deployment:** With respect to non-deployment eligible activities, explain any preferences the Eligible Entity will employ in selecting the type of initiatives it intends to support using BEAD Program funds, the means by which subgrantees for these eligible activities will be selected, how the Eligible Entity expects the initiatives it pursues to address the needs of the Eligible Entity’s residents, the ways in which engagement with localities and stakeholders will inform the selection of eligible activities, and any efforts the Eligible Entity will undertake to determine whether other uses of the funds might be more effective in achieving the BEAD Program’s equity, access, and deployment goals.



# Initial proposal requirements (2/2)

## Requirement

- 
- 10 Direct Implementation:** Describe any initiatives the Eligible Entity proposes to implement as the recipient without making a subgrant, and why it proposes that approach.
- 
- 11 Labor Standards:** Detail how the Eligible Entity will ensure that subgrantees, contractors, and subcontractors use strong labor standards and protections, such as those listed in Section IV.C.1.e, and how the Eligible Entity will implement and apply the labor-related subgrantee selection criteria described below in Section IV.C.1.e of this NOFO.
- 
- 12 Workforce:** Detail how the Eligible Entity will ensure an available, diverse, and highly skilled workforce consistent with Section IV.C.1.e of this NOFO.
- 
- 13 Minority Businesses:** Describe the process, strategy, and data tracking method(s) that the Eligible Entity will implement to ensure that minority businesses, women-owned business enterprises, and labor surplus area firms are recruited, used, and retained when possible.
- 
- 14 Regulatory:** Identify steps that the Eligible Entity will take to reduce costs and barriers to deployment, promote the use of existing infrastructure, promote and adopt dig-once policies, streamlined permitting processes and cost-effective access to poles, conduits, easements, and rights of way, including the imposition of reasonable access requirements
- 
- 15 Climate Assessment:** Provide an assessment of climate threats within the Eligible Entity and proposed mitigation methods consistent with the requirements of Section IV.C.1.h of this NOFO.
- 
- 16 Low-cost Plan:** Describe the low-cost plan(s) that must be offered by subgrantees consistent with the requirements of Section IV.C.2.c.i of this NOFO.
- 
- 17 Priority Projects:** Describe the intended use of the 20 percent of total funding allocation that is made available upon approval of the Initial Proposal consistent with Section IV.B.8 of this NOFO.
- 
- 18 Local Laws:** Disclose (1) whether the Eligible Entity will waive all laws of the Eligible Entity concerning broadband, utility services, or similar subjects, whether they predate or postdate enactment of the Infrastructure Act, that either (a) preclude certain public sector providers from participation in the subgrant competition or (b) impose specific requirements on public sector entities, such as limitations on the sources of financing, the required imputation of costs not actually incurred by the public sector entity, or restrictions on the service a public sector entity can offer; and (2) if it will not waive all such laws for BEAD Program project selection purposes, identify those that it will not waive and describe how they will be applied in connection with the competition for subgrants.
- 
- 19 Certification:** Certify the intent of the Eligible Entity to comply with all applicable requirements of the Program, including the reporting requirements, and describe subgrantee accountability procedures.



# Appendix B: Challenge process evidence

As of 12 July 2023



# Examples of Acceptable Evidence for BEAD Challenges and Rebuttals (1/3)

As of 12 July 2023

Note: Below are examples of acceptable evidence for BEAD challenges and rebuttals per the NTIA Policy Note. Eligible Entities may accept a wide range of data sources (subject to NTIA approval), as long as any data source is documented and verifiable by a Third Party

Code	Challenge Type	Description	Specific Examples	Permissible rebuttals
A	Availability	The broadband service identified is not offered at the location, including a unit of a multiple dwelling unit (MDU).	<ul style="list-style-type: none"> <li>• Screenshot of provider webpage.</li> <li>• A service request was refused within the last 180 days (e.g., an email or letter from provider).</li> <li>• Lack of suitable infrastructure (e.g., no fiber on pole).</li> <li>• A letter or email dated within the last 365 days that a provider failed to schedule a service installation or offer an installation date within 10 business days of a request.<sup>1</sup></li> <li>• A letter or email dated within the last 365 days indicating that a provider requested more than the standard installation fee to connect this location or that a Provider quoted an amount in excess of the provider's standard installation charge in order to connect service at the location</li> </ul>	<ul style="list-style-type: none"> <li>• Provider shows that the location subscribes or has subscribed within 12 months, e.g., with a copy of a customer bill.</li> <li>• The provider submits evidence that service is now available as a standard installation, e.g., via a copy of an offer sent to the location.</li> </ul>
S	Speed	The actual speed of the fastest available service tier falls below the unserved or underserved thresholds.	<ul style="list-style-type: none"> <li>• Speed test by subscriber, showing the insufficient speed and meeting the requirements for speed tests</li> </ul>	<ul style="list-style-type: none"> <li>• Provider has countervailing speed test evidence showing sufficient speed, e.g., from their own network management system.<sup>2</sup></li> </ul>
L	Latency	The round-trip latency of the broadband service exceeds 100 ms.	<ul style="list-style-type: none"> <li>• Speed test by subscriber, showing the excessive latency</li> </ul>	<ul style="list-style-type: none"> <li>• Provider has countervailing speed test evidence showing latency at or below 100 ms, e.g., from their own network management system.<sup>3</sup></li> </ul>

1. A standard broadband installation is defined in the Broadband DATA Act (47 U.S.C. § 641(14)) as "[t]he initiation by a provider of fixed broadband internet access service [within 10 business days of a request] in an area in which the provider has not previously offered that service, with no charges or delays attributable to the extension of the network of the provider."

2. As described in the NOFO, provider's countervailing speed test should show that 80 percent of a provider's download and upload measurements are at or above 80 percent of the required speed. See Performance Measures Order, 34 FCC Rcd at 6528, para. 51. See BEAD NOFO at 65, n. 80, Section IV.C.2.a.,

3. Ibid.



# Examples of Acceptable Evidence for BEAD Challenges and Rebuttals (2/3)

As of 12 July 2023

Note: Below are examples of acceptable evidence for BEAD challenges and rebuttals per the NTIA Policy Note. Eligible Entities may accept a wide range of data sources (subject to NTIA approval), as long as any data source is documented and verifiable by a Third Party

Code	Challenge Type	Description	Specific Examples	Permissible rebuttals
D	Data cap	The only service plans marketed to consumers impose an unreasonable capacity allowance (“data cap”) on the consumer. <sup>1</sup>	<ul style="list-style-type: none"> <li>• Screenshot of provider webpage.</li> <li>• Service description provided to consumer.</li> </ul>	Provider has terms of service showing that it does not impose a data cap.
T	Technology	The technology indicated for this location is incorrect.	<ul style="list-style-type: none"> <li>• Manufacturer and model number of residential gateway that demonstrates the service is delivered via a specific technology.</li> </ul>	Provider has countervailing evidence from their network management system showing an appropriate residential gateway that matches the provided service.
B	Business service only	The location is residential, but the service offered is marketed or available only to businesses.	<ul style="list-style-type: none"> <li>• Screenshot of provider webpage.</li> </ul>	Provider documentation that the service listed in the BDC is available at the location and is marketed to consumers.
E	Enforceable Commitment	The challenger has knowledge that broadband will be deployed at this location by the date established in the deployment obligation.	<ul style="list-style-type: none"> <li>• Enforceable commitment by service provider (e.g., authorization letter). In the case of Tribal Lands, the challenger must submit the requisite legally binding agreement between the relevant Tribal Government and the service provider for the location(s) at issue (see Section 6.2 above).</li> </ul>	Documentation that the provider has defaulted on the commitment or is otherwise unable to meet the commitment (e.g., is no longer a going concern).

1. For example, this excludes business-oriented plans not commonly sold to residential locations. An unreasonable capacity allowance is defined as a data cap that falls below the capacity allowance of 600 GB listed in the FCC 2023 Urban Rate Survey (FCC Public Notice DA 22-1338, December 16, 2022).





# Examples of Acceptable Evidence for BEAD Challenges and Rebuttals (3/3)

As of 12 July 2023

Note: Below are examples of acceptable evidence for BEAD challenges and rebuttals per the NTIA Policy Note. Eligible Entities may accept a wide range of data sources (subject to NTIA approval), as long as any data source is documented and verifiable by a Third Party

Code	Challenge Type	Description	Specific Examples	Permissible rebuttals
P	Planned service	The challenger has knowledge that broadband will be deployed at this location by June 30, 2024, without an enforceable commitment or a provider is building out broadband offering performance beyond the requirements of an enforceable commitment.	<ul style="list-style-type: none"> <li>Construction contracts or similar evidence of on-going deployment, along with evidence that all necessary permits have been applied for or obtained.</li> <li>Contracts or a similar binding agreement between the Eligible Entity and the provider committing that planned service will meet the BEAD definition and requirements of reliable and qualifying broadband even if not required by its funding source (i.e., a separate federal grant program), including the expected date deployment will be completed, which must be on or before June 30, 2024.</li> </ul>	Documentation showing that the provider is no longer able to meet the commitment (e.g., is no longer a going concern) or that the planned deployment does not meet the required technology or performance requirements.
N	Not part of enforceable commitment.	This location is in an area that is subject to an enforceable commitment to less than 100% of locations and the location is not covered by that commitment. (See BEAD NOFO at 36, n. 52.)	<ul style="list-style-type: none"> <li>Declaration by service provider subject to the enforceable commitment.</li> </ul>	N/A
C	Location is a CAI	The location should be classified as a CAI.	<ul style="list-style-type: none"> <li>Evidence that the location falls within the definitions of CAIs set by the Eligible Entity.<sup>1</sup></li> </ul>	Evidence that the location does not fall within the definitions of CAIs set by the Eligible Entity or is no longer in operation.
R	Location is not a CAI	The location is currently labeled as a CAI but is a residence, a non-CAI business, or is no longer in operation.	<ul style="list-style-type: none"> <li>Evidence that the location does not fall within the definitions of CAIs set by the Eligible Entity or is no longer in operation.</li> </ul>	Evidence that the location falls within the definitions of CAIs set by the Eligible Entity or is still operational.

1. For example, eligibility for FCC e-Rate or Rural Health Care program funding or registration with an appropriate regulatory agency may constitute such evidence, but the Eligible Entity may rely on other reliable evidence that is verifiable by a third party.



# Appendix C: Subgrantee process requirements

As of 12 July 2023



# BEAD subgrantee process requirements (1 of 3)

As of 12 July 2023

■ Key differences from ARPA

● None ● Very limited ● Limited

Element of process	Description of requirement	Flexibility
Allocation requirements and process design	Prioritize based on Unserved, Underserved, and CAIs in accordance with eligible uses of BEAD funding while ensuring that 100% of unserved locations will be reached	●
	Deploy to CAIs rather than choosing non-deployment uses of funds	●
	Prioritize projects in high poverty areas if funding is limited	●
	Design safeguards that ensure a fair process	●
	Prioritize high-poverty areas in case of a funding shortfall	●
	Ensure no classes of applicants (e.g., local governments, public-private partnerships) are excluded	●
	Make funding available for projects that meet the definitions of “unserved service projects” and “underserved service projects” under federal law, and prioritize Unserved Service Projects to ensure coverage of all unserved locations	●
	Either prescribe project areas or incorporate deconflicting step	●
	Include middle-mile if preferred	●
	Deploy to multi-family buildings, prioritizing unserved and low-income households where applicable	●
	Choose any competitive process	●
	Invite broad participation in the development of the subgrantee process from women- and minority-owned firms	●
	Conduct outreach to potential applicants regarding locations for which no applications were received, only after the application deadline has passed	●



# BEAD subgrantee process requirements (2 of 3)

As of 12 July 2023

■ Key differences from ARPA

● None ● Very limited ● Limited

Element of process	Description of requirement	Flexibility
<b>Application requirements</b>	Require information about any other public funding requested	●
	Require ownership information	●
	Require managerial and financial competence as well as technical and operational capacity in subgrantees	●
	Require financial qualifications such as audited financial statements	●
	Require managerial competence including exhibits such as resumes and org charts	●
	Require technical capability such as project timeline and network design	●
	Require certification of operational capability such as operating or financial reports	●
<b>Scoring requirements</b>	Ensure that where only one project has been proposed and meets requirements, that is the default winner	●
	Ensure that fiber projects exceeding the Extremely High Cost Per Location Threshold may but do not have to be preferred where projects using other technologies have been proposed	●
	Ensure that where two or more projects have been proposed, once priority has been given to fiber projects, the state gives >75% of total benefits (e.g., weight, points) to: <ul style="list-style-type: none"> <li>- minimal BEAD funding, by incentivizing a match of &gt;25% from subgrantees</li> <li>- broadband affordability</li> <li>- fair labor practices</li> </ul>	●
	Consider speed to deployment as a secondary criterion for fiber projects and additionally consider network speed for non-fiber projects	●
	Consider other secondary criteria for fiber and non-fiber projects, e.g., equitable workforce, open access, tribal coordination considerations, including additional secondary criteria developed by the state	●
	Consider workforce development goals	●



# BEAD subgrantee process requirements (3 of 3)

As of 12 July 2023

Key differences from ARPA

● None ● Very limited ● Limited

Element of process	Description of requirement	Flexibility
Compliance requirements	Require Buy America compliance	●
	Require network capabilities, speed and latency to meet set standards	●
	Require interspersed conduit access points for interconnection by other entities	●
	Require consumer protections e.g., no caps on data usage, reasonable and non-discriminatory terms	●
	Require Middle-Mile subgrantees to allow just, reasonable and nondiscriminatory interconnection for other providers	●
	Require the subgrantee, if no longer able to provide service, to sell to another provider that will meet BEAD commitments	●
	Require compliance with non-discrimination laws	●
	Require public awareness campaigns meeting specific requirements	●
	Require a cyber risk management plan	●
	Require a supply chain risk management plan	●
	Require compliance with provisions such as non-discrimination in construction contracts, including non-discrimination on religious grounds	●
	Require compliance with labor laws	●
	Ensure small, women- and minority-owned businesses are used where possible	●
	Require biannual submission of reports to be provided to NTIA on request	●
	Require subgrantee agreements to make deployment feasible	●
	Require network outage levels to meet set standards	●