



Texas Broadband

Initial Proposal Volume II

December 2023

Broadband Equity, Access, and Deployment Program



Glenn Hegar

Texas Comptroller of
Public Accounts

Table of Contents

Volume II Initial Proposal Requirements	3
2.1 Objectives (Requirement 1)	3
2.2 Local, Tribal and Regional Broadband Planning Processes (Requirement 2)	7
2.3 Local Coordination (Requirement 4)	9
2.4 Deployment Subgrantee Selection (Requirement 8)	22
2.5 Non-Deployment Subgrantee Selection (Requirement 9)	77
2.6 Eligible Entity Implementation Activities (Requirement 10)	78
2.7 Labor Standards and Protection (Requirement 11)	80
2.8 Workforce Readiness (Requirement 12)	83
2.9 Minority Business Enterprises (MBEs)/Women’s Business Enterprises (WBEs)/Labor	94
2.10 Cost and Barrier Reduction (Requirement 14)	97
2.11 Climate Assessment (Requirement 15)	102
2.13 Middle-Class Affordability Plans (Requirement 20)	115
2.14 Use of 20 Percent of Funding (Requirement 17)	117
2.15 Eligible Entity Regulatory Approach (Requirement 18)	118
2.16 Certification of Compliance with BEAD Requirements (Requirement 19)	125
2.17 Volume II Public Comment	134
Appendix A: Regional Public Meeting Agenda	138
Appendix B: Dear Tribal Leader Letters	139
Appendix C: Tribal Consultation Agenda	145

2.1 Objectives (Requirement 1)

2.1.1 Text Box: 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 Broadband Development Office (BDO) has adopted a vision statement that is intended to provide a clear, specific picture of the Texas vision for broadband deployment. It succinctly describes what success looks like, informs strategies and serves as a guide for setting goals and objectives and the prioritization thereof. Thus, the vision statement for the Texas Broadband Equity, Access, and Deployment (BEAD) Program is to:

Improve quality of life and promote economic growth by enabling fast, reliable and affordable broadband connectivity for all residents and businesses of Texas.

The increasingly digital world is bringing about significant improvements to quality of life and economic growth, but individuals and businesses affected by the digital divide are being left behind. The BEAD Program is positioned to close that divide by channeling public investment for efficient and effective expansion of broadband service.

Broadband service must be fast, with speeds sufficient to handle multi-device households, businesses and community anchor institutions (CAIs) like schools, libraries and health care centers. Broadband service must be able to support two-way live video streaming. Broadband service must be reliable given the ever-increasing dependence on constant connection for work, education, health, emergency services and economic development. Finally, broadband service must be affordable, so all Texans, regardless of their economic standing, have the opportunity to participate and benefit from the digital world.

Goal 1: Deployment and Access: *Achieve universal broadband access and quality of service, providing all Texans the opportunity to participate in the digital economy.*

Objective 1: Universal Access: *Prioritize broadband service deployment to unserved locations followed by underserved locations while providing for an efficient distribution of funds.*

Deployment to unserved locations must be prioritized to ensure those without any connectivity will be brought online first. Remaining funds will then be prioritized to deploy broadband to underserved locations to close any significant gaps in service quality. The design should also encourage inclusion of CAIs with the network buildout. The BDO will take steps to understand areas of need, establish standards and define the thresholds by which alternative technologies may be considered. For example, an Extremely High Cost Per Location Threshold (EHCPLT or Threshold) helps to mitigate excessive deployment costs in areas where the preferred technology – fiber – is economically impractical.

Key Activities for Universal Access:

1. Identify areas of need through collaboration and input from state and local governments, communities and industry.
2. Establish standards for service quality in terms of speed, latency, reliability and resilience while prioritizing fiber projects where possible to promote a future-ready broadband network.
3. Develop an EHCPLT, at the state level or regionally, such that universal broadband access may be achieved through efficient use of subsidy and technology selection.

Objective 2: Funding Optimization: *Establish the BEAD Program as a competitive and efficient grant program.*

To ensure awarded subgrants are optimized for an effective and efficient use of grant funds, this objective considers program factors such as robust participation, workforce readiness and barriers to deployment and utilization of existing assets.

Key Activities for Funding Optimization:

1. Promote viable business models and robust participation from a variety of applicants.
2. Promote workforce development programs and partnerships to create and enhance broadband-related job opportunities for Texans through collaboration with industry, state and local agencies and community-based organizations (CBO).
3. Assess and incorporate existing assets to optimize funding sources and mitigate unnecessary overbuild.
4. Identify and mitigate barriers to deployment.

Goal 2: Affordability and Adoption: *Augment deployment projects by increasing broadband subscribership through affordability and adoption strategies, especially within covered populations and historically marginalized communities, that help enhance*

business model viability.

Objective 3: Cost Affordability: *Increase access to affordable broadband service offerings.*

Expansion of broadband service is not enough to close the digital divide. For many, the cost of broadband is either too high or the benefits of broadband do not justify the monthly price tag. This is especially true in high-cost areas where the capital investment required, and the resulting operating income would not allow for a viable business model to recoup private investment.

The BEAD Program requires all projects to provide a low-cost option to eligible subscribers. Projects funded by the BEAD Program must develop and include a low-cost option among service plans available within the project boundaries, and a prioritization outline should favor proposed projects that most effectively incorporate affordability into service plan options.

Offering means-tested, low-cost internet service plans is currently a minimal practice in the industry, and broad industry participation in the BEAD Program is likely to make it more widespread, at least temporarily. The BEAD Program will only directly impact a small fraction of Texas locations and it is not expected to have a large, lasting impact on the broadband industry's pricing practices.

Key Activities for Cost Affordability:

1. Define a low-cost option to encourage development of sustainable broadband service offerings suitable for low-income consumers, especially those within covered populations and historically marginalized communities.
2. Prioritize proposals that improve affordability.

Objective 4: Subscribership: *Increase the number of broadband subscriptions among households, businesses, CAIs and public service entities.*

The BEAD Program can be expected to promote adoption programs through the impact of the low-cost option, as well as through the provision of more adequate internet service in the areas where BEAD-subsidized infrastructure is built. It is also hoped that the State Digital Equity Capacity Grant Program will dovetail with the BEAD Program in helping people sign up for internet service and acquire digital skills.

Key Activities for Subscribership:

1. Identify CAIs that can support digital literacy and skills programs and assess their needs, barriers and opportunities.
2. Empower communities to improve digital literacy of residents and

encourage participation in the digital economy.

3. Facilitate inventory and coordination of existing digital opportunity data, programs and assets to optimize new public investment among existing capacity or development of new capabilities that can be leveraged across the state.
4. Activate CBOs as advocates for the importance of “internet for all” and as ongoing conduits for local coordination of broadband initiatives.

Goal 3: Program Success: *Design, build and run an efficient, compliant and competitive grant program.*

Objective 5: Stakeholder Engagement: *Inform program planning, design and implementation through stakeholder input and local coordination.*

Stakeholder engagement is crucial to program planning, design and implementation. It provides an understanding of how different groups are affected by the digital divide and informs strategies for closing that divide. Moreover, early engagement should be designed so that it allows the maintenance of ongoing channels for local coordination during project implementation and beyond.

Key Activities for Stakeholder Engagement:

1. Provide robust public engagement and data collection as part of the planning process.
2. Continue engagement and local coordination to ensure smooth project development and implementation.
3. Keep public officials and the public updated and informed on program status.

Objective 6: Program Effectiveness: *Design grant processes to ensure federal compliance as well as robust participation from a variety of applicants.*

Lastly, the program will not be successful if it is not administratively ready to run effectively and efficiently. Awarded projects and the program itself must comply with federal requirements to avoid downstream federal compliance issues. Additionally, end-to-end processes for application, challenge, evaluation, selection, award and monitoring should be as simple, transparent and expeditious as possible.

Key Activities for Program Effectiveness:

1. Ensure awarded projects are aligned with the requirements and objectives of funding sources.
2. Create a streamlined application and evaluation process to encourage participation and optimize speed to deployment.
3. Establish transparent and efficient challenge and subgrantee selection processes.
4. Develop a BEAD Program Initial Proposal to clarify to industry

members how they will participate and succeed, as well as communicate to NTIA and the public how Texas will achieve universal access.

5. Develop a BEAD Program Final Proposal to identify subgrantee selection outcomes, project areas and timelines and plans for implementation, monitoring and revision.

The BDO foresees that the expansion of broadband coverage to reach all the unserved locations in Texas will also be highly impactful in closing the digital divide and will enhance economic growth and job creation in the areas where internet service gets improved and throughout Texas.

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

2.2.1 Text Box: 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.

The BDO developed the stakeholder engagement process, termed the Public Engagement Plan (PEP), including processes and strategies to provide opportunities for residents, rural and urban communities, industry and other stakeholders to contribute to Texas' broadband planning efforts. The PEP was used as a roadmap and drove strategy to ensure a collaborative, integrated community engagement process that provided a robust understanding of broadband challenges and opportunities across the state.

The BDO provided multiple opportunities through various communications channels for the public to participate in planning activities and provide feedback. All stakeholder engagement opportunities focused on ensuring representation and participation from covered populations. Those populations, consistent with the 2021 federal Digital Equity Act and the NTIA's State Digital Equity Planning Grant (SDEPG) Notice of Funding Opportunity (NOFO), include the following groups:

- Individuals who live in covered households (household in which the income for the most recently completed year is not more than 150 percent of an amount equal to the poverty level).
- Aging individuals (60 and older).
- Incarcerated individuals, other than individuals who are incarcerated in a federal correctional facility.

- Veterans.
- Individuals with disabilities.
- Individuals with a language barrier, including individuals who are English learners and have low levels of literacy.
- Individuals who are members of a racial or ethnic minority group.
- Individuals who primarily reside in a rural area.

These engagement opportunities included direct collaboration and coordination with local and regional government entities. Through these engagements, the BDO collected data about local and regional efforts to expand broadband access, adoption and use. Given the size and diversity of the state, municipalities are taking varied approaches to closing the digital divide. Local and regional plans, where created, have been integrated into the analysis and planning for the BEAD Program. Local and regional governments served in all groups within the PEP, with regional planning commissions and councils of governments (Texas' regional planning and coordination entities) serving in leadership roles.

In Texas, there are three federally recognized Tribes: the Alabama-Coushatta Tribe of Texas in Livingston, the Kickapoo Traditional Tribe of Texas in Eagle Pass and the Ysleta del Sur Pueblo in El Paso. Given the importance of engaging Tribal Governments, the BDO invited Tribal leaders from all three Tribes to participate in and contribute to the Statewide Working Group (SWG). The Kickapoo Traditional Tribe of Texas and the Alabama-Coushatta Tribe of Texas were represented in this working group.

Further engagement was initiated with the Tribes through "Dear Tribal Leader" letters, which requested a formal Tribal consultation. The Kickapoo Traditional Tribe of Texas and the Alabama-Coushatta Tribe of Texas accepted the consultation, which has established a formal working relationship and dialog between governments. Tribal consultations created a space to share broadband plans, priorities and timelines; gain insight into digital inclusion, adoption and use; and understand how best to engage and assist the Tribal Governments. From the Tribal Broadband Connectivity Program, the Kickapoo Traditional Tribe of Texas received fiber installations directly connecting 354 unserved Native American Households, and the Alabama-Coushatta Tribe of Texas received \$500,000 in funding to replace end-of-life and/or damaged fiber strands within an existing broadband network fiber ring*1.

The tribal consultations began with opening remarks and introductions, led by Comptroller Glenn Hegar. The Comptroller shared the purpose of the engagement, emphasizing collaboration and building feedback loops to ensure the shared goal of all tribal homes having connectivity. The BDO shared an overview of their current activities, including BEAD and TDOP planning and stakeholder engagement and discussed broadband mapping, infrastructure deployment, broadband affordability and adoption, and digital skills and workforce development. The tribes shared concerns about the accuracy of the broadband maps and discussed the lack of reliable service and the importance of

digital skill building and accessing online applications for healthcare and education.

The consultation ended with next steps, including a commitment to stay connected. Following the consultation, the Alabama-Coushatta Tribe of Texas joined the Statewide Working Group, alongside the Kickapoo Traditional Tribe of Texas.

The Ysleta del Sur Pueblo in El Paso denied the request to establish a formal relationship for broadband planning, but the BDO has communicated directly with the Tribe that if Tribal members reconsider, the BDO is open and eager to begin that partnership. The BDO respects the Tribe's unilateral approach to broadband planning and looks forward to any potential future relationship with the Ysleta del Sur Pueblo in El Paso.

The full public engagement model and strategy opened channels to collect stakeholder input to inform the development of Texas' Five-Year Action Plan and this Initial Proposal. The planning approach was described in Section 5 of the Five-Year Action Plan and conducted through ongoing coordination among local, regional and task force focus areas. Tribal communities are further described in Section 2.3.1 of this document.

2.3 Local Coordination (Requirement 4)

2.3.1 Text Box: Describe the coordination conducted, summarize the impact such coordination 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 BDO began executing a robust public engagement campaign specific to the BEAD Program in alignment with local coordination requirements in April 2023. The public engagement model was developed to be an inclusive network, varied by geography, outcome areas, covered populations and other cross sections of broadband interests. This has allowed the BDO to reach individuals and communities across the state, especially those who may be most impacted by the digital divide. The network has opened channels to collect stakeholder input to inform the development of the Five-Year Action Plan and this Initial Proposal, as well as coordinated and conducted in alignment with the needs of the SDEPG program also administered by NTIA (which will be called the Texas Digital Opportunity Plan or TDOP). This includes consultation and collaboration with the federally recognized Tribes of Texas.

This section describes the public engagement model and local coordination requirements, stakeholder groups, data collection and feedback activities, as well the impact of the coordination and how it will be sustained throughout implementation.

Public Engagement

The BDO's comprehensive public engagement model sought stakeholder engagement and input

throughout the planning process, using a variety of stakeholders and methods. The public engagement model, which allowed for extensive local coordination, is illustrated below and described in further detail in the sections that follow. The BDO utilized input and feedback from across the qualitative and quantitative data collection activities and stakeholder meetings to inform the Initial Proposal.



Comprehensive local coordination efforts, aligned across the BEAD Program and SDEPG/TDOP program planning activities, allowed for deep understanding of local, regional and statewide broadband needs, assets and priorities. This effort allowed for coordination between communities, local governments, nonprofit organizations, education institutions, health care, public safety, other entities and the BDO to ensure alignment with the BEAD Program and SDEPG/TDOP program planning efforts and other planning and implementation programs throughout the state working to increase broadband access. Image 2.3A in Appendix D provides a visual of the Public Engagement Model.

The BDO addressed each of the local coordination requirements holistically through a series of engagement and outreach activities to entities and communities across the state, with a focus on underrepresented communities, CAIs and political subdivisions. The engagement activities referenced here are described in greater detail in the sections that follow.

- **Geographic Coverage** - As recently expressed by Kevin Gallagher, Senior Advisor to the Secretary of Commerce, Texas is a vast and geographically diverse state with unique challenges. Ensuring geographic coverage is important to understanding regional broadband challenges and how those challenges and the solutions needed vary according to geography.

"In August, I had the pleasure of visiting Totalcom's offices and training facilities in De Leon, Texas. Totalcom is a family-owned, rural telecom provider that serves De Leon—with a population of just over 2,000—and the surrounding communities. As we pulled up after the two-hour drive from Dallas, the company's digital reader board displayed a temperature of 112 degrees. Inhospitable temperatures aside, the visit provided insight into the work and challenges of rural providers, and how much those challenges can vary across a state as

*vast and geographically diverse as Texas.*¹

To ensure BDO understood regional challenges and heard from all parts of the state, the BDO convened 12 regional task forces, representing the Comptroller of Public Accounts' 12 economic regions. These groups met to discuss regional barriers, assets and solutions. This allowed for geographic coverage and regionalized data collection and feedback to understand how broadband challenges differ from East to Central to South Texas. These regions were also used in the BDO's 2022 broadband plan to analyze data and provide regional insights across the state. Two in- person public meetings were hosted in each of these regions. Having this broad geographic coverage illuminated how access needs vary across topography.

- **Diverse Stakeholder Groups** - The BDO engaged with diverse stakeholder groups throughout the public engagement process to ensure representation from covered and underrepresented populations in each of the outreach and data collection activities. This diversity was considered when convening the Statewide Working Group, Regional Working Groups (RWGs) and Task Forces (TFs). Organizations serving on these groups and involved in outreach activities include community- and faith-based organizations serving covered populations, local and regional governments, higher education institutions, K-12 institutions, the agriculture sector, businesses and chambers of commerce, public housing authorities, unions, state agencies, philanthropic organizations, public safety entities and others. The BDO conducted targeted outreach for the public survey and in-person regional meetings to organizations representing covered populations (defined in Section 2.2) and provided materials to allow these organizations to conduct additional outreach.
- **Awareness, Outreach and Participatory Mechanisms** - The BDO developed multiple mechanisms for participation in the BEAD Program and SDEPG/TDOP program planning processes and developed outreach and participation materials in multiple languages. In-person meetings were held in every region of the state, along with two virtual meetings. The BDO partnered with members of the Regional Working Groups to distribute and collect paper surveys at food banks, local events, workforce offices, libraries and other community-based locations. The planning process and a full list of organizations that participated in outreach efforts can be found in the Local Coordination Tracker.

The BDO used multiple awareness and outreach channels to share information and receive feedback. Regional and statewide press releases and media coverage of the feedback opportunities provided multiple channels to share information. The BDO redesigned the outreach page on its website to ensure easy access to all the public engagement activities for members of the public. This website includes links to surveys and toolkits, registration

¹ * *Connecting neighbors to high-speed Internet service in rural Texas,* Kevin Gallagher. September 25, 2023. <https://www.ntia.gov/blog/2023/connecting-neighbors-high-speed-internet-service-rural-texas>

for the public meetings, information about the monthly roundtables and information about the BEAD program and SDEPG/TDOP program planning processes. The BDO created and deployed a contact form at the start of the planning process to collect information from Texans interested in being involved.

- **Transparency** - The BDO shared key information about the planning process and participatory mechanisms across multiple platforms to ensure transparency. The BDO leveraged the website and regular electronic updates as a critical source of information. The outreach page on the website provides information and links to all the engagement opportunities and provides member lists for all the stakeholder engagement groups. The BDO provided regular updates, including results from the three surveys; insights from public meetings; and questions answered at regular Board of Advisors meetings, monthly Governor's Broadband Development Council meetings, monthly Industry Roundtables and Local Government Roundtables. Public meetings, in person and virtual, were open to the media, as well as to all Texas residents. The BDO will post drafts of the Initial Proposal, Final Proposal and TDOP for public review and comment, and it will engage in outreach efforts to collect feedback and integrate and publish comments, as required, into the planning documents.
- **Underrepresented Engagement** – To ensure robust engagement with underrepresented populations, the BDO invited organizations and members of covered populations (defined in Section 2.2) and other underrepresented communities to participate in each part of the engagement model. Organizations representing each of the covered populations served on the Statewide Working Group, Task Forces and Regional Working Groups (described below) and provided insight into the specific barriers to connectivity these stakeholder groups experience. This representation was made possible through outreach for each of the data collection and engagement activities, ensuring underrepresented communities knew about and were able to participate in the BEAD and SDEPG/TDOP planning processes. The BDO provided Spanish-language materials at all in-person public meetings and had Spanish interpretation available at two meetings. The online survey was available in English, Spanish, Vietnamese and Chinese, the four most widely spoken languages in Texas, and the paper survey and outreach flyer were available in both English and Spanish.

Stakeholder Groups

Three sets of working groups, described below, advised the BDO during the planning process for the BEAD Program, meeting regularly to discuss critical inputs around program requirements. The Statewide Working Group, six outcome-area Task Forces and 12 Regional Working Groups provided insight and feedback about the BEAD Program and SDEPG/TDOP program planning documents, with each Task Force having a specific set of priorities and inputs to address. These groups are described below. Information about each group's members can be found on the BDO's outreach webpage.

- **Statewide Working Group (SWG)** – The SWG acts as a focal point for coordinating and

channeling the efforts of other working groups, along with providing feedback on the strategy for program engagement. Additionally, it provides advisory support to the BDO in determining how to integrate policy recommendations into program planning and design. Chaired by the BDO, the SWG includes task force chairs, leaders of regional working groups and representatives from relevant state agencies, Tribal Governments and organizations. This group also includes statewide broadband advocates and organizations focused on expanding digital opportunities, such as:

- Texas Rural Funders.
 - Texas Digital Equity Network.
 - Digital Texas.
 - Texas 2036.
 - Texas Association of Regional Councils.
 - Texas Association of Counties.
 - Disability Rights Texas.
- Regional Working Group (RWG) – The 12 RWGs function as the primary conduit between the BDO and local communities across the state. These groups, chaired by regional Councils of Governments and Regional Planning Commission, represent the 12 economic regions of the state as defined by the Comptroller of Public Accounts. Providing key local insight, RWG members serve as trusted partners to coordinate events, meetings, listening sessions and roundtables with local communities and the BDO. At these working group meetings, RWGs identified barriers to broadband adoption, access and use for organizations and households in their respective regions. Additionally, the BDO tasked RWGs with promoting the survey instruments, utilizing the toolkit and communications materials developed by the BDO to drive participation and collect data in a uniform manner. Each group consists of roughly 20 representatives from local organizations with a varying mix of local priorities, such as:
 - Area Agencies on Aging.
 - County judges.
 - Local Texas A&M AgriLife Extension agents.
 - School superintendents.
 - Library directors.
 - Minority-serving community organizations.
 - Digital inclusion providers.
 - Chambers of commerce.
 - Faith-based organizations.
 - Nonprofits.
 - Local and regional broadband coalitions.
- Task Forces (TFs) – Six outcome-area TFs comprise subject matter experts on topics including economic and workforce development, education, health, essential services, civic and social engagement, as well as business and telecom. TF members shared insights on topic-specific

broadband priorities and aligned those priorities to the BEAD Program and SDEPG/TDOP program. The TFs collect and produce critical input to address deliverable requirements and inform certain policy decisions for program planning and design. TF inputs informed meeting agendas and other engagement activities for summer 2023 and in turn, member feedback offered data and recommendations to the SWG and the BDO. TF members represented a mix of entities, including state agencies, CBOs, workforce development organizations, K-12 schools and higher education institutions, industry and internet service providers (ISPs), health care organizations and others. While all TFs' feedback informed the development of the Initial Proposal, the economic and workforce development TF specifically informed the development of Section 2.8, including providing insights and strategies to support women and other historically marginalized populations in workforce development opportunities.

Public Meetings

The BDO hosted 24 in-person and two virtual public meetings across the state in July and August 2023 to hear directly from local communities about ways to increase broadband access, affordability and use in their regions. The BDO selected two locations in the geographic area of each RWG, in partnership with RWG chairs, to ensure geographic diversity, with a mix of rural, urban and suburban locations. The public meeting schedule included:

Date	Region	City	Location
7/10/2023	Metroplex	Sherman	Texoma Council of Governments
7/11/2023	Capital Area	Bastrop	American Legion Post 533
7/12/2023	Gulf Coast	Sugar Land	University of Houston – Sugar Land
7/13/2023	Gulf Coast	Bay City	Bay City Civic Center
7/17/2023	South Texas	Kingsville	Texas A&M University – Kingsville
7/18/2023	South Texas	Weslaco	Lower Rio Grande Valley Development Council
7/19/2023	Alamo Area	San Antonio	Alamo Area Council of Governments
7/21/2023	Capital Area	Burnet	Burnet Community Center
7/24/2023	Central	Bryan	Brazos Valley Council of Governments
7/25/2023	Southeast	Lufkin	Lufkin City Hall Council Chambers
7/26/2023	Southeast	Jasper	Jasper County Courthouse
7/28/2023	Central	Belton	Central Texas Council of Governments
7/31/2023	Upper East	Texarkana	Southwest Center
8/1/2023	Upper East	Longview	University of Texas at Tyler – Longview
8/2/2023	Metroplex	Lewisville	Lewisville Grand Theater
8/3/2023	Northwest	Wichita Falls	Martin Luther King Senior Center
8/4/2023	Northwest	Clyde	Clyde High School

8/7/2023	Upper Rio Grande	El Paso	El Paso Community Foundation
8/8/2023	Upper Rio Grande	Alpine	Alpine Civic Center
8/9/2023	High Plains	Lubbock	Citizens Tower
8/10/2023	High Plains	Borger	Borger Dome Civic & Convention Center
8/14/2023	Alamo Area	Cuero	Chisholm Trail Heritage Museum
8/15/2023	West Texas	Mertzon	Irion County Community Center
8/16/2023	West Texas	Midland	Region 18 Education Service Center
8/22/2023	Statewide	Virtual	Zoom

Meeting locations and times were coordinated in partnership with RWGs. Meeting locations were selected to ensure ease of attendance for local citizens, especially covered populations. Meetings were held in local event spaces, including a library, senior center, community center, American Legion post, higher education institution, K-12 school, community foundation, regional planning commission building, civic center, regional education service center and local government building. These meetings were held at various times of the day, including several in the evening to allow residents to participate after working hours.

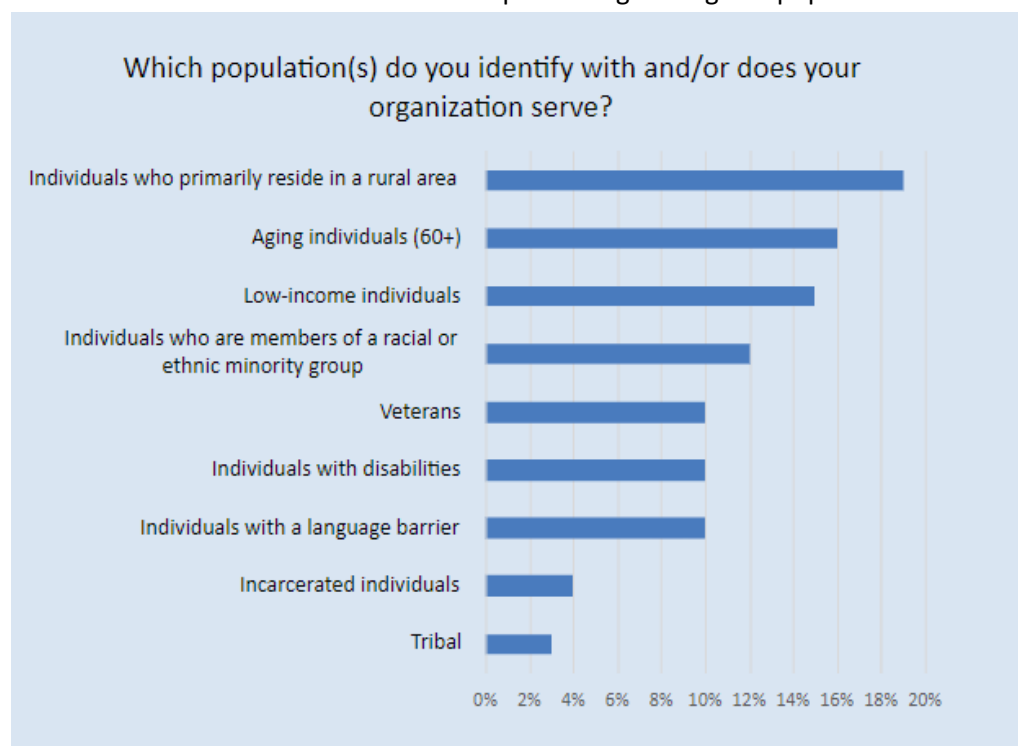


RWG chairs and members supported the planning and promotion efforts to share these sessions with their networks and the community. The BDO utilized its communications channels and the stakeholder groups to conduct extensive outreach and promotion of public meetings. This included direct outreach; individualized outreach toolkits for each location; press releases and other media engagement (interviews, etc.); and promotion across BDO-related meetings, events and activities.

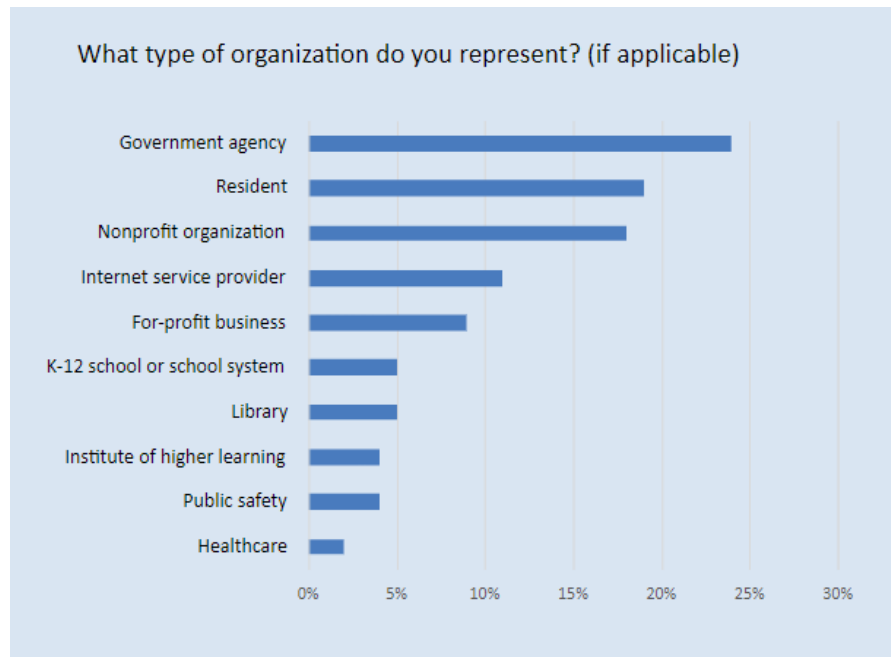
Public meetings were structured to allow for participation and feedback from all attendees. The meetings began with a short presentation from the BDO about the office's work and the IJA

planning and funding opportunities. The presentation also included data about the state of broadband in Texas and the region, including insights from the last public meeting held in the region. Attendees participated in facilitated small-group discussions, answering questions about broadband barriers, assets and priorities, with a facilitator taking notes. Participants had time to provide additional feedback on the participant worksheet before the whole group came together to hear key themes from each small group discussion and ask questions of the BDO (see Appendix A for public meeting agenda). Spanish-language materials, including paper copies of the presentation and participant worksheet, were available for use at every meeting. Spanish interpretation services were available at the Weslaco and El Paso locations. Input from public meetings was systematized and collected through participant worksheets and facilitator notes from small-group discussions.

Based on registration data for the events, 1,274 people attended the in-person and virtual public meetings. Covered populations were a specific focus of outreach, with rural residents, aging individuals and low-income individuals representing the highest populations in attendance.



Additionally, CAIs, local governments and other organizations attended these meetings to represent the needs of their communities and organizations. Residents, nonprofit organizations and local governments were the highest represented stakeholder groups. Image 2.3D in Appendix D shows participation by stakeholder group.



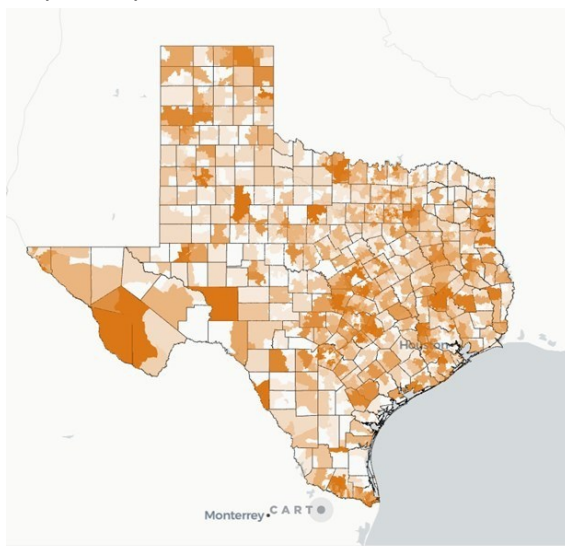
Surveys

The BDO deployed three survey instruments to collect quantitative feedback throughout the BEAD Program and SDEPG/TDOP program planning processes. These survey tools provided insight into connectivity challenges, opportunities and resources available through local communities and organizations. The BDO led extensive outreach efforts to drive survey completion, including partnering with the stakeholder groups described above to ensure adequate reach across the geography and diversity of the state. The BDO created toolkits with promotional materials to allow widespread participation and outreach with Texans in each county and community across the state. The BDO presented at coalition meetings, working group meetings and large-scale conferences and events to share information about these data collection and participation opportunities. These surveys are described below.

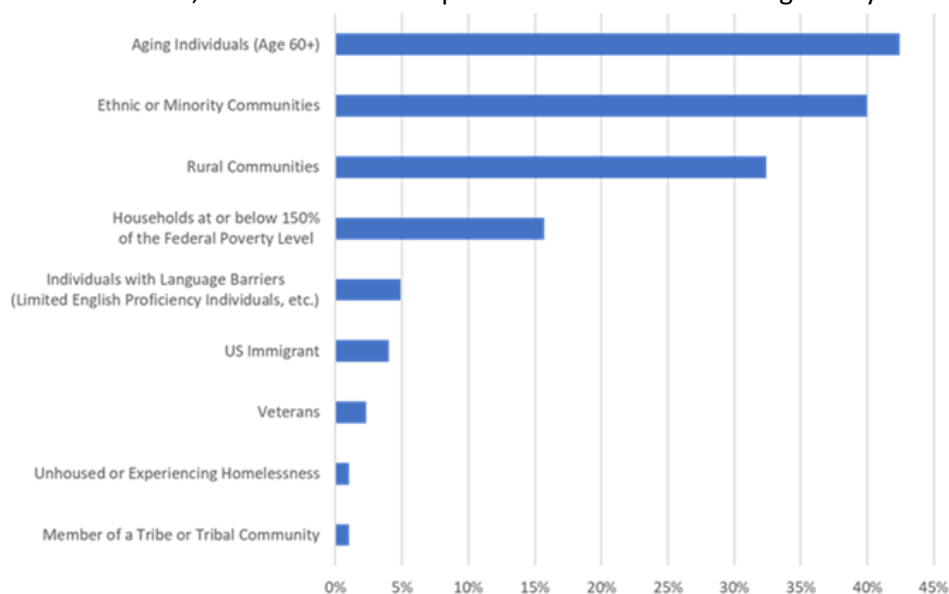
Public Survey

Open to all Texas residents from April to August 2023, the Public Survey collected data about broadband access, affordability, adoption and barriers to digital opportunity. The survey was available online in English, Spanish, Simplified Chinese and Vietnamese. The online survey included audio translation to support visual impairment needs. Ninety-seven percent of online survey responses were in English, with Spanish representing the second-most completed language for surveys. The paper survey was available in English and Spanish, with large-print versions available in both languages. The surveys were available for online download and were shared as part of the outreach toolkit for survey participation. Local organizations, including cities, counties, food banks, local workforce development boards, schools, regional government support organizations, libraries and other community-based organizations supported the initiative by distributing and collecting paper surveys.

The Public Survey had 11,385 total valid responses (9,440 online responses and 1,945 paper responses). Most respondents who completed the survey were reached via email, social media, local community-based organizations and local government agencies who promoted survey participation. The BDO received responses from one or more residents in each of Texas' 254 counties. Image 2.3E in Appendix D shows participation by county.



Covered populations were a particular focus for survey deployment and outreach efforts. These populations were mostly well-represented proportional to American Community Survey (ACS) comparisons in other states, with notable overrepresentation of individuals aged 60 years or older.



Digital Resources Mapping Tool Survey (DRMT Survey)

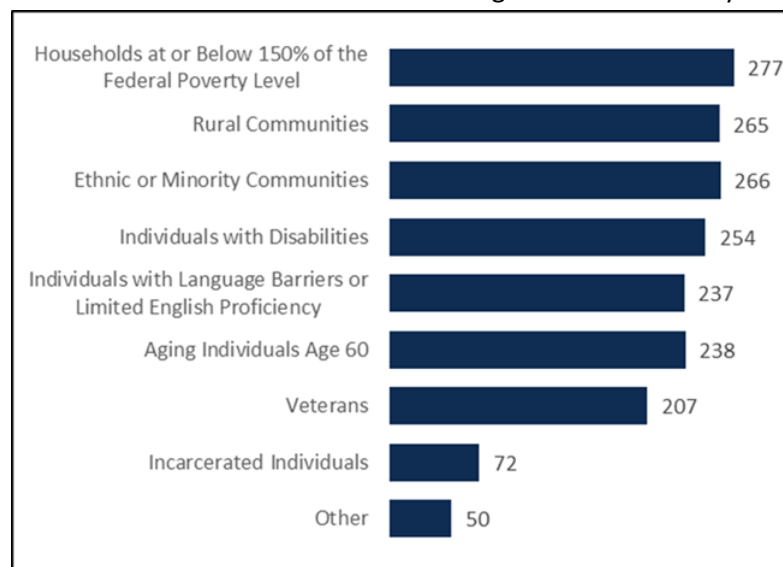
The DRMT Survey collected data from April to August 2023 from organizations that provide programs, services and tools enhancing access to the internet, devices and digital skills training. The goal of this survey was to capture and depict resource gaps within Texas and to identify the digital

opportunity programs and services currently available in the state. It helped generate a snapshot of where Texas is today in addressing digital opportunity, cataloguing available digital equity programs and services and highlighting model programs that may be replicated throughout the state.

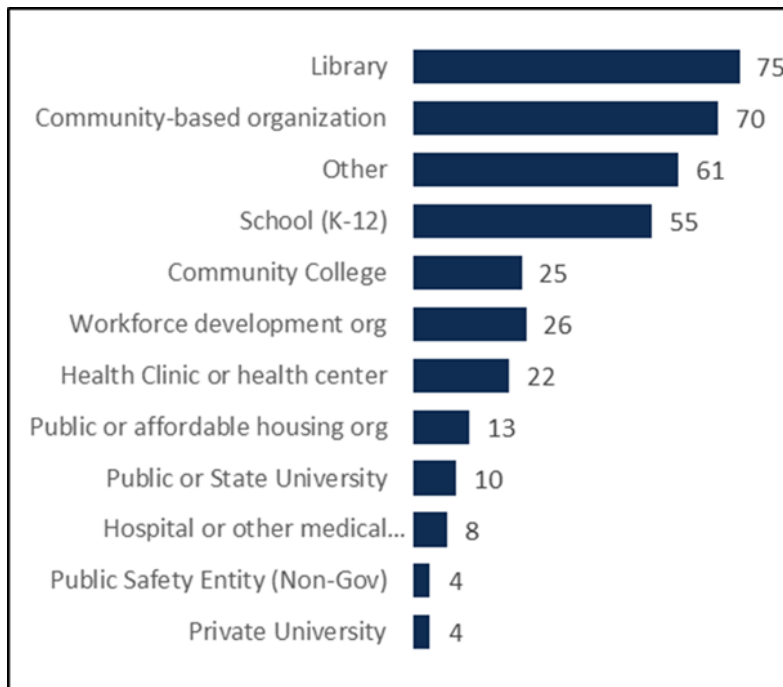
The BDO provided outreach materials for organizations to share the DRMT survey with its networks. This included a preview document, which showed the different questions from the survey tool so that organizations could gather required information and easily complete the form. The BDO provided demonstrations to local organizations via the Local Government Roundtable and in all Task Force, Regional Working group and Statewide Working Group meetings. During these meetings, the BDO described the types of activities that represent digital opportunity efforts, as many organizations are supporting their communities in accessing and using the internet, even if they do not describe that work as digital opportunity work.

The DRMT Survey was completed by 352 different organizations from across the state. These organizations include a mix of institutions, CBOs, companies and government entities. In terms of geographic coverage, the DRMT Survey had the largest reach in Travis, Harris, Bexar and Crockett counties, representing approximately a quarter of the responses.

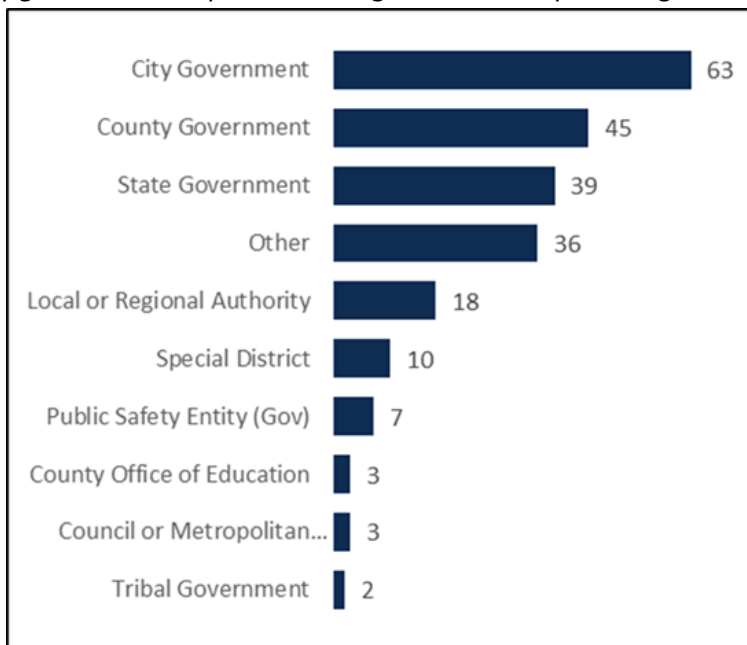
Most organizations serve multiple covered populations, with low-income households being the most served and incarcerated individuals being the least served by a significant margin.



Libraries and community-based organizations represented the highest number of organization types that identified as a CAI.



City and county governments represent most government or public organization



respondents.

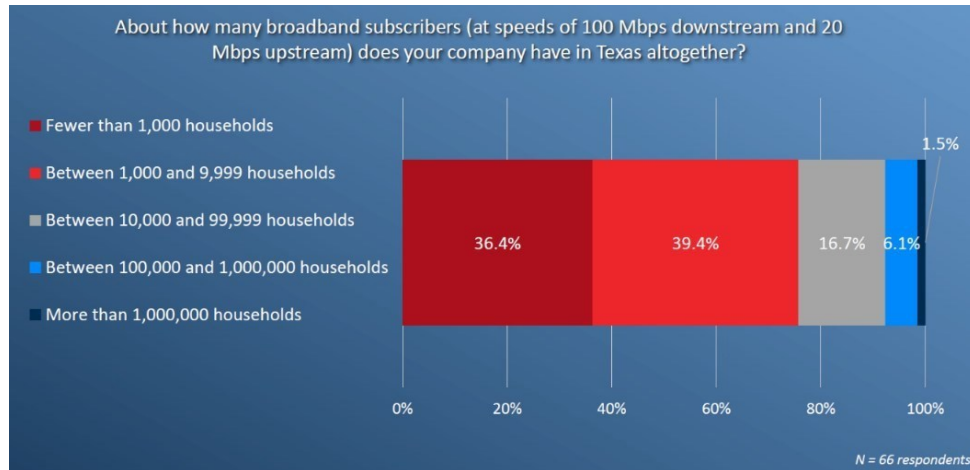
Source: BDO Digital Resources Mapping Tool Survey, administered April-August 2023

Industry Survey

The industry survey collected data from ISPs and other industry groups between April and June 2023. Seventy-nine unique respondents provided information, with 51 complete responses and 28 partial responses. The survey sought to understand industry perspective on the issues discussed in this Initial Proposal, including:

- Insights about Texas-based ISPs serving covered populations around the state and opportunities for households to acquire computing devices.
- Digital skills training offered by ISPs, plans for participating in the BEAD Program and other programs intended to increase internet access for covered populations.
- Participation in industry associations.

Respondents represented the diversity of ISPs in the state. The majority of responding ISPs serve 10,000 households or fewer.



Impact of Coordination

Local coordination and engagement across this diverse set of stakeholders allowed the BDO to gain a greater understanding of the challenges and needs related to broadband infrastructure deployment and adoption in regions and communities throughout the state. The totality of this engagement, including working group discussions, data analysis of survey results and ongoing two-way dialogue with diverse stakeholder groups, supported the development of this and other key planning documents.

Ongoing Coordination Efforts

The development and execution of a robust public engagement strategy increased education and collaboration opportunities across a wide variety of Texas stakeholders. New and existing stakeholders collaborated with the BDO in this process and remain committed to supporting efforts to expand broadband connectivity in the state. These structures – formal and informal and networks – allow for ongoing engagement and coordination throughout the implementation of the BEAD Program.

The statewide working group, regional working groups and task forces can be reactivated to provide feedback throughout the implementation phase. The BDO will continue to share information with stakeholders via these established networks and communications channels.

Additionally, the BDO will continue to convene Industry Roundtables and Local Government Roundtables monthly, providing ongoing opportunities for key stakeholders to engage with the office. These meetings allow the BDO to share updates, answer questions and receive feedback from these stakeholder groups. They also create networks to share best practices about ways to expand broadband access, adoption and use in the state.

2.3.1.1 Attachment: As a required attachment, submit the Local Coordination Tracker Tool to certify that the Eligible Entity has conducted coordination, including with Tribal Governments, local community organizations, unions and work organizations and other groups.

2.3.2 Text Box: 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.”

As discussed in Section 2.2, Comptroller Hegar initiated engagement with the Tribes through “Dear Tribal Leader” letters, which requested a formal Tribal consultation. (The letters can be found in Appendix B.) The Kickapoo Traditional Tribe of Texas and the Alabama-Coushatta Tribe of Texas accepted the consultation, which has established a formal working relationship and dialog between governments. Tribal consultations created a space to share broadband plans, priorities and timelines; gain insight into digital inclusion, adoption and use; and understand how best to engage and assist the Tribal Governments. The BDO looks forward to fostering these relationships and continuing collaboration with all Tribal Governments.

2.3.2.1 Optional Attachment: If the Eligible Entity encompasses federally recognized Tribes, it must provide evidence that a formal tribal consultation process was conducted, such as meeting agendas and participation lists.

- Kickapoo Traditional Tribe of Texas Dear Tribal Leader Letter (Appendix B)
- Alabama-Coushatta Tribe Dear Tribal Leader Letter (Appendix B)
- Ysleta del Sur Pueblo in El Paso Dear Tribal Leader Letter (Appendix B)
- Tribal Consultation Agenda (Appendix C)

2.4 Deployment Subgrantee Selection (Requirement 8)

Deployment Projects Subgrantee Selection Process and Scoring Approach

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

Definitions

Commercial Broadband Provider – A broadband service provider engaged in business intended for profit, a telephone cooperative, an electric cooperative or an electric utility that offers broadband service or middle-mile broadband service for a fare, fee, rate, charge or other consideration.

Extremely High Cost Per Location Threshold (EHCPLT)- BEAD subsidy cost per location above which the BDO may decline to select a reliable technology project and select a proposal using an alternative technology that meets BEAD’s technical requirements and is less expensive. The EHCPLT will be decided after all applications have been received and reviewed. A threshold will be determined for each economic region to take into account the unique barriers that impact infrastructure builds in each region.

Minimal BEAD Program Outlay per Location – Rubric score determined by the formula: $80 * (\$10,000 - \text{cost per passing}) / \$10,000$. The cost per passing is calculated by dividing the total grant request by the number of unserved locations (First Candidate Pool and Second Candidate Pool) or by dividing the total grant request by the number of unserved plus underserved locations (Third Candidate Pool and Fourth Candidate Pool). This score may change during deconfliction, as project areas are revised with an updated number of BSLs and total project cost provided in the severability matrix.

Reliable Broadband Service – Fiber, cable, DSL, licensed or hybrid fixed wireless technologies.

Severability Matrix - A matrix completed by applicants in response to an information request from the BDO after Round 1 and Round 2 gating is complete. The BDO will analyze the overlap between each applicant’s footprint and all other proposed applications’ footprints to create project areas based on overlaps among projects. Applicants will be asked to complete the matrix to indicate which, if any, subprojects they would be willing to sever from the original project and commit to serve, as well as the grant request that they would require in order to do so.

Subproject – A project derived from an original application with a reduced project footprint and with a different grant request, but otherwise retaining the characteristics of the original application.

Underserved Project Area – Project area where at least 80 percent of the BSLs are unserved or underserved.

Unique Application Project Area (UAPA)- Project area in which one or more of the proposed BSLs are not covered by any other application or subproject within the same pool.

Unserved Project Area – Project area where at least 80 percent of BSLs are unserved. To ensure compliance with the BEAD NOFO, these areas are prioritized through the deconfliction process.

Overview

The BDO will implement a subgrantee process that emphasizes open, fair competition, in compliance with the Texas Grant Management Standards. The following information demonstrates how the BDO will ensure that the process is accessible to all qualified applicants and how it ensures fair treatment and competition among applicants based on merit. By state law, an application from a commercial

provider must take precedence over an application from a noncommercial provider. Texas Government Code Sec. 490I.0106 (d)(2) states:

(d) The office may not:

(2) award a grant, loan, or other financial incentive to a noncommercial provider of broadband service for a broadband serviceable location if an eligible commercial provider of broadband service has applied for the same location.

Noncommercial providers, including political subdivisions, that partner with commercial providers will be treated as a commercial provider for the purposes of this provision, thus encouraging public-private partnerships and providing an incentive for local governments to coordinate their broadband expansion efforts with ISPs.

This process will result in awards that accomplish the goals and priorities of the BDO and the BEAD Program; namely, universal coverage. The process will employ a fair, transparent and efficient process to evaluate and select subgrantees while safeguarding against collusion, bias, conflicts of interest and arbitrary decisions through a well-defined decision process with minimal room for discretion, as is outlined here and will be detailed rigorously in the Notice of Funding Availability (NOFA). The BDO will follow general state ethics rules and procedures governing conflicts of interest, as articulated in the CPA's grant management standards (<https://comptroller.texas.gov/purchasing/grant-management/>) and TEX. GOV'T CODE §572 (<https://statutes.capitol.texas.gov/Docs/GV/htm/GV.572.htm>). State ethics laws provide detailed restrictions on receipt of gifts, employment, etc. by state officers from entities that stand to benefit from their decisions. The evaluation rubric used to score subgrantee applications will aid in incentivizing proposals with priorities that align with BEAD and the BDO requirements throughout the subgrantee selection process while also ensuring a fair and equitable review of all applications.

The completion of the subgrantee selection process, as described below, is expected to take a minimum of 365 days. Made up of nine tasks, BDO's subgrantee selection process includes time for public engagement to prepare potential applicants for the Notice of Funding Availability and the completion of the Final Proposal. Note that in the best case, for the subgrantee selection process to be completed within 365 days of the approval of this Initial Proposal, Volume II, the subgrantee selection would need to launch within ten days of that approval. This requires that the challenge process be completed, and its results approved very shortly after Volume II approval. In light of these considerations, as well as a number of other possible delays throughout the subgrantee selection process, the BDO foresees a significant possibility that it will need to request an extension to reach the ambitious BEAD Program goal of securing deployment commitments sufficient to achieve universal broadband access while also meeting guidelines described in state statute, which the BDO does not have the authority to waive.

Task 1: Public Engagement (10 days)

To ensure the best quality applications, the BDO will work with communities, industry leaders and established partnerships to share information about the Application and the Subgrantee

Selection Processes. The BDO will provide application guidance materials and educational events to prepare potential applicants. The BDO maintains an ongoing dialogue with industry through roundtable discussions, surveys, website postings and email communications. It will fully leverage all these channels of communication to make sure to the maximum extent possible that all broadband industry participants are aware of the launch of the BEAD Program and the key dates.

START: Launch

END: Launch + 10 days

Task 2: Release of Initial Notice of Funding Availability (60 days)

Upon completion of the BEAD Challenge Process and NTIA's subsequent approval of eligible locations, the BDO will release a NOFA for all eligible locations in Texas. Locations will not be pre-grouped into application areas. Rather, ISPs will be invited to apply for any eligible locations as defined by the BEAD eligible locations list (defined as lists of BEAD-eligible BSLs) while being incentivized to extend the reach of their projects into hard-to-serve areas. While the BDO intends to issue a single NOFA for all eligible locations throughout the state, the state will be divided into 12 economic regions to allow the office to better manage the application process and ensure applications and proposed projects are compared to similarly situated applications and projects. Applications for the initial funding round will be accepted for 60 days. The deadline to apply is 4:59 p.m. on the 60th day after the NOFA is issued.

After the NOFA is issued, the BDO will accept questions from potential applicants regarding the NOFA for 14 days and will publish answers within seven days of closing the question period. The BDO may begin to cure applicant qualifications during Task 2.

START: Launch + 10 days

END: Launch + 70 days

Task 3: Gating Criteria Review (21 days) /Release of Second Notice of Funding Availability (60 days)

After the initial application period closes, the BDO will review applications using the Gating Criteria. If gating criteria are not met or an application fails to provide all required documentation, the application will be removed from consideration. The BDO does not anticipate having enough time to cure applications for Gating criteria review. Gating criteria review will last 21 days. It will end with the BDO publishing information regarding accepted applications on its website and sending notices to unsuccessful applicants that their applications were removed from consideration. The total set of BSLs that any Round 1 project proposes to serve will be defined as "Round 1 locations."

Contemporaneously with the Gating Criteria Review, the BDO will perform an analysis of accepted applications to identify locations for which no qualified proposals were received and accepted. The BDO will then release a second NOFA, through which it will solicit applications that include those locations, in pursuit of the broadest possible reach for the grant program.

Round 2 applicants will also be able to indicate whether their proposed projects are extensions of Round 1 projects, such that the Round 2 project will be acceptable to the applicant only if the Round 1 project is awarded. In order to keep the Round 2 focus on extending program reach and ensure that there is a strong incentive for Round 1 participation, projects that only propose to serve Round 1 locations will not be accepted during Round 2.

Like the initial funding round, the BDO will permit potential applicants to submit questions regarding the second NOFA and will publish responses within seven days of closing the question portal. The second round of funding will have a 60-day application window that will run concurrently with Task 4.

START Gating Review Round 1: Launch + 70 days

END Gating Review Round 1: Launch + 91 days

Start Round 2 Application Window: Launch + 91 days

End Round 2 Application Window: Launch + 151 days

Task 4: Application Review and Scoring for Round 1 (175 days) /Challenges (60 days)

Upon completion of the Gating Criteria Review for Round 1, concurrently with Task 5, the BDO will begin the Application Review and Scoring Process for Round 1. All applications will be independently scored using a scoring rubric, and proposed projects will be assessed for technical feasibility. The BDO expects the first NOFA to receive a high volume of responses and wants to maximize the time available to review and score each application. To ensure the review and scoring process is not delayed, the BDO will review and score all applications, but will concurrently open the Application Challenge Process for 30 days in accordance with Texas law and regulations.

During this 30-day period, the BDO will accept application challenges from any interested party. Under Texas statute, application challenges will be limited to challenges made on the following bases: (i) The applicant is ineligible to receive an award; (ii) The application contains broadband-serviceable locations that are not eligible to receive funding because of an existing federal, state or local commitment to deploy qualifying broadband service to the location (BSLs); or (iii) The project is ineligible to receive an award based on the criteria prescribed by the office. Challenges made under Criterion (ii) will help the BDO to include any previously undeclared enforceable commitments. For the purpose of subgrantee selection, Texas has adopted the BEAD Program criteria related to the number of unserved and underserved locations that must be included in a proposed project. Therefore, Criterion (iii) will accept challenges based on the percentage of unserved and underserved locations in a proposed project. The BDO will look to the state application challenge process as an opportunity to capture any adverse information about applicants' qualifications that may affect their suitability to receive awards as BEAD subgrantees. Challenged applications will be reviewed by the office to determine whether any application challenges should be upheld. The burden of

proof will be placed on the protesting party. Specific guidelines for acceptable evidence will be released during the 10-day public engagement period.

The BDO will provide notice of its determination to each affected applicant, including the right, if any, to submit an amended application. Amendments will be accepted for projects that do not propose at least 80 percent unserved locations in the submitted project map. The BDO will also accept amendments to include additional information from the applicant to ensure applicant eligibility. Additional information on the amendment process, including additional amendable scenarios, will be released during the 10-day public engagement period. The right to amend applications will cover eventualities not currently foreseen in detail. If made available, it will be uniformly applied to ensure fairness. Applicants who are permitted to amend their application will have a 30-day period to submit their amended application to the BDO. The Application Challenge Process for the Initial Round of Funding is expected to end on the same day that the application period for the Second Round of Funding closes.

Concurrent with the Application Challenge Process, the BDO will review and score applications using the proposed rubric.

Also concurrently, the BDO will release the second NOFA for locations not applied for in Round 1.

START Round 1 Application Review and Scoring: Launch + 91 days

END Round 1 Application Review and Scoring: Launch + 266 days

START State Application Challenges: Launch + 91 days

END State Application Challenges: Launch + 151 days

Task 5: Gating Criteria Review for Round 2 (14 days)

The second round of applications will close while the initial round of applications is being reviewed and scored. Upon closing of the application period, the BDO will review the new round of applications using the same gating criteria used for the initial round of funding. In addition, Round 2 applications must contain a majority of targeted BSLs – defined as locations that were not included in applications received in Round 1. If gating criteria are not met or an application fails to provide all required documentation, the application will be removed from consideration. Gating criteria review for the second round will last for a shorter period (14 days) due to the expected lower volume of applications. The BDO will publish information regarding accepted applications on its website and notify unsuccessful applicants that their applications were removed from consideration. Any locations that have not been included in applications will be noted by the BDO and prioritized for future funding opportunities.

When all Round 1 and Round 2 applications have been assessed against the gating criteria, the Extremely High Cost Per Location Threshold for each economic region will be determined and implemented.

START: Launch + 151 days

END: Launch + 165 days

Task 6: Application Challenge, Review, Scoring Round 2, Project Areas and Severability (102 days)

With the release of the Gating Criteria results, the BDO will perform the same review and scoring process, as well as the application challenge process outlined for the initial round of funding. However, the total time for review and scoring will be shortened to 102 days so that the review period ends concurrent to the process for the initial funding round.

Simultaneously with the application challenge process, the BDO will collect from applicants the information about the severability of applicants' project footprints that will enable the BDO to administer the geospatial deconfliction process using severability matrices.

Specifically, the BDO will (a) create project areas based on the overlaps between applicants' project footprints; (b) notify applicants how their project footprint has been broken down into project areas, if applicable; (c) if applicable, ask applicants which combinations of project areas they are willing to serve; and (d) ask applicants how much they will require in BEAD grant funding in order to deploy service to each of the combinations of project areas, bearing in mind that the subsidy request cannot exceed 75 percent of the capital expenditure involved in a project, and that fiber projects will lose the benefits of fiber prioritization if applicants set a subsidy cost higher than the threshold.

By the end of this stage, the BDO expects that it will still be within the original 365-day window for completing the Final Proposal. At this stage, the BDO anticipates overcoming any unanticipated obstacles. If the BDO needs an extension to effectively complete the BEAD Subgrantee Selection process, now would be the time. The BDO therefore anticipates requesting an extension from the NTIA to complete its work properly and achieve a statewide universal coverage solution. Any extension will be contingent on NTIA approval.

START: Launch + 165 days

END: Launch + 267 days

Task 7: Geospatial Deconfliction (35 days)/Special Process for Still Non-Proposed Locations (137 days)

After all applications have been scored and have gone through the state application challenge process, the BDO will conduct the deconfliction process. The purpose of deconfliction is to determine, for applications with project areas that overlap with other applications, which applications will be awarded funding, and for which areas.

Process Inputs

To begin the process, for each application, the BDO will need the following inputs:

- The rubric score, including the point value for Minimal BEAD Program Outlay per Location and

- Unique Application Project Area bonus; AND
- The severability matrix (if provided by applicant) that details the subproject areas an applicant would and would not accept, along with the revised grant requests.

The process is designed to encourage applicants to provide severability feedback to increase the likelihood that their application will remain in the candidate pool and be considered for funding. This supports the BDO's goals of maximizing the number of locations receiving broadband and works to minimize the number of locations that will need to be addressed through the Special Process for Still Non-Proposed Locations. Providing severability feedback does not impact an application's rubric score.

Candidate Pools

All Reliable Broadband Service applications submitted in Round One and Round Two that pass gating review will qualify for one or more of the four candidate pools, with the BDO making awards in each successive pool if funding remains to allocate. These pools include:

First Candidate Pool

- End-to-end fiber projects
- Submitted by commercial broadband providers
- Cost per location below the EHCPLT
- Unserved project areas only – at least 80% of BSLs are unserved
- Any economic region

Second Candidate Pool

- Remaining Reliable Broadband Service projects
- Submitted by commercial or non-commercial broadband providers
- Fiber commercial provider projects with cost per location above the EHCPLT and other projects with cost per location above or below the EHCPLT
- Unserved project areas only – at least 80% of BSLs are unserved
- Any economic region

Third Candidate Pool

- Remaining end-to-end fiber projects
- Submitted by commercial broadband providers
- Cost per location below the EHCPLT
- Underserved project areas
- Any economic region

Fourth Candidate Pool

- Remaining Reliable Broadband Service projects
- Submitted by commercial or non-commercial broadband providers
- Fiber commercial provider projects with cost per location above the EHCPLT and other projects with cost per location above or below the EHCPLT
- Underserved project areas
- Any economic region

Awards for each candidate pool will be made objectively, using the rubric score, proposed project area, and severability matrix to determine a winner for each set of locations.

Deconfliction Process: First Candidate Pool

The BDO will begin the deconfliction process by considering the first candidate pool. Any application that meets the following criteria will be included in the pool:

- End-to-end fiber project
- Submitted by commercial broadband provider
- Cost per location below the EHCPLT
- Unserved project areas only – at least 80% of BSLs are unserved

Applicants will have an opportunity earlier in the subgrantee selection process to complete a severability matrix to provide feedback to the BDO on which, if any, subprojects within their footprint they would be willing to serve and the grant amount required. If an applicant indicates they are willing to serve a subproject and the subproject meets each of the criteria for the first candidate pool, it will also be included in the pool.

Deconfliction will occur in three steps.

Step One: Make Provisional Awards Based on Rubric Score and Unique Areas.

Once all the qualifying applications (including eligible subprojects) are in the First Candidate Pool, the BDO will begin to make provisional awards. Provisional awards will be made to:

- Applications that have no overlaps with other projects within the candidate pool; AND
- Applications that have a higher rubric score than any other project with which they overlap within the candidate pool.

Once these provisional awards are made, the applications will be removed from the candidate pool. Additionally, all the locations that are served by those applications will be removed from the list of eligible locations for all other projects in this and future candidate pools.

Step Two: Determine Eligibility of Remaining Applications in Candidate Pool.

Each remaining application in the First Candidate Pool will be checked for overlaps with provisionally awarded projects and may have its footprint revised so that it contains only locations that are still eligible for funding. The BDO will use the severability matrix provided by the applicant to make any revisions. An applicant will be removed from the candidate pool if:

- The applicant provided no severability matrix to the BDO, indicating that they would only accept an award if it included all locations proposed;
- The applicant indicated in their severability matrix that there are no subprojects comprised of locations still available which they could accept; OR
- The applicant indicated in their severability matrix that there are subprojects comprised of locations still available which they could accept, but the revised application would exceed the EHCPLT.

Step Three: Recalculate Rubric Score for Remaining Applications.

All remaining applications in the First Candidate Pool will now be considered by the BDO. Because there have been adjustments to the list of locations, the BDO will recalculate the Minimal BEAD Program Outlay per Location and the Unique Application Project Area bonus to generate a new rubric score for each application. With a new number of locations in the application and new grant request, the Minimal BEAD Program Outlay per Location score will change. The Unique Application Project Area bonus may also change, as applications may now not overlap with any other project remaining in the pool.

Continuing the Deconfliction Process

Once these three steps have been completed, the BDO will repeat the process with the remaining applications. The BDO will rerun Steps One, Two, and Three and continue making provisional awards until there are no remaining applications in the First Candidate Pool.

Deconfliction Process: Second Candidate Pool

After all possible awards are made in the First Candidate Pool, the BDO will move to the Second Candidate Pool. Any application that meets the following criteria will be considered:

- Remaining Reliable Broadband Service project
- Submitted by commercial or non-commercial broadband provider
- Fiber commercial provider projects with cost per location above the EHCPLT and other projects with cost per location above or below the EHCPLT
- Unserved project areas only – at least 80% of BSLs are unserved

If an applicant whose project does not qualify for the Second Candidate Pool indicates in the severability matrix that they are willing to serve a subproject which meets the criteria for the second candidate pool, it will be included in the pool.

After the BDO has placed all eligible applications and subprojects into the Second Candidate Pool, the BDO will remove all the locations that have been awarded in the First Candidate Pool from each application. Any application that has locations removed and did not provide severability feedback or provided severability feedback that indicated there are no remaining subprojects that they would be willing to accept will be removed from the candidate pool. For all remaining applications, the Minimal BEAD Program Outlay per Location score and the Unique Application Project Area bonus will be calculated to determine the updated rubric score.

Deconfliction will occur in three steps.

Step One: Make Provisional Awards Based on Rubric Score and Unique Areas.

Once all the qualifying applications (including eligible subprojects) are in the Second Candidate Pool, the BDO will begin to make provisional awards. Provisional awards will be made to:

- Applications that have no overlaps with other projects within the candidate pool; AND
- Applications that have a higher rubric score than any other project with which they overlap within the candidate pool.

Once these provisional awards are made, the applications will be removed from the candidate pool.

Additionally, all the locations that are served by those applications will be removed from the list of eligible locations for all other projects in this and future candidate pools.

Step Two: Determine Eligibility of Remaining Applications in Candidate Pool.

Each remaining application in the Second Candidate Pool will be checked for overlaps with provisionally awarded projects and may have its footprint revised so that it contains only locations that are still eligible for funding. The BDO will use the severability matrix provided by the applicant to make any revisions. An applicant will be removed from the candidate pool if:

- The applicant provided no severability matrix to the BDO, indicating that they would only accept an award if it included all locations proposed; OR
- The applicant indicated in their severability matrix that there are no subprojects comprised of locations still available which they could accept.

Step Three: Recalculate Rubric Score for Remaining Applications.

All remaining applications in the Second Candidate Pool will now be considered by the BDO. Because there have been adjustments to the list of locations, the BDO will recalculate the Minimal BEAD Program Outlay per Location and the Unique Application Project Area bonus to generate a new rubric score for each application. With a new number of locations in the application and new grant request, the Minimal BEAD Program Outlay per Location score will change. The Unique Application Project Area bonus may also change, as applications may now not overlap with any other project remaining in the pool.

Continuing the Deconfliction Process

Once these three steps have been completed, the BDO will repeat the process with the remaining applications. The BDO will rerun Steps One, Two, and Three and continue making provisional awards until there are no remaining applications in the Second Candidate Pool.

Special Process: Remaining Unserved Locations

At the conclusion of the Second Candidate Pool, provisional award decisions will have been made for all eligible applications for unserved BSLs, using the rubric score, proposed project area, and severability matrices. Any unserved BSLs still lacking a solution will be addressed through the Special Process for Still Non-Proposed Locations.

Deconfliction Process: Third Candidate Pool

After all possible awards are made in the Second Candidate Pool, the BDO will move to the Third Candidate Pool. Any remaining applications that meet the following criteria will be considered:

- Remaining end-to-end fiber project
- Submitted by commercial broadband provider
- Cost per location below the EHCPLT
- Underserved project area

If an applicant whose project does not qualify for the Third Candidate Pool indicates in the severability matrix that they are willing to serve a subproject which meets the criteria for the Third Candidate Pool, it will be included in the pool.

After the BDO has placed all eligible applications and subprojects into the Third Candidate Pool, the BDO will remove all the locations that have been awarded in the First and Second Candidate Pools from each application. Any application that has locations removed and did not provide severability feedback or provided severability feedback that indicated there are no remaining subprojects that they would be willing to accept will be removed from the candidate pool. For all remaining applications, the Minimal BEAD Program Outlay per Location score and the Unique Application Project Area bonus will be calculated to determine the updated rubric score.

Deconfliction will occur in three steps.

Step One: Make Provisional Awards Based on Rubric Score and Unique Areas.

Once all the qualifying applications (including eligible subprojects) are in the Third Candidate Pool, the BDO will begin to make provisional awards. Provisional awards will be made to:

- Applications that have no overlaps with other projects within the candidate pool; AND
- Applications that have a higher rubric score than any other project with which they overlap within the candidate pool.

Once these provisional awards are made, the applications will be removed from the candidate pool. Additionally, all the locations that are served by those applications will be removed from the list of eligible locations for all other projects in this and future candidate pools.

Step Two: Determine Eligibility of Remaining Applications in Candidate Pool.

Each remaining application in the Third Candidate Pool will be checked for overlaps with provisionally awarded projects and may have its footprint revised so that it contains only locations that are still eligible for funding. The BDO will use the severability matrix provided by the applicant to make any revisions. An applicant will be removed from the candidate pool if:

- The applicant provided no severability matrix to the BDO, indicating that they would only accept an award if it included all locations proposed;
- The applicant indicated in their severability matrix that there are no subprojects comprised of locations still available which they could accept; OR
- The applicant indicated in their severability matrix that there are subprojects comprised of locations still available which they could accept, but the revised application would exceed the EHCPLT.

Step Three: Recalculate Rubric Score for Remaining Applications.

All remaining applications in the Third Candidate Pool will now be considered by the BDO. Because there have been adjustments to the list of locations, the BDO will recalculate the Minimal BEAD Program Outlay per Location and the Unique Application Project Area bonus to generate a new rubric score for each application. With a new number of locations in the application and new grant

request, the Minimal BEAD Program Outlay per Location score will change. The Unique Application Project Area bonus may also change, as applications may now not overlap with any other project remaining in the pool.

Continuing the Deconfliction Process

Once these three steps have been completed, the BDO will repeat the process with the remaining applications. The BDO will rerun Steps One, Two, and Three and continue making provisional awards until there are no remaining applications in the Third Candidate Pool.

Deconfliction Process: Fourth Candidate Pool

After all possible awards are made in the Third Candidate Pool, the BDO will move to the Fourth Candidate Pool. Any application that meets the following criteria will be considered:

- Remaining Reliable Broadband Service project
- Submitted by commercial or non-commercial broadband provider
- Fiber commercial provider projects with cost per location above the EHCPLT and other projects with cost per location above or below the EHCPLT
- Underserved project area

Any subprojects remaining that meet the criteria for the Fourth Candidate Pool will also be included.

After the BDO has placed all eligible applications and subprojects into the Fourth Candidate Pool, the BDO will remove all the locations that have been awarded in the First Candidate Pool, Second Candidate Pool, and Third Candidate Pool from each application. Any application that has locations removed and did not provide severability feedback or provided severability feedback that indicated there are no remaining subprojects that they would be willing to accept will be removed from the candidate pool. For all remaining applications, the Minimal BEAD Program Outlay per Location score and the Unique Application Project Area bonus will be calculated to determine the updated rubric score.

Deconfliction will occur in three steps.

Step One: Make Provisional Awards Based on Rubric Score and Unique Areas.

Once all the qualifying applications (including eligible subprojects) are in the Fourth Candidate Pool, the BDO will begin to make provisional awards. Provisional awards will be made to:

- Applications that have no overlaps with other projects within the candidate pool; AND
- Applications that have a higher rubric score than any other project with which they overlap within the candidate pool.

Once these provisional awards are made, the applications will be removed from the candidate pool. Additionally, all the locations that are served by those applications will be removed from the list of eligible locations for all other projects in the pool.

Step Two: Determine Eligibility of Remaining Applications in Candidate Pool.

Each remaining application in the Fourth Candidate Pool will be checked for overlaps with provisionally awarded projects and may have its footprint revised so that it contains only locations that are still eligible for funding. The BDO will use the severability matrix provided by the applicant to make any revisions. An applicant will be removed from the candidate pool if:

- The applicant provided no severability matrix to the BDO, indicating that they would only accept an award if it included all locations proposed; OR
- The applicant indicated in their severability matrix that there are no subprojects comprised of locations still available which they could accept.

Step Three: Recalculate Rubric Score for Remaining Applications.

All remaining applications in the Fourth Candidate Pool will now be considered by the BDO. Because there have been adjustments to the list of locations, the BDO will recalculate the Minimal BEAD Program Outlay per Location and the Unique Application Project Area bonus to generate a new rubric score for each application. With a new number of locations in the application and new grant request, the Minimal BEAD Program Outlay per Location score will change. The Unique Application Project Area bonus may also change, as applications may now not overlap with any other project remaining in the pool.

Continuing the Deconfliction Process

Once these three steps have been completed, the BDO will repeat the process with the remaining applications. The BDO will rerun Steps One, Two, and Three and continue making provisional awards until there are no remaining applications in the Fourth Candidate Pool.

Objectivity, Efficiency, and Transparency

The time allocated for the deconfliction process is 21 days. Given the timeline, the deconfliction process can be fully automated using a software system to efficiently execute the steps described above. The process for making awards is objective and transparent, as each iteration of Steps One through Three is based on rubric scores and applicants' own feedback about their willingness to serve different parts of their proposed project area. This allows for a data-driven decision-making process that will be fully visible to all parties once the process is complete in each candidate pool.

START: Launch + 267 days

END: Launch + 302 days

Special Process for Still Non-Proposed Locations (This identical content appears in 2.4.1, 2.4.6, and 2.4.7, as it comprises part of the response to multiple questions.)

Throughout the BEAD Program's subgrantee selection process, a master list of proposed locations will be maintained and updated and checked against the original list of BEAD eligible locations, in order to discern how close the state has come to achieving universal coverage, and what options

the state may have for closing remaining coverage gaps. Round 2, targeting locations that do not get proposals during Round 1, is an important part of the strategy. But the BDO anticipates that some locations will still lack proposals even after Round 2.

During the application process, the BDO will query applicants about whether they are willing to be contacted by the BDO with invitations to consider further network expansions, in order to cover any residual coverage gaps after all application intake for the competitive process is complete. BDO outreach will raise awareness about this opportunity, and encourage ISPs to volunteer to participate in the Special Process for Non-Proposed Locations, and to prepare for the quick planning and structured negotiations that will be needed in order to work with the BDO to close residual gaps.

After the Round 2 application window closes, the BDO can make an initial determination about which BEAD eligible BSLs received no applications, and remain available as further expansion opportunities for nearby ISPs. This will trigger the initiation of the Special Process for identifying any still non-proposed BSLs. Initially, the Process will focus on unserved BSLs, since universal coverage for the unserved is the BEAD Program's first priority. The BDO and its contractors will conduct outreach with any providers who previously indicated a willingness to expand their coverage into areas not yet proposed, and whose project footprints are physically adjacent or near to the gaps that have been identified. In conducting this outreach, the BDO will prioritize projects utilizing end-to-end fiber technology, insofar as they are reasonably adjacent. If no Priority Broadband Projects by providers participating in the Special Process are reasonably adjacent, or express an interest in the locations offered, or prove willing to accept a reasonable subsidy price for the deployment they can offer, then the BDO will turn to Non-Priority Broadband Projects. If no Reliable Broadband Service projects prove willing to include some locations, the BDO will also negotiate with alternative technology applicants as a last resort solution for those locations. In pursuing solutions for non-proposed locations to achieve universal coverage, the BDO will plan, if funds availability permits and costs demonstrably justify it, to offer grant funding per location in excess of the Extremely High Cost Per Location Threshold, and/or to suspend the 25% private matching capital requirement if permitted.

The Special Process for Still Non-Proposed Locations will enter another phase at the deconfliction stage, when the deconfliction process is expected to induce the exit of some applicants and projects because of their unwillingness to accept needed project revisions. Some non-proposed locations may need new solutions because deconfliction eliminated projects that had been ready to serve them, while additional locations that had proposals will lose them through deconfliction and will need solutions from the Special Process. The second phase of the Special Process will follow similar procedures to the first.

In carrying out the Special Process, the BDO will ensure that additional awards negotiated by the Special Process for unserved locations take precedence over underserved area solutions proposed as part of the third and fourth candidate pools. By contrast, additional awards negotiated by the

Special Process for underserved locations will be funded only if the third and fourth candidate pools are deconflicted and resolved into provisional awards without exhausting available BEAD funding. In this way, the BDO will comply throughout this process with the BEAD requirement to prioritize unserved over underserved locations.

Task 8: Award Analysis (23 days)

The BDO will evaluate applications and perform an award analysis with the goal of achieving universal service. The list of awarded projects will be organized to demonstrate that the state-mandated prioritization of expanding broadband access to designated areas (defined as counties) with the highest percentages of unserved and underserved locations is met. To show that the state-mandated prioritization of designated areas (counties) has been satisfied, the BDO will leverage data associated with the state's Broadband Development Map, CostQuest's NTIA Fabric License and NTIA's National Broadband Availability Map (NBAM). The list will be submitted to NTIA for final approval in the Final Proposal.

START: Launch + 302 days

END: Launch + 325 days

Task 9: Final Proposal Public Comment (40 days)

The BDO will publish a draft of the Final Proposal, including a list of projects for public comment on the Comptroller's public website. The comment period will last 30 days with responses incorporated into the final draft of the Final Proposal submitted to NTIA.

START: Launch + 325 days

END: Launch + 365 days

Risk Management and Prioritization

The BDO will check, after each candidate pool has been iterated through to a set of provisional awards, whether the total dollar price of the provisional subsidy awards exceeds the total dollar amount of BEAD grant funds still available to be allocated. If the remaining BEAD funds are *not* sufficient, the provisionally awarded projects within the candidate pool will be ranked on the basis of high poverty or persistent poverty in the counties where they propose to deploy, and the BDO will select among the provisional awards on the basis of this ranking until the BEAD budget is exhausted.

Additionally, the BDO will seek to leverage other funds at its disposal to close any residual gaps in unserved and underserved areas and achieve universal broadband access at 100/20 speeds. In particular, the BDO looks forward to subsequent rounds of the Bringing Online Opportunities to Texas (BOOT) program, implemented with state or federal funds.

State Match Aid and Proposition 8

On Nov. 7, 2023, Texas voters passed a constitutional amendment, that, subject to the outcome of an election contest, will create the Broadband Infrastructure Fund. The fund's purpose will be to expand access to and to adopt broadband and telecommunications services. Permitted uses of the

fund include: (i) the development, construction, reconstruction and expansion of broadband and telecommunications infrastructure or services; (ii) the operation of broadband and telecommunications infrastructure; (iii) the provision of broadband and telecommunications services; and (iv) the reasonable expenses of administering and managing the investments of the fund.

This new broadband infrastructure fund is further governed by Texas House Bill 9 (88th Legislative Session), which further directs how the funds may be distributed. The interplay between the BEAD Program and the Broadband Infrastructure Fund is complex. As of Dec. 1, 2023, funds have been postponed until the outcome of an election contest is decided. Further details about how the new funding can and will be used to supplement BEAD Program funding and close the digital divide in Texas is yet to be determined. Close coordination will be required because the programs will pursue the same goal at the same time. The BDO will study the best allowable uses of Broadband Infrastructure Fund money, whether that be to enhance and accelerate BEAD-funded broadband deployment activities or to fund other allowable uses. Based on these deliberations, the BDO will announce the full details in the NOFA that will be released in 2024. The NOFA will outline all the necessary details about how the BDO proposes to use BIF funds, so that BEAD applicants can consider whether and how state funds may be accessed in support of their proposed BEAD deployments.

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

As noted in the NOFO, in those locations or sets of locations where there is only one proposal, the entity submitting the sole proposal is the default winner, unless the BDO requests and the Assistant Secretary grants a waiver allowing the BDO to seek other potential subgrantees.

For those sets of locations for which multiple proposals are received, the application will go through a competitive process to choose between or among those proposals. The competitive process involves two components: (a) the overlap and deconflicting process, discussed elsewhere and (b) the rubric, which is the focus of this section. The rubric and the deconfliction process interact through the UAPA bonus points that will be awarded whenever a project is the only one in the candidate pool that offers to serve one or more BSLs. To score the rubric, the BDO will recruit technical reviewers with expertise in broadband deployment who reside outside the locations and who have no financial, corporate or familial relationships with the entities submitting proposals. Note that while contractors may assist in scoring the applications using this rubric, reviewing supporting materials, and making award recommendations, award decisions will ultimately be made by the Comptroller with advice from the BDO. As implied by the above discussion about deconflicting, where two applications share some but not all locations, the rubric, including the UAPA bonus points, will be the crucial, though not the only, factor in determining which applicant the state selects to serve the areas of overlap. However, there may be cases where a lower-scoring applicant wins an area after a higher-scoring applicant for the same area withdraws because it failed to win other areas required for the commercial viability of the proposed project.

The proposed scoring guide or rubric meets all requirements as stated in the NOFO section “Selection Among Priority Broadband Projects.” For example, the primary criteria account for no less than 75 percent of the total benefits, including minimal BEAD Program outlay, affordability and fair labor practices. The remaining 25 percent of the scoring accounts for the secondary criterion of speed to deployment and additional prioritization factors that include equitable workforce development and job quality, open access and local and Tribal coordination, as well as the UAPA bonus points that are critical to Texas’ pursuit of universal coverage.

The technical reviewers will submit their preliminary evaluations and, if no wide variance exists, the results of the scoring will be averaged to provide a final proposed score for each proposal. If a variance of 15 percent exists between the lowest numerical score and the highest score, the BDO will conduct an audio-only or videoconference call to discuss the variance among the technical reviewers. Reviewers may be asked to submit revised scores, which will then be averaged to provide a final proposed score for each proposal.

In prioritizing proposals with the highest scores under the rubric, the BDO is efficiently pursuing the state-mandated prioritization of expanding broadband to designated areas with the highest percentage of unserved and underserved locations to the extent that the requirements of the BEAD Program allow.

Grant Disbursement and Federal Cost Principles

The BDO discerns that the scale and scope of the BEAD Program is different than the typical federal grant programs that operate under 2 CFR Part 200, making the application of some federal government cost principles inapt and detrimental to effective program administration. If a strict application of 2 CFR Part 200 were to flow down to BEAD subgrantees, BEAD Program participation would be severely impaired, resulting in less competitiveness and less likelihood of achieving the program’s universal coverage goals. Accordingly, Texas would like to avail subrecipients of the 2 CFR Part 200 exceptions and adjustments NTIA applies in the BEAD Program. Should any revisions to this Initial Proposal be needed to accomplish this, Texas would like an opportunity to make those revisions. Texas does not plan to make Fixed Price Subawards.

2.4.2.1 Attachment: As a required attachment, submit the scoring rubric to be used in the subgrantee selection process for deployment projects. Eligible Entities may use the template provided by NTIA or use their own format for the scoring rubric.

The BDO developed a scoring rubric that rewards Minimal BEAD Program Outlay per location, best-of- class affordability plans and long-term financial viability of proposed projects. The BDO’s goal in developing the grant application and scoring rubric is not only to award the most qualified subgrantee for each proposed project, but also to collect sufficient data from each applicant to fairly judge each proposed project on established metrics such as cost per location, cost per route mile of deployed network and density of locations per route mile.

Below is the draft scoring rubric that will be utilized to score subgrantee applicants on their proposed projects following approval from NTIA. As noted above, while contractors

may assist in scoring the applications using this rubric, reviewing supporting materials, and making award recommendations, award decisions will ultimately be made by the Comptroller with advice from the BDO.

[Subgrantee Selection Scoring Attachment (XLSX) included separately with submission.]

Subgrantee Selection Scoring Rubric Draft

1. Primary Criteria (Required for All Subgrantee Selection)

- a. Minimal BEAD Program Outlay per Location (Dynamically re-scored during deconfliction)
 - a. Scoring: Determined by formula: $80 * (\$10,000 - \text{BEAD Program Outlay per Passing}) / \$10,000$. Note that in some cases the EHCPLT may limit the costs per location for inclusion in a candidate pool, so that all applicants in a candidate pool will get substantially positive scores here, reducing the range of variation, while in other cases, high-cost projects may get negative scores. (Note that the number \$10,000 is an arbitrary scaling factor but ensures similar treatment across candidate pools in the way that cost-effectiveness affects selection decisions.)
- b. Affordability
 - i. Description: For Priority Broadband Projects as defined in Section 2.4.3, the applicant's commitment to provide the most affordable total price to all BEAD-funded locations in its application for at least symmetrical 1 Gigabit per second (Gbps) service. For Non-Priority Broadband Projects as defined in Section 2.4.3, the eligible applicant's commitment to provide the most affordable total price to all included locations in its application for at least 100/20 Mbps service.
 - ii. As required gating criteria for the BEAD Program, all successful applicants will be contractually required to:
 - Participate in the Federal Communications Commission's (FCC) Affordability Connectivity Plan (ACP) and any successor program throughout the useful life of the network. If the ACP sunsets with no successor, this clause will impose no obligations on the subgrantee until such time as an ACP successor program shall be instituted.
 - Provide any eligible subscriber within the proposed project area a low-cost option defined in Section 2.12 throughout the useful life of the network.
 - iii. Scoring: Points for affordability will be awarded to applicants that make affordable pricing commitments in clear and unambiguous

terms, without caveats that may compromise the commitment, as follows:

Priority Broadband Projects: Applications will be scored based on applicants' clear and concise commitments to offer, for at least five years after the closeout of the construction phase, affordable service at speeds of 1Gbps/1Gbps or faster end-to-end fiber to BEAD-funded locations, at prices that will baseline from the applicable affordable benchmark, defined in section 2.13.2 as \$95 per month for Priority Broadband Projects, with adjustments for inflation:

- a. Equal to or less than 100 percent of the applicable affordable benchmark, initially \$95 per month: 54 Points
- b. 100 to 125 percent of the applicable affordable benchmark, initially \$95 to \$118.75 per month: 45 Points
- c. 125 to 150 percent of the applicable affordable benchmark, initially \$118.75 to \$142.50 per month: 36 Points
- d. 150 to 175 percent of the applicable affordable benchmark, initially \$142.50 to \$166.25 per month: 27 Points
- e. 175 to 200 percent of the applicable affordable benchmark, initially \$166.25 to \$190 per month: 18 Points
- f. 200 to 225 percent of the applicable affordable benchmark, initially \$190 to \$213.75 per month: 9 Points
- g. Greater than 225 percent of the applicable affordable benchmark, initially \$213.75 per month or applications that do not make a commitment to affordable pricing of 1Gbps/1Gbps service: 0 Points

Non-Priority Broadband Projects: Applications will be scored based on applicants' clear and concise commitments to offer, for at least five years after the closeout of the construction phase, affordable service at speeds of 100/20 Mbps or faster with technology other than end-to-end fiber to BEAD-funded locations, at prices that will baseline from the applicable affordable benchmark, defined in section 2.13.2 as \$75 per month for Non-Priority Broadband Projects, with adjustments for inflation:

- a. Equal to or less than the applicable affordable benchmark, initially \$75 per month: 54 Points
- b. 100 to 125 percent of the applicable affordable benchmark, initially \$75 to \$93.75 per month: 40 Points
- c. 125 to 150 percent of the applicable affordable benchmark, initially \$93.75 to \$112.50 per month: 25 Points
- d. 150 to 175 percent of the applicable affordable benchmark, initially \$112.50 to \$131.25 per month: 10 Points

- e. 175 to 200 percent of the applicable affordable benchmark, initially \$131.25 to \$150 per month: 5 Points
- f. Greater than 200 percent of the applicable affordable benchmark, initially \$150 per month, or applications that do not make a commitment to affordable pricing of 100/20 Mbps: 0 Points

c. Fair Labor Practices

- i. Description: As explained in Section IV.C.1.e of the BEAD NOFO, “eligible applicants must give priority to projects based on an applicant’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.” Accordingly, the BDO will request documentation from subgrantee and all contractors and subcontractors to demonstrate a record of compliance with federal labor and employment laws and score it as shown below as part of the application process.
- ii. Scoring:
 - Did not provide documentation of demonstrated record of compliance or forward-looking commitments = 0 Points.
 - Provided compelling documentation on demonstrated record of compliance, and documentation of forward-looking commitments to comply. In the case of new entrants, the documentation of forward-looking commitments alone will suffice. = 34 Points.

2. Secondary Criteria (Required for All Subgrantee Selection)

a. Broadband Data Submission

- i. Description: Texas Government Code Section 490I.0106 says that “the [broadband] office shall establish eligibility and award criteria for making awards under this chapter for each applicable notice of funds availability... In establishing eligibility and award criteria, the office shall... give preference to an applicant that provided the information requested by the office under Section 490I.0105 or 490I.01061.” This factor is included in the rubric to meet this statutory requirement specific to Texas.
- ii. Scoring:

- Applicant is a current Texas broadband provider that has been awarded federal funding and entered into an enforceable commitment to deploy broadband in Texas, but did not submit information requested by the Comptroller regarding such commitments. = 0 Points
- Applicant is a Texas broadband provider that has been awarded federal funding and entered into an enforceable commitment to deploy broadband in Texas and has submitted information requested by the Comptroller regarding such commitment or does not have an existing federal commitment to deploy broadband in Texas. = 1 Point

b. Performance on Enforceable Commitments

- Description: Texas Government Code Section 490I.0106 says that "the [broadband] office shall establish eligibility and award criteria for making awards under this chapter for each applicable notice of funds availability... In establishing eligibility and award criteria, the office shall... take into consideration whether an applicant has forfeited federal funding for defaulting on a project to deploy qualifying broadband service." This factor is included in the rubric to meet this statutory requirement specific to Texas.
- Scoring:
 - Applicant has forfeited federal funding for defaulting on a project to deploy qualifying (100/20) broadband service = 0 Points
 - Applicant has never forfeited federal funding for defaulting on a commitment to deploy qualifying (100/20) broadband service = 2 Points

c. Project Readiness – Technical Demonstration

- Description: Examples of an eligible applicant's technical demonstration include, but are not limited to, a clear and concise project description, commitment to offering service for a minimum of ten years, a realistic project schedule that syncs with broadband infrastructure to be provided and the project budget, and clear documentation of areas to be served. Eligible applicants should also provide evidence of experience with similar infrastructure deployments and service offerings.
- Scoring:
 - Poor demonstration: The application provides enough information for the reviewers to confirm that the project is feasible, but a qualified ISP could not execute the

project based on the descriptions provided alone. = 0 Points.

Average demonstration: The application provides enough information for the reviewers to confirm that the project is feasible and foresee many details of the construction, but additional design and planning work would need to be done before construction work could begin. = 1 Point.

Strong demonstration: Any qualified ISP could immediately start building on the basis of the plans provided in the application. = 3 Points.

d. Speed to Deployment

i. Description: All eligible applicants 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 no later than four years after the date on which the subgrantee receives the subgrant from the BDO. The BDO must give secondary criterion prioritization weight to the prospective subgrantee's binding commitment to provide service by an earlier date certain, subject to contractual penalties to the BDO, with greater benefits awarded to applicants promising an earlier service provision date. Applicants that commit to complete deployments by an earlier date certain, and that receive points in this rubric on the strength of such commitments, will be contractually bound to complete the deployments by the committed dates as a condition for receiving the grant and are subject to penalties and clawbacks if they fail. Further details about penalties for non-performance of earlier date certain commitments will be published in Texas's Notice of Funding Availability for BEAD.

ii. Scoring:

- Eligible applicant does not provide binding commitment to provide service by an earlier date certain = 0 Points.
- An eligible applicant provides binding commitment to provide service by a date earlier than three years and six months from the date on which the subgrantee receives the subgrant from the Eligible Entity = 1 Point.
- An eligible applicant provides binding commitment to provide service by a date earlier than three years from the date on which the subgrantee receives the subgrant from

the Eligible Entity = 2 Points.

- An eligible applicant provides binding commitment to provide service by a date earlier than two years from the date on which the subgrantee receives the subgrant from the Eligible Entity = 3 Points.

e. Sustainability

i. Description: Eligible applicants shall submit business plans and related analyses that substantiate the sustainability of the proposed project. This can be provided in the form of pro forma statements or analyses, including quarterly cash flow and balance sheet projections, and should include at least three years of operating cost and cash flow projections post targeted project completion.

ii. Scoring:

- Weak demonstration: forecast figures not clear or not realistic, i.e., very high adoption rate, or very high revenue per unit (RPU) = 0 Points.
- Strong demonstration: (a) quarterly cash flow statement and balance sheet pro forma to include earnings before interest, taxes, depreciation, and amortization (EBITDA) and subscriber adoption rate for at least 5 years beyond targeted completion date, depending on useful life of the network deployed throughout the project area, (b) projected EBITDA is at least 10 percent of total revenue in less than 10 years = 10 Points.

3. Secondary Criteria (Only Required for Selection Among Other Last-Mile Broadband Deployment Projects)

Speed of Network and Other Technical Capabilities

a. Speeds and Latency

i. Description: Eligible entities must weigh the speeds, latency and other technical capabilities of the technologies proposed by prospective subgrantees seeking to deploy projects that are not Priority Broadband Projects. Applications proposing to use technologies that exhibit greater ease of scalability with lower future investment (as defined by the BDO) and whose capital assets have longer useable lives should be afforded additional weight over those proposing technologies with higher costs to upgrade and shorter capital asset cycles.

ii. Scoring:

- Eligible applicant able to provide 100/20 Mbps

and latency below 100 milliseconds, but unable to provide 250/50 Mbps = 0 Points.

- Eligible applicant will provide 250/50 Mbps and latency below 100 milliseconds but is unable to provide 1 Gbps symmetrical = 3 Points.
- Eligible applicant will provide 1 Gbps symmetrical and latency below 100 milliseconds = 8 Points.

b. Useful Life of Subgrantee Technology

- i. Description: Eligible applicants proposing to use technologies whose capital assets have longer useful lives should be afforded additional weight over those proposing technologies with higher costs to upgrade and shorter capital asset cycles.
- ii. Scoring:
 - Eligible applicant does not provide any supporting documentation on proposed equipment useful life = 0 Points.
 - Eligible applicant provides limited documentation on proposed equipment useable life or vendor statement that equipment may have useful life of up to 10 years = 1 Point.
 - Eligible applicant provides strong engineering documentation on proposed equipment useful life of 10 years or more = 4 Points.

4. Additional Prioritization Factors (Required for All Subgrantee Selection)

a. Local and Tribal Coordination

- i. Description: NTIA encourages Eligible Entities to adopt selection criteria reflecting a prospective subgrantee's support from the local and/or Tribal Government with oversight over the location or locations to be served.
- ii. Scoring:
 - Eligible applicant does not provide any letters of support from local or Tribal Government = 0 Points. (Note: A Tribal resolution of consent is required (a gating criterion) for Tribal areas, but the BDO will not require the formal resolution of consent to be provided until the award is approved by the NTIA.)
 - Eligible applicant provides letter of support for proposed project from local or Tribal government. Letters of support must mention the prospective subgrantee by name and a description of the project = 5 Points. (Note: In the case of

Tribal locations, all projects must have letters of support, so their relative scores will not be affected, but the 5 points can help a project to compete for other, non-Tribal locations that may be necessary to the commercial viability of a project serving Tribal locations.) The Tribal Resolution of Consent will be required before the award can be funded.

- b. Unique Applicant Project Area Bonus Points (Dynamically re-scored during deconfliction)
 - i. Description: Eligible applicants that submit projects containing unique BSLs within their footprint that are not covered by any other projects of the same prioritization tier (Priority or Non-Priority) should be afforded additional weight as the BDO seeks to provide universal service to all unserved locations.
 - ii. Scoring:
 - No Unique Applicant Project Areas. All BSLs contained in the project footprint have other projects of the same prioritization tier (Priority or Non-Priority) offering to serve them = 0 Points.
 - Unique Applicant Project Areas. One or more BSLs contained in the project footprint do not have other projects of the same prioritization tier (Priority or Non-Priority) offering to serve them = 20 Points
 - Each eligible applicant must complete an application that will require company information, relevant history, project narrative and a table of proposed passings (i.e., a list of BSLs that will be passed by the project and provided with access to internet service) by category (unserved versus underserved), and they must also address multiple gating factors either by narrative or by attachments such as audited financial statements, letter of credit and financial certification, among others. Applicants must also certify that all information is true, complete and accurate.

2.4.3 Text Box: 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 BEAD NOFO requires that state broadband offices prioritize (a) unserved locations over underserved locations, as well as (b) “Priority Broadband Projects” that use end-to-end fiber technology and have costs per location below the Extremely High Cost Per Location Threshold over more expensive fiber projects and other reliable broadband technology projects (“Non-Priority Broadband Projects”). This required prioritization is

one of the motivating factors in the design of Texas' subgrantee selection and geospatial deconfliction processes. Specifically, as described in Section 2.4.1 and in further detail in Section 2.4.6, the BDO will consider deconfliction and provisionally awarded projects in four consecutive candidate pools, as follows:

First Candidate Pool

- End-to-end fiber projects
- Submitted by commercial broadband providers
- Cost per location below the EHCPLT
- Unserved project areas only – at least 80% of BSLs are unserved
- Any economic region

Second Candidate Pool

- Remaining Reliable Broadband Service projects
- Submitted by commercial or non-commercial broadband providers
- Fiber commercial provider projects with cost per location above the EHCPLT and other projects with cost per location above or below the EHCPLT
- Unserved project areas only – at least 80% of BSLs are unserved
- Any economic region

Third Candidate Pool

- Remaining end-to-end fiber projects
- Submitted by commercial broadband providers
- Cost per location below the EHCPLT
- Underserved project areas
- Any economic region

Fourth Candidate Pool

- Remaining Reliable Broadband Service projects
- Submitted by commercial or non-commercial broadband providers
- Fiber commercial provider projects with cost per location above the EHCPLT and other projects with cost per location above or below the EHCPLT
- Underserved project areas
- Any economic region

The division of projects into four Candidate Pools is unrelated to the Round 1 and Round 2 application windows described earlier. Both Round 1 and Round 2 projects may fit into any of the four Candidate Pools depending on their technology, cost per location and project footprint. Applicants may foresee, but do not need to take into account, the Candidate Pools for which their projects will qualify. Rather, the Candidate Pools are an internal classification that BDO will use to select subgrantees in a manner that complies with the BEAD Program's prescribed prioritizations. For example, the prioritization of unserved over underserved locations will be secured principally by prioritizing the first two Candidate Pools, which both consist exclusively of projects whose proposed footprints consist of 80 percent or more unserved locations. In Task 7 of the subgrantee

selection process as described in Section 2.4.1, the deconflicting and selection among these Candidate Pools will be carried out before the BDO begins to consider projects whose footprints consist primarily of underserved locations. In this way, the BDO will ensure Unserved Project Areas are favored over Underserved Project Areas.

After the first two Candidate Pools have undergone selection and deconflicting, leading to a set of provisional awards, the BDO will assess the extent to which the statewide broadband coverage gap in unserved locations can be solved by the projects that are on track to be selected.

Therefore, in Task 6 of the subgrantee selection process, as described in Section 2.4.1, a Special Process will be launched, by which the BDO will seek to work collaboratively with eligible applicants to extend or modify their applications to ensure all gaps are met. At this stage, the BDO will encourage preliminary awardees to accept additional locations, and subsidy offers will be less constrained by considerations of cost-effectiveness and competitive dynamics. Moreover, the BDO reserves the right to revoke a provisional award in favor of another applicant that is more willing to extend its footprint. The BDO therefore anticipates being able to induce maximal willingness on the part of broadband providers to extend and propose solutions for some of the hardest-to-serve locations. Where these are not forthcoming, however, solutions involving non-reliable technologies such as satellite technology and unlicensed fixed wireless will also be considered. All awards for underserved project areas will be contingent on the achievement of a universal statewide solution for unserved locations.

By dividing incoming BEAD projects into four Candidate Pools and awarding them sequentially, the BDO will make its best effort to award as many Priority Broadband Projects as possible in unserved areas before turning to other reliable broadband technology projects. Similarly, it will make its best efforts to award fiber projects in underserved areas before turning to other reliable broadband technology projects. And it will pursue deployment to all unserved locations to a satisfactory conclusion before it begins to make awards for underserved project areas.

If there is more than sufficient funding for deployment commitments for all unserved and underserved locations, the BDO will move towards the next priority, which is deployment of gigabit service to all CAIs in the state.

2.4.4 Text Box: If proposing to use BEAD Program 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 Text Box: 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.

As with all BEAD Program requirements, the BDO will employ a two-step approach to ensure subgrantees comply with all federal provisions, including obligations related to the Federal Emergency Management Agency's EHP and the BABA Act.

First, eligible applicants will include among their "gating" eligibility requirements affirmative certifications of compliance with all BEAD Program requirements on the application form, including EHP and BABA. Those eligible applicants neglecting to certify this compliance as a part of their subgrantee application proposal will be disqualified from further consideration in Round 1 but may reapply in Round 2 if they then make this certification.

Second, the subgrantee awardees will contract with the state to receive their awards. This subgrantee contract will contain these EHP, BABA and all other BEAD Program requirements and certifications for funding. Compliance will be tracked, as further outlined in this proposal, using the custom-developed grants management platform in Salesforce.

The BDO maintains an ongoing dialogue with industry through roundtable discussions, surveys, website postings and email communications. Through these outreach mechanisms, the BDO will communicate EHP and BABA requirements to all applicants prior to the application process.

Specific to BABA, the BDO will highlight the following key points:

- All iron, steel, manufactured products (including fiber-optic communications facilities) and construction materials used in the project or other eligible activities must be produced in the U.S. unless a waiver is granted.
- In determining whether a product is produced in the U.S., subrecipients must comply with definitions included in Section 70912 of the BABA, which provides that a manufactured product is considered produced in the U.S. if the product was manufactured in the U.S. and the cost of the components of the manufactured product that are mined, produced or manufactured in the U.S. is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation.
- In addition to the provisions above, subgrantees may not use BEAD Program funding to purchase or support any covered communications equipment or service, as defined in Section 9 of the Secure and Trusted Communications Networks Act of 2019 (47 U.S.C. § 1608).
- The Infrastructure Investment and Jobs Act expressly prohibits subgrantees from using BEAD Program funding to purchase or support fiber-optic cable and optical transmission equipment manufactured in the People's Republic of China unless a waiver of this requirement is received from the Assistant Secretary.
- Projects that fail to comply with EHP and/or BABA requirements will not be considered as a potential subgrantee of BEAD Program funding.

- BDO will strive to incorporate any future guidance from NTIA regarding BABA and/or EHP depending on when and where such guidance may be released.

Last-Mile Broadband Deployment Project Areas

2.4.6 Text Box: 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 deconflicting overlapping proposals to allow for like-to-like comparisons of competing proposals.

The BDO does not intend to predefine project areas because it has not seen any method by which this could be done without arbitrariness leading to inefficiency (if an area was not technically or commercially well-suited to being served by a single provider) and/or bias (if project area definitions aligned with some ISPs' expansion plans better than others). Eligible applicants themselves have the best knowledge of how far and where they have the most ability and willingness to expand, and the task of defining and proposing expansion plans can be left, at least initially, to eligible applicants themselves.

After applications are submitted, however, the BDO will define project areas based on the overlaps of the project footprints submitted by ISPs, to facilitate like-to-like comparisons of projects using rubric scores. The process is designed, however, to avoid assuming that any of the project areas, thus defined, comprise expansion areas that applicants are willing to accept grant funding for on a standalone basis. Rather, having defined project areas based on overlaps, the BDO will reach out to ISPs through the severability feedback process to find out which subprojects are acceptable to them, and for what subsidy price. The deconfliction process will utilize this severability information to find solutions to which applicants will consent that are as comprehensive and efficient as possible.

In the past, Texas has used census blocks as the minimum geographic unit of broadband grant project footprints. This reflected the structure of the Form 477 maps, which in turn shaped Texas legislation such as House Bill (HB) 5, 87th Texas Legislature. But census blocks do not inherently have anything to do with telecommunications and are not designed with the technical efficiency of broadband deployment in mind, so they are not included in the BDO's approach to the BEAD Program. Instead, the BDO will implement the BEAD Program without regard to census block boundaries, taking advantage of the new geographic granularity of the FCC National Broadband Map.

Section 2.4.1 describes the process by which the BDO will work with eligible applicants to revise their footprints as needed so that they fit together into a comprehensive statewide solution that meets the multi-dimensional objective of more fiber, affordability, good working conditions and so forth. To reiterate, the iterative deconflicting process involves the state iteratively assigning areas to projects, then checking severability feedback for applicant consent and subsidy needs, then

adjusting the Candidate Pool to remove winners and losers and applicants withdrawing through non-acceptance of revisions, then rescoring and assigning areas to projects again. This will be conducted for each of the four Candidate Pools. In selecting projects for areas, the BDO will rely both on the rubric and on a unique area prioritization rule that favors projects that extend the overall program reach by serving unique areas.

To succeed in this process, providers will need to be competitive across multiple dimensions to win competitive areas where there are multiple proposals, including the largest rubric factor, minimal BEAD Program outlay. This will encourage providers to restrain their funding requests and make plans to raise matching capital. But the favor given to unique area projects will also motivate providers to seek out areas with no other solutions and include them in projects to gain an advantage in competing for competitive areas. This incentivizes ISPs to propose projects that expand the reach of the statewide solution.

Special Process for Still Non-Proposed Locations (This identical content appears in 2.4.1, 2.4.6, and 2.4.7, as it comprises part of the response to multiple questions.)

Throughout the BEAD Program's subgrantee selection process, a master list of proposed locations will be maintained and updated, and checked against the original list of BEAD eligible locations, in order to discern how close the state has come to achieving universal coverage, and what options the state may have for closing remaining coverage gaps. Round 2, targeting locations that do not get proposals during Round 1, is an important part of the strategy. But the BDO anticipates that some locations will still lack proposals even after Round 2.

During the application process, the BDO will query applicants about whether they are willing to be contacted by the BDO with invitations to consider further network expansions, in order to cover any residual coverage gaps after all application intake for the competitive process is complete. BDO outreach will raise awareness about this opportunity, and encourage ISPs to volunteer to participate in the Special Process for Non-Proposed Locations, and to prepare for the quick planning and structured negotiations that will be needed in order to work with the BDO to close residual gaps.

After the Round 2 application window closes, the BDO can make an initial determination about which BEAD eligible BSLs received no applications, and remain available as further expansion opportunities for nearby ISPs. This will trigger the initiation of the Special Process for identifying any still non-proposed BSLs. Initially, the Process will focus on unserved BSLs, since universal coverage for the unserved is the BEAD Program's first priority. The BDO and its contractors will conduct outreach with any providers who previously indicated a willingness to expand their coverage into areas not yet proposed, and whose project footprints are physically adjacent or near to the gaps that have been identified. In conducting this outreach, the BDO will prioritize projects utilizing end-to-end fiber technology, insofar as they are reasonably adjacent. If no Priority Broadband Projects by providers participating in the Special Process are reasonably adjacent, or

express an interest in the locations offered, or prove willing to accept a reasonable subsidy price for the deployment they can offer, then the BDO will turn to Non-Priority Broadband Projects. If no Reliable Broadband Service projects prove willing to include some locations, the BDO will also negotiate with alternative technology applicants as a last resort solution for those locations. In pursuing solutions for non-proposed locations to achieve universal coverage, the BDO will plan, if funds availability permits and costs demonstrably justify it, to offer grant funding per location in excess of the Extremely High Cost Per Location Threshold, and/or to suspend the 25% private matching capital requirement if permitted.

The Special Process for Still Non-Proposed Locations will enter another phase at the deconfliction stage, when the deconfliction process is expected to induce the exit of some applicants and projects because of their unwillingness to accept needed project revisions. Some non-proposed locations may need new solutions because deconfliction eliminated projects that had been ready to serve them, while additional locations that had proposals will lose them through deconfliction and will need solutions from the Special Process. The second phase of the Special Process will follow similar procedures to the first.

In carrying out the Special Process, the BDO will ensure that additional awards negotiated by the Special Process for unserved locations take precedence over underserved area solutions proposed as part of the third and fourth candidate pools. By contrast, additional awards negotiated by the Special Process for underserved locations will be funded only if the third and fourth candidate pools are deconflicted and resolved into provisional awards without exhausting available BEAD funding. In this way, the BDO will comply throughout this process with the BEAD requirement to prioritize unserved over underserved locations.

2.4.7 Text Box: 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 eligible applicants willing to expand their existing or proposed service areas or other actions that the Eligible Entity will take to ensure universal coverage.

When committing BEAD Program funding, the BDO has two major strategies for dealing with eligible locations for which no subgrantee applications are received, as described in Section 2.4.1.

Second Application Round for Initially Non-Proposed Locations

First, after the closing of the first application window, the BDO will open a second application window in which applicants are invited to submit new or revised applications only if those applications propose to serve additional eligible locations for which no proposals were received during the first application window. Second, after the first two Candidate Pools, priority broadband projects for unserved areas and other reliable technology broadband projects for unserved areas have been scored, selected and deconflicted, the BDO will, as described in the full process narrative in Section 2.4.1, launch a special process of negotiations and invited applications targeting any

residual unserved eligible locations for which no grant project has been awarded. The details will be developed as needed to reflect emerging best practices and respond to the specific character of the remaining, limited gaps in planned coverage.

Again, while applicants that are willing to serve these initially non-proposed locations could have proposed them in the earlier round, the BDO anticipates that in some cases they will not have done so because they did not know that the locations would lack a solution and/or because they felt a need to be cost-effective and competitive. In the Special Process for Still Non-Proposed Locations described in Section 2.4.1, the BDO should be able to afford to be more proactive as it seeks solutions for the expected small number of unserved locations that still lack proposals. Also, applicants that already have preliminary awards will run a risk of these being revoked if they do not accommodate the BDO's needs as it pursues universal statewide coverage solutions.

Special Process for Still Non-Proposed Locations (This identical content appears in 2.4.1, 2.4.6, and 2.4.7, as it comprises part of the response to multiple questions.)

Throughout the BEAD Program's subgrantee selection process, a master list of proposed locations will be maintained and updated, and checked against the original list of BEAD eligible locations, in order to discern how close the state has come to achieving universal coverage, and what options the state may have for closing remaining coverage gaps. Round 2, targeting locations that do not get proposals during Round 1, is an important part of the strategy. But the BDO anticipates that some locations will still lack proposals even after Round 2.

During the application process, the BDO will query applicants about whether they are willing to be contacted by the BDO with invitations to consider further network expansions, in order to cover any residual coverage gaps after all application intake for the competitive process is complete. BDO outreach will raise awareness about this opportunity, and encourage ISPs to volunteer to participate in the Special Process for Non-Proposed Locations, and to prepare for the quick planning and structured negotiations that will be needed in order to work with the BDO to close residual gaps.

After the Round 2 application window closes, the BDO can make an initial determination about which BEAD eligible BSLs received no applications, and remain available as further expansion opportunities for nearby ISPs. This will trigger the initiation of the Special Process for identifying any still non-proposed BSLs. Initially, the Process will focus on unserved BSLs, since universal coverage for the unserved is the BEAD Program's first priority. The BDO and its contractors will conduct outreach with any providers who previously indicated a willingness to expand their coverage into areas not yet proposed, and whose project footprints are physically adjacent or near to the gaps that have been identified. In conducting this outreach, the BDO will prioritize projects utilizing end-to-end fiber technology, insofar as they are reasonably adjacent. If no Priority Broadband Projects by providers participating in the Special Process are reasonably adjacent, or express an interest in the locations offered, or prove willing to accept a reasonable subsidy price

for the deployment they can offer, then the BDO will turn to Non-Priority Broadband Projects. If no Reliable Broadband Service projects prove willing to include some locations, the BDO will also negotiate with alternative technology applicants as a last resort solution for those locations. In pursuing solutions for non-proposed locations to achieve universal coverage, the BDO will plan, if funds availability permits and costs demonstrably justify it, to offer grant funding per location in excess of the Extremely High Cost Per Location Threshold, and/or to suspend the 25 percent private matching capital requirement if permitted.

The Special Process for Still Non-Proposed Locations will enter another phase at the deconfliction stage, when the deconfliction process is expected to induce the exit of some applicants and projects because of their unwillingness to accept needed project revisions. Some non-proposed locations may need new solutions because deconfliction eliminated projects that had been ready to serve them, while additional locations that had proposals will lose them through deconfliction and will need solutions from the Special Process. The second phase of the Special Process will follow similar procedures to the first.

In carrying out the Special Process, the BDO will ensure that additional awards negotiated by the Special Process for unserved locations take precedence over underserved area solutions proposed as part of the third and fourth candidate pools. By contrast, additional awards negotiated by the Special Process for underserved locations will be funded only if the third and fourth candidate pools are deconflicted and resolved into provisional awards without exhausting available BEAD funding. In this way, the BDO will comply throughout this process with the BEAD requirement to prioritize unserved over underserved locations.

Use of State Funds as Additional Inducement to Reach All Unserved and Underserved Locations

With Proposition 8's passage, as mentioned in section 2.4.1, the BDO can leverage state funds to supplement BEAD funds in its pursuit of universal coverage. To that end, the BDO tentatively plans to develop the Texas Match Program, a competitive match award process that will identify applicants with exceptional financial need who would benefit from additional state funds, in a way that accelerates progress towards universal coverage for Texas. That said, funding for this program has not been confirmed and the BDO reserves the right not to move forward with this plan. Further development of the Texas Match Program will occur after the BDO selects a vendor for implementation support services.

Unique Area Prioritization

While the BDO anticipates that negotiation will be needed to get coverage solutions for a few unserved locations, its principal strategy to get the vast majority of BSLs served is the combination of an industry-friendly program with unique area prioritization.

2.4.8 Text Box: 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 digital divide is particularly acute in Tribal nations. The BDO welcomes eligible applicants that

cover Tribal locations, be they residential, business and/or CAIs. As all three federally recognized Tribes in Texas are considered sovereign nations, they each have sovereign immunity, meaning they have absolute immunity from suit in government operations as well as commercial transactions, which applies even to contracts and business activities off the reservation. Therefore, it is important to ensure any eligible applicant must have explicit Tribal government support for any eligible applicant that provides network deployment to any Tribal location.

In that regard, the BDO will require written support or consent from the Tribal government with oversight of the locations to be served. The BDO also developed a scoring rubric in a way that rewards subgrantees for securing a letter of support and can represent a higher level of endorsement.

In the event any subgrantee award proposes to serve locations on Tribal lands, the BDO will work closely with the subgrantee and the Tribal government(s) to secure a Tribal Government Resolution of Consent that will accompany the Final Proposal.

Extremely High Cost Per Location Threshold (EHCPLT)

2.4.9 Text Box: Identify or outline a detailed process for identifying an Extremely High Cost Per Location Threshold EHCPLT 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 BDO will attempt to set the EHCPLT in a way that prioritizes the BEAD Program's objectives and the state of Texas priorities. Of the goals and objectives, universal 100/20 Mbps access is prioritized in the planning below.

Cost Per Location Estimation Data

The BDO will determine the EHCPLT based on a data-driven process. CostQuest Associates (CQA) has a proprietary data set with location-based cost estimates for fiber and fixed wireless broadband deployment. The CQA data and use of the Eligible Entity Planning Tool will be an invaluable starting point for determining the EHCPLT. In addition to the CQA cost data, the BDO will utilize other sources of information about the costs of broadband deployment, which, though they are not as comprehensive as CQA's, will be helpful in estimating the cost per location data across Texas. With the BDO administering the BOOT Program and beginning to receive BEAD Program applications, the BDO's data for Texas broadband project costs may help indicate the cost structures that BEAD Program applicants are likely to face and will help the BDO continue to enrich its understanding of broadband deployment costs in Texas. BOOT Program applicants are likely to target relatively "low-hanging fruit" areas, while the BEAD Program will need to also deal with the hardest-to-serve locations, so the BDO will need to be careful in extrapolating from the BOOT Program's experience to predict BEAD Program costs and should bear in mind the upside cost risk that comes with the pursuit of *universal* broadband access.

A Data-Driven Method for Determining the Extremely High Cost Per Location Threshold (EHCPLT)

Instead of defining a specific value for the EHCPLT at this time, the BDO describes a data-driven methodology for determining the EHCPLT that is highlighted below. To start the process, the BDO will need cost estimation data for every unserved eligible BSL and for two technological specifications: end-to-end fiber and the less costly, reliable technology.

The EHCPLT determination process, starting from any given source of statewide cost estimation data (sources to be discussed below), involves four steps:

1. Using available cost per location data, calculate the cumulative fiber total cost by location, from lowest cost to highest cost.
2. Using available cost per location data, calculate the cumulative total cost by location for less costly, reliable broadband technology.
3. Find the quantity of locations for which the cumulative total cost of fiber for lower cost locations, plus the cumulative total cost for other reliable technology for higher cost locations, equals the statewide BEAD Program allocation. That is, for each location, *either* a fiber cost *or* a less -costly, reliable technology cost would be assigned, in a way that adds up to the total BEAD allocation for deploying either fiber or less -costly, reliable technology service to all locations in the state. In effect, the BDO will work “backward” from the highest-cost locations, progressively estimating how much it will need to spend on the least costly reliable technology solutions for those locations until it arrives at a point where the lower-cost remainder of locations can be served with fiber, within the remaining budget after the highest-cost locations are served. This represents, in principle, the maximum amount of end-to-end fiber deployment that the BDO can “afford while reserving enough funds to meet the rest of the statewide coverage gap by less costly reliable technology.”
4. Set the EHCPLT equal to the marginal subsidy cost of fiber deployment corresponding to the maximum amount of fiber deployment the BDO can afford.

This method will be applied by the 12 economic regions and may result in different values of the EHCPLT per region.

It should be kept in mind that while the CQA data, which in some form, though potentially with substantial adjustment, are expected to drive the determination of the EHCPLT and are structured as a data set of cost per location for fiber and fixed wireless, this data format masks large complexities.

These complexities are related to the sharing of fixed costs inherent in network buildout, so that the projections that will be developed of how much fiber the state can afford and where, are artificial and

should not expect to be realized in detail as program outcomes. Ultimately, locations are not being bid on individually and bids are unlikely to conform to the estimates. But to build cost estimates based on a fully elaborated network design for the state would also make little sense, as no such

network will be designed and built by the BDO. Coverage gaps will be closed by private ISP projects, which would be infeasible and improper for the BDO to attempt to anticipate in detail.

The approach to EHCPLT determination described here has the advantages that (a) it will estimate how much fiber the state can afford and how the Threshold EHCPLT should be set to secure that outcome and (b) it is a data-driven process that will ensure neutrality and prevent arbitrariness. In particular, it will help the BDO to position itself to determine the EHCPLT *after* BEAD project proposals have been received, without favoring specific applicants. The data-driven process can be executed in a manner that is blind to the merits of specific projects and thereby contributes to the fairness and neutrality of the subgrantee selection process as a whole.

Uncertainty and the Balance of Risks

In applying this data-driven approach, the BDO understands that any cost estimation data will be subject to substantial uncertainty due to changing supply chains, labor costs and other factors. By waiting until it has actual BEAD Program applications in hand, the BDO can improve the quality of the cost estimation data it uses to set the Threshold EHCPLT, but even then, bids may systematically overstate costs, especially where ISPs face little competition. Scrutiny of budgets by grant reviewers to ensure they represent reasonable estimates of the allowable expenses that applicants will incur in network construction can restrain the potential overstatement of costs and the BDO will seek to build capacity for such technical grant review, but this approach to restraining costs has its limits. In the face of deep-seated uncertainty about underlying costs, the unequal impact of underestimating vs. overestimating the subsidy cost of fiber deployment must affect how this balance of risks is managed.

If the cost per location data utilized by the BDO underestimates the costs of fiber and/or the costs of less costly, reliable technology deployment, this will tend to result in overestimating the amount of fiber deployment the BDO can afford and consequently setting the EHCPLT too high. Too high an EHCPLT could result in the premature exhaustion of BEAD Program funds through expensive fiber projects and thereby jeopardize Texas' ability to achieve universal broadband access.

Alternatively, if cost per location data, utilized by the BDO, overestimates the costs of fiber and for the less costly, reliable technology deployment, it could result in underestimating the amount of fiber deployment the BDO can afford and consequently setting the EHCPLT too low. As a result, Texas could end up with less end-to-end fiber deployment than the state could have afforded based on the available BEAD Program's allocation. This would impact a less prioritized program objective than universal broadband access. The BDO will therefore be especially careful not to underestimate fiber deployment costs and thereby end up setting the EHCPLT too high.

With this in mind, while preliminary estimates of the appropriate EHCPLT will be made for the sake of planning, the BDO assumes that finalizing the EHCPLT will be delayed until after the BEAD Program's subgrantee selection process is launched. If incoming applications show that any cost estimation data previously used are systematically inaccurate and especially if it systematically

understates costs, the EHCPLT may be adjusted.

Non-“Reliable” Broadband Technologies for the Highest-Cost Areas

The BDO recognizes that a small minority of locations, due to their extreme remoteness or other special circumstances, face exceptionally high costs of deployment using end-to-end fiber, licensed fixed wireless or any other broadband technology classified as “reliable” by the NTIA in the BEAD NOFO. Because of this, a strict application of the data-driven method shown above might lead to the absorption of an unreasonable proportion of the BEAD Program’s budget by a small fraction of eligible BSLs, unduly crowding out end-to-end fiber deployment in lower-cost areas, or even jeopardizing the achievement of statewide 100/20 Mbps universal broadband access.

Given Texas’ vast, remote landmass in some parts of the state and average population density of 105.2 people per square mile, the BDO reserves the right to set the EHCPLT in a way that results in some locations being infeasible to serve with “reliable” technologies, as defined in the BEAD NOFO. Where a “reliable” technology solution proves to be out of reach, the BDO will evaluate alternative broadband service options that are not included in the list of “reliable” as defined in the BEAD NOFO, but which can offer 100 Mbps/20 Mbps service with less than 100 milliseconds of latency, and which might meet broadband service needs most cost-effectively in some of the state’s hardest-to-serve locations. By setting expectations for something other than universal access to reliable broadband technologies, the BDO can be more confident about the impact of BEAD Program funds on more cost-effective areas, while encouraging alternative technology providers to propose solutions for the most remote locations. The BDO does not anticipate a need to resort to non-“reliable” technology solutions for any location where any proposals are offered to deploy “reliable” technologies in return for grant subsidies per location less than the EHCPLT. However, “reliable” technology proposals that exceed the EHCPLT may be rejected in favor of cheaper alternative technology solutions if the BDO faces a statewide funding shortfall and must turn to alternative technology to get any form of universal 100/20 coverage.

While non-“reliable” broadband technology projects will not be considered as part of the first or second Candidate Pools for unserved areas, or as part of the third or fourth Candidate Pools for underserved areas, unlicensed fixed wireless and satellite providers that believe they can provide 100/20 Mbps service and less than 100 milliseconds of latency are encouraged to apply and will be considered if the full consideration, deconflicting and tentative awarding of reliable broadband technology projects still leaves coverage gaps. More specifically:

- Non-“reliable” broadband technology projects proposing to deploy to unserved project areas will get consideration and may be awarded after the first and second Candidate Pools if (a) there are any unserved locations still lacking solutions; (b) their proposed project footprints include any of the remaining unserved coverage gaps; and (c) BEAD Program funds are still available after the first and second Candidate Pools have been resolved into preliminary awards.
- Non-“reliable” broadband technology projects proposing to deploy to underserved project

areas will get consideration and may be awarded if (a) there are any underserved locations still lacking solutions; (b) their proposed project footprints include any of the remaining underserved coverage gaps; and (c) BEAD Program funds are still available after a complete statewide solution for unserved locations has been achieved and the third and fourth Candidate Pools have been resolved into awards.

The BDO will follow the NTIA's guidance in preferring "reliable" broadband technologies to unlicensed fixed wireless and satellite technology where such projects are available and fiscally feasible.

Other Sources and Threshold Input

In addition to CQA cost estimation and use of the Eligible Entity Planning Tool, the BDO will utilize other available data sources to ensure the most accurate costing data across Texas, when available and where appropriate. As previously noted, the BDO administers the BOOT Program and has started receiving applications that contain real-time costing information. Furthermore, the BDO has engaged with the broadband industry and gleaned insights about the subsidy cost of additional deployment. If the patterns shown in other Texas-based broadband funding programs, provider survey responses and other industry engagement are significantly different from prior estimates, the BDO will study ways to adjust the cost estimates to better reflect the local realizations across Texas, especially to mitigate the risk of overspending on exceedingly expensive fiber projects.

As mentioned above, the BDO has requested evidence from the industry concerning deployment cost, with a particular interest in cost information. The information that has been provided so far has been beneficial to the BDO. The BDO will again request detailed and data-driven feedback about costs from ISPs that can help the BDO avoid jeopardizing universal 100/20 broadband access by overspending on fiber projects. Competition among fiber providers for desirable areas, which will be rendered more effective by the BDO's openness to proposals with a wide variety of service areas to give ISPs flexibility to find the most cost-effective solutions, will be crucial for disciplining bids and keeping the overall BEAD spending in Texas down. It will also be critical for the BDO to leverage the power of *inter-technology* competition to discipline bids. By making sure not to set the EHCPLT too high, the BDO will signal to fixed wireless providers that many areas may be out of reach for fiber deployment below the EHCPLT and that robust participation and pursuit of BEAD Program funds will often prove to be worth their while. In the face of this competitive threat, fiber providers will try to rein in their subsidy requests to stay under the EHCPLT, but if they cannot, they will still have an incentive to limit their bids to remain competitive against the competition for grants from fixed wireless providers they can expect to face.

2.4.10 **Text Box:** Outline a plan for how the EHCPLT will be utilized in the subgrantee selection process to maximize the use of the best available technology while ensuring 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:

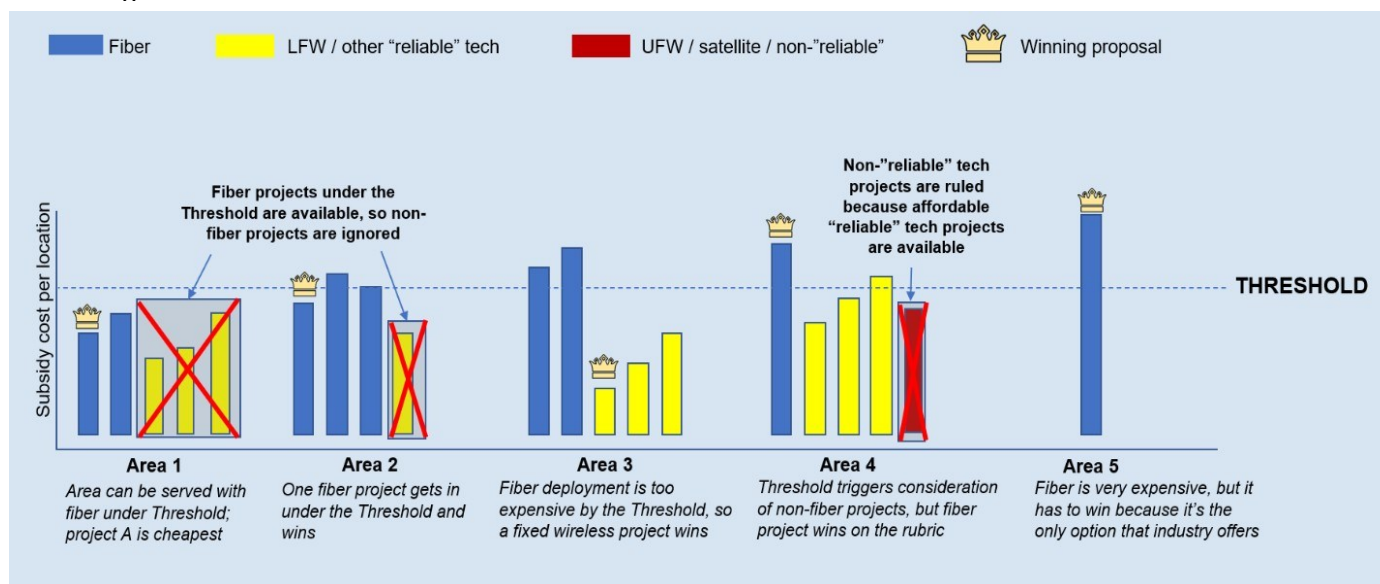
- a) The process for declining a subgrantee proposal that exceeds the EHCPLT where an alternative technology is less expensive.
- b) The plan for engaging subgrantees to revise their proposals and ensure locations do not require a subsidy exceeding the EHCPLT.
- c) The process for selecting a proposal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

The EHCPLT will play a key role in the process of selecting and deconflicting projects. As described in Section 2.4.1 and elsewhere, the BDO will categorize incoming projects into four Candidate Pools: (a) end-to-end fiber projects with cost per location below the EHCPLT and 80 percent or more unserved project areas; (b) other reliable technology projects with 80 percent or more unserved project areas; (c) other end-to-end fiber projects with cost per location below the EHCPLT; and (d) all other projects. To perform this categorization, cost per location will be calculated for every project. The EHCPLT will either have been determined already or will be determined at this time.

Additionally, during the subgrantee selection process, the EHCPLT will regulate the budgetary requests eligible applicants make when agreeing to revise their project footprints. To ensure that the prioritization of fiber projects over other reliable broadband technology projects is bounded by the EHCPLT, as the BEAD NOFO requires, the BDO would limit the budgetary requests made by eligible applicants in connection with potential project footprint revisions. Some eligible applicants proposing end-to-end fiber projects, which in their original form have subsidy costs per location below the EHCPLT, might be willing to accept revisions to their project footprint, but only on the condition the state grant a budget that would imply costs per location higher than the EHCPLT for the revised project. In that case, while the project could still be considered for funding, it would not warrant being privileged over other reliable technology projects because of its use of end-to-end fiber technology. Fiber projects that ask for more than the EHCPLT in subsidy cost per location in response to project footprint revisions will be moved from the first to the second, or from the third to the fourth, Candidate Pools in response to these revisions, thereby ceasing to get the prioritization advantage the BEAD Program gives to some fiber projects.

During the stakeholder engagement, the BDO used the attached chart (image 2.) to explain to the broadband industry the role the EHCPLT will play in the administration of the BEAD Program, and it seems to have been well received and widely discussed. The example shown focuses on five “areas,” the assumption being that overlaps did not occur or have been deconflicted and the state straightforwardly faces multiple options for a set of well-defined areas. The chart is conceptual and does not capture the sequential process by which the BDO will consider Priority Broadband Projects as part of separate Candidate Pools (the first and third) from Non-Priority Broadband Projects (second and fourth). But it accurately represents how the EHCPLT will shape the outcomes of the subgrantee selection process:

2.4A High Cost Per Location Threshold



- Area 1 has two fiber projects below the EHCPLT. The cheaper project in subsidy cost per location wins. Three non-fiber projects are ignored because fiber projects under the EHCPLT are available.
- Area 2 has three fiber projects proposed, of which two are above the EHCPLT. That doesn't matter, however, because one of the fiber projects is below the EHCPLT and that project wins.
- Area 3 has two fiber projects proposed, but both require more in subsidy cost per location than the EHCPLT. Consequently, they are not prioritized but are required to compete on the rubric against other reliable technology projects. The cheapest alternative technology project, assumed to be fixed wireless, wins.
- Area 4 illustrates the somewhat counterintuitive scenario where a fiber project wins, it is above the EHCPLT, and cheaper fixed wireless projects are available. This can occur because of the rubric. This costly fiber project must overcome a large disadvantage because of its high subsidy cost per location, but if it is excellent on many other aspects of project quality, while the fixed wireless alternatives are notably weak, it is still possible that the prudent decision is for the state to fund the fiber project.
- Area 5 is another example where a fiber project wins despite being well above the EHCPLT. In this case, the reason it wins is because there are no alternatives. No other eligible applicants have indicated a willingness to serve Area 5.

The BDO hopes that its investment in educating the broadband industry about the EHCPLT will help broadband eligible applicants to engage confidently with the BEAD Program and submit an

abundance of projects.

Note that although fiber projects tentatively win Area 4 and Area 5, the awards would remain pre-decisional until a statewide solution was achieved and the BDO's recourse in the event of statewide budget shortfalls might be to reopen negotiations with these eligible applicants and seek to persuade them to reduce their subsidy request to a level that would bring the per location cost down to the

EHCLPT or below. If the eligible applicants were unwilling or unable to do this and if any other broadband deployment options for the areas could be secured from proposed projects or through direct solicitations, the BDO might revoke and re-award the areas, including if necessary to providers offering non-reliable broadband technologies, to curtail the statewide subsidy cost. On the other hand, the BDO might ultimately make these above-EHCLPT awards if no alternatives are available.

Responses to the specific questions in the template are offered below that are consistent with these general remarks.

Declining Fiber Projects Above the EHCLPT

Subgrantee proposals using end-to-end fiber that exceed the EHCLPT will lose the prioritization advantages enjoyed by cheaper fiber projects and be evaluated alongside any other reliable broadband technology projects, using the rubric. The rubric will put them at a competitive disadvantage because BEAD Program outlay per location is the largest component of the rubric score. As explained above, BEAD Program outlay per location will be calculated for each project based on the number of unserved (for the first and second Candidate Pools) or unserved plus underserved (for the third and fourth Candidate Pools) locations. In the process of deconflicting, it will be recalculated whenever an applicant accepts a revision to its project footprint and proposes a new budget and subsidy request. End-to-end fiber projects whose costs per location are above the EHCLPT will be excluded from the first Candidate Pool if they have unserved project areas, or from the third Candidate Pool if they have underserved project areas and will only get consideration as part of the second and fourth candidate pools, thereby losing the benefits of fiber prioritization. Similarly, if in the course of deconflicting, the budget and subsidy request proposed by applicants in return for accepting a proposed revision to their project footprint is such that their costs per location on the revised project would exceed the EHCLPT, that project will cease to be considered as part of the first (for unserved) or third (for underserved) Candidate Pools and will be relegated to the second or fourth Candidate Pools, respectively, thereby losing the advantages of fiber prioritization. At all times, projects can enjoy the benefits of strict fiber prioritization only as long as they keep their subsidy requests per location below the EHCLPT.

End-to-end fiber projects with costs per location above the EHCLPT can still win as part of the second and fourth Candidate Pools, either because no projects using alternative technology have been proposed for certain locations or because other components of the rubric give the expensive fiber project enough of an advantage to win. At this stage, inter-technology competition will be critical for incentivizing both fiber and other reliable technology projects to excel on a multidimensional vector of project needs, including minimizing subsidy requests, offering strong

speed and network performance and extending project reach to pick up otherwise non-proposed locations to get the benefits of unique area project prioritization.

All awards will remain provisional for some time after the initial determination is made while a statewide solution is still under development, and this particularly affects projects requiring per location subsidies greater than the EHCPLT. With respect to these projects, the BDO will reserve the right, as indicated in the BEAD NOFO, to engage in negotiations to rein in overall costs and make a statewide solution affordable within the BEAD Program's budget. In some cases, expensive fiber projects that initially win on the rubric may nonetheless be revoked in favor of cheaper reliable technology projects as part of the BDO's effort to bring the BEAD spending within the statewide budget constraint.

Engaging Subgrantees to Revise their Proposals (and ensure locations do not require a subsidy exceeding the EHCPLT)

If the state runs into budget sufficiency problems while working toward the BEAD Program's universal broadband access goals, it may reopen negotiations with preliminary awardees whose project budgets are above the EHCPLT to curtail costs and render a statewide solution affordable. It will be important for such negotiations to involve a credible threat of an alternative solution, such as resorting to a less-favored technology, which may include unlicensed fixed wireless and satellite solutions.

To maximize the BDO's options in cases where fiber projects are excessively expensive, the BDO will encourage applications by potential BEAD subgrantees using all broadband technologies, especially the "reliable" technologies of cable and licensed fixed wireless but also unlicensed fixed wireless and satellite. In cases where awards to end-to-end fiber projects with costs above the EHCPLT have been tentatively planned, budget negotiations aimed at bringing the statewide BEAD spending within the statewide BEAD budget constraint may include reduction of planned awards to end-to-end fiber projects to a level consistent with the EHCPLT for areas where viable alternative technology projects are available, or revocation of awards in favor of alternative technology projects where such consent is not forthcoming.

Resort to "Non-Reliable" Broadband Technologies

The NOFO makes clear that, although the BEAD Program strongly prioritizes fiber and defines other reliable technologies as "reliable" that states are likeliest to fund, it also allows for scenarios in which broadband offices will fund "non-reliable" broadband technologies, principally unlicensed fixed wireless

and LEO satellite, when the search for a reliable broadband technology solution is unsuccessful. In addition to its other functions, the Threshold EHCPLT can play a role in determining when reliable broadband technology solutions can be deemed unavailable or out of reach and a resort to "non-reliable" technologies can be triggered. Of course, eligible applicants of unlicensed fixed wireless and satellite internet service tend to argue that these services are reliable, and if a resort to these

technologies is needed, it is to be hoped that these eligible applicants can prove reliable in practice. Even where projects are funded that use technology not meeting the definition of Reliable Broadband Service, they must still meet the other technical requirements for the BEAD Program, especially the speed requirements of 100 Mbps download, 20 Mbps upload, and 100 milliseconds or less of latency.

The two main triggers for a resort to non- “reliable” broadband technology projects will be (a) the lack of any proposals to serve one or more locations, either in the regular application windows or in response to special solicitations by the BDO, which may be accompanied by threats to potentially revoke other awards if agreement to deploy to additional locations is not forthcoming; and (b) problems of budget sufficiency at the statewide level that impedes the achievement of a universal broadband access solution.

In general, projects with subsidy costs per location that are below the EHCPLT are expected to be immune to renegotiation under threat of preferring non- “reliable” broadband technology projects, but projects with subsidy costs per location that are above the EHCPLT should anticipate a likelihood of seeing their awards revoked in favor of non- “reliable” technology projects if statewide budget sufficiency is a problem and they are not agreeable to budget revisions that bring them under the EHCPLT.

Deployment Subgrantee Qualifications

2.4.11 Text Box: 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:

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.

The BDO anticipates significant response from the eligible applicant community in the way of proposals, from which it will need to develop a statewide solution to address connectivity to all unserved locations. Given the rural, low-density nature of the prospective projects, long-term viability, along with eligible applicant financial capability, will be important to flesh out during the applications and selection process.

The BDO will require, first, that the applicant clearly states how much private

matching capital it will contribute to the project and self-certify that it has sufficient financial resources available to cover the required capital match. Second, the BDO will require applicants to provide financial statements from the prior fiscal year, audited by a reputable accounting firm, which include profit and loss statements, balance sheets, and cash flow statements, sufficient to assess the financial stability of the applicants. The financial statements may be examined to ensure the absence of alarming discrepancies, and recommendations from auditors will be reviewed regarding material weaknesses or deficiencies. Applicants who would pose undue risk because of their financial jeopardy, or their failure to document their financial stability, will be disqualified from further consideration. If the potential subgrantee has not been audited during the ordinary course of business, in lieu of submitting audited financial statements, it must submit unaudited financial statements from the prior fiscal year and certify that it will provide financial statements from the prior fiscal year that are audited by an independent certified public accountant by a deadline specified by the Eligible Entity.

If the applicant is confirmed to be financially stable, the BDO may cross-check the self-certifications of the applicant to confirm that the applicant has available the funds needed for the private capital match, along with some reasonable buffer to cover the project's working capital needs in advance of reimbursement.

All in all, audited financial statements, an irrevocable letter of credit as described below, and pro forma business plans showing project sustainability together should provide clear evidence of financial capability long after construction completion.

Detail how the Eligible Entity plans to establish a model letter of credit substantially like the model letter of credit established by the FCC in connection with the Rural Digital Opportunity Fund (RDOF).

The BDO will adopt the model letter of credit established by the FCC in connection with the RDOF as the template for all subgrantee applicants. This letter of credit template will be a part of the grant application and consistent across all applicants.

The BEAD NOFO prescribed that, prior to entering into any subgrantee agreement, subgrantees must provide Eligible Entities — such as Texas — with an irrevocable standby letter of credit in the required form, acceptable in all respects to the Eligible Entity, in a value of no less than 25 percent of the subaward amount. In addition, a subgrantee must provide the Eligible Entity an opinion letter from legal counsel stating that in a proceeding under the Bankruptcy Code the bankruptcy court would not treat the letter of credit as property of the winning subgrantee's bankruptcy estate.

However, subsequent to the release of the BEAD NOFO, the Assistant Secretary of Commerce for Communications and Information determined that, for good cause shown, and in the best interest of the Federal Government, a conditional programmatic waiver of the letter of credit obligation should be granted. The BDO will make use of this waiver in the interests of mitigating the administrative and financial burden of participation in the BEAD Program by broadband deployers, while at the same time still securing financial protection of grant funds against risks of default.

The Letter of Credit Requirement is accordingly waived only to the extent to and as described below.

2.1 Subgrantee Option to Use Credit Unions

That portion of the LOC Requirement that requires the use of a bank that meets the eligibility requirements of 47 C.F.R. § 54.804(c)(2) is waived where the subgrantee otherwise meets the LOC Requirement using:

Any U.S. credit union that:

(a) is insured by the National Credit Union Administration;

and

(b) has a credit union safety rating issued by Weiss of B– or better.

2.2 Subgrantee Option to Use Performance Bonds

The LOC Requirement is waived where:

(a) 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 570 committing to issue a performance bond to the prospective subgrantee. The letter shall at a minimum provide the dollar amount of the performance bond.

(b) Prior to entering into any subgrantee agreement, each prospective subgrantee obtains a performance bond, acceptable in all respects to the Eligible Entity (Texas) 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.

2.4 Subgrantee Option for Alternative Initial LOC or Performance Bond Percentage

The requirement that the initial letter of credit be for 25 percent of the subaward amount, or in the case where a subgrantee chooses to utilize a performance bond consistent with Section 2.2 above, allow the initial amount of the performance bond to be lower than 100 percent of the subaward amount, is waived [by the NTIA] where:

- (a) The Eligible Entity [Texas] issues funding on a reimbursable basis consistent with Section IV.C.1.b of the NOFO;
- (b) Reimbursement is for periods of no more than six months; and
- (c) The subgrantee commits to maintain a letter of credit or performance bond in the amount of 10 percent of the subaward until it has demonstrated to satisfaction of the Eligible Entity that it has completed the buildout of 100 percent of locations to be served by the project or until the period of performance of the subaward has ended, whichever occurs first.

Texas intends to issue funding on a reimbursable basis for periods of no more than six months, which will enable subgrantees to avail themselves of the option to maintain a letter of credit or performance bond in the amount of only 10 percent of the subaward until buildout is 100 percent complete.

Detail how the Eligible Entity will require prospective subgrantees to submit audited financial statements.

To determine a prospective subgrantees' financial capability, the BDO will require each eligible applicant to submit prior fiscal year financial statements audited by an independent certified public accountant. There is an expectation that some applicants may not have audited financial records that meet the grant criteria. In such cases, the applicant must submit unaudited financial statements from the prior fiscal year and certify it will provide financial statements from the prior fiscal year that are audited by an independent certified public accountant by a deadline to be specified in the coming months.

The BDO will work with the Texas Comptroller's office to train reviewers on pertinent financial data to score applicant financial statements in terms of the risk of nonperformance of BEAD Program obligations due to insufficiency of working capital.

Detail how the Eligible Entity will require prospective subgrantees to submit business plans and related analyses that substantiate the sustainability of the proposed project.

The financial viability of many proposed projects will depend on an eligible applicant's ability to contain engineering, equipment, construction and ongoing operational costs. The BDO will require quarterly cash flow and balance sheet

proformas including subscriber adoption rates, supported by narrative and analysis extending at least 7-10 years beyond network deployment, depending on useful life of equipment utilized throughout the project area. With all financial information submitted by eligible applicants, the BDO will work with the Texas Comptroller's office to train reviewers on pertinent financial data to score applicant financial capabilities. The BDO will provide the required form to all applicants to ensure consistent data are provided.

To reinforce the requirement for applicants to display the commercial sustainability of the networks they propose to build with BEAD funds, the BDO has allocated 10 points in the rubric to demonstration of commercial sustainability. Projects that only marginally pass the sustainability review where no other options are available, but the BDO will favor projects with stronger demonstrations of sustainability where it can.

2.4.11.1 Optional Attachment: As an optional attachment, submit application materials related to the BEAD subgrantee selection process, such as drafts of the Requests for Proposals for deployment projects and narrative to crosswalk against requirements in the Deployment Subgrantee Qualifications section.

2.4.12 Text Box: 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 subgrantee selection process must ensure only capable entities are awarded funding for the deployment and long-term operation of proposed projects. The BDO has designed a rigorous application, scoring, deduplication, and review process that will vet and reinforce the best awardee for each project area. The BDO will require prospective subgrantees to certify 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. Such certification will occur when an authorized officer of the applicant affixes their signature to the application.

The BDO will communicate program requirements to all prospective subgrantees prior to the application intake process. This will be achieved by conducting outreach efforts to potential applicants via webinars, meetings, website postings, etc., and including the requirements in the grant application instructions and the subgrant award terms.

Managerial capability is a gating criterion, and all applicants must submit required information as outlined in the subgrantee application. Those applicants that fall short of the requirements will not be considered eligible and will be removed from the process.

Detail how the Eligible Entity will require prospective subgrantees to submit resumés for key management personnel.

The BDO has designed the application process that requires applicants to submit the resumés and professional certifications of key personnel, as well as company organization charts indicating the position, reporting structures and authority of the key personnel whose resumés are provided. Key personnel resumés should include one or more individuals who are expected to be key points of contact during the construction phase, with visibility to the general progress of project activities. Each eligible applicant must also provide narrative on experience in similar projects, project readiness and any upcoming organizational changes, including mergers and acquisitions. Further, the BDO requires applicants to disclose the number of network infrastructure projects they have completed both within and outside of Texas, total number of addresses served and number of years in business.

Prospective subgrantee technical capability is a gating criterion, and all applicants must submit required information as outlined in the subgrantee application. Those applicants that fall short of the requirements will not be considered eligible and will be removed from the process.

Detail how it will require prospective subgrantees to provide a narrative describing their readiness to manage their proposed project and ongoing services provided.

Ideally, each eligible applicant would provide a complete engineering and design plan signed by a licensed engineer, have financing secured, have all permitting secured and present a solid quarterly project schedule illustrating all project activities through BSL installation. However, given the immense expense of in-field engineering and permitting, the BDO believes most eligible applicants will submit desktop engineering and analysis providing an “approximation” of costs to be incurred. Current mapping tools provide excellent cost estimates for materials, labor, permitting and makeready. Such a scenario unfolds because the subgrantee selection process can take up to a year before an eligible applicant may become a subgrantee, and many unknowns can occur in that time. Availability and cost of equipment and labor may look significantly different a year out, and subgrantees will need to adjust accordingly. As such, the BDO’s scoring rubric incentivizes applicants that demonstrate the highest level of readiness in their application submittals.

2.4.13 Text Box: 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:

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.

As discussed in Section 2.4.12.b, the BDO will require all eligible applicants to self-certify that they are technically qualified to complete and operate the project, and in support of this, to submit résumés of key personnel to include chief technology officer, lead engineer, chief financial officer, etc. The BDO will also require submission of current and past broadband deployment activities within the state of Texas, as well as all activities outside of Texas. Self-certification of technical qualifications will occur when an authorized officer of the applicant affixes their signature to the application.

The application process will require each eligible applicant to demonstrate a record of, or plans to be, in compliance with federal labor and employment laws. Eligible applicants without a record of labor and employment law compliance can mitigate this fact by making specific, forward-looking commitments to strong labor and employment standards with respect to projects funded by the BEAD Program. Further, all eligible applicants will define safety and training standards and enforceable commitments to fair workforce development and/or job quality objectives. Additionally, each eligible applicant will disclose and certify any violations of labor or employment laws for the previous three years as well as any litigation and penalties history.

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.

As previously discussed in Section 2.4.11b, the BDO's subgrantee application process requires all eligible applicants to submit professional engineer certified network designs that meet or exceed BEAD key performance indicators, such as upload and download speeds and latency, a quarterly project schedule that extends 7-10 years beyond construction completion, and financial proformas that

demonstrate financial viability and project sustainability. Each of these subcategories are reviewed and graded within the scoring rubric, with the highest awards going to those applicants that present the most compelling business models for project deployment.

The BDO will communicate program requirements to all prospective subgrantees prior to the application intake process. This will be achieved by conducting outreach efforts to potential applicants via webinars, meetings, website postings, etc., and including the requirements in the grant application instructions and the subgrant award terms.

2.4.14 Text Box: 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:

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.

The BDO will require each eligible applicant to disclose and certify compliance with all applicable federal, state, territorial and local laws as listed within the subgrantee application. All applicable laws will be provided in the NOFA. Such self-certifications will occur when an authorized officer of the applicant affixes their signature to the application.

The BDO will communicate program requirements to all prospective subgrantees prior to the application intake process. This will be achieved by conducting outreach efforts to potential applicants via webinars, meetings, website postings, etc., and including the requirements in the grant application instructions and the subgrant award terms.

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 the proposed network can deliver broadband service that meets the requisite performance requirements to all locations served by the project.

The BDO will require prospective subgrantees to self-certify that they will permit workers to create worker-led health and safety committees and that management will meet with such established committees upon reasonable request. Such self-certifications will occur when an authorized officer of the applicant affixes their signature to the application.

As part of the grant agreement contract, they will need to sign before BEAD Program funds can be released to them, subgrantees will need to commit to meet with any worker-led health and safety commitments that may be organized among workers involved in BEAD network construction.

The BDO will communicate program requirements to all prospective subgrantees prior to the application intake process. This will be achieved by conducting outreach efforts to potential applicants via webinars, meetings, website postings, etc., and including the requirements in the grant application instructions and the subgrant award terms.

2.4.15 Text Box: 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:

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.

The subgrantee selection process must ensure only capable entities are awarded funding for the deployment and long-term operation of proposed projects. The BDO has designed a rigorous application, scoring, deduplication and review process that will vet and reinforce the best awardee for each project area. The BDO has designed the application process and scoring rubric that requires key personnel resumés, professional certifications, and company organization charts. Each eligible applicant must also provide narrative on experience in similar projects, project readiness and any upcoming organizational changes, including mergers and acquisitions. Further, the BDO will require eligible applicants to disclose the number of network infrastructure projects the applicant has completed both within and outside of Texas, total number of addresses served and number of years in business. On the basis of these materials, the BDO will assess whether the applicant has demonstrated adequate operational capacity to carry out the proposed plans. Such certifications will occur when an authorized officer of the applicant affixes their

signature to the application.

The BDO will communicate program requirements to all prospective subgrantees prior to the application intake process. This will be achieved by conducting outreach efforts to potential applicants via webinars, meetings, website postings, etc., and including the requirements in the grant application instructions and the subgrant award terms.

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 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.

The BDO 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 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.

The BDO will communicate program requirements to all prospective subgrantees prior to the application intake process. This will be achieved by conducting outreach efforts to potential applicants via webinars, meetings, website postings, etc., and including the requirements in the grant application instructions and the subgrant award terms.

With respect to ownership, the BDO will follow the Code of Federal Regulations to obtain prospective subgrantee ownership information as set forth in 47 C.F.R. § 1.2112(a)(1)-(7). Each eligible applicant will be required to certify all information submitted to be true, complete and accurate.

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 period and otherwise has complied with the Commission's rules and regulations.

Within the grant application, each eligible applicant is required to certify timely submission of serviceability data to the Federal Communications Commission, as required by the Broadband DATA Act and the Commission's rules and regulations. When making awards, as authorized by state statute, the BDO shall give preference, as indicated in the scoring rubric, to an applicant that provides its most recent serviceability data to the office, in compliance with Texas

Government Code Section 4901.0106(b)(4). All such certifications will occur when an authorized officer of the applicant affixes their signature to the application.

The BDO will communicate program requirements to all prospective subgrantees prior to the application intake process. This will be achieved by conducting outreach efforts to potential applicants via webinars, meetings, website postings, etc., and including the requirements in the grant application instructions and the subgrant award terms.

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 it has filed with the relevant financial institution for the relevant 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.

Eligible applicants that have operated only an electric transmission or distribution service, and have no broadband experience, will be required to submit qualified operating or financial reports that are typically filed with a relevant financial institution if such statements adhere to general accounting principles. Further, the BDO will require all eligible applicants to provide material assurances of sufficient financial, operational and technical capabilities that meet the gating criteria as required under the NOFO and defined within the grant application. Each eligible applicant must submit all required documentation and relevant narrative to be considered in the subgrantee selection process. Any missing documentation will negate eligibility to be a subgrantee. All such certifications will occur when an authorized officer of the applicant affixes their signature to the application.

The BDO will communicate program requirements to all prospective subgrantees prior to the application intake process. This will be achieved by conducting outreach efforts to potential applicants via webinars, meetings, website postings, etc., and including the requirements in the grant application instructions and the subgrant award terms

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.

As detailed in previous responses above, the BDO will require any new entrants to the broadband market that may have an interest in becoming a subgrantee to provide material assurances of sufficient financial, operational and technical capabilities. New entrants must submit all required documentation and relevant narrative to be considered in the subgrantee selection process. Any missing documentation

required to be submitted with the application will negate eligibility to be a subgrantee.

2.4.16 Text Box: 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:

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 BDO will follow the Code of Federal Regulations to obtain prospective subgrantee ownership information set forth in 47 C.F.R. § 1.2112(a)(1)-(7). Each eligible applicant will be required to certify all information submitted to be true, complete and accurate.

2.4.17 Text Box: 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:

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.

In accordance with Texas Government Code Section Sec. 490I.01061, the BDO application process will require each eligible applicant to disclose and certify each broadband deployment project undertaken or submitted to undertake using public funds. When making awards, as authorized by state statute, the BDO shall give preference to an applicant that provides proposed deployment plans for any enforceable commitment to deploy broadband services in the state that the applicant is currently committed to fulfill.

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.

In addition to the broadband deployment projects undertaken via public funds, the BDO application process will require each eligible applicant to disclose and certify each broadband deployment project undertaken in Texas over the past five years. For each broadband project, both publicly and privately funded, eligible applicants must provide the following information where applicable: (a) funding source, award amount and matching commitment; (b) narrative on nature and impact of the project to include number of unserved, underserved and CAIs; (d) technology deployed; (e) maximum upload/download speed and latency of deployed network; (f) cost of service to residents; (g) description of low-cost options for residents; and (h) project start and end dates. The BDO will use this information to verify previous projects and build a database of projects completed in Texas for public awareness.

The scoring rubric incentivizes compliance with this application process requirement by awarding (a) two points to applicants who have never forfeited federal funding for defaulting on a commitment to deploy qualifying (100/20) broadband service, and (b) zero points to applicants who have forfeited federal funding for defaulting on a project to deploy qualifying (100/20) broadband service.

2.5 Non-Deployment Subgrantee Selection (Requirement 9)

2.5.1 Text Box: 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.

The BDO does not anticipate engaging in non-deployment subgrantee activities, as the office does not expect to have sufficient funding to deploy broadband coverage to all the unserved and underserved locations in the state. If it appears that there is a significant possibility of funding non-deployment activities with part of Texas' \$3.3 billion BEAD allocation, the BDO will revisit its option for funding non-deployment activities. Additionally, the decision will be informed by the Texas Digital Opportunity Plan.

Per the BEAD Program guidance, Eligible Entities may only fund non-deployment eligible activities if they have a plan to ensure deployments to all unserved and underserved locations and can demonstrate the effectiveness of that plan to satisfaction of the Assistant Secretary. Additionally, an Eligible Entity that proposes to use BEAD Program funds to pursue non-deployment objectives in lieu of the deployment of service to

eligible CAIs must provide a strong rationale for doing so.

The BDO is planning for and prioritizing deployments to all unserved and underserved locations. If sufficient funds remain available, the BDO will then prioritize deployments to CAIs. Any eligible non- deployment activities would be engaged directly as opposed to sub-granting and would be in support of building out the resource capacity and process technology to achieve the statewide coverage objectives.

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

- How the Eligible Entity will employ preferences in selecting the type of non- deployment initiatives it intends to support using BEAD Program funds.
- How the non-deployment initiatives will address the needs of residents within the jurisdiction.
- The ways in which engagement with localities and stakeholders will inform the selection of eligible non-deployment activities.
- 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.

The BDO does not anticipate engaging in any non-deployment activities as noted in the previous section.

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

The BDO does not anticipate engaging in any non-deployment activities as noted in the previous section.

2.5.4 Text Box: Describe how the Eligible Entity will ensure prospective subgrantees meet the general qualifications outlined on pages 71-72 of the BEAD NOFO.

The BDO does not anticipate engaging in any non-deployment activities as noted in the previous section.

2.6 Eligible Entity Implementation Activities (Requirement 10)

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

The BDO was established by HB 5 (PDF), 87th Texas Legislature, Regular Session. In accordance with the legislation, the BDO is charged to:

- Create an accurate broadband map that displays broadband availability throughout the state.
- Establish a long-term, statewide plan that addresses strategies and goals for expanding access to and further adoption of broadband service.
- Award grants or other financial instruments to meet the goals of the plan.
- Set the effective threshold speed for broadband service.
- Engage in outreach to communities regarding the expansion.
- Address barriers for future expansion efforts.

Additional modifications to the work of the BDO were made in Senate Bill (SB) 1238 (PDF), 88th Texas Legislature, Regular Session. At the time that SB 1238 was passed, the Texas Legislature knew that large inflows of federal broadband funding would come to Texas as a result of the American Rescue Plan Act and the Infrastructure Investment and Jobs Act, and although many details remained to be revealed as the responsible federal agencies moved forward with the implementation of those laws, the Texas Legislature created the BDO's administrative capacity largely with those federal programs in mind. Therefore, although the BDO and its parent agency, the Texas Comptroller's office, also have other funding sources. All these foundational BDO functions are expected to be funded on an ongoing basis in large part as allowable administrative expenditures under these federal programs. BDO will carry on its existing activities to meet the implementation needs of the \$3.3 billion BEAD Program, as well as Capital Projects Fund (CPF)/BOOT, the Broadband Infrastructure Fund authorized by HB 9, and any other future broadband programs and initiatives that it may be tasked by the state to implement or oversee. The BDO anticipates using BEAD funding in support of activities that will include:

- Project and program management.
- Communications, outreach and guidelines development.
- Challenge process implementation.
- Grants application development.
- Grant portal upgrades.
- Grant application review and subgrantee selection process.
- Subgrantee support, training and technical assistance.
- Grant reporting, monitoring and compliance.

The above activities will be funded by BEAD administration dollars to the extent that the tasks arise as part of BEAD implementation. The BDO will carefully monitor the use of its budget and human resources to ensure an appropriate assignment of costs to funding sources. This will ensure that BEAD funds are not used to fund non-BEAD activities or personnel, including CPF or any other program.

The BDO envisions many of these activities can be implemented by the growing broadband office and by leveraging assets within the Texas Comptroller's office. The BDO also anticipates coordinating closely with other state entities and organizations to put the goals of the program into action. As necessary, the BDO may also determine contractual services and/or subgrants are needed to support the fulfillment of the activities described above.

2.7 Labor Standards and Protection (Requirement 11)

2.7.1 Text Box: 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:
 - i. Must address information on these entities' compliance with federal labor and employment laws on broadband deployment projects in the last three years.
 - ii. 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.
 - iii. 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:
 - i. How the prospective subgrantee will ensure compliance in its own labor and employment practices, as well as that of its contractors and subcontractors, including:
 - 1. 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.
 - 2. 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.

The BDO is committed to ensuring appropriate labor and protection standards for all subgrantees where required by the BEAD NOFO and consistent with Texas state law. During the grant submission process, eligible subgrantees will be required to provide information in their applications to demonstrate their compliance with federal labor and employment laws.

The BDO will give priority to projects based on a prospective subgrantee's demonstrated record of and continued plans to be in compliance with federal labor and employment laws. New entrants without a record of labor and employment law compliance will be permitted to mitigate this fact by making specific, forward-looking commitments to strong labor and employment standards and protections with respect to projects funded by the BEAD Program. This prioritization requirement is described in further detail in Section IV.C.1.e of the NOFO. The rubric requires that documentation be provided with a compelling demonstration of compliance.

Eligible subgrantees will be required to submit their record of past compliance with federal and employment laws including the following information:

- Subgrantee's organizational compliance with federal labor and employment laws on broadband deployment projects in the last three years.
- Certification from an Officer/Director-level employee (or equivalent) of the eligible subgrantee evidencing consistent past compliance with federal labor and employment laws by the subgrantee, as well as all contractors and subcontractors.
- Written confirmation the eligible 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.

Eligible subgrantees will also be required to submit plans for ensuring compliance with federal labor and employment laws, which must address the following:

- How the prospective subgrantee will ensure compliance in its own labor and employment practices, as well as that of its contractors and subcontractors, including:
 - Information on applicable wage scales and wage and overtime payment practices for each class of employees expected to be involved

- directly in the physical construction of the broadband network.
- How the subgrantee will ensure the implementation of workplace safety committees that are authorized to raise health and safety concerns in connection with the delivery of deployment projects.

Furthermore, as noted in Section 2.4, through the subgrantee agreement contract and before BEAD Program funds can be released to them, leadership from the eligible subgrantees will be asked to confirm that the subgrantee will permit workers to create worker-led health and safety committees that may be organized among workers involved in any BEAD Program funded network construction without interference and have no intent to interfere with a created committee as defined in Section IV.C.1.e of the NOFO. If such committees were formed and raised valid concerns, the subgrantee leadership would need to agree to meet with the committee to discuss concerns.

The BDO will ensure eligible subgrantees are aware of these requirements prior to and throughout the grant selection process by posting information on its website and through informational sessions with eligible subgrantees. The subgrantee application and scoring rubric reflect the worker requirements.

2.7.2 Text Box: 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 Act and McNamara-O’Hara Service Contract Act requirements, where applicable and collecting the required certified payrolls.
- c. Using project labor agreements (e.g., pre-hire collective bargaining agreements between unions and contractors that govern terms and conditions of employment for all workers on a construction project).
- d. Using local hire provisions.
- e. Committing to union neutrality.
- f. Using labor peace agreements.
- g. Using 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 (e.g., satisfying requirements for appropriate and relevant pre-existing occupational

training, certification and licensure).

- i. Taking steps to prevent the misclassification of workers.

Because it operates in a right-to-work state, the BDO will require strong labor standards and protections, but will not require the eligible subgrantees to follow the below labor practices:

- Using a directly employed workforce, as opposed to a subcontracted workforce.
- Paying prevailing wages and benefits to workers, including compliance with Davis-Bacon Act and McNamara-O'Hara Service Contract Act requirements, where applicable and collecting the required certified payrolls.
- Using project labor agreements (e.g., pre-hire collective bargaining agreements between unions and contractors that govern terms and conditions of employment for all workers on a construction project).
- Using of local hire provisions.
- Committing to union neutrality.
- Using labor peace agreements.
- Using 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).
- Using an appropriately credentialed workforce (e.g., satisfying requirements for appropriate and relevant pre-existing occupational training, certification and licensure).
- Taking steps to prevent the misclassification of workers.

The BDO will require eligible subgrantees to address the items listed above in their applications as directed by the BEAD NOFO and Texas' Initial Proposal. Where applicable, these items will be included in the subgrantee grant agreements and utilized as staging criteria in the selection process. This approach will ensure the subgrantee selection process is consistent with the BEAD NOFO and Texas state law.

2.8 Workforce Readiness (Requirement 12)

2.8.1 Text Box: 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 CBOs 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 CBOs to maintain worker voice throughout the planning and implementation process.
- 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 BDO will ensure the state of Texas and subgrantees will advance workforce development efforts so all Texans can have an opportunity. The focus of workforce-related efforts by the BDO is to identify and work with relevant partners to ensure four primary components are implemented across Texas.

1. *Support subgrantees in creating and using a highly skilled workforce capable of carrying out required work in a safe and effective manner.*

Like many states, Texas faces a workforce shortage across the state in several workforce sectors, including those occupation groups that are related to broadband deployment. According to the NTIA State Workforce Research Findings for Texas, several categories have a workforce deficit. Still, the identified categories facing the most severe deficit include surveyors and drafters (-12.4 percent), master and stage electricians (-12.2 percent), trenchers (-11.9 percent) and software engineers (-11.5 percent).

The BDO is using a two-pronged approach in its advance to equitable workforce development and job quality objectives to develop a skilled workforce: 1) public engagement and establishment of a broadband-focused Economic and Workforce Development Task Force; and 2) coordination with the Texas Workforce Commission as included in the TDOP. While some efforts are only in the beginning stages, each component is described in more detail below.

Texas Workforce Commission (TWC) Planning

The BDO is partnering with the TWC to support digital opportunity and workforce development planning. While this work is in the early stages, the partnership examines the workforce gaps necessary to carry out the BEAD broadband expansion and digital opportunity plan in Texas. All aspects of workforce support are being considered in its analysis, including partnerships among

employers, education and training providers, the public workforce system, worker organizations and CBOs that provide relevant training and wrap-around services to support workers' access and complete training (e.g., child care, transportation and mentorship), to attract, train, retain or transition to meet local workforce needs and increase high-quality jobs.

The partnership with TWC is to ensure an adequate understanding of the gaps and what will be necessary to address those gaps. Additional details, including partnership makeup, are provided in the following sections. This analysis is being done as part of the digital opportunity planning and will result in a completed Broadband Labor Market Assessment and Report in the first quarter of 2024. Once the assessment and report are completed, the TWC will explore opportunities for prioritizing and implementing the projects. Where possible, the TWC will communicate with existing partners to identify existing or new partners who could implement programs addressing the identified gaps. It is not anticipated that new BEAD funding will be allocated for the projects due to the availability need in Texas. The components of the planning are below:

1. Focus groups and one-on-one interviews with job seekers, employers and individuals from covered populations.
Key Activities include:
 - Development of qualitative research strategy.
 - Conduct qualitative research.
 - Develop qualitative research report to inform the Texas Digital Opportunity Plan.
2. Develop Broadband Lab Market Assessment and Report.
Key Activities include:
 - Develop quantitative research strategy.
 - Conduct qualitative/quantitative/desktop research.
 - Develop a draft Broadband Labor Market Assessment and Report.
3. Drive participation in the public comment period.
Key Activities include:
 - Utilize the TWC networks, including earned media and public engagement strategies, to drive participation in the TDOP public comment period, particularly among individuals from covered populations.

Once completed and based on the critical steps highlighted above and described in more detail in the Texas Five-Year Action Plan, additional workforce development initiatives will be identified, developed and/or supported by the BDO and the TWC to support subgrantees in creating and using a highly skilled workforce capable of carrying out required work in a safe and effective manner. While it is not anticipated that BEAD funding will be utilized for identified projects, funding sources will be explored with potential partners to support subgrantees.

2. Develop and promote sector-based partnerships among employers, education and training providers, the public workforce system, worker organizations and community-based organizations that provide relevant training and wrap-around services to support workers to access and complete training, to attract, train, retrain, or transition to meet local workforce needs and increase high-quality job opportunities.

While the Economic and Workforce Development Task Force and TWC continue to provide guidance and strategic direction, several workforce partnerships have been created to advance equitable workforce development and job quality objectives to develop a skilled, diverse workforce. The BDO and TWC will serve as a communication channel, effectively building the bridge between those broadband providers in need of workers and worker training, existing school and training providers, and those potential workers. The BDO will encourage subgrantees to participate in the programs highlighted below, expand existing programs or create comparable programs around the state. The BDO and TWC will serve as an advocate for the programs mentioned below, and others as identified, where they can support the workforce needs of those broadband providers working to implement the BEAD Program. Furthermore, the BDO will utilize TWC and the Texas Association of Community Colleges to encourage other schools to implement similar partnerships across Texas.

Current Texas technology workforce development programs include:

Texas State Technical College (TSTC)²

TSTC offers a Fiber Optic – Broadband Technician Course that is intended to prepare and certify trainees as entry-level technicians in fiber optics and network cabling technologies. The comprehensive course comprises 105 hours of instruction delivered over a three-week daytime schedule and/or six-week evening schedule. The course consists of both lectures and extensive hands-on training. Upon successful completion, the trainee will be certified to install fiber optics and data cabling, be Draka certified and be awarded a Certified Fiber Optic Technician certification from The Fiber Optic Association (FOA).

Intercultural Development Research Association (IDRA)³

IDRA received a \$125,000 grant in April 2023 from Rural Local Initiative Support Corp. to work with local governments, ISPs, educational and workforce organizations and nonprofits to create a regional plan for a comprehensive, culturally competent digital workforce development program. The grant award will support local planning and program design for "LevelUp RG: A Digital Workforce Program" for high school and college students in the Texas Rio Grande Valley, starting with Hidalgo, Cameron and Starr counties. The program will include structured coursework and paid internships in information technology, broadband network design and build, community digital

² <https://www.tstc.edu/workforce/fiber-optic-broadband-technician/>

³ https://www.lisc.org/media/filer_public/a4/a1/a4a16903-81e4-43a0-a510-f2d0e1d13c93/rural_lisc_digital_workforce_grant_announcement_to_idra.pdf

navigators, and cybersecurity. In addition, all learning paths will include mentorship, professional development skills, internet safety and security, bilingual customer service training and digital inclusion policy and advocacy.

Pathways to Work⁴

North Texas' Pathways to Work is a workforce development partnership among the Dallas United Way and 55 community organizations, supported by JPMorgan Chase & Co. Pathways to Work provides comprehensive training and employment for displaced and underemployed workers in targeted occupations: health care, information technology, construction, industrial production and skilled trades, transportation and logistics, advanced manufacturing, and business and finance. Participants can also access work-readiness resources such as adult education, GED and ESL classes, career coaching, digital skills and devices, work-based learning experiences and supportive services such as transportation and childcare.

Victoria College

Victoria College has partnered with BDI DataLynk, an internationally recognized fiber-optics training firm based in Austin to offer a new fiber-optics course in Victoria. The first of its kind in South Texas, the course is being offered in response to an emerging need identified by Victoria leaders. The one-week fiber-optics course is sanctioned by the FOA and recognized by the U.S. Department of Labor. Students who successfully complete the 40-hour course will earn three FOA certifications, which are included within the course hours and costs:

- Certified Fiber Optics Technician.
- Certified Fiber Optics Specialist in Testing and Maintenance.
- Certified Fiber Optics Specialist in Splicing.

National Communications Training Centers (NCTC)⁵

NCTC is based in Houston and is committed to training qualified technicians to meet the needs of a fast-growing, highly technical fiber-optic field. This course is taught by leaders in the fiber-optic industry that have immeasurable experience both in the classroom and in the field. The certifications cover a variety of specializations:

- Fiber installers.
- Fiber splicer technicians.
- Assemblers of fiber cable.
- Repairers, testers and inspectors of fiber installations.

⁴ <https://unitedwaydallas.org/programs/pathways-to-work/%23%7E:text=Pathways%20to%20Work%20provides%20comprehensive,industrial%20production%20and%20skilled%20trades>

⁵ *<https://nctcfiber.com/about/>

Windham School District (WSD) – High Tech Skill Training Program⁶

Partnering with C-Tech, WSD is providing technology-based training to state jail residents, enabling the participants to have job opportunities and a reduction in recidivism. WSD is offering studies in Telecommunications Technology, Network Cabling/Copper, Network Cabling/Fiber Optics, Telephone Systems and Voice Over Internet Protocol (VOIP), Audio/Video Entertainment and Energy Management. The programs run for six to eight weeks, and do not require retrofitting of facilities.

Through partnership with the above programs, the BDO will ensure that eligible subgrantees are made aware of the opportunities and will encourage the development of similar programs, where appropriate, and the use of a highly skilled workforce capable of carrying out work safely and effectively. Furthermore, working with partners, TWC and the BDO will encourage subgrantees to utilize existing programs, including:

- Jobs and Education for Texans⁷: Provides grants to buy and install equipment for career and technical education (CTE) courses.
- Apprenticeship Program⁸: The TWC Office of Apprenticeship helps workers who want better-paying jobs and helps employers that want a skilled and diverse workforce. TWC does this through federal and state funding initiatives that support program creation and expansion, career readiness pathways, and job-related training. This program is for those interested in pursuing an apprenticeship or providers/employers interested in setting up apprenticeships to receive information, direction to grants and funding and education providers.
*<https://www.twc.texas.gov/programs/apprenticeship>
- Skills Development Fund*: This program is for businesses that want to train new workers or upgrade the skills of existing workers. *<https://www.twc.texas.gov/programs/skills-development-fund>

For more details on the work of the Economic and Workforce Development Task Force, including copies of presentations, agendas and meeting notes, please contact the BDO.

3. Provide equitable on-ramps into broadband-related jobs, maintain job quality for new and incumbent workers in the sector and continually engage with labor organizations and CBOs to maintain a voice throughout the planning and implementation process. These programs support the creation and expansion of apprenticeships throughout the state.

As introduced in Section 2.2.1, the PEP was used and continues to serve as a roadmap to ensure a collaborative, integrated community engagement process. This public engagement effort has revealed a robust understanding of broadband challenges and opportunities across the state. The PEP is a key driver in ensuring Texas accomplishes its long-term objectives for enhancing economic

⁶ <https://www.wsdtx.org/en/about-us/media/news/16773-c-tech-connects-windham-students-with-high-tech-skills-increases-residents-opportunities-for-freeworld-jobs>

⁷ <https://www.twc.texas.gov/programs/jet>

⁸ <https://www.twc.texas.gov/programs/apprenticeship>

growth and job creation.

Part of the PEP, the Economic and Workforce Development Task Force is responsible for considering how broadband expansion and digital opportunity programs can best impact the Texas economy, the upskilling of Texans through online resources and the enhancement of job creation and job search through better access to and use of the internet.

The task forces and other working groups provide a strategic vision and support the implementation efforts for the BDO, allowing the BDO to identify gaps in workforce development. While the Economic and Workforce Development Task Force is still in the information-gathering phase and any plans will be created based on the feedback, the BDO will promote sector-based partnerships, similar to partnerships highlighted above, among employers, education and training providers, the public workforce development system, worker organizations and CBOs that provide relevant training and wrap-around services to support workers to access and complete training, to attract, train, retrain or transition to meet local workforce needs and increase high-quality job opportunities.

In addition to the goals laid out in the Texas Digital Opportunity Plan and described further in this section, the BDO and TWC will serve as a crucial communication channel between BEAD Program stakeholders and partners, effectively bridging workforce and industry partners in the realm of broadband-related jobs. Functioning as a liaison and workforce advocate, the BDO is dedicated to ensuring the creation of equitable on-ramps into the BEAD Program including the high workforce needs. Through the TWC, the BDO will support the needs of both new entrants and incumbent workers.

A key aspect of their approach is the continuous engagement with relevant labor organizations, community-based entities and broadband providers, ensuring diverse perspectives are incorporated throughout the planning and implementation stages. To facilitate this collaborative effort, the agency will hold quarterly meetings of stakeholders, providing a platform for open dialogue and strategic discussions. Additionally, the BDO will actively seek and form partnerships where applicable, fortifying its role as a facilitator of sustainable growth and inclusivity within the broadband industry.

Examples of existing partnerships were highlighted above. New partnerships will be identified based on the input from the task force, the TWC and input from provider stakeholders across Texas. Specifically, the BDO and the TWC will coordinate with local workforce investment boards to identify local partnerships and develop programs to provide wrap-around services for those training, retraining or transitioning into the workforce.

The initial scope of issues taken up by the Economic and Workforce Development Task Force include:

- Subgrantee Selection Criteria definition and weighting (e.g., fair labor practices, equitable workforce development and job quality and other

relevant factors).

- Ensuring a broad cross-section of subgrantees can compete for projects funded by the BEAD Program, including minority-owned businesses and other socially and economically disadvantaged businesses. This includes creating incorporating standards for utilization plans for these businesses.
- Identifying and addressing workforce constraints to broadband expansion.
- Speed and other network characteristics needed to support job search, telework, small business and agriculture.
- Prioritization of fiber over other broadband technologies.
- Navigating trade-off between delivering fiber to unserved areas vs. having funds left over for bringing 100/20 Mbps broadband to underserved areas.
- Assessing which programs are effective in leveraging broadband to improve the economy and helping people find better jobs.

The Economic and Workforce Development Task Force is one of six task forces. The others include Education, Health, Essential Services, Civic and Social Engagement, and Business and Telecom. The work of each task force was integrated with the work of the other task forces. Membership in the Economic and Workforce Development Task Force includes the following organizations:

Partner Type	Partner
State Agency	Texas Workforce Commission
Regional Economic Development Coalition	The High Ground of Texas
Federal Reserve	Federal Reserve Bank of Dallas
CBO - Digital skills	Austin Urban Technology Movement (AUTMHQ)
CBO - Workforce	Goodwill Industries
Research	Technology and Policy Information Institute
Research	The University of Texas – Rio Grande Valley
Statewide Agriculture	Texas A&M AgriLife Extension Service
Statewide Agriculture	Texas Farm Bureau
Rural Chamber	Texas Midwest Community Network
Urban Chamber	Greater Houston Partnership
Tech Industry	TechNet
Labor Union	Communication Workers of America

This work at the state and local level also aligns with many of the strategies and objectives of the TDOP and Texas' Five-Year Action Plan. Increased technology access and usage will allow more students and job seekers to participate in education and upskilling programs to earn post-secondary credentials, supporting efforts to reach these learning and workforce goals and create a more skilled Texas workforce.

To further support local communities with workforce development strategies, the BDO included workforce development strategies as part of a Request for Proposal (RFP). The RFP will identify a contractor that can provide technical assistance to local communities that present, among other areas, opportunities for workforce development, while including relevant stakeholders (e.g., community colleges, CAIs, trade schools, local nonprofits and community organizations, etc.) to enhance the economic impact on the community and their workforce. The RFP further emphasizes strategies should prioritize the hiring and training of residents living in the community and prioritize the creation of jobs that provide opportunities and pay a fair wage. The RFP will support local communities in building partnerships and strategizing around local workforce needs to support local broadband expansion.

4.Ensure the job opportunities created by the BEAD Program and other broadband programs are available to a diverse worker pool.

BDO and TWC will work with relevant partners to ensure job opportunities are available to a diverse job pool. BDO will meet regularly with identified partners, including those listed below, and other industry and community organizations in its role as liaison by actively advocating for its partners and the workforce needs of the BEAD Program. Through collaborative efforts, the agency works closely with industry partners to ensure that job opportunities within the broadband sector are made accessible to a diverse and inclusive job pool. BDO understands the importance of fostering an environment that embraces individuals from various backgrounds and experiences.

Each partner also has representation on one or more planning task forces and represents a component of the workforce ecosystem. Texas' Five-Year Action Plan and TDOP offer a more comprehensive listing.

- Texas Workforce Commission supports Texans through job training services, including apprenticeships, adult learning opportunities and job retraining. As previously noted, the BDO has partnered with the TWC to lead workforce-related partnerships.
- Texas Association of Community Colleges provides a common voice and focused strategy and creates meaningful multisector partnerships on behalf of Texas community colleges.
- Local Workforce Development Boards include 28 local boards that operate more than 170 local Workforce Solutions Offices that provide local worker services, evaluate the regional labor market and develop career pathways relating to local economic needs.
- Texas Association of Regional Councils has 24 regional councils of government serving as the services coordinator for residents and governments within their respective regions.

- Goodwill Industries provides opportunities for people facing obstacles to sustainable employment, people with disabilities, people lacking education, people with criminal backgrounds, people facing homelessness and youth lacking opportunity.

As shown through the many partnerships and related efforts, the BDO will develop and promote sector- based partnerships among employers, education and training providers, the public workforce system, worker organizations and CBOs that provide relevant training and wrap-around services to support access and completion of training, to attract, train, retain or transition to meet local workforce needs and increase high-quality job opportunities.

Furthermore, the BDO will ensure the job opportunities created by the BEAD Program and other broadband funding programs are available to a diverse pool of workers through the ongoing monitoring and controlling of all related grant programs, including regular reporting by subgrantees. As noted in Section 2.6, the BDO will ensure subgrantees maintain compliance with all BEAD Program requirements, including workforce-related requirements.

2.8.2 Text Box: 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.
- e. The entities that the eligible subgrantee plan 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 (full-time equivalent 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:
 - i. 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.
 - ii. Information on the professional certifications and/or in-house training in place to ensure that deployment is done at a high standard.

The BDO will ensure the project workforce is appropriately skilled and credentialed. While Texas is a right-to-work state, state law prevents the BDO from requiring eligible subgrantees to use exclusively unionized labor. Regardless, all eligible subgrantees will be required to maintain workforce and safety standards. The BEAD Program application process will require eligible subgrantees to describe their workforce standards, resulting in a needed metric in the selection process. For more details on how workforce standards are scored in the metric, refer to Section 2.4. Those applicants that do not demonstrate a minimum safety standard, explained below, will not be considered for BEAD Program funding.

Throughout the selection process, the BDO will ensure eligible subgrantees understand their obligations to provide the following items:

- Eligible subgrantees will ensure their plan includes an appropriate workforce training program to ensure workers are appropriately skilled and credentialed (through Registered Apprenticeships or training programs that serve all workers), comprising workers of the subgrantee and all its contractors and subcontractors.
- Eligible subgrantees have plans to contract and/or subcontract a sufficient workforce to carry out the proposed work.
- All project workforce members will have the appropriate credentials (e.g., appropriate and relevant pre-existing occupational training, certifications and licensure).
- All workforce members have appropriate safety training to ensure a safe workplace.

Irrespective of the union status of the eligible subgrantees, their contractors and subcontractors, subgrantees will be required to submit workforce details in their application, including whether the entity's workforce is unionized. For all contractors and subcontractors known at the time of application, the union status for contractors and subcontractors should be included in the application as well. Eligible subgrantees that fail to provide the appropriate information or meet the minimum requirements for ensuring a skilled, credentialed and qualified workforce will not be considered for BEAD Program funding.

Details required from eligible subgrantees are below:

- Whether the eligible subgrantee intends to use a workforce directly employed by the subgrantee or a workforce employed by a subcontractor.
- The job titles and size of the workforce (FTE positions, including contractors and subcontractors) required to carry out the proposed work throughout the project and the entity that will employ each portion of the workforce.
- For each job title required to carry out the proposed work (including contractors and subcontractors), a description of:
 - 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 or titles.
 - Information on the professional certifications and/or in-house training in place to ensure deployment is implemented at a high standard.

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

2.9.1 Text Box: Describe the process, strategy and the data tracking method(s) the Eligible Entity will implement to ensure MBEs, WBEs and labor surplus area firms are recruited, used and retained when possible.

According to the Economic Development and Tourism Office, “Texas is home to some of the top cities for Hispanic and minority entrepreneurs and [has] frequently been named one of the best states for black entrepreneurship. In addition, Texas is number one for jobs created by African American, Hispanic and veteran women business owners.”⁹ Recognizing their major contributions to business and economic development in the state, the BDO is committed to ensuring MBEs, WBEs and labor surplus area firms are recruited, used and retained when possible as part of the procurement and contracting process.

State Procurement Process

Pursuant to Title 2 Code of Federal Regulations, Section 200.321

(<https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.321>) , the BDO will utilize the following measures to ensure MBEs, WBEs and labor surplus area firms are used, when possible, in the contracting process:

- Placing qualified small businesses, MBEs, WBEs on solicitation lists.
- Assuring small businesses, MBEs, WBEs are solicited whenever they are potential sources.
- Dividing total requirements, when economically feasible, into smaller tasks

⁹ <https://gov.texas.gov/business/page/veteran-minority-women-resources#%3A~%3Atext%3DTexas%20is%20home%20to%20some%20and%20Veteran%20women%20business%20Owners>

or quantities to permit maximum participation by small businesses, MBEs and WBEs.

- Establishing delivery schedules, where the requirement permits, which encourage participation by small businesses, MBEs and WBEs.
- Using the services and assistance, as appropriate, of such organizations as the Small Business Administration (SBA) and the Minority Business Development Agency of the Department of Commerce.
- Requiring eligible subgrantees to abide by the same affirmative steps listed above.

In Texas, the state procurement process is managed by the Comptroller of Public Accounts, the same agency that the BDO is housed within. The following are key resources provided to the public:

- Centralized Master Bidders List - Businesses interested in selling to Texas public entities can register for a small fee. The list is used by public purchasing entities to develop a mailing list for vendors to receive bid opportunities.
- Electronic State Business Daily - An online search engine that lists state contracts valued at more than \$25,000. Businesses can see what is being procured by which public entity in Texas.
- Texas Multiple Award Schedule - The program is an alternative purchasing method for public entities that allows them to purchase from existing contractors, awarded by the federal government or any other governmental entity of any state. A business may qualify to see if they have existing contracts with public entities.

The Comptroller's office also manages the Historically Underutilized Business (HUB) program, which aims to provide fair and equal business opportunities for small, minority and women-owned businesses by providing a fair chance to compete for all contracts, including subcontract opportunities¹⁰.

There are six Procurement Technical Assistance Centers (PTACs) in Texas that provide free, individualized assistance to business owners, including small, minority-owned businesses, on federal, state and local procurement regulations. PTACs help business owners determine if public procurement is right for them and identify next steps, including applying for necessary certifications. PTACs offer expertise to entrepreneurs who need assistance navigating the procurement process. Additionally, business owners can receive personalized assistance through the SBA, whose district offices are located across the state. SBA provides business resources pertaining to federal funding programs, disaster recovery and federal contracting certifications. Similarly, small and medium businesses can receive support through the Governor's Office of Small Business Assistance and the Business Permit Office. The offices offer multiple services, including assistance with permitting, regulatory compliance and informational webinars and events. These partners provide a critical outlet for promoting procurement requirements and opportunities to

¹⁰ <https://comptroller.texas.gov/purchasing/vendor/hub/>

small and minority businesses across the state.

In compliance with programmatic regulations and to support maximum participation of qualified MBEs, WBEs and labor surplus firms in the procurement process, the BDO assures it will divide total requirements, when economically feasible, into smaller tasks or quantities. Further, the BDO will establish delivery schedules, where the requirement permits, that encourage participation by minority businesses across the state. The BDO is committed to facilitating a robust procurement process, inclusive of HUBs. Should any MBE, WBE or labor surplus firm require further assistance, it is encouraged to reach out to the BDO via the office's public email .

Business Development Resources

The BDO will leverage the statewide networking capacity of business development councils, chambers of commerce and other business groups to increase program awareness and accessibility. Such business resources include:

- Dallas/Fort Worth Minority Supplier Development Council.
- Regional Black Contractors Association: Dallas/Fort Worth.
- Chambers of Commerce (e.g., Greater Austin Black Chamber of Commerce, Houston Hispanic Chamber of Commerce, Asian Chamber of Texas, Texas Chamber of Commerce Executives, etc.).
- Golden Triangle Minority Business Council.
- Greater Houston Business Procurement Forum.
- Regional Hispanic Contractors Association.
- Women's Business Council – Southwest.
- Women's Business Enterprise Alliance.

These programs provide the backbone for which the BDO will ensure small businesses, MBEs, WBEs and labor surplus area firms are informed of all funding programs, pending contracts and procurement opportunities. To ensure all applicants are aware of expectations and timelines, all contract/subcontract information will be publicly available online through the BDO website. Eligible subgrantee requirements will be posted to the BDO website and included in all grant application materials. The BDO will track engagement metrics – including recruitment, utilization and retainment of key enterprises to measure inclusion of historically underutilized businesses.

2.9.2 Check Box: 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.
- f. Requiring subgrantees to take the affirmative steps listed above as it relates to subcontractors.

The BDO certifies it will take all necessary affirmative steps to ensure MBEs, WBEs and labor surplus area firms are used when possible.

2.10 Cost and Barrier Reduction (Requirement 14)

2.10.1 Text Box: 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.
- e. Streamlining rights of way, including the imposition of reasonable access requirements.

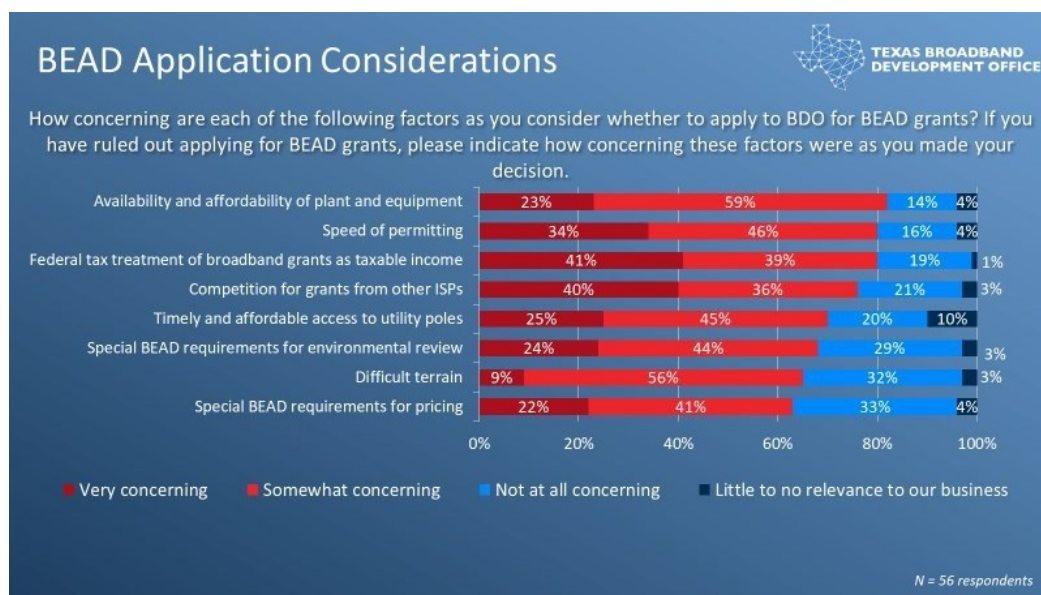
A wide variety of factors contribute to cost and barriers in network deployment with many being market driven, including exponentially rising prices of labor, material and equipment. The BDO has no place in regulating these private market activities; however, the BDO and the state of Texas as a whole have taken an aggressive stance in striving to reduce regulatory barriers that could drive up deployment costs. As noted in detail below, efforts thus far have included considerations for use of existing infrastructure, adopting dig-once (joint trench) policies, streamlining permitting processes and facilitation of cost-effective access to poles, conduits, easements and rights of way, including the best use of potential reasonable access requirements.

The BDO's efforts to reduce barriers to deployment have largely been through the collaborative work of the Statewide Working Group. This Working Group consists of 24 organizations, including statewide nonprofits representing covered populations, associations representing local and regional governments, state agencies, Tribal nations, and industry representatives. Group members have participated in monthly discussions, provided written input, continually promoted data

collection tools and provided feedback on program planning and design, including ways that Texas can support eligible subgrantees in reducing costs and barriers to deployment.

Industry Stakeholder Input

The BDO conducted extensive consultations with the broadband industry in preparation for the launch of the BEAD Program to better understand stakeholders' concerns. As part of that outreach, the BDO queried potentially eligible subgrantees concerning the principal barriers they foresaw in building broadband networks as a part of the BEAD Program specifically. Image 2.10A in appendix D of this proposal shows the top barriers identified by potential eligible subgrantees as "very" or "somewhat" concerning.



Other issues that were identified as "concerning" by some potential eligible subgrantees, although not as many.

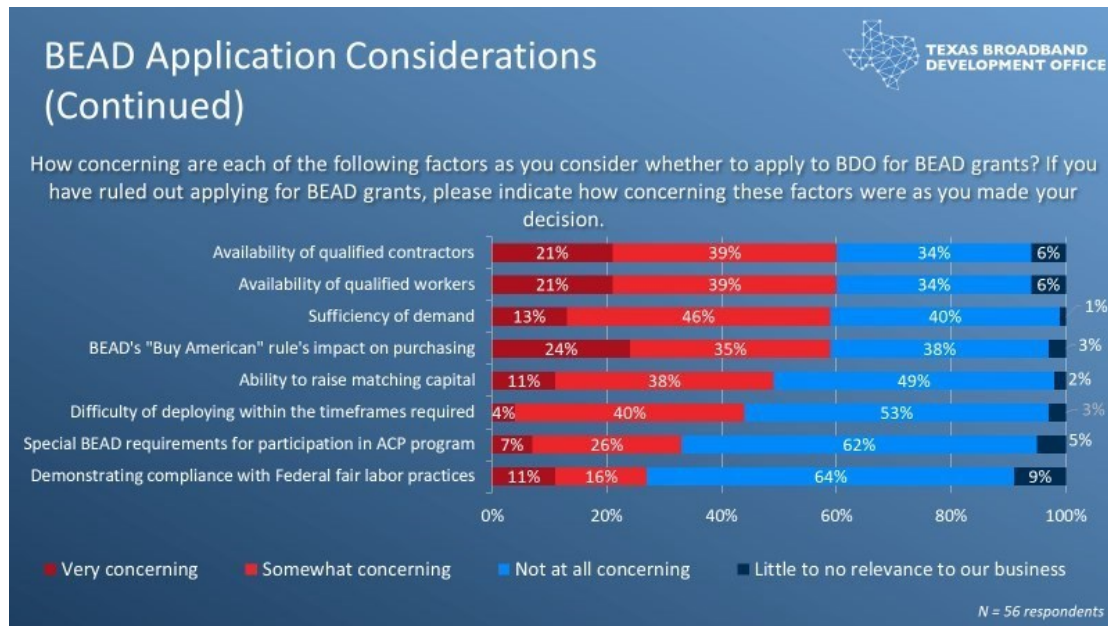
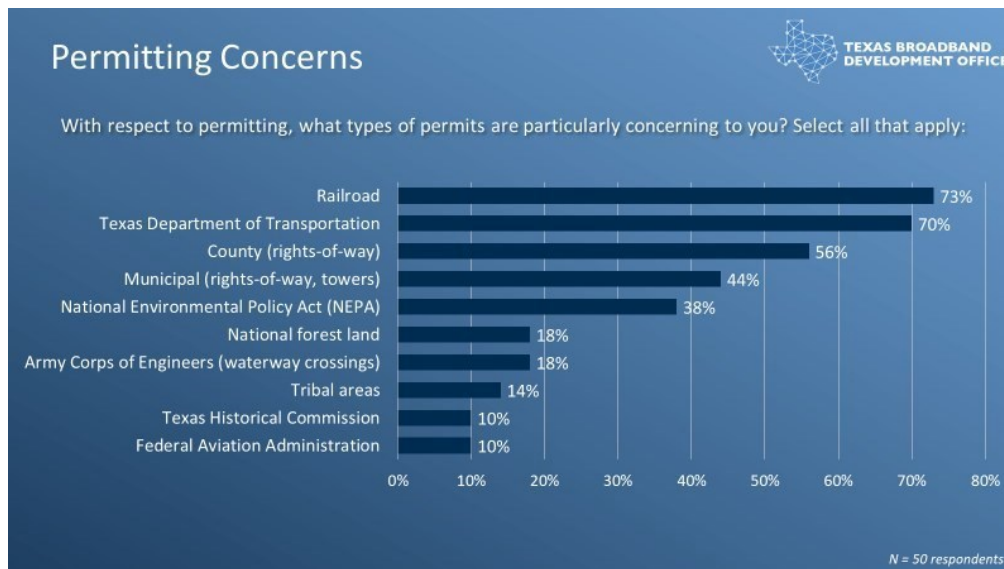


Image 2.10B in Appendix D lists other issues that were identified as “concerning” by some potential eligible subgrantees, although not as many. Permitting is one of the top concerns of eligible subgrantees as they prepare to apply for the BEAD Program. When further asked about the kinds of permitting that are particularly concerning, potential eligible subgrantees answers are shown in Image 2.10C in Appendix D shows potential eligible subgrantees’ answers to questions about the kinds of permitting that are particularly concerning.



Railroad permitting was identified as a top concern in this survey. Rail permits frequently present a barrier to utility companies seeking to encroach on rail rights of way. This happens in part due to

the dual layer of regulation – federal and state – plus the dependencies of private rail companies that have little incentive to aid or expedite these permit requests. The BDO will encourage and, where possible, facilitate rail permitting as a part of broader regulatory and access streamlining efforts. As noted in Texas’ Five-Year Action Plan, to address these and other identified concerns, the BDO and the state of Texas have taken several steps to support and encourage network deployment through the reduction of regulatory and other barriers where the state can best exert influence. The BDO has developed a relationship with the Texas Department of Transportation (TxDOT), the agency with the most experience related to permitting. TxDOT has prepared additional resources to support the already established broadband support programs¹¹.

Dig-Once (Joint Trench) Opportunities

A joint trench is an open-cut trench shared by several utility providers, specifically eligible subgrantees. HB 2422 of the 86th Texas Legislature requires TxDOT to provide notice on its website of opportunities for eligible subgrantees. Through this program and dedicated TxDOT staff focused on broadband services, TxDOT serves as a crucial partner to the BDO and the deployment of broadband services across Texas.

Eligible subgrantees may collaborate with TxDOT to deploy broadband conduit or other facilities in those rights of way (ROWs). TxDOT is required to give special consideration to broadband deployment that will likely improve access to broadband in rural or underserved communities. In response, TxDOT created a Joint Trench Application that will allow eligible subgrantees to submit a request for those interested in participating in the joint trench opportunity.

TxDOT is required to submit a report to the Legislature explaining the action taken and any costs or savings to the state and private entities associated with voluntary joint trenching opportunities.

Joint Duct Bank Accommodation Program

As with any strong ROW standard and strategy, effective policies are developed and validated in collaboration with industry. That is the case with the TxDOT ROW program as well. The Joint Duct Bank Accommodation Program is designed to support broadband by accommodating underground broadband communications lines within TxDOT ROWs. The program provides better ROW management while supporting future broadband and utility installations by making shared conduit laid in the state ROWs available to utilities.

Right-of-Way Utility and Leasing Information System (RULIS)

In July 2023, the ROW and Transportation Program divisions of TxDOT launched the innovative RULIS, which serves to automate the utility and leasing process. To support this initiative, TxDOT offers virtual training and materials such as job aids and interactive training modules for consultants who access RULIS. This enables broadband deployment and fosters competition among companies through providing access to right of way. The RULIS is highlighted more below.

¹¹ <https://ftp.dot.state.tx.us/pub/txdot/row/utilityweek2022/broadband-accommodation-program-utility-uar.pdf>

As a participant in the working groups organized by the BDO to facilitate stakeholder input, the TxDOT saw this survey result and reached out to the BDO to inquire about whether the eligible subgrantees' concerns related to the *old* permitting system, or to a new, innovative RULIS system. Given the recent deployment of RULIS, the concern was likely driven by prior experiences that the new system should help address. The BDO will continue working with the TxDOT to consider how the RULIS system could best facilitate accelerated broadband deployment in connection with the BEAD Program. Ongoing collaboration with TxDOT is anticipated to result in further outreach and education to eligible subgrantees regarding this new system and how it should address this substantial concern in gaining right-of-way access.

Build and They Will Come

The adage "Build and They Will Come" reflects how TxDOT builds in consideration of internet connectivity needs by installing empty conduit during highway construction through programs such as the Joint Duct Bank Accommodation Program. This helps TxDOT to convey broadband access as a priority and form partnerships with providers or private groups to expand broadband with the natural growth of highway infrastructure. This effort by TxDOT contributes to broadband deployment and connects rural areas to the internet as roads are developed.

Trade and Share Conduit and Fiber Optics

To expand fiber-optic cabling and conduit, TxDOT trades existing or planned conduit and fiber on a foot-by-foot basis. This increases broadband deployment and makes services more affordable, as sharing fiber-optic cables among agencies reduces telecommunication costs for the public sector.

Pole Replacement Program¹²

In 2021, the Texas Legislature passed HB 1505 establishing the Pole Replacement Program to support the deployment of broadband service in unserved areas by subsidizing the cost of pole replacements necessary to accommodate broadband attachments. While funding for this program is pending, this program will cover the costs of poles that are owned and controlled by an electric cooperative in the state of Texas.

Ultimately, addressing barriers to network deployment will take a highly coordinated, ongoing and responsive effort on the part of state. Given the size of the BEAD Program in Texas, the BDO expects dedicated support resources for eligible subgrantees to be made available through the BDO and its partners in the Statewide Working Group. While extensive planning has been done to anticipate and address the preliminary concerns addressed in the survey, nimbleness and responsiveness in supporting subgrantees will be critical in keeping the program on a successful, timely path to network deployment and activation.

¹² <https://statutes.capitol.texas.gov/Docs/UT/htm/UT.253.htm>

2.11 Climate Assessment (Requirement 15)

2.11.1 Text Box: 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. Identify 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.
- 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.

The geographic size of the state of Texas is demonstrative of its distinct climate susceptibilities. Hurricanes, tornadoes, flooding from rainfall, coastal storm surge and climate-related sea level rise, winds and severe cold snaps all contribute to the need for resilient network design and regional/statewide mitigation approaches that work to safeguard broadband infrastructure deployed with BEAD funding.

Future deployments of broadband infrastructure built with fiber and other technologies, will need to consider the impact of these climate risks. Adaptable decision-support capabilities will be crucial in the overall planning, engineering and execution of network deployment. Risk-aware deployment should account for cost-effective methodologies for hardening fiber cables, conduits and other infrastructure to be more resistant to severe weather. This will be a difficult and costly task in rural, low-density areas where current eligible subgrantees already face challenges in deploying financially viable networks.

These decisions require ongoing discussions with subgrantees in the application, selection and award processes to ensure the proper balance of cost versus level of resiliency.

Research published in 2020 (updated 2021) by Texas' state climatologist¹³ reveals that Texas is at risk of enhanced weather and climate events over the next 15 years. The report “analyzes historic observations of temperature, precipitation and extreme weather in Texas and identifies ongoing and likely future trends out to 2036.”

The state report brings to light the tremendous strain to be weathered by future broadband networks including the following predictions:

- The number of 100-degree days has more than doubled over the past 40 years and could nearly double again by 2036.
- The expected average temperature in 2036 will be about three degrees warmer than the average over the last half of the previous century, and Texans should expect extreme monthly summertime temperature trends to increase. Rainfall has become more frequent and severe and is expected to worsen. As a result, urban flooding will increase — as much as 30 percent to 50 percent more than occurred over the last half of the 20th century.
- Hurricane intensity is also expected to increase. Due to sea level rise, the risk of hurricane storm surge in some places along the Texas Gulf Coast by 2050 may be twice as high as it was around 1900.

Texas ranks second in total U.S. population, at 30,503,301, according to the Census Bureau's July 2023 estimate. It has four of the 10 largest cities in the U.S. and represents the only state having three cities with more than 1 million population. The statewide population growth rate in Texas in recent years has been 1.42 percent, according to Census Bureau data, making it one of the fastest-growing states in the country.

Additionally, Texas is the second-largest state by surface, encompassing 268,581 square miles for a total density of 105.2 people per square mile. Faced with the challenge of deploying last-mile broadband networks to a largely dispersed population with nonexistent broadband services, eligible subgrantees will be encouraged to deploy resilient networks that maximize connectivity before during and after extreme events.

Further, Texas has roughly 367 miles of open shoreline consisting of broad, flat sandy beaches along the Gulf of Mexico. This area has been plagued by hurricanes and high-water breaches for ages with increased severity being predicted in the future. The Gulf Coast area of Texas was highlighted in the state climatologist's report regarding increased vulnerability from storm surges.

“The places along the coast with the largest rates of relative sea level rise may have a doubled storm surge risk by 2050 relative to the risk at the beginning of the 20th century, purely due to the relative sea level rise itself.”

¹³ Office of the Texas State Climatologist, ASSESSMENT of HISTORIC and FUTURE TRENDS of EXTREME WEATHER IN TEXAS, 1900-2036 (Texas A&M University College of Geosciences, 2020, Updated 2021)

An additional element of enhanced risk is provided by an expected increase in the intensity of very strong hurricanes, despite an expected lack of increase, or even a decrease, in hurricane frequency overall.”

Over the period of 1900 to 2020, Texas endured approximately 85 tropical storms and hurricanes. Since 2000, Texas has experienced 19 named storms, including eight destructive hurricanes, with Hurricane Harvey (Category 4), Hurricane Rita (Category 3) and Hurricane Ike (Category 2) causing the most significant damage. While Hurricane Rita forced the most extensive U.S. evacuation in history, Hurricane Harvey is the costliest hurricane in Texas history, with an estimated \$136 billion in damages.

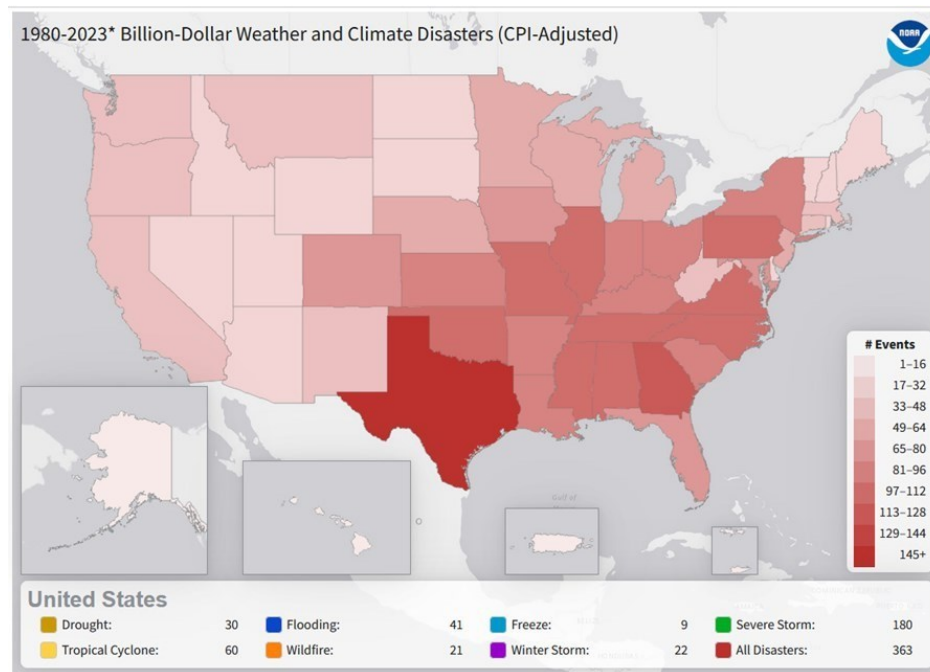
Hurricanes and other storm-related winds can severely impact fiber networks deployed aerially, along roadsides and urban alleys, while storm surges can equally affect underground facilities by flooding equipment shelters and cabinets and cause cable disruptions from runoff and erosion.

Fortunately for Texas, the state climatologist’s report states less likely extremes for projected drought severity and river flooding. However, urban flooding is projected to increase, especially in Houston, the state’s largest urban area, along with its forecasted precipitation increase. The report predicts a change in the expected frequency of urban flooding: 30 percent to 50 percent more in 2036 relative to climatological expectations for 1950-1999 and 10 percent to 15 percent relative to 2000- 2018.

Image 2.11A is produced by the National Oceanic and Atmospheric Administration (NOAA)¹⁴ and illustrates the states with the most billion-dollar weather and climate disasters, with Texas leading the nation with 166 such disasters from 1980 to August 2023. As such, the impact of ever-evolving climate risks combined with the ominous long-term climate projections means eligible subgrantees must account for climate hardening and make provisions for the durability and mitigation of these substantial risks.

- 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 timescales for performing such screenings.

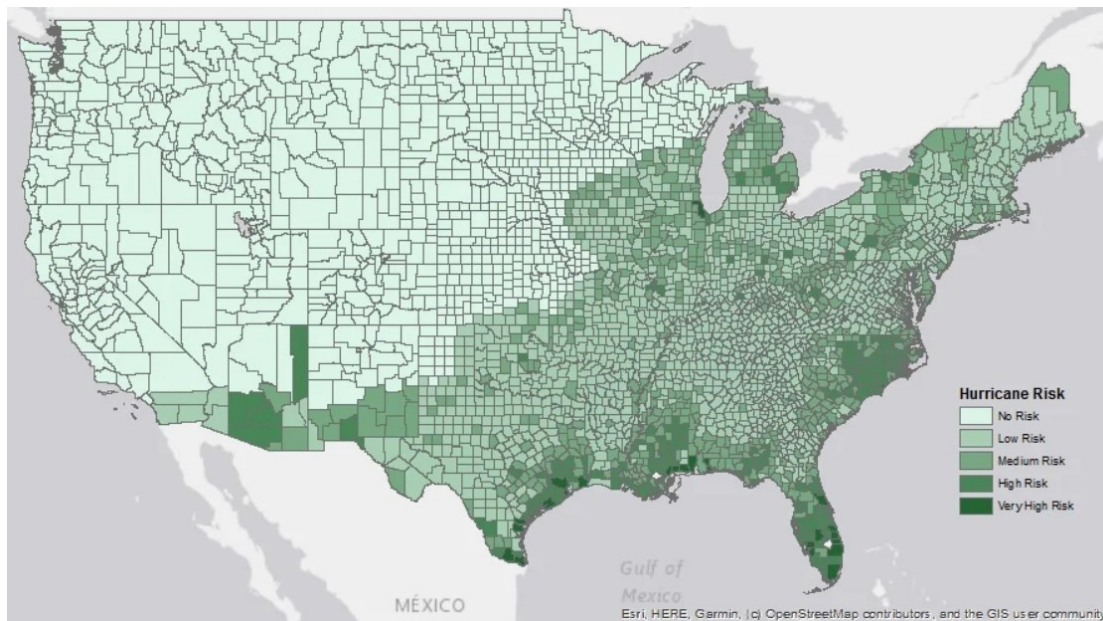
¹⁴ National Oceanic and Atmospheric Administration, <https://www.ncei.noaa.gov/access/billions/mapping>



Given the breadth and scale of Texas' geography, climate risk hazards to broadband networks are diverse. Any extreme weather event can affect broadband networks with widespread, material damage regardless of construction technique utilized: aerial or underground. The BDO will highlight the recognized climate risks during the application process and will screen eligible applicants for network resiliency methodologies and cost factors. Based on the technical and operational mitigation techniques employed in the network, future screenings may not be warranted.

Regionalizing these primary events will assist in hazard screening of prospective subgrantee applications for climate threats that may be specific to identifiable parts of Texas:

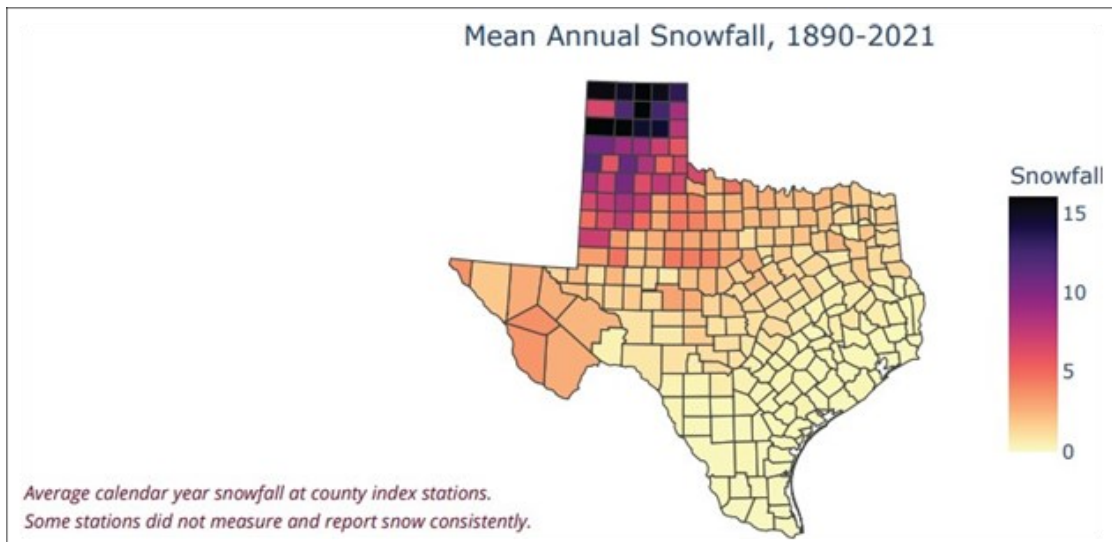
- Gulf Coast – Hurricanes can cause extreme damage along the Gulf Coast but, as the map below illustrates, associated rainfall and wind can cause significant damage several miles inland, though damaging effects typically diminish as storms move to the interior.



Sea rise inundation will also plague the coastal region in the coming years. The combination of local land sinkage, sea level rise and changes in local precipitation have resulted in a withdrawal of the Texas coastline, affecting nearly the entire length of the barrier islands.

- Panhandle (Northwest) – Cold weather-related events such as snow and ice storms can wreak havoc with aerial broadband networks as falling trees knock down utility poles throughout an affected area. Such events were previously relegated to northern parts of the state. However, the Texas power crisis of 2021¹⁵ witnessed catastrophic damage statewide as polar vortex storm systems reached deep into the state. While it was an anomaly for the full state to experience these weather conditions, it did provide a better understanding of the risks to infrastructure in the Panhandle region. As a result, climate risk screening will have a heightened awareness as eligible applications are reviewed for northern portions of the state, and necessitated monitoring will be included as part of the eligible subgrantee grant award contract. See Image 2.11C in Appendix D for Mean Annual Snowfall, 1890-2021.

¹⁵ Wikipedia, https://en.wikipedia.org/wiki/2021_Texas_power_crisis



- Statewide – Tornadoes: The amount of infrastructure damage from tornadoes will vary by the size of the tornado. While some tornadoes do little damage, the more powerful events can easily knock miles of utility poles to the ground and create a field of debris causing homes and businesses to lose essential services for weeks or more. Though more prevalent in the eastern side of the state, any county in Texas can experience tornadoes.
- 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.

Over the next 20 years and beyond, the following weather and climate hazards pose the most relevant and critical threat to broadband networks deployed with BEAD funding.

- Hurricanes – Hurricanes and coastal flooding in the southeast part of Texas take primary concern because of their extreme crippling effects on society with transportation routes blocked or flooded, utility infrastructure destroyed and emergency services paralyzed.
- Tornadoes – Tornadoes can quickly take out a span of aerial network or a mile of aerial network. And like hurricane destruction, performing restorative maintenance on downed networks can be delayed by lack of access.
- Sea Rise/Flooding – Flooding occurs from heavy rains and/or storm surges that raise coastal water levels. Hurricanes provide a double impact with both effects. Additionally, and as stated above, sea rise is claiming more and more land mass along the Gulf shore each year. Combined, the increase in water permeation can negatively affect broadband networks.
- Snow/Ice – Both snow and ice buildup can cause extensive network destruction as overburdened trees fall on aerial networks and bring them down. Also, icy roads create traffic hazards that result in vehicle crashes into utility poles and roadside network cabinets.

Characterize any weather and climate risks to new infrastructure deployed using BEAD Program funds for the 20 years following deployment.

As described above, statewide physical climate risks that implicate broadband infrastructure include:

- Flooding from rainfall and tropical hurricane events can result in flooding of underground infrastructure cabinets, as well as vaults flooding from overwhelmed storm water drainage systems.
- Wind-driven events like tornadoes, heavy thunderstorms and tropical hurricanes can easily bring down aerial utility lines.
- Wildfire conditions aggravated by drought conditions quickly consume network infrastructure, both aerial and underground.
- Severe freezes or ice storms, though infrequent in most of Texas, tend to damage aerial networks.
- In each of the instances above the effect is not only on the broadband network but also the electrical grid's capacity to remain in service and supply stable power to the broadband network.

Lastly, a significant concern of broadband providers is the ability to replace and restore network functionality after a climate-related event. Material and labor resources are typically in acute shortage and high demand, plus access to affected network infrastructure can be problematic.

- Identify how the proposed plan will avoid and/or mitigate weather and climate risks identified.

The Texas Division of Emergency Management (TDEM) coordinates the Texas State Emergency Management Program, which is intended to ensure the state and its local governments respond to and recover from emergencies and disasters and implement plans and programs to help prevent or lessen the impact of emergencies and disasters.

For the identified extreme weather and climate hazards noted above, the BDO will screen potential subgrantee technical designs in weather-vulnerable geographic areas of Texas and implement some or all the following mitigation measures:

- Incorporating climate resilience into infrastructure design, such as underground construction vs. aerial, using waterproof connectors throughout and integrating standby power devices at critical locations.
 - Developing emergency response plans and communication strategies to ensure timely response to all network interruptions from extreme weather events. Develop a minimum emergency inventory of critical components to ensure timely restoration.
- 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.

The Office of the Texas State Climatologist (OSC) is housed in the Department of Atmospheric Sciences in the College of Arts & Sciences at Texas A&M University. The {OSC} serves Texans as a clearinghouse for climatic data and materials and provides information about Texas' climate. The OSC monitors, conducts research and issues reports on Texas' climate regarding issues relevant to data users and decision-makers. The OSC works with people and organizations throughout the state to help them make the best possible use of climate information. The OSC produces monthly bulletins that include weather conditions in major cities throughout Texas and a summary of key weather events. Collectively, these bulletins serve as a log of Texas weather.

Federal Regulation 44 CFR 201.4(c)(7) requires the state of Texas to present a State Hazard Mitigation Plan every five years to the Federal Emergency Management Agency to receive Hazard Mitigation Assistance (HMA). Further, Texas Government Code Chapter 418 describes provisions to be kept current by TDEM in the State Hazard Mitigation Plan (<http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.418.htm>).

The Texas Division of Emergency Management (TDEM) is responsible for writing and publishing the Texas State Hazard Mitigation Plan (SHMP) to assist cities, counties and state agencies in planning and implementing their respective emergency management programs. The most recent plan was published in 2023 and TDEM is required to update this plan every five years.

The BDO will work closely with both the Office of the State Climatologist and the Texas Division of Emergency Management and monitor future publications for updated guidance that may influence the BDO's Climate Risk Assessment.

The BDO will continue to communicate with the OSC and monitor state and federal informational resources to ensure the ongoing climate risk-mitigation plan remains useful and relevant in addressing potential climate threats and will communicate any relevant updates to the provider industry via webinars, industry meetings and BDO website postings. The BDO may initiate additional screening processes over the life of the BEAD Program to ensure evolving risks from climate-related hazards are understood and communicated to the provider community.

2.11.1.1 Optional Attachment: As an optional attachment, submit any relevant reports conducted within the past five years that may be relevant for this requirement and will be referenced in the text narrative above.

The BDO elects to submit the following Optional Attachments alongside the above text narrative:

- Office of the Texas State Climatologist, 2021, *ASSESSMENT of HISTORIC and FUTURE*

- NOAA NATIONAL CENTERS FOR ENVIRONMENTAL INFORMATION,
STATE CLIMATE SUMMARIES 2022 - TEXAS

2.12 Low-Cost Broadband Service Option (Requirement 16)

2.12.1 Text Box: 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:

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

As described in the BEAD NOFO, all BEAD eligible subgrantees will be required to offer a low-cost broadband service option available for any BEAD-funded location that is considered an eligible subscriber throughout the useful life of the network. The BEAD NOFO (Section IV.C.1.i.c) provides an example of the low-cost broadband service option and recommends states adopt their example; however, the BDO proposes to adopt an adaptation of NTIA's low-cost broadband service option example to fulfill this requirement. One variation includes aligning the rate of the low-cost option with a set benchmark best suited to address the needs of eligible subscribers in the state while also maintaining economic competitiveness for potential subgrantees. The rate is based on the U.S. Department of Health and Human Services' 2023 Poverty Guidelines. The rate is calculated by determining the two percent of monthly income for 150 percent of the federal poverty level for a household of three.

This adjustment reflects industry feedback received from potential subgrantees as to what is needed for commercial sustainability, but also aligns with a well-established, broadband service affordability benchmark of two percent of monthly median household income set by the FCC. The BDO will utilize the U.S. Bureau of Labor Statistics' measure of price change in Texas associated with the Consumer Price Index (CPI) and apply this change to the proposed low-cost broadband service option annually to best reflect current pricing trends. Establishing a low-cost broadband service option that can be adjusted annually to consider growth related to inflationary forces and accounting for annual change in prices will ensure the low-cost broadband service option reflects evolving economic conditions. Based on these parameters and calculations, a potential subgrantee would need to set a low-cost broadband

service option for eligible subscribers at or below \$62.15 per month. In the future, the amount of the low-cost broadband service option will likely increase with the CPI adjustments in Texas. All BEAD eligible subgrantees would be expected to establish and offer their low-cost broadband service option within these parameters at the time service is made available to locations committed to service under their subaward.

For reference and to further demonstrate the BDO's methodology behind developing an effective low-cost broadband service option, a "covered household" is defined by NTIA's State Digital Equity Act (DEA) Planning Grant Notice of Funding Opportunity (NOFO) as a household for which the income during the most recently completed year is not more than 150 percent of an amount equal to the poverty level determined by using criteria set by the federal government. At the 200 percent rate, a household is eligible for the FCC's Affordable Connectivity Program. The BDO proposes this low-cost option because it best serves the needs of residents within the state while also ensuring with commercial viability.

The BDO will publish the required low-cost option amount annually on its public facing website when updated data inputs are available so providers can adjust their available options accordingly.

- Costs per month at an amount at most equal to 2 percent of 150 percent of the federal poverty rate income converted from annual to monthly, inclusive of all taxes, fees and charges and/or costs \$75 per month or less, inclusive of all taxes, fees and charges, if the subscriber resides on Tribal Lands and the ISP qualifies to offer enhanced ACP benefit at the point of service, with no additional non-recurring costs or fees to the consumer. In the event that the ACP sunsets and has no successor, the cost will be the same for Tribal and non-Tribal lands. As noted, this would equate to \$62.15 or less per month at the time of writing but will be adjusted annually based on parameters noted.
- Allows the end user to apply the Affordable Connectivity Benefit subsidy to the service price.
- Provides the greater of (a) typical download speeds of at least 100 Mbps and typical upload speeds of at least 20 Mbps, or the fastest speeds the infrastructure is capable of if less than 100 Mbps/20 Mbps or (b) the performance benchmark for fixed terrestrial broadband service established by the FCC pursuant to Section 706(b) of the Communications Act of 1934, as amended.
- 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 provider 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 no cost.

To qualify for this low-cost service option, households must either enroll in the ACP (or any successor program) or meet one of several other criteria as defined in the BEAD NOFO. Specifically, the BEAD NOFO defines "eligible subscribers" for the BEAD low-cost option as follows:

- Eligible Subscriber — The term “Eligible Subscriber” means any household seeking to subscribe to broadband internet access service that (1) qualifies for the ACP or any successor program, or (2) is a member of a household that meets any of the following criteria:
 - Household income for the most recently completed calendar year was at or below 200 percent of the Federal Poverty Guidelines.
 - Any member of the household receives benefits under the Supplemental Nutrition Assistance Program, Medicaid, Federal Public Housing Assistance, Supplemental Security Income, Veterans and Survivors Pension benefit, or Special Supplemental Nutrition Program for Women, Infants and Children.
 - Any member of the household participates in Tribal-specific assistance programs, such as Bureau of Indian Affairs General Assistance, Tribal Temporary Assistance for Needy Families, Tribal Head Start, or Food Distribution Program on Indian Reservations.
 - Any member of the household has applied for and been approved to receive benefits under the National School Lunch Program or the School Breakfast Program, or at least one member of the household is enrolled in a school or school district that participates in the USDA Community Eligibility Provision.
 - Any member of the household received a Federal Pell Grant during the current award year.
 - The household meets the eligibility criteria for a participating provider's existing low-income internet program.

(The NOFO also allows states to define additional eligibility criteria to make the program more inclusive, but Texas declines to do so.)

The BEAD NOFO asserts that “low-cost broadband service options must remain available for the useful life of the network assets” (BEAD NOFO, Pages 66-67), which has since been defined as ten years after the closeout of the construction phase.

Note that in the case the ACP sunsets with no replacement program, many who would have received a \$30/month discount on the cost of the BEAD low-cost service option with ACP will have to pay the full price. For example, if the BEAD low-cost service option price is initially determined at \$62.15/month, an ACP-eligible resident of Texas could receive that internet service package for \$32.50/month (plus tax) with the help of the ACP. But if the ACP sunsets, the resident would have to pay the full \$62.15/month. The sunseting of the ACP will make broadband less affordable for some Texans, even if they qualify for the BEAD low-cost service option.

The BDO awaits further guidance from NTIA regarding tools that will be available to prospective subgrantees to identify and verify households that should be defined as eligible subscribers if the ACP eligibility verification process is no longer available.

Although the sunseting of the ACP impacts millions of Texas households, the BEAD Program’s affordability provisions are not designed nor funded to replace the ACP. A lower price point for the low-cost service option to make up for the loss of the subsidy would negatively impact the service

provider and would potentially make the BEAD program a less attractive program for ISPs in the state of Texas to apply for. The outreach conducted by the BDO has demonstrated that a lower low-cost service option than what is being proposed would further deter participation by any subgrantee. This goes against the guidelines of the BEAD program.

Plus, no household who loses ACP will get any relief from the BEAD low-cost service option or affordability rubric score for well over a year at the earliest. Only after the BEAD Final Proposal is approved and construction begins will a few consumers start to enjoy access from the fastest deploying BEAD projects as the low-cost service option begins to be available. Even then, the BEAD low-cost service option requirement only applies to those networks funded by BEAD subgrants. Accordingly, reducing the BEAD low-cost service option and revising BEAD affordability rubric scoring will not provide price relief to most Texans who live in areas that are not BEAD eligible. In these cases, incumbent networks already exist and/or new builds are underway from other funded deployment commitments for which BEAD program has no authority to require a low-cost service option. Consequently, any affordability policy built into BEAD will fall very far short of ACP in its reach and impact.

Adding more aggressive affordability provisions in the current BEAD proposal that is already compliant with the affordability components may also jeopardize the BEAD program's chief objective: achieving universal 100/20 broadband access. As stated above, a lower low-cost service option price point would weaken the economics of BEAD projects, so fewer prospective subgrantees could be expected to apply. The BDO does not seek to deter participation in the BEAD Program.

The BEAD Program will only cover a portion of the Capital Expenditure costs for network construction. Once subsidized networks are built, these networks will need to generate adequate revenues to cover operating and maintenance expenses for OpEx viability, plus recover any non-grant construction costs. Altering the low-cost service option would undermine customer revenues and compromise potential BEAD subgrantees' ability to earn adequate returns on investment from BEAD projects or perhaps even to sustain them commercially at all. In some cases, this change could cause BEAD applicants to reduce their matching capital and demand higher amounts of BEAD subsidy to account for this low-cost requirement impact on their business model. In other cases, it must be expected that some prospective BEAD applicants will decline to participate in the program at all because reduced prospects for customer revenue will render the projects operationally non-viable to their business.

The monthly cost of internet subscription was a key discussion topic on the listening tours in summer 2023. While participants at every event identified affordability as a key barrier to internet adoption, anecdotal data on current pricing varied widely. Appendix A contains a sample of qualitative data participants shared about cost and speed of internet service (by region). Overall, rural areas indicated higher costs for slow speeds, with costs often over \$100. Many participants noted that these prices were expensive and that not everyone could afford them, while others

talked about prioritizing these high payments as essential for remote work, business, and education needs.

Data from the public survey also shed light on current internet costs for residents in Texas. Responses from across the state indicate (online survey completion):

- 3 percent of Texans pay less than \$25/month
- 5 percent of Texans pay \$25-\$50/month
- 25 percent of Texans pay \$50-\$75/month
- 26 percent of Texans pay \$75-100/month
- 41 percent of Texans pay more than \$100/month

Of the 41 percent of Texans that pay more than \$100/month for internet, 51 percent are rural residents. On average, respondents residing in the Upper East and Southeast regions pay \$111 or more monthly for internet, and respondents residing in the Capital, Central Texas, Gulf Coast, Metroplex, and West Texas regions pay more than \$100 per month on average for internet. Of respondents who also completed the internet speed test, 28 percent had download speeds of below 25 Mbps, with 48 percent of those respondents being rural residents. Over 50 percent of residents in the Upper East and Southeast regions reported download speeds of less than 25 Mbps and upload speeds of less than 3 Mbps.

During the robust public comment process to inform the development of the Initial Proposal, commentors discussed the usefulness of the low-cost service option. Qualitative data collected during the public comment period further supports Texas's definition of the low-cost service option in that it (a) demonstrates that even at \$62.15/month, the low-cost service option will represent a major improvement in affordability for many Texans, and (b) it underscores the concerns of industry that aggressive BEAD affordability provisions will undermine the commercial sustainability of BEAD-funded networks. Residents reported paying \$95, \$100, \$120, \$180, \$190, \$200 and nearly \$300 and even \$400 per month, and even then, they sometimes report that providers were not taking new customers, or that speeds were very slow. Household respondents said that affordability meant \$50 service or in some cases under \$100. Industry respondents, meanwhile, stressed that even at the \$62.50/month price point, the rate cap on low-cost service option services posed a "hardship" for providers, and called into question the viability of networks in "very remote areas with less subscribers and higher costs to provide support and maintenance – the very areas that the BDO is addressing with BEAD funding." Most industry comments recommended elimination of any explicit price cap, which the BDO understands not to be allowable, but \$62.15/month represents a reasonable compromise that will rein in much of the very high pricing in Texas rural areas, at least for income-constrained households, while also helping to fund the operation, maintenance, and private matching capital of the networks.

The BDO is aware that the NTIA provided an example, in the BEAD NOFO, of a specific low-cost service option definition which would have set the monthly price of the low-cost service option at

\$30, which at the time, because of the ACP, would have meant free high-speed internet service for many Americans. However, the BDO chose not to adopt this example because it would unduly jeopardize the commercial sustainability of the BEAD-funded networks, and because even the \$62.15/month price will represent an improvement in affordability relative to much current pricing, while at the same time giving the networks enough revenue to maintain and sustain the networks.

While the price to ACP subscribers, after deducting the subsidy, would have been only \$32.15 per month, the sunset of the ACP will leave many subscribers paying the full price of \$62.15, although some can be expected to get a discount through the FCC Lifeline program and through low-cost options provided by incumbent providers existing, or newly formed programs not associated with reimbursement programs.

With ACP going away, NTIA has yet to provide further guidance on how BEAD subgrantees will identify “eligible subscribers” to offer a low-cost service option within their funded BEAD network. The BDO advises that NTIA ensures that this identification process does not put an undue burden on state broadband offices or BEAD subgrantees. Any effort to make the program more onerous will likely further deter participation.

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

Eligible subgrantees will be required to participate in the ACP or any successor program, and subscribers that are eligible for a broadband service subsidy can apply the subsidy to the proposed service option. The BDO awaits further guidance from NTIA regarding tools that will be available to prospective subgrantees to identify and verify households that should be defined as eligible subscribers if the ACP eligibility verification process is no longer available.

2.13 Middle-Class Affordability Plans (Requirement 20)

2.13.1 Text Box: 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 valid 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. The BEAD NOFO urges states to look beyond infrastructure investment and the required low-cost service option and target broadband affordability throughout the state:

Accordingly, each Eligible Entity must include in its Initial and Final Proposals, a middle-class affordability plan to ensure all consumers have access to affordable high-speed internet. The BDO expects that Eligible Entities will adopt diverse strategies to achieve this objective.

While the BDO shares the NTIA's concern that many Texans may find broadband service unaffordable, it does not have the authority to create affordability programs through regulatory means. Additionally, the BDO lacks the funding to support affordability programs through subsidies, while also supporting an ambitious infrastructure build-out across the unserved and underserved areas of Texas. Through the BEAD Program implementation and the awarding of funds to eligible subgrantees, the BDO will promote affordability of deployment for eligible subgrantees.

The BDO expects that a side effect of the program implementation will be to improve the affordability of broadband service for all Texans. The main strategies the BDO will utilize to encourage this result are:

- *Competition*

The BEAD Program will increase broadband availability in Texas. As past efforts have shown, an increase of broadband availability can improve affordability, though the effects will vary locally.

- *Special pricing for low-income households*

As noted in the prior section, BEAD subgrantees will be required to offer special pricing arrangements for low-income households, increasing the overall number of subscribers and the ability to spread out fixed network costs. A subgrantee's ability to spread fixed costs over additional customers will reduce the broadband price necessary to break even.

- *Affordability as a rubric score component*

Per guidelines of the BEAD Program, the BDO must prioritize proposals from potential applicants that improve affordability to ensure that networks built using taxpayer dollars are accessible to all Texans. Affordability will be one component of the overall scoring rubric the BDO will use to select subgrantees for the BEAD Program. Following extensive analysis by the BDO using proprietary data sources, in 2021, the median household income in Texas was \$67,321 which deviates based on a household's location: the median household income in metropolitan counties was \$70,848 while the median household income in non-metro counties as \$53,897. When considering the FCC's determination that affordable broadband should amount to no more than two percent of a household's monthly income, a range of \$89.83 – \$118.08 for an affordable monthly rate is calculated using this criteria based on these two distinctive median household incomes. The FCC's 2023 Urban Rate Survey Data for 1 Gbps symmetrical in the state of Texas displays a \$90 per month rate as a representation of a median point for charges in the state.

Based on this analysis, a total service rate per BEAD funded location of \$95 per month for priority broadband projects, including all taxes, fees and charges charged to the customer, can be considered a reasonable comparability benchmark for determining an affordable rate for supporting rural adoption of reliable broadband. This rate also fits within the range of monthly rates shown in the 2023 FCC Urban Rate survey data, meaning that even though this is an estimate of what rural Texans can afford, it is squarely in-line with what providers are currently offering as urban rates according to the latest FCC data. This benchmark is also in order with the

historical data from the FCC and is considered suitable for the entire state.

In effort to prioritize affordability, applications for “priority broadband projects” will be scored on sliding scale based on applicants’ commitments to offer a symmetrical 1 Gbps service option or faster with end-to-end fiber technology to BEAD-funded locations using the benchmark variable of \$95. A proposed monthly service option with a five-year commitment that is either equal to or less than the benchmark variable identified by the office will be scored highest and potential points decrease as the proposed service costs exceed the benchmark variable. The benchmark for “priority broadband projects” will be annually adjusted to reflect changes in prices associated with changes to the state’s CPI.

Applications for “nonpriority broadband projects” will be scored on sliding scale based on applicants’ commitments to offer a 100/20 Mbps or faster with technology other than end-to-end fiber to BEAD-funded locations using the benchmark variable of \$75 per month, including all taxes, fees and charges charged to the customer. To ensure affordability of BEAD-funded networks, the office will score applications for “nonpriority broadband projects” on a sliding scale using this benchmark. A proposed monthly service option with a five-year commitment that either equal to or is less than the benchmark variable identified by the office will be scored highest and potential points decrease as the proposed service costs exceed the benchmark variable. The benchmark for “non-priority broadband projects” will be annually adjusted to reflect changes in prices associated with changes to the state’s CPI.

The affordability scoring provisions of section 2.4.2.1 of this plan are hereby incorporated into this response to section 2.13 of this plan as a core component of the state’s Middle-Class Affordability Plan. The affordability scoring provisions identified in this plan do not regulate the rate for broadband, rather they set a benchmark for ensuring affordability through subsidized networks. With the exception to the low-cost broadband service option defined in section 2.12 of this plan, applicants are free to set their own prices for the service options they offer as they deem appropriate to service BEAD-funded locations, however service options that are considered affordable by utilizing the benchmarks identified above will be prioritized through the BEAD subgrantee selection process initiated by the BDO.

The BDO strongly encourages that an affordable broadband service option be made available to all prospective customers across the subgrantee’s service territory; however, this service option.

2.14 Use of 20 Percent of Funding (Requirement 17)

2.14.1 Text Box: 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 is 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.

The BDO does not expect to distribute grants related to infrastructure from BEAD Program funds before the submission and approval of the Final Proposal. Its focus will be on deploying CPF funds effectively through the BOOT Program to keep broadband deployment moving forward, while capably administering the BEAD Program to find the way to a statewide broadband coverage solution that meets the needs of all Texans. But to ensure effective administration of the BEAD Program, with its complex requirements and ambitious goals, the BDO plans to request the full allowable amount of its BEAD allocation.

As explained in the Initial Proposal Funding Request, the BDO plans to spend some Initial Proposal funding, prior to the approval of the Final Proposal, on a contractor to operate the challenge and subgrantee selection processes. Other spending plans that are contingent on approval of the Final Proposal include deployment of broadband to all the unserved and underserved locations in Texas, deployment of gigabit service to CAIs as funding permits and necessary grants administration and subgrantee monitoring activities. Most of the activities described in this Initial Proposal, both Volume I and Volume II, will be conducted by the BDO and its contractors using BEAD funds.

2.14.2 Financial Data Entry: Enter the amount of the Initial Proposal Funding Request.

If not requesting Initial Proposal funds, enter "\$0.00."

\$ 3,307,616,455.45

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 Text Box:

- 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 Investment and Jobs 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.

The BDO has no authority to waive any laws concerning broadband, utility services or similar subjects and therefore may not waive any laws 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. Any changes or revisions to such laws could only occur through the legislative enactment process with the Texas Legislature and the Texas Governor's Office.

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.

Chapter 43, Texas Utilities Code.

Added by Acts 2005, 79th Leg., 2nd C.S., Ch. 2 (S.B. 5), Sec. 2, eff. September 7, 2005.

Amended by Acts 2021, 87th Leg., R.S., Ch. 727 (H.B. 3853), Sec. 1, eff. June 15, 2021.

Sec. 43.101(c), Tex. Util. Code, restricts electric utilities from providing internet service to end-use customers on a retail basis. The BDO anticipates this limited restriction will not preclude an electric utility from participation in the subgrant competition. Chapter 43, Tex. Util. Code, permits an electric utility to "own, construct, or operate fiber facilities for the support of electric service and to lease excess fiber capacity for the provision of middle-mile broadband service" (Sec. 43.051). A utility may "install and operate facilities to provide middle-mile broadband service on any part of its electric delivery system" (Sec. 43.101(a)). An "electric utility system" is defined to include "the power lines and related transmission and distribution facilities constructed to deliver electric energy to the electric utility's customers" (Sec. 43.003) [Emphasis added]. Therefore, while the provision restricts the ability of a utility to provide internet service on a retail basis, it does not prohibit an electric

utility from constructing last-mile fiber to connect to end-users. Chapter 43 further provides that electric utilities may lease any excess capacity on their network to ISPs on a non-discriminatory basis. Accordingly, the BDO believes an application submitted by an electric utility would be eligible to receive funding if the proposal (a) includes construction of qualifying broadband infrastructure to unserved and underserved locations and (b) addresses how broadband internet service will be delivered to the end users at the BSLs (i.e., by leasing excess capacity on the constructed network to one or more ISPs).

Texas Government Code Title 4, Subtitle F, Chapter 490I subsections 0105, 0106, 0106I as referenced in the Initial Proposal Volume 2:

Sec. 490I.0105. BROADBAND DEVELOPMENT MAP. (a) The broadband development office shall create, update annually, and publish on the comptroller's Internet website a map classifying each broadband serviceable location in this state as:

- (1) an unserved location if the location does not have access to reliable broadband service capable of providing the speeds described by Section 490I.0101(a);
 - (2) an underserved location if the location is not an unserved location but does not have access to reliable broadband service with the capability of providing:
 - (A) a speed of not less than 100 megabits per second for a download;
 - (B) a speed of not less than 20 megabits per second for an upload; and
 - (C) a network round-trip latency of less than or equal to 100 milliseconds based on the 95th percentile of speed measurements; or
 - (3) a served location if the location is neither an unserved nor an underserved location.
- (b) The comptroller by rule may establish new threshold speeds for a location to qualify as an underserved location if the comptroller has required Internet service to be capable of matching federal standards to qualify as broadband service under Section 490I.0101(b).
- (c) After creation of the initial map described in Subsection (a), the office may evaluate the usefulness of the standards for unserved and underserved locations outlined in Subsection (a) and, if appropriate, make a recommendation to the legislature to revise the standards.
- (d) The map required by Subsection (a) must organize broadband serviceable locations into designated areas and display for each area:
- (1) the number of broadband service providers that serve the area;
 - (2) an indication of whether the area has access to Internet service that is not broadband service, regardless of the technology used to provide the service;
 - (3) each public-school campus with an indication of whether the public-school campus has access to broadband service; and
 - (4) the number and percentage of unserved, underserved, and served locations within the area.
- (e) The office must create, update, and publish the map in a manner consistent with the most current mapping methodology adopted by the Federal Communications Commission.

(f) Except as provided by Subsection (g), the office shall use the best available data, including information available from the Federal Communications Commission, to create or update the map.

(g) If information from the Federal Communications Commission is not available or not sufficient for the office to create or update the map, the office may request the necessary information from a political subdivision or broadband service provider, and the subdivision or provider may report the information to the office. The office may not require a subdivision or provider to report information in a format different from the format required by the most current mapping methodology adopted by the Federal Communications Commission.

(h) Information a broadband service provider reports to the office under Subsection (g) and information provided by the Federal Communications Commission, if not publicly available, is confidential and not subject to disclosure under Chapter 552.

(i) The office may contract with a private consultant or other appropriate person who is not associated or affiliated with a commercial broadband provider, including a local governmental entity, to provide technical or administrative assistance to the office for the purpose of creating or updating the map.

(j) The office may release information reported under Subsection (g) to a contractor providing services under Subsection (i). The contractor shall:

(1) keep the information confidential; and

(2) return the information to the office on the earliest of the following dates:

(A) the date the contract expires;

(B) the date the contract is terminated; or

(C) the date the mapping project for which the contractor is providing services is complete.

(k) A person who contracts under Subsection (i) may not provide services in this state to a broadband provider before the second anniversary of the last day the contract is in effect.

(l) The office shall establish criteria for determining whether a broadband serviceable location should be reclassified as an unserved or underserved location. The criteria must include an evaluation of Internet speed test and reliability data.

(m) Repealed by Acts 2023, 88th Leg., R.S., Ch. 352 (S.B. 1238), Sec. 7(2), eff. June 2, 2023.

(n) A broadband service provider or political subdivision may petition the office to reclassify a broadband serviceable location. The office shall provide notice of each accepted petition to each affected broadband service provider and political subdivision by posting notice of the petition on the comptroller's Internet website.

(o) Not later than the 45th day after the date that the office posts notice under Subsection (n), each affected broadband service provider or political subdivision may provide information to the office showing whether the broadband serviceable location should or should not be reclassified.

(p) Not later than the 75th day after the date that the office posts the notice under Subsection (n), the office shall determine whether to reclassify the broadband serviceable location on the map and update the map as necessary. A determination made by the office under this subsection is not a contested case for purposes of Chapter 2001.

(q) The office is not required to create, update, or publish a map under this section if the Federal Communications Commission produces a map that:

- (1) enables the office to identify eligible and ineligible areas, as described by Subsection (a); and
- (2) meets the requirements of Subsection (d).

Added by Acts 2021, 87th Leg., R.S., Ch. 625 (H.B. 5), Sec. 5, eff. June 15, 2021.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 352 (S.B. 1238), Sec. 2, eff. June 2, 2023.

Acts 2023, 88th Leg., R.S., Ch. 352 (S.B. 1238), Sec. 7(2), eff. June 2, 2023.

Sec. 490I.0106. BROADBAND DEVELOPMENT PROGRAM. (a) The broadband development office shall establish a program to award grants, low-interest loans, and other financial incentives to applicants for the purpose of expanding access to and adoption of broadband service.

(a-1) The office may award grants, low-interest loans, and other financial incentives to applicants for eligible broadband infrastructure projects designed to provide qualifying broadband service to unserved and underserved locations. For the purposes of this subsection, an eligible broadband infrastructure project includes a project in which not less than 80 percent of the broadband serviceable locations to be served by the project are unserved and underserved locations.

(a-2) The office may award grants, low-interest loans, and other financial incentives to applicants for middle-mile broadband infrastructure projects.

(a-3) The office may award grants, low-interest loans, and other financial incentives to applicants for projects not involving the deployment of broadband infrastructure that expand the accessibility, affordability, or adoption of broadband service, including education, training, community outreach, remote learning or telehealth facilities, equipment purchases, or any other use permitted by the applicable funding source.

(b) The office shall establish eligibility and award criteria for making awards under this chapter for each applicable notice of funds availability. The comptroller by rule may prescribe the manner in which the office shall provide notice to applicants of the applicable criteria. In establishing eligibility and award criteria, the office shall:

- (1) take into consideration grants and other financial incentives awarded by the federal government for the deployment of broadband service;
- (2) prioritize the applications of applicants that will expand access to and adoption of broadband service in designated areas in which the highest percentage of broadband serviceable locations are unserved or underserved locations;
- (3) prioritize the applications of applicants that will expand access to broadband service in public and private primary and secondary schools and institutions of higher education;
- (4) give preference to an applicant that provided the information requested by the office under Section 490I.0105 or 490I.01061; and

(5) take into consideration whether an applicant has forfeited federal funding for defaulting on a project to deploy qualifying broadband service.

(c) Notwithstanding Subsection (b)(2), the office may establish criteria that take into account a cost benefit analysis for awarding money to the areas described by that subdivision.

(d) The office may not:

(1) except as provided by Section 490I.01062, favor a particular broadband technology in awarding grants, loans, or other financial incentives;

(2) award a grant, loan, or other financial incentive to a noncommercial provider of broadband service for a broadband serviceable location if an eligible commercial provider of broadband service has submitted an application for the same location;

(3) take into consideration distributions from the state universal service fund established under Section 56.021, Utilities Code, when deciding to award grants, loans, or other financial incentives; or

(4) except as provided by Section 490I.01061, award a grant, loan, or other financial incentive for deployment of last-mile broadband service for a location that is subject to a federal commitment to deploy qualifying broadband service on the date the application is submitted or during the application process.

(e) The office shall:

(1) post on the comptroller's Internet website information about the application process and the receipt of awards and shall update that information as necessary; and

(2) post on the comptroller's Internet website for at least 30 days information from each accepted application, including the applicant's name, the area targeted for expanded broadband service access or adoption by the application, and any other information the office considers relevant or necessary.

(f) During the 30-day posting period described by Subsection (e) for an application, the office shall accept from any interested party, other than a broadband service provider that does not report information requested by the office under Section 490I.0105 or 490I.01061, a written protest of the application relating to whether the applicant or project is eligible for an award or should not receive an award based on the criteria prescribed by the office.

(g) Notwithstanding any deadline for submitting an application, if the office upholds a protest submitted under Subsection (f) on the grounds that one or more of the broadband serviceable locations are not eligible to receive funding under this chapter, the applicant may resubmit the application without the challenged locations not later than 30 days after the date that the office upheld the protest.

(h) The office shall establish and publish criteria for award recipients. The criteria must include requirements that grants, loans, and other financial incentives awarded through the program for the deployment of broadband infrastructure may be used only for capital expenses, purchase or lease of property, and other expenses, including backhaul and transport, that will facilitate the provision or adoption of broadband service.

(i) An award granted under this section does not affect the eligibility of a telecommunications provider to receive support from the state universal service fund under Section 56.021, Utilities Code.

Added by Acts 2021, 87th Leg., R.S., Ch. 625 (H.B. 5), Sec. 5, eff. June 15, 2021.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 352 (S.B. 1238), Sec. 3, eff. June 2, 2023.

Sec. 490I.01061. EXISTING FEDERAL FUNDING; REPORTING REQUIREMENTS. (a) The broadband development office may award a grant, loan, or other financial incentive for deployment of last-mile broadband service for a location that is subject to a federal commitment to deploy qualifying broadband service if:

(1) federal funding is forfeited or the recipient of the federal funding is disqualified from receiving the funding; and

(2) the location otherwise may receive funding under the program.

(b) An applicant for an award under this chapter that has been awarded federal funding directly and has entered into an enforceable commitment to deploy broadband services in a location shall provide to the office information the office may require regarding:

(1) the existing enforceable commitment; and

(2) the proposed deployment of broadband.

Added by Acts 2023, 88th Leg., R.S., Ch. 352 (S.B. 1238), Sec. 4, eff. June 2, 2023.

As referenced in the Initial Proposal Volume II, Chapter 490I at section 0105 includes provisions for broadband mapping and codifies preferences in grant awards for those who choose to participate in mapping programs. This reference is included in the Initial Proposal Volume 2 at Section 2.4.15.c regarding preferences for those participating in mapping and data sharing programs and is reflected in the subgrantee selection rubric. Relevant parts of Sections 0106 and 01061 relate to the grants making authority of the Broadband Development Office as well as the statutory preference toward commercial (privately owned) broadband internet service providers in state broadband grant programs. The BDO does not expect this to limit nor impede subgrantee applications due to a lack of noncommercially owned broadband service providers in the state. In the unlikely event of two applications for the same BSLs from each of a commercial and noncommercial provider, the BDO would consistently enforce this law and reject the noncommercial application.

2.15.1.1 Optional Attachment: As a required attachment only if the Eligible Entity will not waive laws for BEAD Program project selection purposes, provide a list of the laws that the Eligible Entity will not waive for BEAD Program project selection purposes, using the Eligible

Entity Regulatory Approach template provided.

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.

The BDO certifies it will fully comply with all applicable requirements of the BEAD Program, including reporting requirements.

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.
- d. Robust subgrantee monitoring practices.

The Texas Comptroller's office has been and will continue to be, actively involved in all aspects and oversight of the BEAD Program's financial management. The BDO, a division of the Comptroller's office, intends to utilize the operational model of its successful, federally funded BOOT broadband grant program to ensure proper distribution, compliance, reporting and monitoring of all subgrants arising out of the BEAD Program. The below reflects key provisions of the standard terms and conditions for the BOOT Program, which will also be applied to the BEAD Program.

- 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).

Disbursement of Grant Funding

The BDO will disburse BEAD grant funds to subgrantees on a reimbursement basis, subject to 20 percent retainage and the conditions below:

- A. Allowable Expenditures. Subgrantees will only be entitled to payment for allowable

expenditures as enumerated in the BEAD Program guidelines and subject to the requirements of the cost principles provided in 2 C.F.R. 200 Subpart E, NTIA Guidance and any other restrictions imposed by applicable state law and the subgrant agreement.

“Applicable Laws” means all applicable federal, state, foreign and local laws, rules, regulations, codes, ordinances, policies, orders or any other legal requirements or limitations, including those set forth in the impending Agreement and NOFA, all of which may be updated, amended, modified, or added to from time to time and all of which are incorporated herein by reference as of the date of any such change in law. The BDO may require the return of any funds previously disbursed or deny a request for reimbursement for any expenditures that do not constitute allowable expenditures and subgrantees will not otherwise be entitled to payment or reimbursement for any expenditures that do not constitute allowable expenditures.

- B. **Non-Reimbursable Expenses.** Apart from allowable expenditures or other reimbursable expenses or costs expressly contemplated in the subgrant agreement and its exhibits, there will be no other reimbursable expenses for subgrantees in the BEAD Program. Subgrantees will be solely responsible for all other costs, charges and expenses incurred in connection with their performance under their subgrant, including travel, mileage, meals, lodging, equipment, supplies, personnel, salaries, benefits, insurance, training, conferences, telephone, utilities, startup costs and all other costs and expenses of the subgrantee not expressly contemplated in the subgrant agreement and its exhibits.
- C. **Pre-Award Expenses.** Subgrantees will be permitted to use funds only to cover costs incurred after the effective date of a subgrant agreement, unless otherwise specifically approved in writing by the BDO. All unapproved costs incurred by a subgrantee before the effective date and before approval by the BDO of the release of subgrant funds will be incurred voluntarily, at subgrantee's own credit and expense.
- D. **Project Budget.** Subgrantees will not be permitted to expend more than the amount allocated for any category in the Project Budget without the prior written consent of the BDO. The BDO anticipates requiring subgrantees to expend at least 50 percent of the Project Budget by the second anniversary of the effective date of their subgrant agreement.
- E. **Other Federal Funds.** Subgrantees will not be permitted to use any competitively awarded federal, state or local funds, other than those funds awarded under the BEAD subgrant program, to support the deployment of broadband service to addresses in the proposed service area.

Requests for Reimbursement

The BDO anticipates that subgrantees may request reimbursement for allowable expenditures no more frequently than monthly. A request for reimbursement will identify in detail all allowable expenditures for which reimbursement is being sought on the forms and, in the manner, prescribed by the BDO and attest that such allowable expenditures are true, accurate and constitute allowable expenditures actually incurred by subgrantee.

The BDO may request, in its sole discretion, and subgrantees would be required to supply additional records to verify any allowable expenditures claimed by subgrantee, including invoices, original itemized receipts, copies of checks, check registers, or bank statements indicating credit card invoices were paid. The BDO will review any request for reimbursement and related supporting documentation for compliance with applicable state and federal law as well as BEAD Program guidelines. The BDO will retain the right to dispute any request for reimbursement, invoice or other supporting documentation and withhold payment of any disputed amount if the BDO believes the documentation is inaccurate, incomplete, insufficient or incorrect in any way.

Time for Reimbursement

The BDO anticipates needing a minimum of 30 calendar days to process and release subgrant funds to subgrantees; however, no payment of grant funds will be disbursed until the BDO has reviewed and approved the eligible expenses incurred by subgrantee. If the BDO requires additional supporting documentation for a request for reimbursement, a hold will be placed for such request for reimbursement until claimed allowable expenditures are verified.

Payments Conditional

The BDO intends to make all reimbursements to subgrantees conditional upon work being performed in compliance with their subgrant agreement, the BEAD Program requirements and all applicable laws. No payments, including final payment, will be allowed to be construed by subgrantees or constitute: (1) acceptance of any project(s) as satisfying the terms, conditions, or requirements of the BEAD Program; nor (2) a waiver by the BDO of any rights or remedies. Subgrantees will remain responsible for full performance in strict compliance with the terms and conditions of the BEAD Program.

Retainage

Reimbursements that will be made by the BDO to subgrantees are subject to a 20 percent retainage. Upon project completion (as will be defined in the subgrant agreement), the accumulated retainage amount will become payable to the subgrantee.

Right to Withhold Reimbursement

The BDO will also reserve the right not to disburse any project funds if, in the BDO's determination:

1. Subgrantee has failed to supply appropriate supporting documentation or withheld a material fact in a request for reimbursement.
2. Subgrantee's request for reimbursement, when combined with all prior reimbursement requests, exceeds the total amount of the grant.
3. Subgrantee has used any portion of the grant for uses or activities other than the project, or in a manner inconsistent with the terms and conditions of its subgrant agreement, Government Code Section 4901.0106, the Regulations, Applicable Laws and/or BEAD Program requirements.
4. Subgrantee is not performing or completing key benchmark indicators in the Project and

Expenditure (P&E) reports as submitted by subgrantee and approved by BDO.

5. Subgrantee is in default under any other term or condition contained in its subgrant agreement.
 - a. The inclusion of clawback provisions (i.e., provisions allowing recoupment of funds previously disbursed) in agreements between the Eligible Entity and any subgrantee.

Return of Funds

In the event that any previously reimbursed funds are determined to have been expended in violation of the laws applicable to the expenditure of such funds; or any payment was composed of claimed expenditures that did not constitute allowable expenditures; was not otherwise reimbursable hereunder; was improperly or incorrectly allocated; was unreasonable; was not supported by sufficient and appropriate documentation; or was otherwise made in a manner inconsistent with or in violation of the terms, conditions or requirements of its subgrant agreement, BEAD Program requirements, or any applicable laws, subgrantee will be liable to the BDO for the full amount of any claim disallowed and for all related penalties incurred and subgrantee will immediately return to the BDO funds subject to this repayment obligation.

Erroneous Payments and Credits

Subgrantees will be required to promptly pay or refund to the BDO the full amount of any overpayment, erroneous payment or unallowable expense within 10 business days after either discovery by the subgrantee or notification by the BDO of the overpayment, erroneous payment or unallowable expense. The BDO may, in its sole discretion, elect to have subgrantee apply any amounts due to the BDO under this Section (Erroneous Payments and Credits) against any amounts payable by the BDO.

Return of Unexpended Funds

If, upon completion of a project, there are cost savings that result in unexpended subgrant funds, subgrantees will be required to return such funds to the BDO.

Duty to Report Misuse of Funds

Subgrantees will be required to promptly refer to the BDO any credible evidence that a principal, employee, agent, subcontractor, subgrantee or subrecipient, subcontractor, or other person has either:

- 1) submitted a false claim for grant funds as that term is used under any false claims act or other similar law, whether state or federal or
- 2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity or similar misconduct involving grant funds. This condition also applies to any subcontractor for the project.

Records Retention

Subgrantees will be required to maintain accurate financial, management, programmatic and other

records, including those pertaining to subawards and subcontracts, of the subgrantee, of all transactions relating to the receipt and expenditure of the subgrant and administration of the project (collectively, “records”) in compliance with the records retention requirements of 2 C.F.R. § 200.334. The records will be in a commercially reasonable form acceptable to the BDO. Subgrantee will retain the records for five years following the date the BDO approves the Final Report of the subgrant.

Right of Audit and Inspection

Subgrantees will be required to provide the federal Office of Inspector General, the General Accounting Office, NTIA, the Texas State Auditor’s Office, the BDO, or any of their duly authorized representatives, access to and the right to examine and audit all books, accounts, records, reports, files, other papers, things or property belonging to or in use by subgrantee pertaining to the project. Such rights to access and audit will continue if the records are retained by subgrantee. Subgrantees will further be required to cooperate with auditors and other authorized representatives of the BDO and the state of Texas and will provide them with prompt access to all such property as requested by the BDO or the state of Texas.

Subgrantees must agree to maintain such records in an accessible location and to provide citizens reasonable access to such records consistent with the Texas Public Information Act, Chapter 552 of the Texas Government Code.

C. Timely Subgrantee Reporting Mandates; and

Subgrantee Reports

The BDO intends to closely monitor subgrantee progress through detailed reporting by subgrantees on regular intervals.

Quarterly Status Reports

On Jan. 1, April 1, July 1 and Oct. 1 of each year during the term of the subgrant, subgrantees will be required to provide the BDO with interim P&E reports in a manner and form to be determined by the BDO. The interim progress reports will contain such information as the BDO requests, including narrative updates on the status of the project, including notification of any delays, project activities and accomplishments for the reporting period, key performance indicators including speeds and adoption rates, financial reports including current expenditures and invoice documentation, and any information requested by the BDO related to the current status of the project. Subgrantees will ensure that each P&E report is received by the BDO no later than 10 working days after the end of each reporting period. Each P&E report should cover the most recent three-month reporting period. Reporting periods are represented as:

- Quarter 1: Jan. 1 – March 31
- Quarter 2: April 1 – June 30
- Quarter 3: July 1 – Sept. 30
- Quarter 4: Oct.1 – Dec. 31

Final Report

Unless otherwise agreed to in writing by the BDO, within 60 calendar days after a subgrantee completes the project, that subgrantee will submit to the BDO a final report (the "Final Report") in a manner and form to be determined by the BDO that describes the completed project, the success of the project, any problems encountered in completing the project and such other information as the BDO requires. The Final Report will also contain all financial, performance and other reports as the BDO requests, as well as any problems encountered in completing the project and other information as requested. In addition, any completed studies, surveys, reports or other work products, if applicable, will be attached to the Final Report. The subgrant will not be considered fully closed out until the Final Report has been submitted to and accepted by the BDO.

Final Report Certifications

The final report will also contain:

- An expense and revenue summary of the project, certified by the highest fiscal officer of subgrantee, that lists all expenditures relating to the project.
- A certification to the BDO that the project was completed as proposed/represented in the application, including a certification representing that the project fully complies with and satisfies any and all terms and conditions identified in their subgrant agreement, BEAD Program requirements and all applicable laws.
- In addition to the requirements set forth above, subgrantee will provide the BDO with additional records, reports and other documentation as may be required by the BDO or the NTIA.

Inspections

Throughout subgrantees' grant agreements and for a period of up to five years following the completion date, subgrantees will be required to allow the BDO to monitor the project to ensure the project is being carried out in accordance with the terms of the subgrant agreement and each subgrantee will make the subgrantee's administrative offices and its personnel, whether full time, part time, consultants or volunteers, available to the BDO for inspection upon request. Subgrantee will permit the BDO to perform program monitoring, evaluation and audit activities as determined to be necessary, at the discretion of the BDO provided such activities are limited to project monitoring, establishing completion of the project, and ensuring proper expenditure of grant funds and subgrantee is provided 15 calendar days' written notice by the BDO.

Performance Testing

The BDO may, in its sole discretion, conduct performance tests for purposes of verifying compliance with the BEAD program terms on one or multiple occasions during the term of the subgrant agreement and for up to five years after a project is certified as complete. The BDO may exercise this right both before (except for authorized prepayments) and after reimbursing a subgrantee for any claimed, allowable expenditures; provided that if the BDO elects to do so before

reimbursing a subgrantee for any claimed allowable expenditures, it will do so within a reasonable time, not to exceed one year after project is certified as complete pursuant to Part VI, Section E.3. (Final Report Certifications). Such performance tests may include:

- Speed tests anywhere between a subgrantee's central office and the demarcation at any customer's location in a census block in which the project was to be deployed or to which the project was represented as being able to facilitate broadband service.
- In the case of wireless installations, from any location in a census block in which the infrastructure project was to be deployed or to which the project was represented as being able to facilitate broadband service.
- In the event subgrantee does not have a customer in a census block being served by the installation, a certification obtained by the subgrantee and supplied to the BDO from an independent, third- party, properly licensed engineer that the installation facilitates broadband service at speeds that meet or exceed 100/100 Mbps or 100/20 Mbps, as applicable, in the census block(s) identified in the core application. The costs of such certification will be assumed by the subgrantee.

Project Completion

For purposes of the BEAD Program, the BDO will consider a project "complete" as of the later of the date the BDO:

- Accepts the certifications and proof of project completion provided by subgrantee as required by Part VI, Sections D (Proof of Project Completion) and E.3 (Final Report Certifications), respectively. **AND**
- Verifies that a project certified as complete complies with the requirements of a subgrantee's subgrant agreement, the NOFO and applicable laws; or
- Otherwise affirmatively elects to verify that the project is complete without exercising its rights to performance tests or conduct any other monitoring, review or audit rights available to the BDO under the subgrant agreement.

Consequences of Non-Performance

Failure to fully satisfy the criteria set forth in Part VI, Section A (Performance) and Part VI, Section E.3 (Final Report Certifications), all applicable laws, as may be verified pursuant to Part VI, Section G (Performance Testing), or failure to otherwise complete the project as represented in the subgrantee's application, may result in the BDO's denial of a request for reimbursement for any expenditures related to the project and the return of previously reimbursed funds and subgrantee will not otherwise be entitled to reimbursement for such expenditures.

Monitoring and Review

In addition to any other terms and conditions related to auditing, verifying, or ensuring subgrantee's compliance with the terms, conditions, requirements or limitations of subgrantee's subgrant agreement, the BDO will closely monitor and review subgrantee's performance under their agreement to ensure compliance. Such review and monitoring will include the BDO's review and assessment of any claims or invoices and any reports furnished by subgrantee. The BDO

reserves the right to monitor subgrantee performance through site visits, reports or any other means deemed necessary by the BDO. The subgrantee will be required to allow the BDO to conduct during regular business hours site visits to review contract compliance, assess management controls and assess relevant services and activities.

Subgrantee agrees to ensure the cooperation of subgrantee personnel in such efforts and to provide the BDO with all the information requested in the manner determined by the BDO, including allowing the BDO to inspect subgrantee or subcontractor's facilities, books and records to monitor and evaluate performance of the subgrant agreement.

Corrective Action

Following each site visit or review of requested information, the BDO may submit a written report to the subgrantee that identifies the BDO's findings. A corrective action plan with a timetable to address any deficiencies or problems noted in the report may be requested. The corrective action plan will be submitted by the subgrantee to the BDO for approval within the timelines outlined in the written findings report. The subgrantee will implement the corrective action plan after it is approved by the BDO. Failure to do so may result in suspension or termination of the project and subgrant agreement, without penalty or liability to the BDO or the state of Texas. Subgrantee will not impose any charge or fee in connection with any review or monitoring conducted by the BDO hereunder.

All requirements of this Initial Proposal Requirement 19 will be applied to subgrantee, subgrantee contractors and subcontractors and any subgrantees or subrecipients and subgrantee will require and cause any subcontractor or subgrantee or subrecipient used by subgrantee in connection with the project to agree to and be subject to and bound by such terms and provisions. All the rights of the BDO described in this Requirement 19, including all duties or obligations of subgrantee, may be exercised or invoked by the BDO or any other entity designated by the BDO, including contractors hired by the BDO for such purpose or the U.S. government.

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.

The BDO certifies it will account for and satisfy authorities relating to civil rights and nondiscrimination in the selection of subgrantees.

2.16.4 Check Box: Certify that the Eligible Entity will ensure subgrantee compliance with the cybersecurity and Supply Chain Risk Management (SCRM) requirements on Pages 70-71 of the BEAD NOFO to require prospective subgrantees to attest that:

Cybersecurity

- 1) 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 before 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.
- 2) 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.
- 3) The plan will be reevaluated and updated on a periodic basis and as events warrant.
- 4) 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

- 1) 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.
- 2) 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.
- 3) The plan will be reevaluated and updated on a periodic basis and as events warrant.

- 4) 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.

2.17 Volume II Public Comment

2.17.1 Text Box: 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.
- b. Outreach and engagement activities were conducted to encourage feedback during the public comment period.

The BDO posted the Initial Proposal, Volume 1, and the Initial Proposal, Volume 2, for public comment on Nov. 2, 2023. The CAI list was also posted for review. The public comment period remained open until Dec. 4, 2023. The public comment portal allowed commenters to review the documents, select which section(s) to provide feedback and submit feedback for each selected section. The portal link was posted on the BDO's website and shared in all outreach materials.

The BDO engaged in outreach and engagement activities to promote the public comment period and ensure stakeholder groups and residents had the opportunity to review the documents and provide feedback. Key activities included:

- BDO GovDelivery email to around 8,000 contacts on Nov. 2, 2023.
- Email to the SWG, RWG, and TFs on Nov. 2, 2023.
- Promotion to Local Government Roundtable on Nov. 2, 2023.
- Promotion to Industry Roundtable on Nov. 28, 2023.
- Social media promotion, including LinkedIn and X (formerly known as Twitter) posts.
- Ongoing support and technical assistance to support public comment period through responses to the plan4broadband@cpa.texas.gov email.

The BDO received 109 unique comments from Texas residents and organizations. The majority of comments were made on behalf of organizations, including:

- Internet service providers
- Community-based organizations
- Local governments
- Labor unions
- Civil rights organizations
- State legislative offices
- Institutions of higher education

- Libraries
- K-12 school districts
- Economic development organizations and chambers of commerce
- Broadband coalitions
- State agencies
- Housing authorities
- Organizations representing covered populations

Many of the responders also participated in outreach and engagement activities, including as part of the stakeholder groups, listening tours, and survey promotion.

The BDO received thoughtful feedback, with several key themes emerging from the comments. The BDO considered this feedback, along with the extensive amount of stakeholder engagement and feedback received throughout the planning process, and made several alterations, clarifications or additions to the Initial Proposal. Those changes, as well as discussion around other key themes from the public comment period, are described below.

Subgrantee Selection Process

The BDO received many thoughtful comments on the subgrantee selection process. The BDO has added additional context and clarifying language to provide additional insight and guidance throughout Section 2.4, including in the description of the geospatial deconfliction process. Additionally, the BDO anticipates providing technical assistance and more information about key parts of the subgrantee selection process to stakeholders in the coming months. Additional information will be shared at future meetings and events, including the Industry Roundtable, Local Government Roundtable and other BDO-hosted meetings.

Commenters requested additional clarity about the sustainability criteria. The narrative in Section 2.4.2 has been updated with additional description for the sustainability criteria.

Commenters discussed permitting challenges and requested clarity around the timing of permit requests. BDO and TxDOT have been close collaborators to ensure a streamlined and efficient permitting process. Updates in Section 2.4.2 clarify that potential subgrantees should identify permits needed, but securing permits is not required nor recommended as part of the application process.

Letter of Credit

Several commenters provided feedback to the BDO on the letter of credit requirements. Since the posting of the Initial Proposal, the NTIA has released guidance for a conditional programmatic waiver of the letter of credit. The BDO will make use of that waiver to the extent described in Section 2.4.11.

Workforce Readiness

Several commenters provided feedback on workforce readiness and the importance of cultivating a skilled workforce to support broadband deployment. Additional detail and content have been added to Section 2.8 to demonstrate the BDO's commitment to addressing workforce gaps and to partnering with statewide and local partners to ensure appropriate workforce planning and training. The BDO is continuing work with TWC to study the broadband labor market in Texas. Several commenters noted the work happening within community college and technical college systems in Texas. The BDO partnered with these institutions during the public engagement effort; their feedback informed the development of this plan. Commenters also discussed the importance of partnerships and engaging with state agencies to identify additional funding opportunities.

Minority Business Enterprises/Women's Business Enterprises/Labor Surplus Firms Inclusion

Several commenters provided feedback on Section 2.9 and shared how their organization's work and services were aligned with the goals of this section. The BDO has outlined the state procurement process and business development resources and added additional information on ways to maximize participation of MBEs, WBEs and labor surplus firms. The BDO looks forward to partnering with organizations as described in Section 2.9.

Support for Local Governments

Several local governments and municipalities submitted comments and asked for ways to continue to be involved and learn more about the BEAD Program and its implementation. BDO appreciates the deep commitment from local governments to support its efforts and knows that local communities are often best positioned to identify gaps and solutions. Clarification and additional narrative have been added to the Initial Proposal to answer submitted questions and comments. The BDO knows partnerships and engagement with local governments is critical to successful BEAD implementation. More information and technical assistance will be provided in the coming months to offer education and training.

Low-cost Option & Middle Class Affordability

Several commenters provided input to the low-cost option and middle-class affordability components of the Initial Proposal. Some commenters provided feedback for lowering the low-cost option, while others provided feedback to raise it or tie it to a different metric. Given the range of feedback, the BDO has determined that the low-cost option will remain as initially proposed. Other commenters discussed the affordability component of the rubric requiring offering the low-cost option to all subscribers and the binary nature of that scoring component. The BDO has revised the affordability category of the scoring rubric to allocate points to eligible applicants that offer a middle-class option in relation to an affordability benchmark. This is further discussed in Section 2.4.2.1.

2.17.2 Optional Attachment: As an optional attachment, submit supplemental materials to the Volume II submission and provide references to the relevant requirements. Note that only content submitted via text boxes, certifications and file

uploads in sections aligned to Initial Proposal requirements in the NTIA Grants Portal will be reviewed, and supplemental materials submitted here are for reference only.

Appendix A: Regional Public Meeting Agenda

Texas Broadband Development Office Digital Opportunity Planning Regional Public Meetings –

Agenda Location: One of 24 cities selected for regional public meeting

- I. Welcome and Introductions
- II. Overview and Background
 - a. Overview of Texas BDO and planning process.
 - i. Define broadband and digital opportunity.
 - ii. BDO Work.
 - iii. IIJA programs and timelines.
 - b. Regional data.
- III. Small Group Discussions
 - a. Tabletop discussions facilitated by small group leader.
 - i. Barriers to access and adoption.
 - ii. Digital opportunity resources in the community.
 - iii. Benefits of expanded broadband access, adoption and use.
- IV. Report Out
 - a. Read out of key themes, challenges and priorities discussed in each group.
- V. Questions and Closing
 - a. Highlight Affordable Connectivity Program.
 - b. Next steps.
 - c. Q&A (if time).

Appendix B: Dear Tribal Leader Letters

Glenn Hegar

Texas Comptroller of Public Accounts

March 10, 2023

Rick Sylestine
Tribal Council Chairman
Alabama-Coushatta Tribe of Texas
571 State Park Road 56
Livingston, TX 77351

Dear Honorable Chairman Sylestine:

On behalf of the Texas Broadband Development Office (BDO), we are seeking formal discussions with the tribal council of the Alabama-Coushatta Tribe of Texas on how we may work together to accelerate and optimize our efforts to close the digital divide and realize the vision of affordable, high-quality internet service for all.

As you are aware, passage of the Infrastructure Investment and Jobs Act (IIJA) appropriated billions of dollars in federal funding to states, territories and tribal governments to expand high-speed internet access for all. This includes \$42.25 billion under the Broadband Equity, Access, and Deployment (BEAD) program; \$2.75 billion for the Digital Equity Act (DEA) programs; and an additional \$2 billion toward the Tribal Broadband Connectivity Program. While tribal governments are eligible to apply directly for DEA grant funding set-asides, the BEAD program provides an additional opportunity for tribes to secure funding as subgrantees; the BDO is offering its assistance to the Alabama-Coushatta Tribe of Texas with that effort.

With BEAD and DEA grant planning underway, our office is actively working to create and define the details of our state broadband plan that will set the direction for the state of Texas over the next several years as we work to close the digital divide. Engaging with leaders and community members of the Alabama-Coushatta Tribe of Texas in the planning process is vital to the success of our collaborative efforts.

With that in mind, the BDO respectfully requests a formal consultation with the tribal council of the Alabama-Coushatta Tribe of Texas to accomplish the following:

- Establish a formal working relationship and dialog between our respective parties.
- Gain insight and understanding of our respective broadband deployment plans, priorities, issues and concerns.
- Understand specific needs as they relate to digital equity and inclusion, adoption and use for members of the Alabama-Coushatta Tribe of Texas.
- Share the details of the BDO's state of Texas broadband plans and implementation timelines.
- Determine how the Alabama-Coushatta Tribe of Texas would like to be involved in the planning and development process, who should be involved and how the BDO can support the development of the Alabama-Coushatta Tribe of Texas' broadband planning.
- Discuss current grant and funding mechanisms, technical assistance that is available and how the Alabama-Coushatta Tribe of Texas might participate as a subgrantee for BEAD funding.



Comptroller.Texas.Gov

512-463-4000

P.O. Box 13528

Toll Free: 1-800-531-5441, ext. 3-4000

Austin, Texas 78711-3528

Fax: 512-305-9711

March 10, 2023

Page Two

To meet the requirements for BEAD and DEA funding, the BDO must submit its five-year action plan to the National Telecommunications and Information Administration by Aug. 28, 2023, and its Digital Opportunity Plan by Dec. 1, 2023. To ensure we incorporate the perspective, plans and needs of the Alabama-Coushatta Tribe of Texas into those submissions, we would like to begin consultation as soon as possible. We would be happy to accommodate your schedule and preferred meeting format.

To schedule a consultation, or if you have any questions concerning this request, please contact Greg Conte, director, Texas Broadband Development Office, by email at gregory.conte@cpa.texas.gov or by phone at 512-463-7611.

Thank you for your time and consideration of this request. We look forward to working with the Alabama-Coushatta Tribe of Texas to enhance our understanding of your needs and strengthen our collective effort toward ensuring the internet is available to all.

Respectfully,



Glenn Hegar
Texas Comptroller of Public Accounts



Comptroller.Texas.Gov

P.O. Box 13528

Austin, Texas 78711-3528

512-463-4000

Toll Free: 1-800-531-5441, ext. 3-4000

Fax: 512-305-9711

March 10, 2023

Juan Garza, Jr.
Chairman
Kickapoo Traditional Tribe of Texas
2212 Rosita Valley Road
Eagle Pass, TX 78852

Dear Honorable Chairman Garza:

On behalf of the Texas Broadband Development Office (BDO), we are seeking formal discussions with the tribal council of the Kickapoo Traditional Tribe of Texas on how we may work together to accelerate and optimize our efforts to close the digital divide and realize the vision of affordable, high-quality internet service for all.

As you are aware, passage of the Infrastructure Investment and Jobs Act (IIJA) appropriated billions of dollars in federal funding to states, territories and tribal governments to expand high-speed internet access for all. This includes \$42.25 billion under the Broadband Equity, Access, and Deployment (BEAD) program; \$2.75 billion for the Digital Equity Act (DEA) programs; and an additional \$2 billion toward the Tribal Broadband Connectivity Program. While tribal governments are eligible to apply directly for DEA grant funding set-asides, the BEAD program provides an additional opportunity for tribes to secure funding as subgrantees; the BDO is offering its assistance to the Kickapoo Traditional Tribe of Texas with that effort.

With BEAD and DEA grant planning underway, our office is actively working to create and define the details of our state broadband plan that will set the direction for the state of Texas over the next several years as we work to close the digital divide. Engaging with leaders and community members of the Kickapoo Traditional Tribe of Texas in the planning process is vital to the success of our collaborative efforts.

With that in mind, the BDO respectfully requests a formal consultation with the tribal council of the Kickapoo Traditional Tribe of Texas to accomplish the following:

- Establish a formal working relationship and dialog between our respective parties.
- Gain insight and understanding of our respective broadband deployment plans, priorities, issues and concerns.
- Understand specific needs as they relate to digital equity and inclusion, adoption and use for members of the Kickapoo Traditional Tribe of Texas.
- Share the details of the BDO's state of Texas broadband plans and implementation timelines.
- Determine how the Kickapoo Traditional Tribe of Texas would like to be involved in the planning and development process, who should be involved and how the BDO can support the development of the Kickapoo Traditional Tribe of Texas' broadband planning.
- Discuss current grant and funding mechanisms, technical assistance that is available and how the Kickapoo Traditional Tribe of Texas might participate as a subgrantee for BEAD funding.



Comptroller.Texas.Gov

512-463-4000

P.O. Box 13528

Toll Free: 1-800-531-5441, ext. 3-4000

Austin, Texas 78711-3528

Fax: 512-305-9711

March 10, 2023

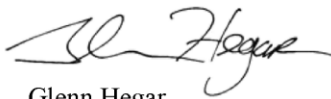
Page Two

To meet the requirements for BEAD and DEA funding, the BDO must submit its five-year action plan to the National Telecommunications and Information Administration by Aug. 28, 2023, and its Digital Opportunity Plan by Dec. 1, 2023. To ensure we incorporate the perspective, plans and needs of the Kickapoo Traditional Tribe of Texas into those submissions, we would like to begin consultation as soon as possible. We would be happy to accommodate your schedule and preferred meeting format.

To schedule a consultation, or if you have any questions concerning this request, please contact Greg Conte, director, Texas Broadband Development Office, by email at gregory.conte@cpa.texas.gov or by phone at 512-463-7611.

Thank you for your time and consideration of this request. We look forward to working with the Kickapoo Traditional Tribe of Texas to enhance our understanding of your needs and strengthen our collective effort toward ensuring the internet is available to all.

Respectfully,



Glenn Hegar
Texas Comptroller of Public Accounts



Comptroller.Texas.Gov

P.O. Box 13528

Austin, Texas 78711-3528

512-463-4000

Toll Free: 1-800-531-5441, ext. 3-4000

Fax: 512-305-9711

March 10, 2023

E. Michael Silvas
Governor
Ysleta del Sur Pueblo
119 S. Old Pueblo Road
El Paso, TX 79907

Dear Honorable Governor Silvas:

On behalf of the Texas Broadband Development Office (BDO), we are seeking formal discussions with the tribal council of the Ysleta del Sur Pueblo on how we may work together to accelerate and optimize our efforts to close the digital divide and realize the vision of affordable, high-quality internet service for all.

As you are aware, passage of the Infrastructure Investment and Jobs Act (IIJA) appropriated billions of dollars in federal funding to states, territories and tribal governments to expand high-speed internet access for all. This includes \$42.25 billion under the Broadband Equity, Access, and Deployment (BEAD) program; \$2.75 billion for the Digital Equity Act (DEA) programs; and an additional \$2 billion toward the Tribal Broadband Connectivity Program. While tribal governments are eligible to apply directly for DEA grant funding set-asides, the BEAD program provides an additional opportunity for tribes to secure funding as subgrantees; the BDO is offering its assistance to the Ysleta del Sur Pueblo with that effort.

With BEAD and DEA grant planning underway, our office is actively working to create and define the details of our state broadband plan that will set the direction for the state of Texas over the next several years as we work to close the digital divide. Engaging with leaders and community members of the Ysleta del Sur Pueblo in the planning process is vital to the success of our collaborative efforts.

With that in mind, the BDO respectfully requests a formal consultation with the tribal council of the Ysleta del Sur Pueblo to accomplish the following:

- Establish a formal working relationship and dialog between our respective parties.
- Gain insight and understanding of our respective broadband deployment plans, priorities, issues and concerns.
- Understand specific needs as they relate to digital equity and inclusion, adoption and use for members of the Ysleta del Sur Pueblo.
- Share the details of the BDO's state of Texas broadband plans and implementation timelines.
- Determine how the Ysleta del Sur Pueblo would like to be involved in the planning and development process, who should be involved and how the BDO can support the development of the Ysleta del Sur Pueblo's broadband planning.
- Discuss current grant and funding mechanisms, technical assistance that is available and how the Ysleta del Sur Pueblo might participate as a subgrantee for BEAD funding.



Comptroller.Texas.Gov

512-463-4000

P.O. Box 13528

Toll Free: 1-800-531-5441, ext. 3-4000

Austin, Texas 78711-3528

Fax: 512-305-9711

March 10, 2023

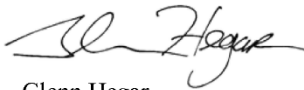
Page Two

To meet the requirements for BEAD and DEA funding, the BDO must submit its five-year action plan to the National Telecommunications and Information Administration by Aug. 28, 2023, and its Digital Opportunity Plan by Dec. 1, 2023. To ensure we incorporate the perspective, plans and needs of the Ysleta del Sur Pueblo into those submissions, we would like to begin consultation as soon as possible. We would be happy to accommodate your schedule and preferred meeting format.

To schedule a consultation, or if you have any questions concerning this request, please contact Greg Conte, director, Texas Broadband Development Office, by email at gregory.conte@cpa.texas.gov or by phone at 512-463-7611.

Thank you for your time and consideration of this request. We look forward to working with the Ysleta del Sur Pueblo to enhance our understanding of your needs and strengthen our collective effort toward ensuring the internet is available to all.

Respectfully,



Glenn Hegar
Texas Comptroller of Public Accounts



Comptroller.Texas.Gov

P.O. Box 13528

Austin, Texas 78711-3528

512-463-4000

Toll Free: 1-800-531-5441, ext. 3-4000

Fax: 512-305-9711

Appendix C: Tribal Consultation Agenda



Agenda - Tribal Consultation for Broadband Expansion

- Welcome and Introductions
 - Discuss the meeting's purpose and ask all attendees to provide a personal introduction.
- Overview of current and future broadband programs
 - BOOT Program
 - BEAD
 - Digital Equity Act
 - Tribal Broadband Connectivity Program
 - Other programs
- Broadband Infrastructure Needs
 - Discuss identified infrastructure needs, level of community support, and historical challenges to implementation.
- Collaborating with Internet Service Providers (ISPs)
 - Gather information on what engagement is taking place, or planned to take place, with ISPs. Document relevant points of contact mentioned.
- Digital Opportunity
 - Discuss developed plans (if applicable) for the provision of equitable high-speed Internet services to middle and low-income communities.
- Workforce & Digital Skills Training
 - Discuss any workforce issues, as well as on the state of continuing education and digital skills training.
- Feedback & Next Steps
 - Capture technical assistance concerns, ask for feedback, and plan next meeting (if applicable).