

## **DEPARTMENT OF COMMERCE**

### **National Telecommunications and Information Administration**

#### **Broadband Equity, Access, and Deployment (BEAD) Program: Alternative Broadband Technology Policy Notice**

##### **ACTION: Notice**

##### **SUMMARY:**

The Infrastructure Investment and Jobs Act (Infrastructure Act), enacted in November 2021, includes funding for robust investment in American infrastructure projects. The Act includes the Broadband Equity, Access, and Deployment (BEAD) Program, which provides \$42.45 billion of funding to achieve reliable, affordable, and high-speed Internet coverage throughout the United States. *See* Infrastructure Investment and Jobs Act of 2021 § 60102, 47 U.S.C. § 1702.

The National Telecommunications and Information Administration (NTIA), as the agency responsible for administering the BEAD Program, provides herein additional guidance to assist Eligible Entities (States, Territories, and the District of Columbia) when considering an Alternative Technology subgrant.<sup>1</sup>

This Policy Notice elaborates on, but does not replace, the requirements outlined in the BEAD Notice of Funding Opportunity (NOFO)<sup>2</sup> that each Eligible Entity must satisfy for the Assistant Secretary of Commerce for Communications and Information to approve its Initial Proposal and Final Proposal.<sup>3</sup>

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<sup>1</sup> *See infra* Section 2 defining “Alternative Technology.”

<sup>2</sup> NTIA, Notice of Funding Opportunity, Broadband Equity, Access, and Deployment Program (2022), [BEAD NOFO.pdf \(doc.gov\)](#). Capitalized terms not defined herein will be ascribed the definitions in the NOFO.

<sup>3</sup> This document is intended solely to assist Eligible Entities and subgrant applicants in better understanding the BEAD Program and the requirements set forth in the NOFO and follow-on policies and guidance. This document does not and is not intended to supersede, modify, or otherwise alter applicable statutory or regulatory requirements, the terms and conditions of the award, or the specific application requirements set forth in the NOFO. In all cases, statutory and regulatory mandates, the terms and conditions of the award, the requirements set forth in the NOFO, and follow-on policies and guidance, shall prevail over any inconsistencies contained in this document.

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# 1. Background and Purpose

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The principal purpose of the BEAD Program is to deploy broadband service to all unserved and underserved locations.<sup>4</sup> To achieve this goal, Eligible Entities may fund a variety of technologies that satisfy the BEAD Program’s minimum technical requirements.<sup>5</sup> The BEAD NOFO establishes a clear hierarchy of technologies that Eligible Entities must apply when awarding subgrants for Unserved and Underserved Service Projects: (1) Priority Broadband Projects (end-to-end fiber); (2) other Reliable Broadband Service (RBS) projects; and finally (3) Alternative Technology<sup>6</sup> projects (where no subgrant applicants have proposed offering RBS at or below the Extremely High Cost Per Location Threshold (EHCPLT) and the use of Alternative Technology would be less expensive than an RBS project).<sup>7</sup>

This Policy Notice outlines the steps Eligible Entities must follow when deciding whether to award BEAD subgrants for Alternative Technology broadband deployment projects. Section 2 below provides relevant definitions. Section 3 addresses whether a project area is eligible for an Alternative Technology subgrant, and Section 4 describes conditions that apply to subgrants for the reservation of capacity on low Earth orbit (LEO) satellite networks, if an Eligible Entity chooses to offer this type of subgrant. All BEAD subgrants, including Alternative Technology subgrants, must comply with the terms and conditions of the BEAD Program, including the requirements in the BEAD NOFO.

Eligible Entities must seek the most robust technology feasible at each location.<sup>8</sup> As outlined in prior NTIA guidance, Eligible Entities intending to award BEAD subgrants for Alternative Technology must first demonstrate that no RBS was deployable for less than the EHCPLT by leveraging multiple strategies to obtain bids for Priority Broadband Projects and other RBS projects that fall under the EHCPLT.<sup>9</sup>

Before issuing subgrants for Alternative Technology, Eligible Entities must first ascertain whether BEAD funding for all Broadband Serviceable Locations (BSLs)<sup>10</sup> in a project area is

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<sup>4</sup> See BEAD NOFO at 7.

<sup>5</sup> At minimum, subgrantees receiving BEAD funding must provide broadband service that is “(I) at a speed of not less than 100 megabits per second for downloads and 20 megabits per second for uploads; (II) with a latency that is sufficiently low to allow reasonably foreseeable, real-time, interactive applications; and (III) with network outages that do not exceed on average, 48 hours over any 365-day period.” 47 U.S.C. § 1702(h)(4)(A)(i). NTIA has interpreted latency sufficient to support real-time interactive applications to mean latency of less than or equal to 100 milliseconds for the reasons articulated by the FCC’s Wireline Communications Bureau in the 2013 Connect America Fund Phase II Service Obligations Order. See also BEAD NOFO n.17 (citing Connect America Fund, WC Docket No. 10-90, Report and Order, 28 FCC Rcd 15060, 15068-76 paras. 19-38).

<sup>6</sup> See *infra* Section 2 defining “Alternative Technology.”

<sup>7</sup> See BEAD NOFO at 36-39, 41. The Extremely High Cost Per Location Threshold “is a BEAD subsidy cost per location to be utilized during the subgrantee selection process described in Section IV.B.7 of the BEAD NOFO above which an Eligible Entity may decline to select a proposal if use of an Alternative Technology meeting the BEAD Program’s technical requirements would be less expensive.” *Id.* at 13.

<sup>8</sup> See *id.* at 39-46.

<sup>9</sup> See NTIA, Policy Notice: BEAD Selecting the Most Robust, Affordable, Scalable Technology Policy Notice at 9 (June 26, 2024) (Selecting Technology Policy Notice), [BEAD Selecting the Most Robust, Affordable, Scalable Technology Policy Notice | BroadbandUSA \(ntia.gov\)](#).

<sup>10</sup> This policy notice uses the terms “Broadband Serviceable Location” and “location” interchangeably.

necessary by determining whether an Alternative Technology provider already is providing service that meets the BEAD Program’s technical requirements to BSLs in the project area or is subject to an enforceable commitment to do so (Section 3). If there are BSLs in the project area where no Alternative Technology is currently providing service that meets the BEAD Program’s technical requirements or is subject to an enforceable commitment to do so, Eligible Entities may consider awarding an Alternative Technology subgrant for those locations.

Eligible Entities may implement this Policy Notice without further approval from NTIA unless doing so would conflict with a provision of the Eligible Entity’s approved Initial Proposal. In rare cases where an approved Initial Proposal contradicts this guidance, the Eligible Entity should submit a request to amend the Initial Proposal to NTIA.<sup>11</sup>

Eligible Entities must demonstrate compliance with the BEAD NOFO, the Selecting Technology Policy Notice, and this Policy Notice during monitoring and as part of the Final Proposal by documenting the processes followed and justifications for the determinations made when awarding subgrants for Alternative Technology.

## 2. Definitions

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The following defined terms in the BEAD NOFO are particularly applicable to this Policy Notice:

- (a) Priority Broadband Project— The term “Priority Broadband Project” means a project that will provision service via end-to-end fiber-optic facilities to each end-user premises.<sup>12</sup>
- (b) Reliable Broadband Service (RBS)— The term “Reliable Broadband Service” means broadband service that the Broadband DATA Maps show is accessible to a location via: (i) fiber-optic technology; (ii) Cable Modem/Hybrid fiber-coaxial (HFC) technology; (iii) digital subscriber line (DSL) technology; or (iv) terrestrial fixed wireless technology utilizing entirely licensed spectrum or using a hybrid of licensed and unlicensed spectrum.<sup>13</sup>
- (c) Underserved Location— The term “underserved location” means a broadband-serviceable location that is (a) not an unserved location, and (b) that the Broadband DATA Maps show as lacking access to Reliable Broadband Service offered with—(i) a speed of not less than 100 Mbps for downloads; (ii) a speed of not less than 20 Mbps for uploads; and (iii) latency less than or equal to 100 milliseconds.<sup>14</sup>
- (d) Unserved Location— The term “unserved location” means a broadband-serviceable location that the Broadband DATA Maps show as (a) having no access to broadband service, or (b) lacking access to Reliable Broadband Service offered with—(i) a speed of

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<sup>11</sup> If an Eligible Entity wishes to modify its Initial Proposal Funding Request due to this Policy Notice, it should follow the standard budget modification process.

<sup>12</sup> BEAD NOFO at 14.

<sup>13</sup> *Id.* at 15 (citations omitted).

<sup>14</sup> *Id.* at 16.

not less than 25 Mbps for downloads; (ii) a speed of not less than 3 Mbps for uploads; and (iii) latency less than or equal to 100 milliseconds.<sup>15</sup>

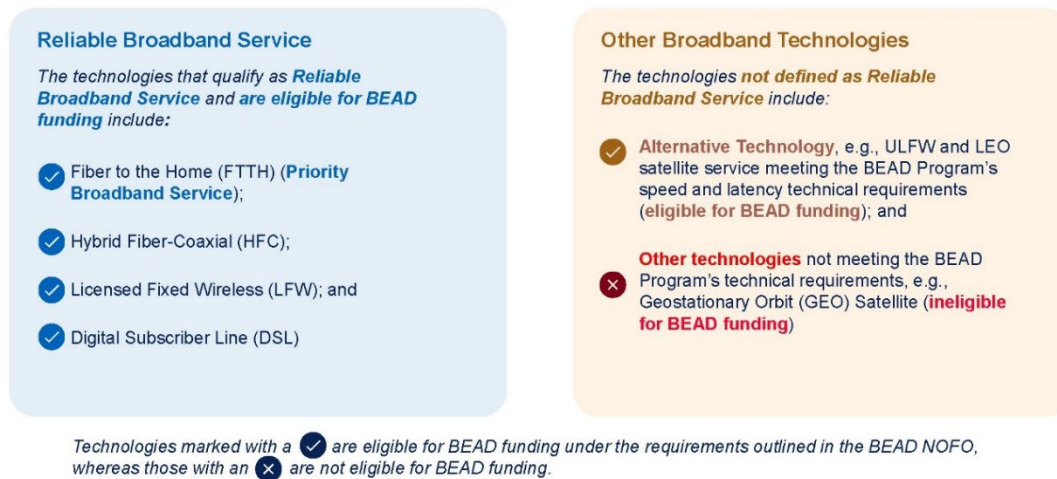
NTIA further defines the following term for the purposes of this Policy Notice:

- (a) Alternative Technology— The term “Alternative Technology” describes any broadband access technology that terminates at the end user’s location or premises and does not qualify as Reliable Broadband Service, but meets the BEAD Program’s minimum technical requirements of speeds of not less than 100 Mbps for downloads and 20 Mbps for uploads and latency less than or equal to 100 milliseconds.<sup>16</sup> This definition may include, but is not limited to, unlicensed fixed wireless (ULFW) and low Earth orbit (LEO) satellite service.

Throughout, the term “provider” is used as shorthand for a provider of broadband internet access services, as that term is defined in Section 8.1 of title 47, Code of Federal Regulations, or any successor regulation.<sup>17</sup>

The figure below shows an illustration of the terms above:

*Figure 1: Graphical Illustration of RBS and Other Broadband Technologies*



<sup>15</sup> *Id.* at 17.

<sup>16</sup> NTIA’s definition aligns with the technology codes used by the FCC’s Broadband Data Collection where “technology indicates the portion of the internet access connection that terminates at the end user’s location or premises (for fixed) or device (or mobile), also known as the ‘last-mile’ technology.” Federal Communications Commission, Broadband Data Collection Data Specifications for Biannual Submission of Subscription, Availability, and Supporting Data at 12 (March 30, 2023), available at <https://us-fcc.app.box.com/v/bdcavailability-spec> (BDC Specifications). Thus, networks that use, for example, free-space optical links as backhaul or as part of a middle-mile network and a reliable broadband technology as last-mile technology are considered RBS rather than Alternative Technology. Similarly, Alternative Technology networks that use ULFW for their last mile technology may use other technologies, such as fiber or free-space optical, for backhaul. Alternative Technology includes the FCC technology codes 0 (“Other”), 61 (“Non-geostationary Satellite”), and 70 (“Unlicensed Terrestrial Fixed Wireless”).

<sup>17</sup> 47 CFR § 8.1(b).

### 3. Identifying Project Areas Eligible For Alternative Technology Subgrants

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After deploying the strategies described in the Selecting Technology Policy Notice,<sup>18</sup> an Eligible Entity may nonetheless find itself with project areas for which no service provider has offered to deploy RBS at or below the EHCPLT and an Alternative Technology would be less expensive. In those situations, Eligible Entities may consider awarding Alternative Technology subgrants to fulfill their BEAD Program obligations. BEAD “costs must be reasonable, necessary, allocable, and allowable for the proposed project or other eligible activity.”<sup>19</sup> Before selecting Alternative Technology subgrantees, Eligible Entities must answer two questions:

- Are any BSLs in the project area already subject to an enforceable commitment from an Alternative Technology service provider, with ongoing network performance monitoring<sup>20</sup> to provide service that meets the BEAD Program’s technical requirements, as described below in Section 3.1?
- Are any BSLs in the project area already served by an ULFW provider that has the capacity to deliver service meeting the BEAD Program’s technical requirements, as described below in Section 3.2?

Eligible Entities must remove from the project area any BSLs that are already subject to an enforceable commitment by an Alternative Technology provider to provide qualifying broadband service or served by an ULFW provider. Eligible Entities may fund all unserved and (where financially feasible) underserved locations within the project area, as required.<sup>21</sup>

#### *3.1 Enforceable Commitments for Alternative Technology*

To maximize the use of limited BEAD funding, Eligible Entities must first determine whether any service providers in a proposed project area are subject to an enforceable federal, state, or local commitment to deploy Alternative Technology that meets the BEAD performance requirements.<sup>22</sup> In making that determination, Eligible Entities should consult the FCC’s Broadband Funding Map, the Eligible Entity Planning Toolkit, and other information collected

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<sup>18</sup> See *supra* n.9.

<sup>19</sup> BEAD NOFO at 81-82.

<sup>20</sup> Network performance monitoring measures the technical performance of broadband networks, such as their download and upload speed, latency (delay), and reliability, and compares these measurements against the technical requirements for the funding program.

<sup>21</sup> See BEAD NOFO at 47 (Final Proposal Requirement 7). The circumstances described in Sections 3.1 and 3.2 provide a basis for the Eligible Entity to certify that coverage will be provided to these locations as part of the Final Proposal.

<sup>22</sup> An enforceable commitment for an Alternative Technology exists when the commitment to provide broadband service using an Alternative Technology was made as a condition of grant, loan, or loan guarantee provided by the federal government, a State or Territorial government, or local government to the provider of an Alternative Technology. An enforceable commitment applies regardless of the construction status of the project. Enforceable commitment projects may be completed, under construction, or pending the start of construction.

during the development of the Five Year Action Plan about planned subsidized broadband infrastructure deployments within those areas.

If an Alternative Technology provider has an enforceable commitment to deploy service to BSLs within the project area, the Eligible Entity must next determine whether the funding program includes network performance monitoring that will verify that the service is provided at or above the BEAD Program's technical requirements<sup>23</sup> for at least four years after the estimated date of submission of the Eligible Entity's Final Proposal.<sup>24</sup> When such network performance monitoring is included as part of an enforceable commitment to provide Alternative Technology, Eligible Entities may not issue an Alternative Technology subgrant that covers those locations.

The ongoing network performance monitoring and additional oversight provided by these programs is sufficient to ensure the BEAD Program technical requirements are being met and to demonstrate that these locations are served. Eligible Entities with locations that fall into this scenario should document their determinations and indicate in the Final Proposal that coverage for these locations is provided by the applicable Alternative Technology provider, consistent with Final Proposal submission guidance.

### *3.2 Existing Service Provider Shows That An Alternative Technology Subgrant Is Unnecessary*

If no Alternative Technology providers are subject to an enforceable commitment as described in Section 3.1, Eligible Entities must next review the FCC's National Broadband Map to determine whether an ULFW provider<sup>25</sup> currently offers service that meets the BEAD Program's technical requirements to BSLs within the proposed project area. If so, the Eligible Entity must give that provider an opportunity to show that it is reasonably capable of delivering such service to some or all of those locations for at least four years after the date of Final Proposal submission. When an existing Alternative Technology provider meets that standard, BEAD funds for Alternative Technology are not necessary, and subgrants covering those locations will not be allowed.

For BSLs in the project area where the National Broadband Map shows an existing ULFW service that meets the BEAD technical requirements, Eligible Entities must notify the ULFW provider that it has at least seven calendar days to file a claim that BEAD funding is not required for the locations it serves. Eligible Entities may satisfy the notice requirement by either posting a public notice or directly contacting the relevant ULFW (technology code 70) provider identified on the National Broadband Map. The ULFW provider's initial claim need not be detailed; it may

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<sup>23</sup> Performance monitoring corresponding to the FCC performance measures testing framework is assumed to meet this requirement.

<sup>24</sup> While not a direct correlation, the four-year period aligns with the typical period of performance for BEAD subgrants.

<sup>25</sup> Given the nature of LEO satellite technology, LEO providers are not eligible for consideration under Section 3.2. The Broadband DATA Map does not show availability of any other Alternative Technology besides ULFW at qualifying speeds for the December 2023 availability date. Allowing ULFW providers the opportunity to demonstrate their network capabilities is consistent with requests from these providers and their associations.

merely state that the provider intends to submit evidence showing that it meets the standard established in this Section.

If no ULFW provider responds within that seven-day period, an Eligible Entity may propose BEAD funding for Alternative Technology as outlined in Section 3.3 below.

If an existing ULFW service provider timely files a claim, an Eligible Entity shall allow the provider at least thirty days to submit supporting documentation. An Eligible Entity may, but is not required to, request additional evidence from the ULFW service provider and collect or review additional information from other sources.<sup>26</sup> The ULFW provider has the burden of persuading an Eligible Entity that the provider is reasonably capable of meeting the standard set forth above.

If the ULFW provider does not meet that standard, the Eligible Entity may award an Alternative Technology subgrant as outlined in Section 3.3. ULFW providers that fail to meet their burden of proof may still apply for an Alternative Technology subgrant to serve the relevant BSLs and are not disqualified from participating in the subgrantee selection process.

To ensure the timely completion of the subgrantee selection process for all locations, Eligible Entities are encouraged to notify potentially eligible ULFW providers about this process while finalizing the selection of RBS subgrantees, when possible.

### *3.3 Permissible BEAD Investments in Alternative Technology*

If there are no Alternative Technology providers that meet the criteria outlined in Sections 3.1 and 3.2 above, Eligible Entities must identify an Alternative Technology broadband deployment project in order to make the required Final Proposal certification that service will be delivered to all unserved and (as financially feasible) underserved locations. As deployment projects, these investments are subject to the same requirements that apply to all other broadband deployment projects.

The BEAD NOFO authorizes each Eligible Entity to choose its own means of competitively selecting subgrantees for last-mile broadband deployment projects, subject to approval by the Assistant Secretary (during review of the Eligible Entity's Initial Proposal).<sup>27</sup> This authority extends to the selection of subgrants for Alternative Technology projects. Eligible Entities may therefore award Alternative Technology subgrants through a variety of means.<sup>28</sup>

The NOFO also provides that if, after soliciting proposals, the Eligible Entity has received no proposals to serve certain locations, the Eligible Entity may engage with existing providers and/or other prospective subgrantees to find providers willing to expand their service areas to

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<sup>26</sup> See Appendix B for factors Eligible Entities may wish to consider in assessing a provider's business and technical capabilities.

<sup>27</sup> BEAD NOFO at 40.

<sup>28</sup> An Eligible Entity may choose to develop a different scoring rubric for selecting among Alternative Technology proposals than the rubric used for non-Priority Broadband Project RBS proposals as long as that rubric is consistent with the BEAD NOFO requirements and approved in the Eligible Entity's Initial Proposal. If it is not previously approved in the Eligible Entity's Initial Proposal, the Eligible Entity should contact their Federal Program Officer to make changes to their Initial Proposal.



cover those locations.<sup>29</sup> Consistent with the requirement to run a fair, open, and competitive process,<sup>30</sup> an Eligible Entity may engage with providers of Alternative Technology broadband service only if the Eligible Entity previously solicited competitive proposals for Alternative Technology projects. In circumstances in which Eligible Entities are directly engaging with existing providers or prospective subgrantees, Eligible Entities must work to ensure that their approach is as transparent as possible.<sup>31</sup>

## 4. LEO Capacity Subgrants

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Once an Eligible Entity has determined that a location is eligible for an Alternative Technology project, the Eligible Entity may award a subgrant for the deployment of an Alternative Technology network to cover that location. In addition to the eligible uses of funding in connection with last-mile broadband deployment projects identified in the BEAD NOFO,<sup>32</sup> NTIA will provide Eligible Entities flexibility to award BEAD subgrants for the reservation of capacity on a LEO satellite network (“LEO Capacity Subgrant”) to deliver last-mile service to BSLs. The subgrant must reserve a sufficient amount of capacity for the LEO provider to deliver qualifying broadband service to each BSL in the project area. NTIA’s approval of Final Proposals that include LEO Capacity Subgrants will be subject to the conditions in Section 4.1.<sup>33</sup>

NTIA emphasizes that the guidance in this section is designed to provide Eligible Entities with the flexibility to enter into LEO Capacity Subgrants should they elect to do so. Eligible Entities are not required to enter such arrangements and the corresponding extended period of performance obligations if they have other means of satisfying their obligations.

### 4.1 Conditions of LEO Capacity Subgrants

*First*, as required by 47 U.S.C. § 1702(h)(4)(C), recipients of LEO Capacity Subgrants must begin providing broadband service to each customer that desires broadband service not later than four years from the date of the subgrant.<sup>34</sup> A recipient of a LEO Capacity Subgrant shall be deemed to have begun to provide service when it certifies to the Eligible Entity that the recipient can initiate broadband service within 10 business days of a request to any covered BSL in the project area, with no charges or delays attributable to extension of the service.<sup>35</sup>

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<sup>29</sup> BEAD NOFO at 38.

<sup>30</sup> *Id.* at 35.

<sup>31</sup> *Id.* at 38.

<sup>32</sup> *Id.* at 39.

<sup>33</sup> These conditions apply even if only a portion of the BEAD funds under the subgrant goes to reimburse a subgrantee for the reservation of capacity on LEO network to deliver last-mile broadband service. The BEAD NOFO’s workforce and labor requirements do not apply to LEO Capacity Subgrants because they do not fund construction or other specific employee activities.

<sup>34</sup> 47 U.S.C. 1702(h)(4)(C); *see also* BEAD NOFO at 65.

<sup>35</sup> When evaluating whether to approve Final Proposals, NTIA will use the same standard of availability used in the Challenge Process Policy Notice, which aligns with the FCC’s National Broadband Map standards. *See* NTIA, Policy Notice: BEAD Challenge Process at 10 (2023), [BEAD Challenge Process Policy Notice \(doc.gov\)](#).

*Second*, NTIA will require that Eligible Entities apply a period of performance<sup>36</sup> for LEO Capacity Subgrants that concludes ten years from the date upon which the subgrantee certifies to the Eligible Entity that broadband is available to every location covered by the project. Recipients of LEO Capacity Subgrants must continue to offer access to broadband service to each BSL served by the project throughout the period of performance.<sup>37</sup> In other words, if a customer receiving service at a BSL moves, the LEO service provider must continue to offer service to the BSL under the terms of the subgrant.

NTIA will not take a Federal interest in equipment or property acquired or improved with a LEO Capacity Subgrant. For all other BEAD subgrants for which the major purposes of the subgrant is a broadband infrastructure project, NTIA is applying a ten-year Federal interest period,<sup>38</sup> and the consumer and taxpayer protections set forth in the NOFO apply to the recipients of these subgrants for the duration of this ten-year Federal interest period.<sup>39</sup> Extending the period of performance for LEO Capacity Subgrants<sup>40</sup> to ten years will help NTIA and Eligible Entities ensure that the consumer and taxpayer protections that apply to all other last-mile deployment projects will apply to LEO Capacity Subgrants for a similar duration.<sup>41</sup>

*Third*, Eligible Entities must ensure the reasonableness of the cost of the capacity for which BEAD funding will be used. Prospective subgrantees seeking a LEO Capacity Subgrant should submit to the Eligible Entity their estimated cost for reserving capacity in the project area. In addition, this cost estimate should include any needed subsidy for the customer premises equipment to comply with low-cost broadband service requirements and ensure that any other initial non-recurring charges at the location are comparable to those of terrestrial technologies. Given the nascent nature of LEO technology, NTIA will provide additional technical assistance to Eligible Entities on how to evaluate the reasonableness of costs.

NTIA reminds Eligible Entities and prospective applicants that a profit, fee, or other incremental charge above actual cost incurred by a subgrantee is not an allowable cost under the BEAD Program.<sup>42</sup> However, subgrantees may retain program income without restriction in the case of

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<sup>36</sup> To reduce the administrative burden, Eligible Entities may close out all other subgrants while LEO Capacity Subgrants remain open. NTIA will extend the period of performance of the Eligible Entity's grant if needed to allow for this period of performance.

<sup>37</sup> See BEAD NOFO at 68 (“Operators of Funded Networks shall provide access to broadband service to each customer served by the project that desires broadband service on terms and conditions that are reasonable and non-discriminatory.”).

<sup>38</sup> See NTIA, Policy Notice: Tailoring the Application of the *Uniform Guidance* to the BEAD Program at 3 (2023), [BEAD Policy Notice: Uniform Guidance Exceptions, Adjustments, Clarifications \(doc.gov\)](#) (“Uniform Guidance Policy Notice”).

<sup>39</sup> See BEAD NOFO at 64-71.

<sup>40</sup> See Appendix C for a comparison of LEO Capacity Subgrants and other last-mile deployment projects. Subgrants solely for LEO Capacity do not acquire or improve any real property and NTIA will not take a Federal interest in the LEO network capacity in LEO Capacity Subgrants.

<sup>41</sup> See Uniform Guidance Policy Notice at 3.

<sup>42</sup> See BEAD NOFO at 82.

subgrants whose major purpose is a broadband infrastructure project.<sup>43</sup> Further, Eligible Entities are encouraged to consider the use of fixed amount subawards for LEO Capacity Subgrants.<sup>44</sup>

*Fourth*, Eligible Entities may generally reimburse recipients of LEO Capacity Subgrants for each location where capacity is reserved. Alternatively, Eligible Entities may base reimbursement on subscriber milestones or another metric that creates an incentive for recipients of LEO Capacity subgrants to enroll subscribers in BEAD-subsidized locations. For Eligible Entities that reimburse recipients for each location where capacity is reserved, NTIA expects that Eligible Entities will negotiate subgrant agreements that account for the relative costs to provide service to BEAD-subsidized locations as compared to non-subsidized locations. In addition, if reimbursing recipients for each location where capacity is served, Eligible Entities must issue reimbursement in equal installments throughout the period of performance. However, Eligible Entities may advance up to 50% of the total cost of the subgrant (1) at the time the subgrantee certifies the availability of service throughout the project area; (2) upon the subgrantee meeting subscription milestones established by the Eligible Entity (e.g., 50% of the locations in the project area subscribing to the subgrantee’s qualifying broadband service); or (3) a combination thereof. If the Eligible Entity elects to advance a portion of the subgrant, the remaining portion of the subgrant shall be distributed in equal installments across the remaining period of performance. Eligible Entities may provide payment in yearly, semi-annual, or quarterly installments.<sup>45</sup>

*Fifth*, the Letter of Credit requirement must be administered to incentivize providers to reach out to potential subscribers to encourage adoption. Consistent with this reimbursement model, the LEO provider may reduce its Letter of Credit or performance bond by 50% at the point of certification that service is available to each location in the project area. The Letter of Credit can be reduced by an additional 25% of the original amount after the subscription rate reaches at least 25% of all locations in the project area and may be closed out once the subscription rate reaches 50%.<sup>46</sup> Regardless of the subscription rate, the Letter of Credit may be terminated four

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<sup>43</sup> See Uniform Guidance Policy Notice at 4. The Uniform Guidance Policy Notice provides that “broadband infrastructure projects include: last-mile broadband deployment projects, as that term is used in Section IV.B.7.a.ii. of the BEAD NOFO, with the exception that projects for which the major purpose is training or workforce development are not considered broadband infrastructure projects for the purposes of the exceptions addressed in this Policy Notice.” *Id.* at 3. NTIA provides here that LEO Capacity Subgrants constitute broadband infrastructure projects for purposes of the exceptions, adjustments, and modifications described in the Uniform Guidance Policy Notice. Therefore, the Uniform Guidance Policy Notice applies to a subgrant whose major purpose is an LEO Capacity Subgrant.

<sup>44</sup> See Uniform Guidance Policy Notice.

<sup>45</sup> For example, if the cost of reserving capacity for the extended period of performance is \$100 per location and there are 100 locations, the total funding provided would be \$10,000 and an Eligible Entity could provide a reimbursement of \$1,000 per year, \$500 semi-annually, or \$250 quarterly. The numbers used are for illustrative purposes only and do not correspond to actual costs of LEO Capacity Subgrants.

<sup>46</sup> To further illustrate the Letter of Credit requirement using this example, the original Letter of Credit would have been valued at \$2,500. Upon certification of service availability, the Letter of Credit could be reduced to \$1,250. After achieving a 25% “take rate” in the project area, the Letter of Credit could be further reduced to \$625 and eliminated after reaching a 50% “take rate.” The reduction in the Letter of Credit obligations continues to be allowable even if the subscription rate later drops.

years after the LEO Capacity Subgrantee certifies that it can initiate broadband service within 10 business days of a request to any covered BSL in the project area.

## *4.2 Other Considerations*

Determining the financial capacity of LEO providers presents a unique challenge for Eligible Entities as they determine whether applicants meet the subgrantee qualifications described in the BEAD NOFO. To reduce the burden on both Eligible Entities and LEO providers, NTIA encourages LEO providers to submit audited financial statements to NTIA demonstrating their financial capacity to undertake the commitments of a subgrantee in all areas in which the provider seeks to serve. NTIA in turn will work with the provider to develop a financial certification letter documenting the financial capability of the provider. This letter can be relied upon by Eligible Entities in satisfying their obligation to ensure the financial capability of the subgrantee. Eligible Entities may accept this financial certification letter as a part of their qualification process.

Additionally, the BEAD NOFO requires the inclusion of clawback provisions and robust subgrantee monitoring practices.<sup>47</sup> As is the case for all other deployment projects, Eligible Entities must distribute funding for LEO Capacity Subgrants on a reimbursable basis (which allows the Eligible Entity to withhold funds if the subgrantee fails to take the actions the funds are meant to subsidize).<sup>48</sup>

With the exception of projects in designated “high-cost areas” and other cases in which NTIA has waived the matching requirement, in the context of subgrants used to fund broadband network infrastructure deployment, the Infrastructure Act requires each Eligible Entity to provide, require its subgrantee to provide, or provide in concert with its subgrantee matching funds of not less than 25 percent of project costs.<sup>49</sup> NTIA recognizes that Eligible Entities may seek to issue LEO Capacity Subgrants in areas that are not designated as “high cost.” The NOFO provides the standard by which NTIA will assess all match waivers, including those associated with LEO Capacity Subgrants.<sup>50</sup>

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<sup>47</sup> See BEAD NOFO at 51.

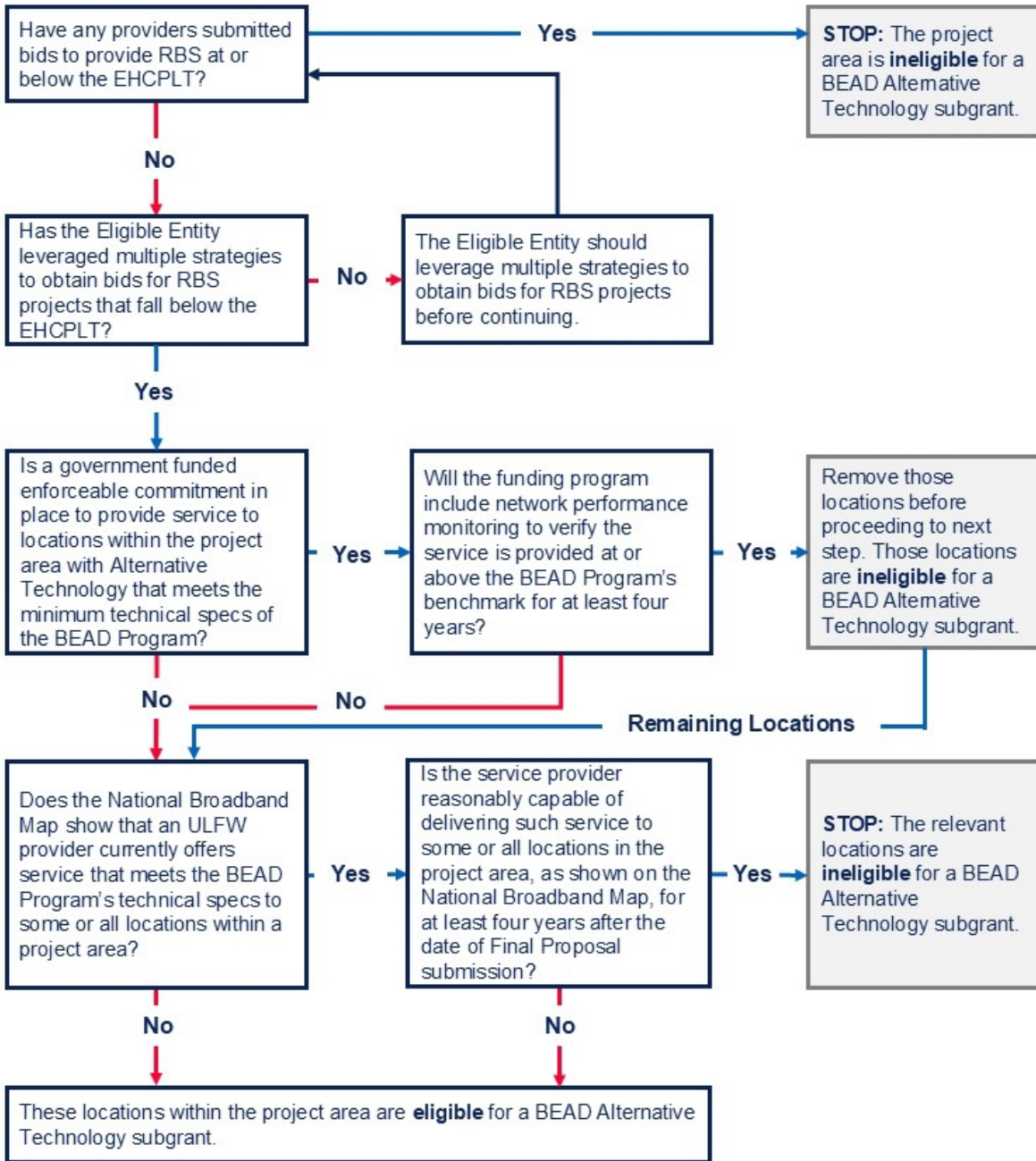
<sup>48</sup> See *id.*

<sup>49</sup> 47 U.S.C. 1702(h)(3)(A).

<sup>50</sup> See BEAD NOFO at 22.

# Appendix A: Roadmap for Awarding BEAD Alternative Technology Subgrants

Once the Eligible Entity's Challenge Process results have been approved by NTIA and it has requested bids on project areas that are unserved/underserved, it should follow the steps outlined below to determine if a project area is eligible for a BEAD Alternative Technology subgrant.



Key: → Yes    → No

## Appendix B: Technical Capacity Considerations

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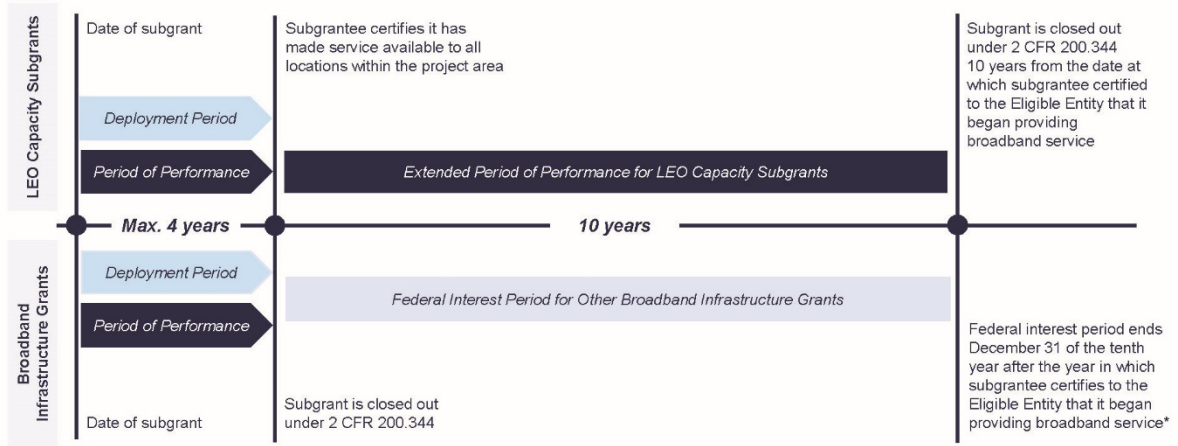
In evaluating whether a BEAD investment is necessary under Section 3.2, Eligible Entities must determine if the provider is reasonably capable of delivering such service to some or all locations in the project area, as shown on the National Broadband Map, for at least four years after the date of submission of the Final Proposal. In making this determination, the Eligible Entity is encouraged to consider the following criteria:

- Does the provider have current subscribers for service that meets the BEAD technical requirements (speed and latency) in the project area?
- Can the provider demonstrate that its network capacity<sup>51</sup> is designed to provide service to the relevant locations in the project area at the same time? Eligible Entities can consider using a benchmark of at least 5 Mbps of simultaneous capacity (or 2 TBs of usage per month) to each relevant BSL in the project area.
- Does the provider have the operational capability to provide service to the relevant locations in the project area and continue doing so for at least four years?

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<sup>51</sup> Network capacity includes last-mile facilities (including passive infrastructure, such as towers), as well as shared facilities, such as middle mile capacity. Speed (100/20 Mbps or faster) and capacity (5 Mbps per location) measure different aspects of networks. Not all users in a service area are using the internet at the same time, and most users are not downloading at the full 100 Mbps speed even when active. Based on measurements performed in current networks and projections of growth in data usage, a network needs to be designed for 5 Mbps per subscriber to serve all users at the required speed. The 5 Mbps corresponds to a per-subscriber download volume of 2 TB per month. The 5 Mbps capacity reflects industry network dimensioning practices. *See, e.g.*, Preseem 2024 Q1 Fixed Wireless Network Report, available at <https://preseem.com/fixed-wireless-network-report/> (March 11, 2024). The monthly usage allowance corresponds to the “above baseline” and “gigabit” tiers in the FCC Rural Digital Opportunity Fund (RDOF) program. Providers may meet this standard by demonstrating the ability to scale up to provide this capacity within a reasonable timeframe as subscribers increase.

# Appendix C: Period of Performance for LEO Capacity Subgrants and Federal Interest Period for Broadband Infrastructure Grants



\*See Tailoring the Application of the Uniform Guidance to the BEAD Program Policy Notice at 9: "The Federal interest in all real property or equipment acquired or improved as part of a subgrant for which the major purpose is a broadband infrastructure project will continue for 10 years after the year in which the subgrant for a project has been closed out in accordance with 2 CFR 200.344. For example, for all subgrants closed out in 2027, regardless of the month, the Federal Interest Period will last until December 31, 2037."