



September 10, 2024

The Honorable Alan Davidson
Assistant Secretary of Commerce for Communications and Information
National Telecommunications and Information Administration (NTIA)
U.S. Department of Commerce
1401 Constitution Ave., NW
Washington, DC 20230

Re: Comments of the Schools, Health & Libraries Broadband Coalition in Response to the Broadband Equity, Access, and Deployment (BEAD) Program: Alternative Broadband Technology Policy Notice

Dear Administrator Davidson:

The Schools, Health & Libraries Broadband Coalition (SHLB)¹ submits these comments in response to the National Telecommunications and Information Administration's (NTIA) Broadband Equity, Access, and Deployment (BEAD) Program: Alternative Broadband Technology Policy Notice (Alternative Technology Guidance). SHLB's mission is to promote open, affordable, high-quality broadband for community anchor institutions (CAIs) and their communities. We also support equitable access to affordable high-speed Internet in the United States and believe that the BEAD program is well-positioned to drive the broadband investment needed to solve the digital divide.

BEAD appropriately prioritizes funding for certain technologies like fiber to the home. SHLB recognizes that a robust and high-quality connection like fiber offers certain significant advantages and capacity for CAIs, households, and businesses. However, SHLB also recognizes that the BEAD program allows funding for alternative technologies like unlicensed fixed wireless (ULFW) and low earth orbit (LEO) satellite in appropriate circumstances. CAIs and their surrounding communities benefit greatly when they have greater access to competitive broadband solutions that include ULFW and LEO service in their areas. For example, CAIs

¹ SHLB is a nonprofit public interest organization with members from a broad base of organizations including representatives of schools, libraries, health care providers and networks, state broadband offices, private sector companies, state and national research and education networks, and consumer advocates. See <https://www.shlb.org/our-members> for a complete list of SHLB's coalition members.

themselves have used wired and wireless technologies to extend broadband connectivity off-premises and provide low-cost (or free) service to the surrounding residential and business community. Additionally, libraries in rural areas in particular value LEO service as other types of traditional broadband service providers are unavailable.

To create investment opportunities that will deploy broadband to all unserved and underserved locations, it is imperative that NTIA sets guidance that promotes greater broadband deployment through the use of all BEAD-eligible technologies in a competitively neutral way. Although the Alternative Technology Guidance provides clarity about when BEAD will fund Alternative Technologies and how these services will be reimbursed, we fear that some requirements are *not* competitively neutral and could skew the marketplace against Alternative Technologies (and often LEO service in particular).²

First, NTIA proposes to base funding reimbursement to “recipients of LEO Capacity Subgrants on the amount of capacity actually used, as measured by subscription rates in the project area.” Such a subscription-based model could prove problematic in ensuring universal and equitable access to broadband, particularly in unserved and underserved regions. For example, providers of LEO service might be less motivated to participate and expand infrastructure in areas where there are fewer potential subscribers. This would leave those areas without adequate access, leading to a market failure where broadband remains unavailable to those who need it. Further, it is our understanding that rural fiber providers are not reimbursed on a per subscriber basis, so this policy appears to discriminate specifically against LEO providers.

Second, NTIA lays out a framework whereby Eligible Entities must first consider the capabilities of *existing* Alternative Technology network services to serve BEAD-funded project areas before they can select other Alternative Technology subgrantees under BEAD. Specifically, in locations where alternative technologies already exist, an Eligible Entity must determine: (1) whether the project area is “subject to an enforceable commitment, with ongoing network performance monitoring, to provide Alternative Technology service that meets the BEAD performance requirements” (Case 1); and (2) “whether an Alternative Technology provider serving some or all locations in the project area can demonstrate that it currently meets the BEAD Program requirements” (Case 2). If either Case 1 or Case 2 apply to a project area,

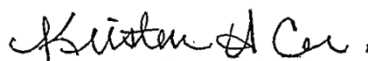
² We also recognize that if the state skews the EHCPLT too low, it is possible that a bid from a Reliable Broadband Service provider will be too easily ignored or discouraged. Requiring that any such bids are fully considered would best further NTIA needs to carefully seek the right balance while firmly keeping to the goals and priorities of the BEAD program. For instance, if a Reliable Broadband Service provider submits a bid that is over the EHCPLT, we encourage the Eligible Entity to engage and negotiate with that provider to see if it can accept a rate lower than its bid. This would serve the BEAD goals of ensuring consumers have access to the highest quality broadband service.

then BEAD funding is deemed unnecessary. If neither Case 1 nor Case 2 apply, an Eligible Entity may then identify Alternative Technology projects.

These conditions incorporate additional administrative timelines into the subgrant process that have the potential to not only create uncertainty and delay for Eligible Entities and Alternative Technology providers but might remove competitively neutral opportunities for other Alternative Technology providers from participating in BEAD altogether. This is particularly acute under Case 2, which affords an existing Alternative Technology provider currently serving a project area the first – and potentially only – opportunity for such a provider to demonstrate that it is capable (possessing financial, managerial, operational, and technical capacity) of offering BEAD qualifying services to locations in that area. This result is anti-competitive and contradicts the language in the BEAD NOFO requiring each Eligible Entity to establish a fair, open, and competitive process for selecting subgrantees. It could also be detrimental to consumers in project areas where existing Alternative Technology providers are not incentivized to offer more affordable services.

Accordingly, SHLB respectfully requests the NTIA to consider these comments when setting the guidelines laid out in the BEAD program Alternative Technology Guidance.

Respectfully Submitted by:



Kristen Corra
Policy Counsel
Schools, Health & Libraries Broadband
Coalition
1250 Connecticut Ave. NW, Suite 700
Washington, DC 20036
kcorra@shlb.org



John Windhausen, Jr.
Executive Director
Schools, Health & Libraries Broadband
Coalition
1250 Connecticut Ave. NW, Suite 700
Washington, DC 20036
jwindhausen@shlb.org